ZICTA

ZAMBIA INFORMATION AND COMMUNICATIONS TECHNOLOGY AUTHORITY

CONSULTATION PAPER ON THE INTRODUCTION OF A NEW ELECTRONIC COMMUNICATIONS EQUIPMENT REPOSITORY AND REGISTRATION REGIME

March 2019

TABLE OF CONTENTS

Abbreviations and Definitions:

7NDP:	Seventh National Development Plan
CEIR:	Central Equipment Identification Register
Counterfeit:	made in exact imitation of something valuable with the intention to deceive or defraud
EMF:	Electro-Magnetic Field
IECERS:	Integrated Electronic Communications Equipment Repository and Registration System
IMEI:	International Mobile Equipment Identity
ITU:	International Telecommunication Union
LDC:	Least Developed Country
SIM:	Subscriber Identity Module
SDO:	Standard Development Organization
Substandard:	Below the usual acceptable standard
WTDC:	World Telecommunication Development Conference
WIPO:	World Intellectual Property Organization
WHO:	World Health Organisation

1   BACKGROUND

Countries around the world have appreciated the fact that accelerated Information and Communication Technology (ICT) development could lead to overall national development as all sectors of the economy now depend on ICTs. To underscore the importance of ICTs in overall economic development the government has included the sector as one of its key contributors to the 17 outcomes outlined in the Seventh National Development Plan (7NDP). The 7NDP focuses on development of eservices, infrastructure and capacity building.

Through the Smart Zambia Program the Government has embarked on the roll out of broadband infrastructure such as Data centres, fibre transmission and access networks in order to address the infrastructure weaknesses in the sector and accelerate the provision of e-government services to all businesses and citizens. However, there still remains a gap on access to devices such as quality smart mobile phones which remain significantly unaffordable. The lack of affordability has provided an opportunity for vendors of substandard and counterfeit ICT devices to market in Least Developed Countries (LDCs) including Zambia. Counterfeit and substandard products, if continued to thrive on Zambian market, could lead to lack of realisation of 2030 vision as they pose not only public health and safety risks but may also lead to poor quality of experience when using e-government services. This situation might derail the successful implementation of the e-government program as well as slow down the adoption of e-commerce.

Question 1.   Are you aware that there are counterfeit phones and other devices on the Zambia market? If yes, explain.

At an international level, the counterfeit and substandard ICT devices have received the attention of the International Telecommunication Union (ITU) which passed resolution 79 "*Combating counterfeit/substandard ICT devices*" at the World Telecommunication Development Conference (WTDC) held in 2017. The measures include partnering with member states and other Standard Development Organizations (SDOs) especially with World Intellectual Property Organization (WIPO).

Best practice strategies include but is not limited to strictly enforcing type approval, tightening border control and implementation of centralised equipment identity registers. Countries such as Uganda, Kenya, Turkey, India, among others are actively dealing with the issue as indicated in the benchmarking table in section 5 of this paper.

> **Question 2.** Do you think that there is importation of mobile phones in Zambia without the knowledge of Authorities?

In Zambia today, there is no system to properly register ICT devices to ascertain their quality and genuineness. This is despite necessary legal and regulatory provisions contained in the ICT Act No. 15 of 2009. As a consequence, the device market is estimated to have at least 40% counterfeit and substandard mobile phones according to the Zambia Information and Communications Technology Authority (Authority) Audit carried out in 2015.

> **Question 3.** Is using a genuine mobile phone more important to you than its price?

2 PROBLEM STATEMENT

Like most African nations, Zambia has witnessed a proliferation of counterfeit/substandard ICT equipment on its ICT market during the past 10-15 years. The rampant trade in counterfeit and substandard phones, ICT accessories such as smartphone batteries, chargers, memory cards, magnetic stripe cards, solid state drives and music players has slowly eroded consumer confidence as regards the authenticity of ICT products and accessories that are sold on the Zambian market. As a result, it is difficult to ascertain if the said ICT products and accessories meet the set electromagnetic field (EMF) standards by the World Health Organisation (WHO).

This entails that there are potential health and safety risks associated with use of counterfeit ICT products and accessories. When it comes to quality of service delivery of ICT services, networks outages are now a common phenomenon on the Zambian market, and some of these networks outages are directly linked to the use of sub-

standard ICT devices. In addition, the lack of proper border controls when it comes to the importation of ICT products and accessories entails that government is unable to maximise its revenue collection via import duty and sale tax as counterfeit ICT products and accessories are priced lower as compared to genuine ones.

