



PROICT: STRENGTHENING THE CORE CAPABILITIES OF THE LIBERIAN TELECOMMUNICATIONS AUTHORITY (LTA)

FM BROADCAST RADIO (FM RADIO) REGULATIONS COMPLIANCE REPORT AND RECOMMENDATIONS

May 2021

This publication is made possible by the support of the American People through the United States Agency for International Development (USAID) and was prepared by Integra Government Services International LLC in partnership with Atlantic TM under the USAID Digital Frontiers Project.

ProICT: Strengthening the Core Capabilities of the Liberian Telecommunications Authority (LTA)

FM Broadcast Radio (FM Radio) Regulations Compliance Report and Recommendations

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ACRONYMS

ATU	African Telecommunications Union
AM	Amplitude Modulation
BS	Broadcasting Service
ACT	Telecommunications Act 2007
ECS	Electronic Communications Service
ETSI	European Telecommunications Standards Institute
EVD	Ebola Virus Disease
FCC	Federal Communications Commission (USA)
FM	Frequency Modulation
GoL	Government of Liberia
ICT	Information and Communication Technology
IGNIRP	International Commission on Non-Ionizing Radiation Protection
ISP	Internet Service Provider
ITU	International Telecommunications Union
LTA	Liberian Telecommunication Authority
MFDB	Ministry of Finance and Development Planning
MIA	Ministry of Internal Affairs
MICAT	Ministry of Information, Cultural and Tourism
MoPT	Ministry of Post and Telecommunications
RSP	Radio Service Provider
QoE	Quality of Experience
QoS	Quality of Service
SSA	Sub Saharan Africa
UAF	Universal Access Fund

USF	Universal Service Fund
UHF	Ultra High Frequency
USAID	United States Agency for International Development
USG	United States Government

EXECUTIVE SUMMARY

Under the United States Agency for International Development (USAID) Digital Frontiers Project, DAI Global has subcontracted Integra Government Services International LLC (“Integra”) in partnership with Atlantic-TM Cameroon to implement the Digital Connectivity and Cybersecurity Partnership’s Promoting American Approaches to Information and Communications Technology (ICT) Policy and Regulation (ProICT) Activity and provide consultancy services towards strengthening the core capabilities of the Liberian Telecommunications Authority (LTA) (“ProICT Liberia”). Under this Activity, one of the six workstreams of strengthening is Frequency Modulation (FM) Broadcast Radio (FM radio).

This FM radio Regulations Compliance Report presents the analysis, findings, and recommendations to the LTA of this FM radio area of strengthening. It includes three main findings:

1. There is a clear culture of non-compliance to FM radio regulations, a finding which the LTA also agrees with based on conversations conducted to date at the time of this writing. Our technical team believes this culture dates back well before 2007.
2. There is also a clear lack of enforcement of the FM radio regulations. This dates back to the establishment of the LTA in 2007 without any enforcement powers granted to the LTA to be able to enforce these regulations.
3. Most FM radio stations operating in Liberia are doing so illegally, i.e., using FM frequencies contrary to or forbidden by regulations and laws like the Telecoms Act. The culture of non-compliance to LTA FM Regulations, lack of enforcement by the LTA, and illegal use of FM assignments in Liberia, clearly preceded the 2019 promulgated FM Regulations. This is evident from the data collected as part of this study as well as in statements made by LTA staff to the project team.

These findings and associated challenges are cultural, deep, and statutory, i.e., the solutions would require that the LTA have more statutory powers from the Government of Liberia (GoL).

Another key finding (or conclusion) is that the 2019 FM Regulations were never going to address the three core prior FM radio findings above. This finding is key to the first and most important recommendation of this report.

The project team has also produced **seven key recommendations** to address these deep and cultural FM Broadcast Radio Broadcast findings and challenges in Liberia, three of which are highlighted below:

1. First amongst the recommendations is that the GoL empowers the LTA with explicit FM Broadcast Radio Enforcement Powers through an Amendment to the Telecoms Act of 2007 – like the recent 2020 amendment designating LibTelCo as the “National Operator” of telecommunications in Liberia.
2. Second, this Report recommends a Cross-Government/LTA/FM Industry Communications Violation Committee with a clear remit to police and enforce compliance of FM radio regulations and infringement.

3. Five other core recommendations follow these top two recommendations. They include: carrying out an authoritative FM radio spectrum and FM broadcast stations audit; the GoL to enact general sanctions/penalties in the case of contravention of telecoms laws and regulations; and the LTA working with local universities on FM broadcast challenges.

Ultimately we recommend that the LTA and the Ministry of Information, Cultural and Tourism (MICAT) in particular use this report for advocacy to improve the FM radio sector in Liberia, primarily with the GoL and the FM Radio Industry, but also with local universities and other relevant stakeholders in Liberia including the Universal Access Fund (UAF).

Lastly, we briefly summarize *why* these recommendations truly matter for Liberia for three principal reasons:

1. FM Radio truly matters to Liberia. In this report, Section 2. Introduction to Liberia FM Broadcast Radio Regulations Compliance Report starts by noting that radio is undoubtedly the dominant and most important mass medium in Liberia, as in most of Africa. It really needs to be overseen (i.e., regulated) to maximize its benefits to the maximum number of Liberian consumers and citizens as possible. In addition, Liberia's radio listenership is overwhelmingly to FM Radio.
2. Given most of the current Liberian FM Radio is illegal (with little enforcement against it), it means the FM sector is not operating in a way to optimally maximize FM Radio welfare to Liberians whilst minimizing potential harms: i.e., creating sustainable jobs for Liberians, creating profitable FM Radio Stations, weeding out the unprofitable ones, educating and informing Liberians optimally, paying taxes to the Government, etc.
3. Finally, there is a clear history in Sub-Saharan Africa of hateful and/or harmful FM Radio speech destabilizing states, e.g., Rwanda, Burundi, Ivory Coast, etc. The political circumstances are benign today in Liberia leading to illegal radio being benign too; however, this could change in a 'volatile' country like Liberia given its history. A culture of compliance to radio regulations and enforcement (if not complied with) is strongly recommended in Liberia.

This report's contributions to FM Radio compliance and enforcement in Liberia are therefore truly important to the ICT landscape in Liberia.

I. INTRODUCTION TO LIBERIA FM BROADCAST RADIO (FM RADIO) REGULATIONS COMPLIANCE REPORT

Under the United States Agency for International Development (USAID) Digital Frontiers Project, DAI Global has subcontracted Integra Government Services International LLC (“Integra”) in partnership with Atlantic-TM Cameroon to implement the Promoting American Approaches to Information and Communications Technology (ICT) Policy and Regulation (ProICT) Activity and provide consultancy services towards strengthening the core capabilities of the Liberian Telecommunications Authority (LTA) (ProICT Liberia). The core purpose of the engagement is to strengthen the core capabilities of the LTA with regulatory and technical expertise in areas the LTA has identified in consultation with USAID and subsequent conversations with the technical team.

The following workstreams were identified for ProICT Liberia and agreed to in the project work plan:

1. Modernizing regulations governing the deployment of fiber optic cables;
2. Development of regulatory standards for TV whitespace (TVWS) and related rural access technology;
3. Assisting LTA’s administration in the optimization, implementation, and strategy development of the Liberian Universal Service Fund (USF);
4. Providing advisory and technical assistance to the LTA to help strengthen its role in transitioning the Liberian Internet eXchange Point (LIXP) to an independent and sustainable management structure;
5. Strengthening the Network Type Approval regime at the LTA; and
6. Assisting the reorganization of Liberia’s FM radio spectrum to allow for the highest and best use of these critical radio frequencies.

This report specifically concerns the sixth workstream, i.e., assisting the reorganization of Liberia’s FM radio spectrum. Specifically, this workstream concerns the Broadcast Service (BS), not an ECS service as in the cases of licenses held by MNOs in Liberia such as MTN and Orange.

PURPOSE

The purpose of this Liberia FM Radio Regulations Compliance Report is three-fold:

1. To review the compliance and enforcement challenges to the relatively recently (October 2019) promulgated FM radio regulations by the LTA;
2. To provide a draft set of compliance and enforcement recommendations for FM radio in Liberia for the LTA’s consideration; and
3. To assist and strengthen the LTA in advocating for the proposed recommendations on compliance and enforcement to the FM regulations.

This report also provides the basis for an advocacy effort of the relevant Liberian stakeholders including the LTA and several other governmental stakeholders on FM radio regulations compliance and enforcement.

REPORT STRUCTURE

The structure of this FM Radio Compliance Report is as follows:

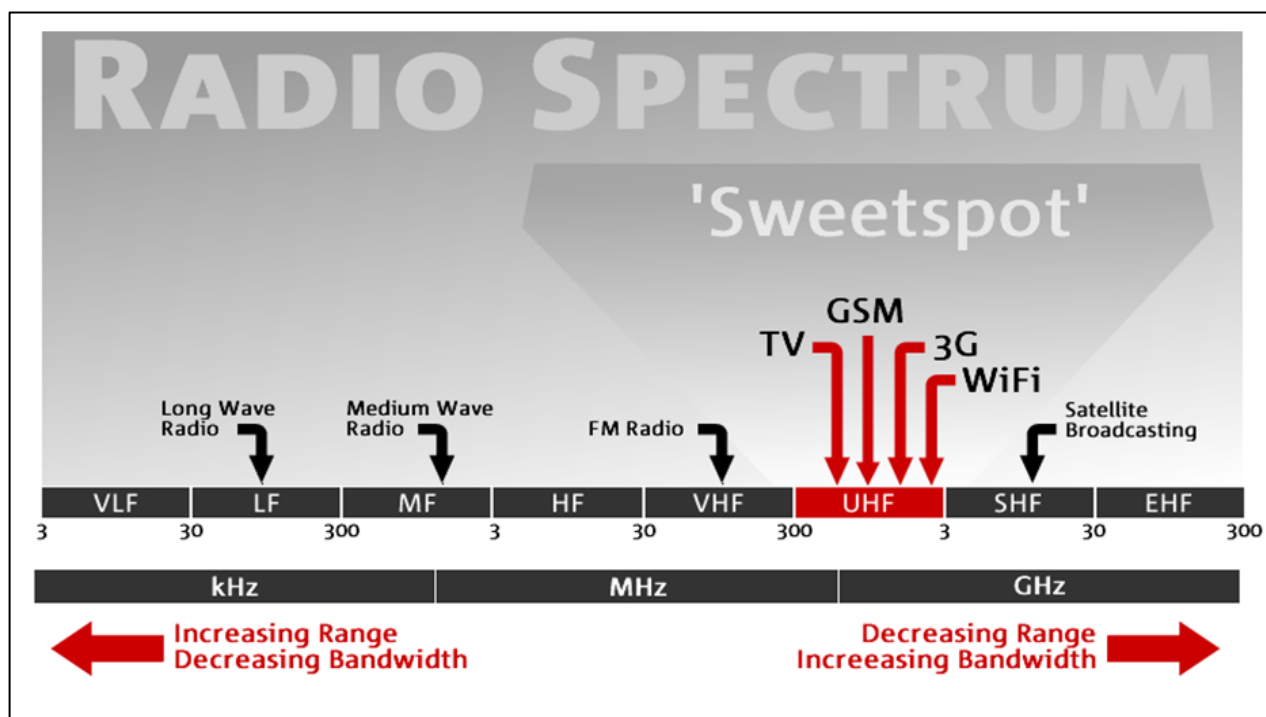
- **Section 1: Introduction** provides the purpose and structure of this report;
- **Section 2: Explaining Radio and FM Radio Regulations in Liberia** briefly describes the concepts of FM radio and overviews the LTA's recently promulgated FM radio regulations. This section concludes that these regulations are both *bona fide* and best practice.
- **Section 3: Compliance and Enforcement Challenges to the FM Radio Regulations 2019** identifies and reviews the FM radio issues that the LTA is facing to date in regard to FM radio regulation mostly on compliance and enforcement.
- **Section 4: Draft FM Radio Compliance and Enforcement Recommendations for Liberia and Advocacy** presents simplified draft regulatory recommendations for Liberia to improve compliance and enforcement of the FM radio regulations. Key to this is our recommendation for a cross-governmental and FM radio industry Communications Violations Committee, which would support the LTA with FM radio regulations compliance and enforcement, in addition to advocating for them; and
- **Section 5: Conclusions** completes this report.

2. EXPLAINING FM BROADCAST RADIO REGULATIONS IN LIBERIA

“Radio is undoubtedly by far the dominant and most important mass medium in Africa ...its low cost, flexibility, and oral character suit the African culture and situation naturally” (Nwana, 2014, pp 344).

Just like there exists analog and digital television (TV), there is also analog and digital radio. However, unlike with TV, there is hardly any digital radio on air in sub-Saharan Africa. Therefore, in Liberia, there is only analog radio¹. Analog radio comes in two kinds: Amplitude Modulation (AM) and Frequency Modulation (FM) systems. Modulation techniques are used to carry information in radio carrier waves: in the case of AM by varying the strength (or amplitude) of the wave with respect to the information being transmitted. In the case of FM, it varies the frequency of the radio carrier in relation to the information being transmitted.

Figure 1. Radio Spectrum from 3 KHz to 300 GHz



Source: Ofcom public spectrum consultations²

As Nwana (2014) p.334 notes, this process of varying the frequency waves' amplitude (in the case of AM) or the frequency (in the case of FM) in relation to the information being transmitted is called *encoding*. AM and FM are both examples of analog techniques used to encode, and the radio sets at the

¹ This should not be read as there is urgency for digital radio in Liberia. Most developed countries hardly have digital radio on air either.

² “Ofcom: Home”, n.d., accessed May 26, 2021, <https://www.ofcom.org.uk/home>.

other end are able to decode these varied signals. Radio sets can therefore be tuned to AM or FM to pick up the AM or FM transmissions via the radio sets' aerial.

AM broadcasting typically operates in the medium (MF) wave (see Figure 1) but also in long wave (LF) and short-wave bands (VLF). FM broadcasting in contrast operates in the much higher Band II in VHF, specifically within 87.5-108 MHz. As Figure 1 shows, the higher the frequency, the shorter the range. This is the reason FM radio transmissions are ideal for cities of counties like Grand Bassa or Montserrado whilst AM broadcasts may cover the whole of Liberia (since it is a relatively small country geographically). Given that FM radio is by far the most listened to radio in Liberia, the rest of the report only refers to this type.

HOW FM RADIO IS AUTHORIZED AND REGULATED IN LIBERIA

To get broadcast service (BS) radio transmissions on the air in Liberia requires two authorizations and/or licenses: first, a *Content Authorization or Broadcast Permit* to ensure only fit and proper content³ is transmitted; and secondly, a *Frequency Authorization* to use the natural resource of the frequency airwaves of Liberia. The former, i.e., the broadcast permit, is obtained by the FM radio service provider (RSP) from the Ministry of Information, Cultural and Tourism (MICAT) – typically an annual broadcast permit. The latter, i.e., the frequency authorization, is obtained from the LTA.

Indeed, the authorization process can be unwieldy to FM RSP applicants and many complain about these two authorizations, though is not unusual in most Sub-Saharan Africa (SSA) jurisdictions. The process would benefit from better coordination between MICAT and the LTA on these two authorizations.

Nevertheless, this report mostly concerns the compliance and enforcement of the FM radio frequency Assignments in Liberia, which is in the domain of the LTA, which was established by an Act of National Legislature in 2007. The LTA is imbued with the statutory responsibility to regulate the telecommunications and ICT sector with the objectives of driving economic growth and providing innovative and affordable telecommunications/ICT services to Liberian consumers.

Radio – not many realize – is still the biggest mass communications ICT in SSA. SSA does not possess universal terrestrial TV/Radio networks/services such as the UK's well-known BBC available to virtually 100 percent of UK citizens or widespread cable TV networks/services like CNN, MSNBC, and Fox in the USA.

In contrast, in SSA and Liberia, FM radio is the dominant mass-market ICT and therefore arguably needs more apt regulation and authorizations. To achieve the objective of maximizing such ICTs in Liberia, the Telecommunications Act (ACT⁴) 2007 in Part III⁵ Section 11(I)q demands that the LTA “makes

³ For example, it is important to ensure radio stations do not broadcast disinformation or hate speech content.

⁴ “Telecommunications Act 2007 Seal of Liberia REPUBLIC OF ...”, n.d., Accessed March 2021, https://www.wto.org/english/thewto_e/acc_e/lbr_e/wtacclbr15_leg_38.pdf.

⁵ Part III of the ACT relates to the duties and functions of the LTA.

regulations and rules for such matters as are contemplated by or necessary for giving full effect to the provisions of the Act and for the due administration thereof by the LTA”.

In compliance with the latter statutory duty, the LTA must craft FM radio regulatory interventions – in terms of regulations, rules, or orders – to maximize the benefits of FM radio Frequency Assignments to Liberian consumers and citizens across all fifteen counties of Liberia. To arrive at any regulatory interventions such as new broadcast FM orders, the LTA is mandated in Part III Section 11(4) of the Telecom Act, 2007 (ACT, 2007) to ensure that “prior to issuing any order or any other exercise of its authority that is likely to have any substantial impact on network operators, service providers, any other market participant or the general public, it conducts a process of public consultation appropriate to the circumstances and takes account of the results of the public consultation in the final exercise of its authority”.

As spectrum frequencies are involved, the LTA also has to abide by Part VI, Section 25(2) of the ACT (2007):

“The LTA shall develop regulations and rules to implement an efficient approach to management of the radio spectrum in Liberia. The regulations and rules may prescribe, among other things: (a) classes or types of radio spectrum and radiocommunication equipment; (b) requirements for radio spectrum licenses authorizing the use of the radio spectrum; (c) requirements for authorization for the use of radiocommunication equipment or other radio apparatus; (d) technical requirements and standards in relation to radiocommunication equipment, interference-causing equipment and radio-sensitive equipment; and (e) procedures, conditions and restrictions applicable to the use of the radio spectrum and radiocommunication equipment”.

In 2019, the LTA and other key LTA appointed stakeholders like Internews⁶ held a public consultation on its most recently promulgated FM Radio Regulations of 2019 – *the LTA Order 0017 of October 2019 Implementing the FM Radio Regulations*⁷. This exercise included a public consultative forum, which created the opportunity for FM radio station operators, other stakeholders, and interest groups to interact with the LTA’s Commissioners and relevant staff to further discuss the regulations. LTA (2019) comprehensively documents and presents the deliberations and outcomes of the consultative process on these FM Regulations of 2019.

WHAT THE 2019 LTA FM BROADCASTING REGULATIONS COVER

The FM Broadcasting Regulations of 2019⁸ scope seeks to “provide basic guidance for the management, allocation, assignment and use of radio frequency required for the operation of FM broadcast services in

⁶ E.g., Internews is a USAID funded organization that is working with media practitioners in Liberia to build capacity

⁷ Liberia Authority Telecommunications, “LTA Order: 0017-10-10-19 Implementing the FM Radio Regulations”, October 10, 2019, <https://www.lta.gov.lr/download/1299/>.

⁸ Liberia Authority Telecommunications, “FM Radio Station Regulations”, 2019, <https://www.lta.gov.lr/download/1340/>.

Liberia. It also seeks to establish minimum standards with respect to power limitations, coverage, interference, technical installation, environmental and safety concerns”. Hence, the scope is quite broad.