In support of putting in place border controls, a peer review conducted by the Authority[1] recommended for the following regulatory measures:

- that there should be constant validation of ICT devices and accessories at the ports of entry;
- that ICT equipment testing laboratories are required for market surveillance to authenticate devices and give assurance to the general public; and
- that a well-coordinated and committed effort among stakeholders like the revenue authority, law enforcement agencies i.e. the Zambia Police, sector regulators, standard and Intellectual Property Rights authorities should be adopted to combat their importation of counterfeit ICT products

Question 4.   Should Zambia follow the steps of other countries that have put in place controls to prevent entry of counterfeit devices?

The previous efforts by the Authority through the implementation of information and Communications Technologies (Registration of electronic communications apparatus) Regulations No. 65 of 2011 to address the problem of phone authentication through mandatory Subscriber Identity Module (SIM) card registration has not yielded desired results. Some of the bottlenecks faced by the SIM card Registration Project included but not limited to the following:

a. lack of coordination in the implementation of SIM card registration;
b. gaps in the regulation on aspects of SIM registration procedures
c. absence of centralised International Mobile Equipment Identity (IMEI) database ;and

---

[1]   2015 Report by ITU-T SG11; https://www.itu.int/pub/T-TUT-CCICT-2015

d. Non-validation of IMEI numbers to ascertain type approval status and genuineness.

Taking into account the aforementioned bottlenecks in the sector, there is need for a centralised IMEI registry that will coordinate the activation and de-activation of mobile phones on all the mobile networks.

3   OBJECTIVE

The objective of this consultation is to assess possible interventions that can be put in place in order to address the challenges that have been discussed above.   In particular, the specific objective is to have in place, by 2021 measures which will-

i.	Introduce registration of IMEI in order to counter mobile phone theft ;
ii.	Prevent counterfeit products from connecting to ICT networks thereby averting possible public health and safety risk
iii.	Improve SIM registration process in order to enhance consumer confidence and improve Cyber security situation in Zambia;
iv.	Improve type Approval compliance and quality of service; and
v.	Operationalise the provision of the ICT Act No. 2009 relating to the registration of the Original Equipment Manufacturers' identification.

The Authority wishes to modify, through these measures, the SIM Card registration system to introduce the following:

i.   restriction to ten (10) the number of SIM cards one individual can register;

ii.   one-off registration by using a centralised SIM card database;

iii. Introduction of use of biometrics in the registration process;

iv.   stringent measures including capturing the image of persons requesting for swapping of SIM cards;

v.   Blacklisting and blocking on all network consumers who involve themselves in fraudulent activities concerning SIM cards; and

vi.   Binding SIM card and IMEI of the phone it uses to increase security

Question 5:   What are your views concerning the proposed modifications to the SIM card registration system? The Authority hereby invites comments and suggestions.

4   POSSIBLE OPTIONS

4.1 Option One – Maintain Status Quo

Statutory instrument No 65 of 2011 provides for registration of SIM Cards. However, this registration process has some shortcomings.

Further, section 64 (3) and (5) of the ICT Act of 2009 provide for the registration of Original Equipment Manufacturers Identification and IMEI numbers respectively at a fee to be prescribed. However these provisions have not been implemented despite the passing of SI 65 of 2011 due to some regulatory challenges as regards who is expected to registers IMEI numbers when it comes to consumers versus service providers of ICTs. The absence IMEI registration in the ICT sector entails that the regulator is unable to have in place a centralized database of users of ICTs in the country.

Failure to have a centralized database of consumers of ICTs has made it difficult for the Authority to counter vices such as-

i. The continued importation of counterfeit ICT devices and accessories that pose health and safety risks for consumers of ICTs in terms of possible exposure to EMF outside the set safety standards by WHO;

ii. Theft of ICT devices due to lack of capacity to properly pair the SIM Card with ICT devices' IMEIs, which makes tracing and recovery of stolen devices difficult;

iii. Cyber related crimes and events.

In addition, the Authority has been unable to effectively enforce quality of services standards as part of the degradation of the quality of service provision is directly linked to the use of substandard ICT device or counterfeits by consumers.

4.2 Option Two: Operationalising SI 65 in its Current Form

Under this option the Authority is proposing to operationalise SI 65 of 2011 in its current form. This entails that the Authority shall keep and maintain the Central Equipment Identification Register (CEIR) in which SIM and IMEI numbers and other information shall be recorded.