As background for the purpose of this study, the 2019 LTA FM regulations clearly set out the following (the background of the 2019 LTA regulations are germane to this study):

- I. The Role of FM RSPs including:
 - a. How RSPs obtain authorizations for radio frequencies from the LTA and rules for ensuring strict compliance with the terms and conditions (T&Cs) of the authorizations of FM Broadcast licenses;
 - b. T&Cs for construction and installation of broadcast facilities;
 - c. Terms for revoking an assigned license if construction, installation, and deployment does not happen within stipulated timeframes and other infringements of the regulations;
 - d. T&Cs for inspection broadcast facilities being inspected for compliance before full broadcast operations culminating in the LTA either issuing a “test certificate” or “test transmission letter”, without which appropriate penalties would be applicable;
 - e. Administrative and technical T&Cs that all FM RSPs must abide by including (i) means of contact for the general public (ii) signage or signboards for identifying the station (iii) technical specification sheet for all installed equipment including specified technical specifications for the antenna, transmitter, antenna cables, studio equipment, etc.;
 - f. Requirements to communicate any intended modifications of broadcast site specifications above to the LTA;
 - g. Requirements to pay the LTA and the GoL all fees for authorizations of broadcast permits and frequency licenses; and
 - h. Requirements to provide information and/or data to the LTA for it to carry out its regulatory duties in a timely fashion.
2. Categories of FM radio, license, type, and duration:
 - a. T&Cs, eligibility criteria and procedures for nation-wide FM radio stations using a single frequency or a combination of frequencies;
 - b. T&Cs, eligibility criteria and procedures for a standard FM radio license: type A (up to 100,000 persons); type B (24,000 to 100,000 persons); type C (7,000 to 24,000 persons); type D (less than 7,000 persons);
 - c. T&Cs, eligibility criteria and procedures for campus-based FM radio stations; and
 - d. T&Cs, eligibility criteria and procedures for community FM radio stations
3. License type and duration:
 - a. A key change with the 2019 Regulations is that Individual FM RSP licenses’ duration was increased from one year to five years
4. Detailed technical specifications including coverage and interference duties of RSPs:

- a. Transmission system detailed technical specifications; and
 - b. Radio Data Systems⁹ standards (RDCS) and specifications
5. Environmental and safety covering the safety in the vicinity of broadcast FM radio sites:
- a. Electrical safety; and
 - b. Design and construction of masts
6. Radio frequency (RF) radiation:
- a. RF limits near transmitter and antenna systems for the safety of personnel;
 - b. ICNIRP limits recommended by the World Health Organization (WHO); and
 - c. Radio Data System¹⁰ standards (RDS) and specifications;
7. T&Cs for frequency re-planning and re-assignment
8. T&Cs for interference, dispute resolution, renewal, suspension, and revocation of licenses
9. T&Cs for violations, penalties, and billing for license fee payments. For example:
- a. The penalty for installing and establishing an FM radio station without license/authorization from the LTA includes seizure/confiscation of the equipment used illegally, the LTA imposing a fine of double of the annual license fees the violator should have paid, and a ban from obtaining an FM assignment from the LTA for a year;
 - b. The penalty for commencing FM Broadcast operation without a test certificate from the LTA would be a fine of US \$250 and other unspecified regulatory sanctions from the LTA;
 - c. The penalty for broadcasting beyond the licensed geographical area would be a fine of US \$250 plus all the costs of the administrative and technical investigations conducted by the LTA;
 - d. The penalty for interference into the frequencies of other licensed FM RSPs would be a fine of US \$500, plus all the costs of the administrative and technical investigations conducted by the LTA and possible criminal prosecution;
 - e. The penalty for hindering the conduct of an inspection by the LTA or production of information demanded by them would be a fine of no less than US \$250, but no more than US \$1000 as may be determined by the LTA;
 - f. The penalty for offering inducement direct/indirectly to an inspector, agent, or employee of the LTA would be a fine of no less US \$1000 but no more than US \$5000 as may be determined by the LTA plus possible criminal prosecution; and

⁹ RDS is a technical standard that allows FM transmitters to broadcast additional types of information that can be displayed on RDS-compatible FM radio receiving sets.

¹⁰ Ibid.

- g. The penalty for misrepresenting or omission of material information in responses/statements made to the LTA would be a fine of no less US \$500 but no more than US \$1250 as may be determined by the LTA plus possible criminal prosecution.
10. A clear set of application fees and annual spectrum usage fees per category of FM radio station operating in Liberia.

COMMENTARY ON THE LTA 2019 FM BROADCASTING REGULATIONS

The original requirement from the LTA (see Section 1) noted, “assisting the reorganization of Liberia’s FM radio spectrum to allow for highest and best use of these critical radio frequencies”.

However, this study quickly determined the 2019 FM Broadcasting Regulations and other clauses in the Telecoms Act of 2007 to be both *bona fide* and best practice “to allow for the highest and best use of these critical radio frequencies”. The real FM radio challenge in Liberia lay elsewhere; in compliance and enforcement of the regulations.

3. COMPLIANCE AND ENFORCEMENT CHALLENGES TO THE FM BROADCAST RADIO REGULATIONS

This section identifies that the issues on FM Broadcast that the LTA is facing to date with the regulations are mostly on compliance and enforcement, and therefore, this section is effectively a review of the compliance and enforcement challenges to the LTA's FM Broadcast Radio Regulations recently promulgated in October 2019.

FM RADIO RECENT CONTEXT IN LIBERIA

The LTA has seen a marked increase in demand for FM radio frequencies, which are typically at a premium in urban areas like Greater Monrovia (i.e., Montserrado County), but also in rural areas to increase listenership to the Radio Station. As spelled out in the last section, new 2019 FM Broadcast Regulations have been consulted upon and promulgated by the regulator LTA via the LTA FM Regulation Order of the 10th October 2019¹¹.

As noted previously in Section 2. Explaining FM Radio, these 2019 Regulations and the five-year license regime replace the traditional one-year license regime. The five-year license is meant to induce investment in the sector and address frequency abuse. The LTA began the process of the new five-year license regime in early 2019 with a moratorium on the issuance of new FM radio licenses. LTA reminded all owners and operators of FM radio stations that their licenses expired on December 31, 2019. The deadline for the renewal of licenses for all radio stations was then extended to March 31, 2020. The LTA noted the start of receiving new FM radio applications from April 1, 2020.

A CULTURE OF NON-COMPLIANCE, ILLEGALITY, AND ENFORCEMENT

The previous section of this report stated that the 2019 FM Broadcasting Regulations are both *bona fide* and best practice with other similar regulations across Africa and other emerging market countries across the globe. This means that the issue is not a *general* spectrum efficiency challenge of the FM Broadcast Assignments in Liberia, but rather one of compliance and enforcement of these new regulations.

INITIAL INVESTIGATIONS INTO THE REAL FM BROADCAST RADIO PROBLEM STATEMENT

From the information received from the LTA however, there remain key challenges to enforcing compliance to FM radio regulations by the FM licensees. LTA reported 90 percent *non-compliance* to the new FM radio regulations. They also reported that fees are usually not paid at all or not paid in a timely fashion. Lastly, the LTA responded “no comment” to questions on political support for the FM

¹¹ “LTA Cautions Radio Stations to Renew Licenses -Introduces New 5 ...”, n.d. Accessed March 2021, <https://www.lta.gov.lr/news/lta-cautions-radio-stations-to-renew-licenses-introduces-new-5-year-license-regime/>.

regulations and on questions of their enforcement against politicians and the “high and mighty”¹² (see Annex 2).

In summary, this means that the real FM broadcast challenge to strengthening in LTA is not in a **general** spectrum efficiency challenge of the FM broadcast assignments in Liberia, but in compliance and enforcement of the associated regulations.

The incredibly high 90 percent non-compliance estimate from the LTA to FM Radio Regulations 2019 (see Annex 2) is a significant challenge, not least because allegedly senior political class and influential business owners (ultimately) own and operate many of the key FM RSPs – as is the case in many SSA countries.

DETAILS ON COMPLIANCE AND ENFORCEMENT CHALLENGES TO THE LTA FM BROADCAST REGULATIONS

The details related to the compliance and enforcement challenges to the LTA FM radio regulations are varied and multifaceted as outlined in the sections below.

THE LTA RATIONALES FOR THE PROMULGATION OF 2019 FM RADIO REGULATIONS

LTA (2019) is remarkably candid about the rationales for the promulgation of the 2019 FM Regulations:

“The utilization of FM radio Frequencies by broadcasting entities throughout the country has been constantly mismanaged or used in an improper fashion. Currently, above 60 percent of FM radio stations are broadcasting on frequencies that were not assigned to them. For those whom were assigned frequencies, many of them are using these frequencies for purposes for which they were not assigned. For example, most frequencies assigned for noncommercial activities are being used for commercial activities. There are radio operators who have also left their assigned areas and are using their assigned frequencies in places where they were not authorized to operate using these frequencies.

In addition to the above, radiocommunication installations by most of these FM radio operators continue to be done in an improper fashion, with no adherence to LTA’s and ITU’s required technical, environmental and safety standards. These acts are illegitimate and are the major sources of the high level of interferences being experienced in FM radio broadcast in the country”.

In conclusion, refining an earlier summary position further, this means the real FM broadcast challenging to strengthen with the LTA does not lie in a *general* spectrum efficiency challenge of the FM Broadcast assignments in Liberia, but in a more **specific** issue of a perennial culture of non-compliance to FM broadcast regulations in Liberia coupled with a poor culture of enforcing them too.

¹² In many sub-Saharan African countries (SSA), politicians or high-profile individuals are typically “behind” most FM Radio Stations. So this is *not* unique to Liberia.

FM BROADCAST DATA COLLECTION AND FINDINGS

As part of the ProICT Liberia project, the project team engaged a reputable Liberian firm (Millennium Survey Group Inc.¹³) to conduct a series of data collection initiatives within the telecommunications sector to collect and gather important and necessary information to advance the workstreams of ProICT Liberia. This included the collection of data covering FM RSPs across all 15 counties of Liberia (MSG, 2021).

MSG (2021) identified and visited 92 FM radio stations across most of the fifteen counties of Liberia for data collection purposes documenting for each: Radio Station (i) the station call name, (ii) the station code name or FM frequency, (iii) the owner's name, (iv) the location and (v) the estimated year of establishment of the FM radio station. MSG also enquired about information as shown in the questionnaire the project team provided in Annex 3.

Most (if not all) FM RSPs reportedly refused to fill in the questionnaires of Annex 3 themselves because they know they are non-compliant to LTA/GoL regulations and authorizations and/or they are illegal. Therefore, MSG could only get anonymous answers to the questions and also "off the record".

The key thrust of our findings on FM radio across the fifteen counties of Liberia **broadly** agrees with the prior LTA's rationales for the promulgation of the 2019 FM Radio Regulations. The project team has chosen not to publish the MSG FM radio findings in their entirety in this report because they could be prejudicial to unsuspecting participant FM RSPs who took part in an MSG data collection study in good faith.

However, we report below on these key data on FM radio RSPs and stations in Liberia - which provides *one snapshot* of the FM radio challenges in Liberia, and not necessarily a controlled scientific study.

Overview of the 92 FM stations in the data collection exercise:

- A total of 92 stations nationwide were captured in the MSG report (MSG, 2021);
- 66 out of the total of 92 provided information on "year of establishment";
- 18 out of these 66 stations were established by or before 2007 (i.e., 27 percent) – the year of the establishment of the LTA;
- 48 out of 66 were established after 2007 (i.e., 73 percent);
- A minimum of 18 out of the total radio station count of 92 nationwide were established by or before 2007 (20 percent);
- 74 out of the total radio station count of 92 nationwide were established after 2007 (i.e., 80 percent);

Overview of the location of FM radio stations:

¹³ Millennium Survey Group Inc., Barnersville, Monrovia, Liberia

- 36 out of the total of 92 stations nationwide were determined to be in Montserrado County, which amounts to 39 percent; and
- 56 out of the total of 92 stations nationwide were determined to be in rural areas (61 percent).

Frequency assignments/authorizations:

- 82 out of the total 92 stations nationwide count were either *not* assigned frequencies by the LTA or using the assigned frequencies in contradiction to what the licenses stipulate (i.e., 89 percent); and
- 11 out of the 92 stations nationwide count were assigned by the LTA and were abiding legitimately to their licenses (i.e., only 11 percent).

Commentary (subjective) on FM radio technicians met:

- Approximately 12 out of 92 technicians from stations nationwide count had none or limited technical skills, which amounts to 13 percent;

Commentary on the awareness of the five-year new license regime:

- Approximately 27 out of the 36 stations determined in this report in Montserrado County had zero knowledge (or claimed to have no knowledge) of the five-year licensing regime, which amounts to 75 percent of the radio stations in the most populous county in Liberia;
- Approximately 50 out of the 56 stations determined in this report in rural counties had zero knowledge (or claimed to have no knowledge) of the five-year licensing regime, which amounts to 89 percent;

Commentary on whether FM RSPs are compliant or non-compliant on fees:

- Approximately 18 out of the 36 stations determined in this report in Montserrado County are financially *non-compliant*, which is (50 percent); and
- Approximately 52 out of the 56 stations determined in this report in rural counties are financially *non-compliant*, which is (93 percent).

Commentary on FM radio interference issues:

- Approximately nine out of the 36 stations determined in this report in Montserrado County had interference concerns (25 percent); and
- Approximately four out of the 56 stations determined in this report in rural counties had interference concerns (seven percent).

Commentary on the ownership of FM radio stations in Liberia:

- Close to 90 percent are allegedly owned by either:
 - Senior political class; or
 - Businessmen and women with strong interest and affiliations to the Government.

CONCLUSIONS FROM MSG FM RADIO STUDY FOR THIS PROJECT

Some key conclusions drawn from the large sample of FM radio stations studied include:

1. **Noncompliant FM stations are mostly owned by senior political class or businessmen with GoL connections:** MSG was able to see and “off the record” learn of the ownership records for a significant fraction number of the FM radio stations. Based on this information, MSG reported that most of the key stations are owned by senior political class or businessmen and businesswomen with close government connections, and due to the non-compliance of such stations, that their management refrained from giving MSG ownership information “on the record”.
2. **Rural FM radio stations tend to operate without LTA frequency authorizations:** A substantial amount (almost 90 percent) of radio stations operating in rural parts of Liberia in particular, but also in general across all of Liberia’s 15 counties, have not been assigned frequencies or issued licenses by the LTA.
3. **Pre-LTA-being-established FM radio stations also tend to operate (almost with impunity) without LTA frequency authorizations:** A significant number of the FM stations particularly those established between 2000-2006 (circa a minimum of 20 percent surveyed), claimed to have been assigned frequencies either by the Ministry of Information, the Ministry of Post and Telecommunications, or by an International Non-Governmental Organizations (NGOs) operating the country during and after the civil war. Given the LTA was established after the Telecommunications Act of 2007, this appeared as a key excuse not to be licensed (and hence regulated) by the LTA.
4. **Illegal FM RSPs: in general, a majority of the FM radio stations are not registered with the LTA:** they are operating exclusively outside the LTA’s regulatory guidelines. Some of the stations had applied to the LTA but did not follow through on the LTA’s frequency issuance procedures.
5. **Some FM Stations are (intentionally) falsely registered with the LTA:** Some of the stations are registered as Community FM radio stations – attracting lower application and frequency spectrum fees – but are functioning as full commercial Radio FM Stations, thereby covering large geographic areas and jurisdictions otherwise intended for Commercial Radio use only under LTA’s guideline for Community Radio.
6. **Technical specifications as required by LTA regulations are not available:** It was noticed that technicians were not apprised with the technical specifications of their equipment and what is the allowable watt/power required by the LTA for their category of FM radio station. MSG reports that some FM radio stations had no clue that they were operating illegally outside of the confines of the LTA¹⁴.
7. **Most FM radio stations (at best) claimed no knowledge of the LTA’s new five-year FM licensing regime:** when MSG asked FM RSPs as to the LTA’s licensing regime – the old one-year license vs. the new five-year license, most stations claimed no knowledge. An incredible 75 percent of FM radio stations in Montserrado County which is the home of the capital Monrovia claimed no knowledge whilst 84 percent of FM RSPs overall claim no

¹⁴ Evidence of raw interviews and notes has been seen by the project team.

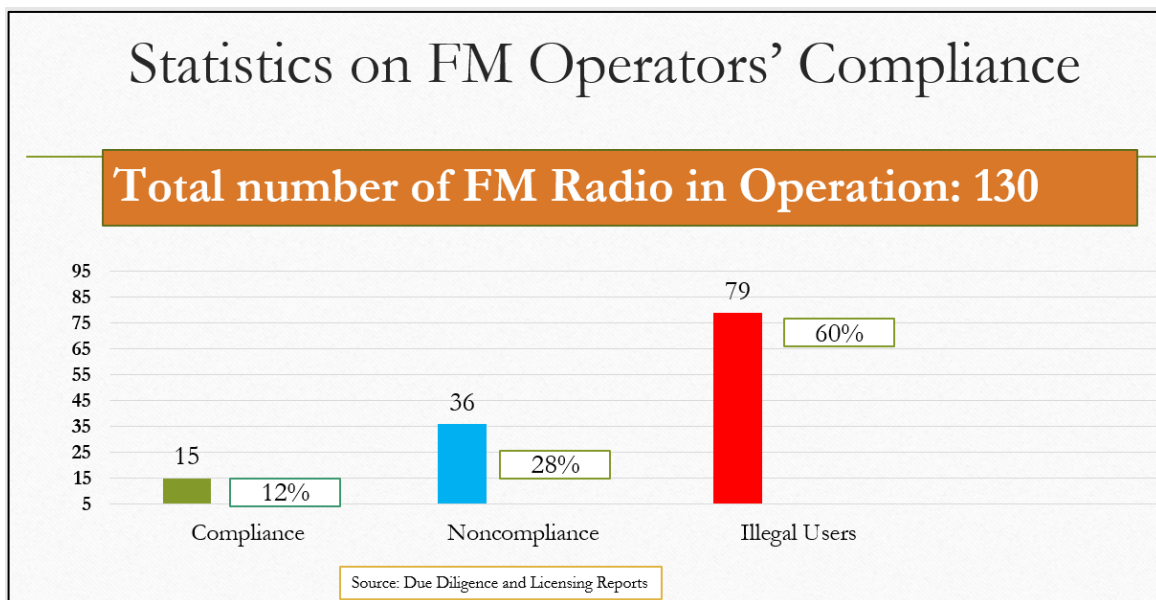
knowledge of the new five-year licensing regime. We suspect this is rather convenient – and may warrant a process of each radio station being made more aware again via an audit and signing explicitly to having been made aware.

8. **Most FM radio stations are not paying their due fees to the LTA and the GoL:** Due to the fact that a majority of the stations are not compliant financially, the LTA/GoL is receiving no revenue for use of those frequencies. 50 percent of FM RSPs in Montserrado County volunteer not to be compliant with paying their fees due to the LTA/GoL and a whopping 93 percent in rural areas.
9. **Some radio stations can be heard in multiple counties despite having authorizations in just one county:** MSG found this to be the case in several counties outside Montserrado. These stations are therefore not abiding by the geographic restrictions of their frequency authorizations. MSG (2021) documents many such examples.
10. **FM interference issues amongst FM radio stations appear to be rife:** MSG reports that, on the technical side, there seems to be a significant amount of frequency interference amongst stations. This issue was especially observed in Monrovia, Montserrado County, which constitutes more than 67 percent¹⁵ of the stations operating in the country and where 25 percent of the FM radio Stations report Interference Concerns (seven percent with rural FM RSPs)
11. **The LTA’s record of assigned FM radio frequencies in Liberia seem at odds with MSG’s “on the field” data collection:** MSG and the project team broadly cross-referenced their findings with LTA’s official records of FM radio assignments across the country and found more FM radio stations on the dial than LTA records show, especially in Montserrado County and (ii) MSG appears to have been able to access more information than the LTA possesses, e.g., owners, whether they are registered as community FM Stations but operating as full commercial FM Stations, etc. There is therefore a strong case for LTA carrying out a more accurate and up-to-date FM radio spectrum audit in Liberia.