This will enable the Authority to have in place-

i. IMEI registration database which will enhance technical compliance for mobile devices imported and sold on the Zambian market ;

ii. A counterfeit blocking mechanism that will reduce incidents of mobile devices thefts and improve stolen device recovery time; and

iii. An upgraded and up-to-date SIM database that shall be used by law enforcement agencies, government, financial institutions and other stakeholders in the ICT sector.

Implementation of the CEIR in its current form will not achieve the following key functions which are essential in the curbing substandard and counterfeit ICT products on the Zambian market:

i. A central registry of all ICT devices and equipment aimed at curtailing the importation of substandard and counterfeit products at different market levels in the ICT sector;

ii. A port of entry registry system aimed at tightening borders controls by taking stock of all importation into the country of ICT devices and equipment.

iii. A system to ensure that only authorized dealers are allowed to import ICT equipment and devices into the Zambian market; and

iv. improvement of government revenue collection by sealing tax evasion in terms of value added tax and annual operating fees through smuggling of counterfeit ICT products and equipment.

4.3 Option Three : Implement New Regime

Under this option the measures can be put in place to provide for:

i. registration of apparatus by the dealer importer or supplier at point of entry or at such other place as the Authority may determine;

ii. registration fee collection;

iii. registration of dealers;

iv. central repository of all electronic apparatus;

v. centralized SIM card database;

vi. verification of electronic communication apparatus against type approval systems; and

vii. Determination whether the apparatus is genuine or counterfeit.

The benefits of these new measures will include:

i. An IMEI registration database which will enhance technical compliance for mobile devices imported and sold on the Zambian market;

ii. A counterfeit blocking mechanism that will reduce incidents of mobile devices thefts and improve stolen device recovery time;

iii. An upgraded and up-to-date SIM database that shall be used by law enforcement agencies, government, financial institutions and other stakeholders in the ICT sector;

iv. A central registry of all ICT devices and equipment aimed at curtailing the importation of substandard and counterfeit products at different market levels in the ICT sector; and

v. A port of entry registry system aimed at tightening borders controls by taking stock of all importation into the country of ICT devices and equipment.

vi. Only authorized dealers will be allowed to import ICT equipment and devices into the country and improve government revenue collection by sealing tax evasion in terms of value added tax and annual operating fees through smuggling of counterfeit ICT products and equipment.

4.4 Authority's Preferred Option

The Authority is proposing to implement the new regime. In adopting this option, the following factors were considered:

i. that an IMEI registration database which will enhance technical compliance for mobile devices imported and sold on the Zambian market;

ii. that a counterfeit blocking mechanism will reduce incidents of mobile devices thefts and improve stolen device recovery time;

iii. that an upgraded and up-to-date SIM database will be used by law enforcement agencies, government, financial institutions and other stakeholders in the ICT sector;

iv.   that a central registry of all ICT devices and equipment will help curtail the importation of substandard and counterfeit products at different market levels in the ICT sector;

v.   that a port of entry registry system will help tighten borders controls by taking stock of all importation into the country of ICT devices and equipment. The system shall also ensure that only authorized dealers are allowed to import ICT equipment and devices into the country and improve government revenue collection by sealing tax evasion in terms of value added tax and annual operating fees through smuggling of counterfeit ICT products and equipment;

Question 6: What are your views regarding ZICTA's preferred option?   Kindly include any suggestions that you may have.

---

5   BENCHMARKING

The Authority conducted a benchmark study of Kenya and Ukraine. The two countries that have adopted similar systems to help curb the use of substandard and counterfeit products. The results of the benchmark are highlighted in the table below.

BENCHMARKS	KENYA	UKRAINE
Fake Devices	According to the Anti-Counterfeit Agency (ACA) of Kenya, unfair competition between counterfeits and genuine products cost the business community (local manufacturers, investors and innovators) an estimated Sh.50b (approximately, USD 596 million) in revenue loss annually, thereby	The mobile terminals market in Ukraine: 93%-95% products on the market were "grey imports" or, simply speaking, smuggled goods. Moreover, a major part of these products was represented by copies of branded handsets of unknown origin, which did not meet the Ukrainian standards either