As has been emphasized above, the above findings broadly corroborate the LTA’s views on why they promulgated the 2019 Regulations as can be seen in Figure 2. The perennial culture of non-compliance to FM Broadcast Regulations, poor LTA culture of enforcing them, and the sheer quantum of illegal users of FM radio spectrum in Liberia can be further seen in the above chart (Figure 2) from the LTA itself.

¹⁵ MSG literally hand counted the number of stations in Montserrado and tabulated that result with the overall result from the rest of the country.

Figure 2. Statistics on FM Operators' Compliance in Liberia from the LTA



Source: (the LTA dated 2019 via MSG [2021])

Our findings point to a substantial amount of illegal use of FM radio assignments in Liberia.

It is worth noting that illegal FM RSPs could be truly dangerous because:

- Illegal FM Broadcasters use equipment, which may cause interference and can disrupt the communications of critical services like air traffic control;
- The transmitters are poorly designed and obtained from the European and African black market not abiding by ITU standards (network type approval);
- They are likely manned by untrained Liberians who may be being put in dangerous positions operating high-power transmitters;
- The compliant FM RSPs are cheated with unfair competition wherein the illegal and unlicensed broadcasters attract advertising revenues from unsuspecting advertisers who would not know the difference between illegal/non-compliant FM RSPs from compliant/licensed ones; and
- It is really important that the GoL and LTA take this problem very seriously indeed.

SUMMARY OF FINDINGS

THE 2019 FM REGULATIONS ARE BONA FIDE AND BEST PRACTICE

The 2019 FM Regulations are both bona fide and best practice. Indeed, they are very similar to the FM radio regulations in Ghana, which are serving Ghanaians well.

THERE IS A CULTURE OF NON-COMPLIANCE, LACK OF ENFORCEMENT, AND ILLEGAL USE OF FM

There are three significant and inter-related challenges at play with FM radio regulations in Liberia:

1. **A culture on non-compliance to FM radio regulations:** all the analyses clearly point to this conclusion, which the LTA also agrees with.
2. **There is a clear lack of enforcement of the FM regulations:** From information gathered during the exercise, the project team has not been able to see any evidence of a culture of enforcement of FM regulations in Liberia.
3. **Most FM radio stations operating in Liberia are operating Illegally:** this is also a sobering conclusion, which we have also seen in Figure 2 that the LTA concurs with too. Illegal radio broadcasters are all called “**pirate radio**”.

These challenges are triply cultural, deep, and statutory, and therefore, the solutions would require that the LTA have more statutory powers from the GoL.

We also conclude that:

1. The culture of non-compliance to LTA FM Regulations, lack of enforcement by the LTA, and the illegal use of FM Assignments in Liberia clearly preceded the 2019 FM Regulations: this is quite evident from the MSG data collection exercise conducted as part of this study as well as in statements made by LTA staff to the project team.
2. The 2019 FM Regulations are never going to address – indeed were never going to address - the three core FM radio challenges above. The LTA (2019) FM Regulations exercise set out to:

“address these issues and ensure responsible utilization of radio frequencies and adherence to technical and other required standards in the installation or construction of radiocommunication facilities, the need for FM radio regulations is indeed necessary. The regulations will establish a clearly defined framework to monitor and ensure radio operators’ compliance to LTA’s requirements and ITU’s technical standards, with the utmost objective of ensuring a vibrant radio frequency management process”.

It is not apparent to this project team how the above objective would address the three main challenges stated above.

4. DRAFT FM RADIO COMPLIANCE REGULATORY RECOMMENDATIONS AND ADVOCACY

This section presents our overall simplified draft FM radio compliance recommendations for the LTA. It builds upon the previous section, which summarized the major FM radio compliance and enforcement challenges including:

1. A Culture on Non-Compliance to FM radio Regulations including ITU BS standards.
2. There is a clear lack of enforcement of the FM Regulations.
3. Most FM radio stations operating in Liberia are operating Illegally (effectively pirate radio stations are rife in Liberia).
4. The culture of non-compliance to LTA FM Regulations, lack of enforcement by the LTA, and the illegal use of FM assignments in Liberia clearly preceded the 2019 FM Regulations.
5. The 2019 FM Regulations will not address the three core FM radio challenges above.

The following recommendations are all aimed at addressing the above.

RECOMMENDATION I: THE GOL MUST EMPOWER THE LTA WITH ENFORCEMENT POWERS

This report concludes that the promulgated 2019 FM Broadcast Regulations have and will not address these deep FM radio compliance and enforcement challenges for the LTA for the following reasons:

1. It appears the issues are deeply “cultural” which has been going on for decades, and new regulations (in themselves) do not address cultural issues of non-compliance.
2. The FM radio regulations consultation exercise, which this project has studied, hardly addresses the root causes of such non-compliance.
3. The LTA could have consulted and subsequently requested from the GoL enforcement powers to start addressing these issues. We saw no evidence they did.

The first recommendation of this study is that the LTA would need better tools to address these challenges, and the first tools regulators start with are statutory tools. The reality is that the Telecommunications Act of 2007 (ACT, 2007) does *not* give the LTA any powers to enforce the 2019 FM Regulations. This report strongly recommends that the GoL empower the LTA with **explicit** FM radio enforcement powers.

The Liberian Telecoms Act (ACT 2007) gives the LTA only a general duty to secure the optimal/efficient use of the spectrum, but nowhere near (amongst other things) enables the LTA to prevent crime and disorder, including the ability to address challenges like the ubiquitous and unregistered pirate radios in Liberia.

Even, developed market like the UK has empowered its regulator Ofcom¹⁶ with more specific powers to deal with illegal pirate FM radio stations and other non-compliance challenges in the UK's Wireless Telegraphy Act of 2006¹⁷.

As noted in an Ofcom consultation document on Illegal Broadcasting¹⁸ in the UK, under the Wireless Telegraphy Act 2006, Ofcom issues licenses to radio broadcasters for the use of stations and apparatus for wireless telegraphy. The Act clearly sets out a number of criminal offenses relating to wireless telegraphy including:

- Establishing or using a wireless telegraphy station or apparatus to broadcast except in accordance with a wireless telegraphy license;
- Keeping a wireless telegraphy station or apparatus available for unauthorized use;
- Allowing premises to be used for unlawful broadcasting;
- Facilitating unlawful broadcasting by, for example:
 - Participating in the financing or day-to-day running of an unlawful station;
 - Maintaining or repairing equipment used by an unlawful station;
 - Supplying a film or sound recording to an unlawful station;
 - Participating as an announcer for an unlawful station;
 - Advertising by means of an unlawful station; and
 - Using apparatus for the purpose of interfering with wireless telegraphy (i.e., deliberate interference).

Under the Wireless Telegraphy Act 2006 Ofcom has powers that it can use to take action against those who commit these offenses, including powers of entry, search, and seizure of equipment. It is a criminal offense to obstruct a person exercising enforcement powers on Ofcom's behalf. Other legislation also gives Ofcom and police officers the power to seize and detain equipment used for illegal broadcasting under the authority of a search warrant (Wireless Telegraphy Act 2006); investigation powers, such as access to certain data about telephone, email, and internet communications used by illegal broadcasters and to undertake covert surveillance (Regulation of Investigatory Powers Act 2000).

¹⁶ The author of this report was responsible for these activities at Ofcom for close to five years between 2009 and 2014.

¹⁷ "Wireless Telegraphy Act 2006", n.d. Accessed March 2021, https://www.legislation.gov.uk/ukpga/2006/36/pdfs/ukpga_20060036_en.pdf.

¹⁸ Ofcom, "Ofcom Research into Illegal Broadcasting in the UK", April 19, 2007, <https://www.ofcom.org.uk/about-ofcom/latest/media/media-releases/2007/ofcom-research-into-illegal-broadcasting-in-the-uk#:~:text=Under%20the%20Wireless%20Telegraphy%20Act%202006,%20it%20is,studios%20and%20seizing%20and%20disconnecting%20transmitters%20and%20aerials.>

It is a strong recommendation of this report that the LTA is empowered by the GoL with similar explicit regulatory and enforcement duties and powers through an Amendment to the Telecoms Act of 2007 – like the recent 2020 amendment designating LibTelCo as the “National Operator” of telecommunications in Liberia. See example USA Illegal Radio Amendment in Annex 5 of this report.

RECOMMENDATION 2: CROSS-GOVERNMENT, LTA, AND FM RADIO INDUSTRY COMMUNICATIONS VIOLATIONS COMMITTEE

Mass communications broadcast policy is typically the reserve of Governments and elected officials – and rightly so too. Enforcing against a close to 90 percent non-compliance challenge to LTA FM broadcast regulations - as well as in a context where practically all non-compliant FM broadcast stations are allegedly linked to the political class (and business class with political connections) – would be an unenviable problem for any telecoms/media regulator in the world. It could (and would) easily lead to a very fractious and damaging relationship between the independent LTA and the GoL.

It is another strong recommendation of this study that a cross-government, LTA, and the FM radio industry Communications Violations Committee is set up including:

- Across GOL we propose:
 - A key Ministerial-level Representative from MICAT;
 - A key Ministerial-level Representative from the Ministry of Justice (MoJ);
 - A key Ministerial-level Representative from the Ministry of Internal Affairs (MIA);
 - A key Ministerial-level Representative from MoPT;
- From the LTA, we propose the Chairperson and the Commissioner for Engineering;
- From the FM radio industry of Liberia, we propose two senior representatives from the Press Union of Liberia¹⁹; and
- An independent member, e.g., a senior university academic, an international expert, or representative from a donor agency (e.g., the World Bank, USAID, etc.).

The circa nine-person committee’s first order of business should be the FM radio infringements. We recommend they should have a clearly defined FM radio Terms of Reference (ToR) including (not exhaustive) to start with:

- Understanding the challenges of the FM radio sector in Liberia;
- Understanding the root causes of the non-compliance to radio regulations from the LTA;
- Understanding and deliberating the poor culture of non-compliance and illegality in the FM radio sector and the twin concern on FM stations ownership in Liberia;
- Deliberate and agree on evidenced-based solutions to the root causes;

¹⁹ Recommended by the Honourable Minister at MICAT.

- Deliberate and agree on new enforcement duties and powers for the LTA to address this issue; and
- Deliberate and agree on funding requirements for the LTA and/or other government department (e.g., the MIA) to enforce against non-compliance and illegality in the FM radio sector – which may include jamming powers (using spectrum jammers) to the LTA and well as an enforcement team.

The Violations Committee may consider a period of grace too for pirate radio stations beyond which the GoL and the LTA may choose to jam illegal stations across the country. In many other jurisdictions, e.g., the UK, formerly unlawful broadcasting FM stations are now licensed community radio stations or even fully commercial FM stations.

We also recommend the set-up of a *Violations Steering Group* within the LTA (approved by its Board), which will assess communications violations on a case-by-case basis and determine an appropriate penalty that is proportionate to the gravity of the violation and the circumstances. The LTA Violations Steering Group is required to issue reasoned decisions in writing and would work as required with the Communications Violations Committee.

We are confident such a committee would be needed to address the real long-standing perennial culture of non-compliance to FM Broadcast Regulations, lack of LTA powers of enforcing them and the sheer quantum of illegal users of FM radio spectrum in Liberia as can be seen in Figure 2 from the LTA itself. Later the two representatives from the FM industry could be “peeled off” to yield the more general Communications Violations Committee – see Recommendation 4 below.

RECOMMENDATION 3: CARRY OUT AN AUTHORITATIVE FM RADIO SPECTRUM AND FM BROADCAST RSPS AUDIT

Any FM broadcast radio root-cause analysis, registration of all FM radio stations, assessment of fees dues from the FM RSPs, etc. would start with (or from) a comprehensive FM radio spectrum audit in Liberia. It should go well beyond what this project sought to do which covered the 1) station call name, 2) the station code name or FM frequency, 3) the owner’s name, 5) the location, and 6) the estimated year of establishment of the FM radio station.

Such an audit would also provide a baseline to measure any improvements seen from measures taken on enforcement going forward. There is also much difference between the records on FM Broadcast Radio held by the LTA vs. some of the information unearthed by MSG in this study that needs to be reconciled and verified.

The LTA should also consider maintaining an updated FM Broadcast Radio map such as Ofcom’s (see Figure 3). Such coverage maps act as significant information remedy and transparency – and could be used to “name and shame” violators and pirate radio stations too.

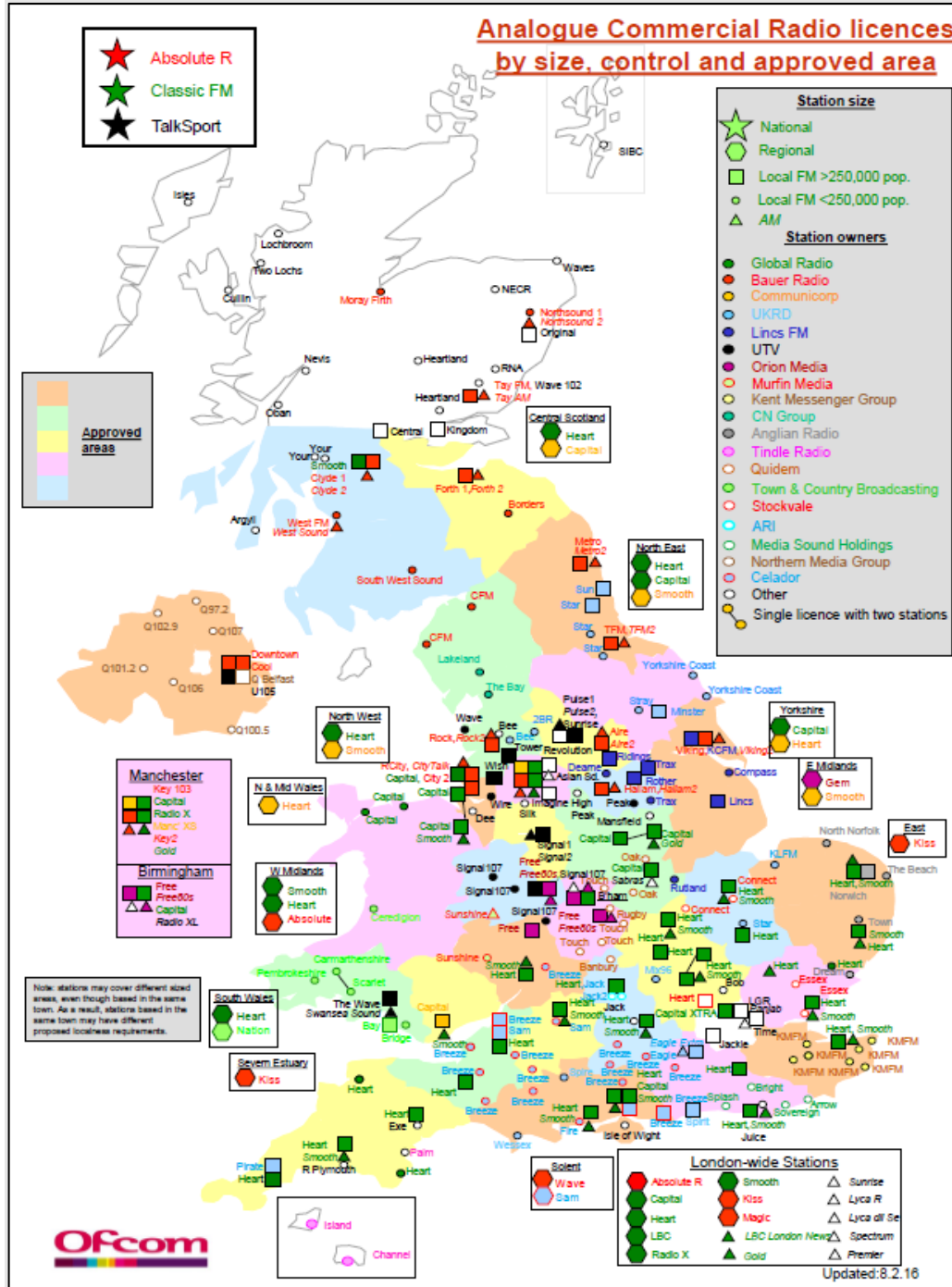
It is also a strong recommendation of this report that such an audit **should project a positive approach** (via the right public relations (PR) campaign from the GoL/LTA) that the Government and the LTA want to encourage, if not assist, with unlawful RSPs to become lawful ones. This is partly because – paradoxically – the unlicensed and illegal FM radio stations improve spectrum efficiency in Liberia because they are using (in some cases) otherwise unused airwaves, particularly in rural Liberia.

The audit would require a major exercise requiring some skills to be able to identify and locate the illegal and unlicensed FM RSPs. It should be used as an exercise to work with local universities to help assist the LTA with locating unlicensed FM RSPs. Some would not be that difficult to locate just walking around with a cheap portable radio (or a cheap handheld spectrum analyzer) until an illegal station completely swamps a specific band. Otherwise, a typical way to find the transmitter is by triangulating the broadcast signal, seeking a dipole antenna, etc. Either way, the key point here is cooperation with local universities in a positive way would be a good way of improving both the skills of the university and LTA, but also potentially advising unlawful FM RSPs.

A truly positive audit of the illegal and unlicensed FM RSPs in Liberia with a clear motive to advise them on business plans, technical challenges, and how to abide by LTA regulations (including a period of grace for them to register as community stations, etc.) would be positive for the Liberian FM radio sector. Technology is making it year by year truly easier to set up illegal FM pirate radio stations, starting with no more than an FM modulator, a little transmitter capable of transmitting around 500mW of power over the FM Broadcast band (87.5 – 108 MHz) and an antenna.

This recommendation should be carried out in concert with the proposed Violations Committee. After a (hopefully) successful FM spectrum and FM broadcasters audit (including licensing some more RSPs), an annual FM radio sweep (see Annex 5) is recommended along with additional monitoring/reporting – possibly in partnership with local universities.

Figure 3. Analog Radio Licences by Size, Control, and Approved Area



Source: (Ofcom UK Website20)

²⁰ “Analogue Commercial Radio Licences by Size, Control and Approved Area”. Ofcom. Accessed May 25, 2021, https://www.ofcom.org.uk/__data/assets/pdf_file/0017/50822/analogue-commercial-map.pdf.

RECOMMENDATION 4: GOL TO ENACT GENERAL SANCTIONS AND PENALTIES IN THE CASE OF CONTRAVENTION OF TELECOMMUNICATIONS LAWS AND REGULATIONS

The sub-set of the Cross-Government Committee along with the LTA [excluding the FM Industry] must also use the opportunity to evolve, recommend and enact the appropriate key sanctions and penalties (for Liberia) in the case of contravention of telecommunications laws and regulations

This is recommended because this FM Broadcast Radios challenge offers a good opportunity for the GoL to evolve and promulgate more general LTA Laws and Sanctions that should accompany the Telecommunications Act of 2007.

Annex 4 (with acknowledgment to DLA Piper) provides example headlines, sanctions, and penalties from other countries across the world, which would offer the Committee some guidance.

RECOMMENDATION 5: LTA SHOULD WORK WITH LOCAL UNIVERSITIES ON FM BROADCAST CHALLENGES AND MORE

Taking opportunities for the LTA to work, skill and be (up)skilled Local Universities is a true win-win for all concerned. The author is a major advocate for good regulators collaborating with local Universities in such a win-win manner. Recommendations 2 and 3 detail two areas of mutual benefit between the GoL/LTA and local universities on FM radio challenges.