BENCHMARKS	KENYA	UKRAINE
	threatening the closure and/or relocation of many industries. The loss to government and the economy from counterfeiting is estimated over Sh.19 billion (approximately, USD 227 million) annually through tax evasion.	in their technical or safety characteristics.
Solutions	The Communications Commission of Kenya was established by the Kenya Information and Communications Act, Cap 411A, to license and regulate information and communications services. Section 25 of the said Act mandates the Commission to license the operation and provision of telecommunications systems and services, respectively, subject to requisite conditions. It is in this context that Regulation 3 of the Kenya Information and Communications (Importation, Type Approval and Distribution of Communications Equipment) Regulations, 2010, requires that all mobile phone handsets are type approved by the Commission before connection to public networks. The Commission has since October 2011 hosted a series of open consultations between the ICT industry players, various government agencies and other stakeholders on the issue of counterfeit mobile handsets with the aim of addressing	NCCIR has defined the following objectives: 1) To protect the Ukrainian market against low quality mobile terminals, which could be unauthorized or dangerous for human health. 2) To ensure adequate quality of mobile communication services. 3) To resolve the social problem of handset theft, especially from children. 4) To combat illegal import and realization of mobile terminals on the Ukrainian market. Import of radio equipment to Ukraine is controlled by the customs authorities under the following conditions: □ availability of a document on radio equipment's conformity with technical regulations; □ conformity to the Register of radio electronic facilities and radiating devices, which are permitted to be used in Ukraine in the frequency bands of common usage; □ absence in the Register of radio electronic facilities and radiating

BENCHMARKS	KENYA	UKRAINE
	the challenges they bring about in the industry and the economy at large. Through these consultations, specific action points were agreed in relation to the subject matter. Among the actions agreed is the running of a public awareness campaign by the Commission to ensure that subscribers are made aware of the negative effects of counterfeit devices; the establishment of a system that will be used by the public to determine whether the handsets they have are genuine; the establishment of systems for blocking counterfeit handsets within the mobile networks; and the provision of customer related support services. Another significant action is the stepping up of surveillance and crackdown on counterfeit mobile devices by all relevant government agencies. A handset verification system with access to the GSMA database was established to enable subscribers to verify the validity of their phones through the submitted IMEI. Furthermore, a system for blocking counterfeit handsets within the mobile networks was implemented.	devices, which are prohibited to be used in Ukraine in the frequency bands of common usage.
Results	As a result of the above activities, 1.89 million counterfeit mobile	▫ "Grey" (illegal) import of mobile terminals in Ukraine has decreased abruptly. The share of legally imported

BENCHMARKS	KENYA	UKRAINE
	phones were phased out in Kenya after 30 September 2012.	mobile terminals increased to 93%–95% in 2010 (versus 7.5% in 2008). ▫ A revenue of more than USD 500 million was transferred to the State Budget of Ukraine over the period 2010–2012 from customs duties on import of mobile terminals, compared with USD 30 million over the preceding three years. ▫ The Ukrainian mobile terminal market consists mainly of mobile terminals which meet technical characteristic requirements for use in Ukraine. ▫ There are 140,865,260 IMEI codes of mobile terminals registered in the AISMTRU IMEI general database as of 30 April 2013. ▫ AISMTRU paid its way in seven months solely at the expense of funds received by UCRF for the importers' payments.

6   CONSULTATION PROCESS

The Authority is seeking the opinion/ comments from the general public and stakeholders regarding the proposals for the review of the Licensing Framework as well as the Draft Reviewed Statutory Instrument 65 of 2011.

Comments should be submitted on or before April 20, 2019 to iecers@zicta.zm

This consultation paper and the draft regulations can also be found at: www.zicta.zm Respondents are invited to comment on any other issues not covered in this consultation document which they consider to be relevant to this consultation. The Authority will carefully consider comments submitted and take them into account when assessing the need for regulatory intervention. Respondents are required to include their personal /company particulars as well as correspondence address in their submission to this consultative document.

The Authority reserves the right to make public all written submission made in response to this consultation paper and to disclose the identity of respondents.

ANNEX 1: CONSULTATION QUESTIONS

In view of the background information and the problem statement to this consultation paper, stakeholders are hereby required to provide responses to the following questions:

Question 1.   Are you aware that there are counterfeit phones and other devices on the Zambia market? If yes, explain.

Question 2.   Do you think that there is importation of mobile phones in Zambia without the knowledge of Authorities?

Question 3.   Is using a genuine mobile phone more important to you than its price?

Question 4.   Should Zambia follow the steps of other countries that have put in place controls to prevent entry of counterfeit devices?

Question 5:   What are your views concerning the proposed modifications to the SIM card registration system? The Authority hereby invites comments and suggestions.

Question 6: What are your view regarding ZICTA's prepared option? Kindly include any suggestions that you may have.