For example, the Electrical Engineering Department of the University of Liberia could partner with the LTA on using some of the University's mobile spectrum analyzers that may be employed to easily triangulate rogue FM Broadcast signals. A University electrical engineer would be able to spot easily a badly installed FM dipole antenna too, etc. University students from the Electrical Engineering Department can carry out projects on FM radio direction finding, locating antenna and transmitters, measuring signal strengths, etc. and the University can collaborate with the LTA on such data and analyses.

In other SSA countries like Malawi, there is a strong and mutual relationship between the regulator and local universities.

RECOMMENDATION 6: LTA AND MICAT SHOULD EVOLVE A SEAMLESS FM RADIO LICENSING PROCESS BETWEEN THEM

Evidence gathered during this project clearly shows that there is a lack of coordination between the LTA and MICAT on the two required authorizations to get an FM Station on air in Liberia (see Section 2): *Content Authorization or Broadcast Permit* from MICAT and a *Frequency Authorization* to use the natural resource of the frequency airwaves from LTA.

Indeed, this report earlier confirms that it is unwieldy to FM RSP applicants on progressing both sets of authorizations, and the lack of clear coordination between the two. There needs to be better

coordination (of processes, systems, alignment of license terms, fees, enforcement/compliance as per Recommendation 1 and more) between MICAT and the LTA on these two authorizations.

Public disagreements between MICAT and the LTA – as has been observed by FM RSPs both physically at public consultation meetings and in writing as in Section 9.2 of LTA (2019²¹) – is just unseemly and strongly discouraged. The coordination of authorization processes between MICAT and LTA can (and should) be mapped at once with a small team pulled together from MICAT and LTA and followed thereafter. A regular four-monthly review meeting between MICAT and the LTA to ensure the seamless coordination continues smoothly is also recommended. The MICAT Minister agrees.

RECOMMENDATION 7: LTA SHOULD USE THIS REPORT AS A KEY BASIS FOR ADVOCACY FOR THE FUTURE OF FM BROADCAST RADIO IN LIBERIA

We recommend that the LTA use this report to advocate for improving the FM radio sector in Liberia in the following ways:

- Advocate and obtain duties and powers to carry out FM Broadcast Regulations in Liberia;
- Share the challenge of enforcing the 2019 FM Broadcast Regulations with the GoL for reasons expounded in this report;
- Advocate with the GoL for not only an FM spectrum audit, but also for a full FM RSPs audit in Liberia too – with a view to converting as many of them as possible to legit FM RSPs;
- Advocate for mutual partnership between GoL/LTA and local Universities on FM Broadcast Technical and Business Improvement issues;
- Advocate with the GoL to set up the Violations Committee recommended in this report; and
- Advocate and plan for PR campaigns to the Unlicensed and Illegal FM radio sector to see the benefits of going lawful given the positive attitude to any audits recommended in this Report.

Lastly, training that would accompany this report under the ProICT Liberia training will further prepare the LTA for such advocacy, to be conducted in May 2021.

²¹ Section 9.2 for example as well as other Sections in this report. Section 9.2 reads

“We are the gateway to obtaining LTA’s license. I have read your document and realized that the Ministry of Information is mentioned only one time in the document, somewhere in Section 9.2. I really don’t think you guys did good service to the Ministry of Information when you guys were drafting these regulations. Without the Ministry of Information, the LTA cannot give any media entity license... you people need to reecho it. Our permit is given annually and not in the five-year plan. If you look at what you wrote there, is like once you obtain Ministry of Information’s permit one time, you can just continue going back to the LTA to regularize on an annual basis. Ours is annual not fiscal. Your Commissioner told us that you people have 126 FM in operation. He said 66 entities non-community, 32 community, and 27 paid- did all of these entities passed through the process as being proposed by you? If not, what mechanism was used in obtaining the frequency or license by these institutions?”

5. KEY CONCLUSIONS

There are some clear conclusions that have already been highlighted in this report worth reinforcing and pulling out in the conclusion of this FM Broadcast Radio Regulations Compliance Report on strengthening the LTA.

1. There is a clear culture on non-compliance to FM radio regulations: all the analyses point to this conclusion, which the LTA also agrees with.
2. There is also a clear lack of enforcement of the FM broadcast regulations, which dates back to the establishment of the LTA in 2007 without any enforcement powers granted to the LTA to be able to carry these out.
3. Most FM radio stations operating in Liberia are operating illegally: this is also a sobering conclusion, which we have also seen in Figure 2 that the LTA concurs with too. The culture of non-compliance to LTA FM Regulations, lack of enforcement by the LTA, and illegal use of FM assignments in Liberia clearly preceded the 2019 FM Regulations: this is quite evident from the MSG data collection exercise conducted as part of this study as well as in statements made by LTA staff to the project team.

We concluded that these three challenges/conclusions above are triply cultural, deep, and statutory (i.e., the solutions would require the LTA having more statutory powers from the GoL):

1. The 2019 FM Regulations are never going to address the three core FM radio challenges above: this is also another sobering conclusion. We have set out some key seven recommendations to address these deep and cultural FM Broadcast Radio Broadcast challenges in Liberia.
2. We recommend the ITA (and the GoL) use this report for advocacy to improve the FM radio sector in Liberia, the GOL, local universities, and other relevant stakeholders in Liberia.

ANNEX I. REFERENCES

Final Report on Public Consultation on the FM Radio Regulations. Liberia: Liberia Telecommunications Authority, 2019.

Millennium Survey Group (MSG) Data Research and Data Collection Final Report. Liberia: Millennium Survey Group, 2021.

Nwana, H. Telecommunications, Media and Technology (TMT) for Developing Economies: How to make TMT Improve Developing Economies in Africa and Elsewhere for the 2020S. London: Gigalen Press.

Telecommunications Act 2007. Liberia: Government of Liberia, 2007.
https://www.wto.org/english/thewto_e/acc_e/lbr_e/WTACCLBR15_LEG_38.pdf

ANNEX 2. LTA RESPONSES TO BRIEF FM BROADCAST INFORMATION REQUEST

Below is the data request that the ProICT Team submitted to the LTA.

WORKSTREAM 6: STRENGTHENING LIBERIA FM BROADCASTING SPECTRUM REGIME	
REQUEST	RESPONSE/COMMENTS
6.1 a.	<p>What compliance and enforcement procedures have been put in place since the FM radio regulations came into place in October 10th, 2019?</p> <p>Please see forwarded FM Regulations and LTA Order. Deadline for reregistration previously extended to March 31, 2020.</p>
b.	<p>Was there any public or workshop event to pivot these new FM regulations?</p> <p>The LTA conducted a full public consultation process. Consultations were also held by USAID-funded Internews. See forwarded Report on Public Consultations.</p>
c.	<p>Any details on the transition process to the new FM Regulatory Regime? Are all FM Licensed operators in the process of filing applications with the LTA? Including MICAT information?</p> <p>A new FM plan has been developed by the LTA with synchronous FM assignments. Existing FM stations are to register with the LTA within a time frame and would be assigned a frequency in the new FM plan. Existing stations have first preference over new applicants. Some existing stations have begun filing for registration, but the majority have not yet filed. MICAT certification is a requirement for LTA FM authorization. Refer to regulations and new FM Frequency Plan.</p>
d.	<p>Any non-compliant FM RSPs yet?</p> <p>Over 90 percent still non-compliant</p>
e.	<p>What is the level of Political support in the enforcement of the new FM radio regulations regime in Liberia</p> <p>No comment on political support</p>
f.	<p>What happens if FM radio stations of “politicians” or some “high and mighty” are judged by LTA to be non-compliant licensees? Any examples?</p> <p>No comment</p>
g.	<p>What are the processes, procedures and systems for shutting down illegal FM broadcasters – and the necessary laws/legislations involved?</p> <p>Please refer to the Telecoms Act of 2007, FM Regulations, and the Licensing Regulations</p>
h.	<p>Is there any beauty contest aspect to the issuing of FM radio licenses or MICAT and/or the LTA?</p> <p>Licenses issued on a first come first served basis. Refer to Regulations.</p>

i.	Budget and profit loss accounts for the FM radio stations	N/A
j.	Terms (including lengths) of new FM spectrum licenses across all the different classes?	Five-year terms. Please refer to Regulations
k.	Information on Compliance to the FM Fees regulations? Do licensees pay their spectrum fees faithfully? What happens if they do not	Fees are not usually timely paid. Refer to Regulations for compliance measures.
l.	List of FM VHF radio assignments across Liberia and to which licensees	See forwarded updated list of FM stations in Montserrado County. List for rest of the country being updated.
m.	Estimated number of FM radio receivers in Liberia	N/A
n.	Are the channels licensed in Liberia 25 KHz channels, 12.5 KHz channels or even 6.2 KHz channels?	25KHz

ANNEX 3. FM BROADCAST RADIO GUIDELINE QUESTIONNAIRE

I. ABOUT YOUR FM RADIO ORGANISATION (RESPOND AS YOU SEE FIT – OR EVEN ANONYMOUS)

Name/Anonymous:

Address:

Are you Operator or ISP SME/NGO

Other (Elaborate)

Are you Government? Yes No

How old is your organization?

<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<5 years	5 - 10 years	10 - 15 years	> 15 years

2. ON FM RADIO ENFORCEMENT AND COMPLIANCE

Are you a NEW five-year FM Radio Licensee? All old FM licenses expired in December 2019 Yes No

If No, are you aware of the relatively recently enacted FM Radio Regulations of October 2019 (five-year license regime instead of 1 year)? Yes No

Are you compliant with the recent stipulations of the Yes No

NEW FM radio Regulations
and LTA Order to
reregister by March 31,
2020?

Are you one of the 90
percent non-compliant?

Yes

No

If Yes please explain why

.....
.....
.....

How do you suggest the
LTA should enforce
compliance of FM
Regulations (Re-registration
with New LTA Order of
March 2020, New Fees
NOT PAID, Powers
authorized in the License are
EXCEEDED, etc.)? Tick as
many as possible

- Your FM Radio Stationed is jammed
- Station Reported to MICAT
- LTA always monitors Power (Watts)
- More awareness raising
- Station is taken to Court by the LTA and the License Revoked
- Once License is revoked by the Court/LTA, station can be jammed
- A Cross-Government and Radio Industry Committee to police enforcement

You have any other
suggestions on Enforcing

Compliance to FM Radio
Regulations?

**FOR MICAT and STATE
HOUSE SPECIFICALLY**

– Given that many holders
of FM Licenses are allegedly
Politicians – how should
LTA enforce compliance to
FM radio Licenses

3. FOLLOW-UP INTERVIEW

Would you be willing to participate in a follow-up
interview in order to discuss some of your responses
in detail?

Yes No

4. DISCLAIMER

Any information you provide will be treated in the strictest confidence and will be used anonymously,
unless in situations where we have secured your permission to use it otherwise.

ANNEX 4. EXAMPLE KEY SANCTIONS AND PENALTIES IN THE CASE OF CONTRAVENING TELECOMMUNICATIONS LAWS AND REGULATIONS (COURTESY OF DLA PIPER²²)

This annex unashamedly draws from DLA Piper, a well-known Telecommunications Legal Law firm based in London. As the GoL considers the appropriate key sanctions and penalties (for Liberia) in the case of contravention of Telecommunications Laws and Regulations, they may want to look at these summary positions adopted by other countries across the world as summarized by DLA Piper.

We only present a sub-set of countries on DLA Piper's database and website. All the words here are DLA Piper's.

BAHRAIN

The Telecoms Law states that any entity which contravenes the law shall be criminally liable for those actions, most notably, providing telecommunications services without a license.

The TRA also has powers and responsibilities to ensure licensees' compliance with license conditions and the law. Under these provisions the TRA is empowered to take 'the measures it considers necessary to secure compliance by the licensee'. These measures include:

- Directions to refrain from doing certain actions;
- An order to remedy, prevent or rectify a breach of the law or license;
- The imposition of an appropriate fine; and
- A warning that the license may be revoked if the licensee fails to comply with the above.

The TRA has issued guidelines, which outline the process for determining the size of the fine to be imposed for anti-competitive behavior and breach of license conditions. In line with the Telecoms Law, these guidelines cap any such fine at 10 percent of the entity's annual revenue.

Before issuing an order, the TRA should inform the licensee of the details of the impending order and give it the opportunity to respond within a specified period. Once an order has been issued the licensee in question must comply with its requirements within the stipulated period or face the possible revocation of its license. However, a licensee is entitled to appeal any decision or order that has been issued in its name. This can be done directly to the TRA or through a statutory arbitration process. Bahrain is unique amongst the GCC states, in that its Telecoms Law has a statutory arbitration process designed to allow operators to challenge TRA decisions.

COLOMBIA

²² "Telecommunications Laws of the World: Overview of Legal Landscape." n.d. DLA Piper. Accessed March 2021. <https://www.dlapiperintelligence.com/telecoms/index.html?c2=US&c=GB&t=enforcement>.

Law 1341 in article 64 establishes a series of behaviors that lead to sanctions. Some of the behaviors are:

- Not enrolling in the ICT registry;
- Use the radio spectrum without the corresponding permission;
- Failing to pay the consideration provided in the law;
- Refrain from presenting the required information to the authorities or presenting it inaccurately or incompletely; and
- Failure to comply with the quality and efficiency parameters issued by the CRC.

Additionally, article 65 of Law 1341, establishes that whoever incurs in any of the conducts provided in article 64, will be sanctioned with reprimands, fines, suspension of the operation, expiration of the contract or cancellation of the license, authorization or permit.

KENYA

The KICA and its associated regulations have numerous provisions with obligations on licensees. Below are some of the key sanctions/penalties arising from a breach of the KICA provisions:

TELECOMMUNICATIONS

- The KICA forbids the provision of telecommunication services without a license. Contravention of this section leads to conviction; to a fine not exceeding One Million Kenyan Shillings (KES 1,000,000) (approximately USD 9636.85), or imprisonment for a term not exceeding five years, or both;
- Under the KICA, any contravention of the general regulations for telecommunication services is an offence whereby offenders shall be liable on conviction to a fine not exceeding Three Hundred Thousand Kenyan Shillings (KES 300,000) (approximately USD 2891.06), or to imprisonment for a term not exceeding three years, or both;
- Failure by a telecommunications operator to obtain customer information and store it confidentially attracts a liability on conviction to a fine not exceeding Five Million Shillings (KES 5,000,000) (approximately USD 48184.25);
- Under the KICA, any person who dishonestly facilitates or obtains a service provided by a person authorized under this Act to provide telecommunication services, with intent to avoid payment of any charge applicable to the provision of that service, commits an offence and shall be liable on conviction to a fine not exceeding One Million Kenyan Shillings (KES 1,000,000) (approximately USD 9636.85), or imprisonment for a term not exceeding five years or to both;
- Under the KICA, any person who uses a licensed telecommunication system improperly to send a grossly offensive message or one that causes needless anxiety to another person commits an offence and is liable upon conviction to a fine not exceeding Fifty Thousand Kenyan Shillings (KES 50,000) (approximately USD 481.84), or to imprisonment for a term not exceeding three months or to both. Please note: This provision has been declared unconstitutional and invalid by the High Court of Kenya in a recent case of *Geoffrey Andare v Attorney General and two others* [2016] eKLR for unjustifiably violating Article 33 and 50 (2) (n) of the Constitution of Kenya;
- Under the KICA, a person who intentionally modifies or interferes with the contents of a message sent by means of that system commits an offence and shall be liable on conviction to a fine not

exceeding Three Hundred Thousand Kenyan Shillings (KES 300,000) (approximately USD 2891.06), or to imprisonment for a term not exceeding three years, or to both;

- Under the KICA, interception and disclosure of messages is an offence, and the offender shall be liable on conviction to a fine not exceeding Three Hundred Thousand Kenyan Shillings (KES 300,000) (approximately USD 2891.06), or imprisonment for a term not exceeding three years, or both;
- A person who unlawfully tampers with a telecommunication plant with the intent to prevent, obstruct or delay transmission of any message commits an offence and is liable, on conviction to a fine of not less than Five Million Kenyan Shillings (KES 5,000,000) (approximately USD 48184.25) or to imprisonment for a term not less than 10 years or to both;
- A person who severs licensed telecommunication equipment with intent to steal commits an offence and is liable, on conviction, to a fine of not less than Five Million Kenyan Shillings (KES 5,000,000) (approximately USD 48184.25) or to imprisonment for a term of not less than 10 years or to both; and
- A person who operates an unlicensed telecommunication system is liable on conviction to a fine not exceeding One Million Shillings, (KES 1,000,000) (approximately USD 9636.85) or to imprisonment for a term not exceeding five years, or to both.

RADIO COMMUNICATION

Any person who establishes or uses radio communication status or apparatus without a valid license from the CA commits an offence and is on conviction liable to a fine not exceeding Five Million Kenyan Shillings (KES 5,000,000) (approximately USD 54,945.05) or to imprisonment for a term not exceeding three years, or to both.

A person who contravenes Radio Communication Regulations is liable on conviction to a fine not exceeding One Million Shillings, (KES 1,000,000) (approximately USD 9636.85) or to imprisonment for a term not exceeding five years, or to both.

SOUTH AFRICA

The CCC is required, in terms of the ICASA Act, to investigate, and hear (if appropriate), and make findings on all matters referred to it by ICASA, complaints received, and allegations of non-compliance with applicable law. Once the CCC has made a finding, ICASA may, based on the recommendations made by the CCC, impose fines and issue directions to the licensee.

If the licensee has been found to be repeatedly in violation of ECA, applicable regulations or its license conditions, ICASA may revoke or suspend its license.

Most of the regulations that require compliance on the part of licensees make provision for penalties and fines. In most instances, a maximum fine is specified and ICASA has the discretion to impose a lesser fine or not fine at all. Certain contraventions are treated as offences, which may result in imprisonment.

Presently, the highest maximum fines that are contained in the Call Termination Regulations and the End-User and Subscriber Service Charter Regulations. These regulations allow ICASA to impose a maximum fine of R 5 million or 10 percent of the licensee's annual revenue for every day of non-compliance with the regulations, whichever is greater.

In terms of the Type Approval Regulations any person that offers for sale or possesses, with the intention to sell, any equipment (including but not limited to radio apparatus) that is not type approved is guilty of an offence and is subject to imprisonment of six months and/or is liable to a fine not exceeding R1 million.

In terms of the Radio Frequency Spectrum Regulations, which postdate the Type Approval Regulations, a person who is in possession of radio apparatus may be found guilty of an offence and, upon conviction, may be imprisoned for not less than six months but no more than 24 months and/or be held liable to a fine of not less than R250,000. A person found in unauthorized possession of a radio-blocking device may be subject, on conviction, to imprisonment of not less than 12 months and/or liable to a fine of not less than R 250,000 but not exceeding R 5 million. Any person that contravenes the terms and conditions of their radio frequency license is subject to a fine not exceeding R 5 million.

Failure to comply with the provisions of the Interconnection Regulations or the Facilities Leasing Regulations may result in a fine of up to R 500,000.

Failure to comply with certain provisions of the RICA Act may result in fines of up to R 5 million and to imprisonment of up to 10 years, as well as license revocation.

SAUDI ARABIA

The Act and the Bylaws do not specify fines or penalties for breaches of specific provisions. Violations of the Act and Bylaws are to be referred by the CITC to a Violations Committee (Nominated by the CITC Governor and approved by its Board), which will assess violations on a case-by-case basis and determine an appropriate penalty that is proportionate to the gravity of the violation and the circumstances. The Violations Committee is required to issue reasoned decisions in writing.

CANADA

The CRTC has authority to inspect and investigate compliance or non-compliance of the regulatory scheme. Violations of the Telecommunications Act, by an act or omission contrary to a provision or a decision made pursuant to the Act, may trigger civil liability, administrative monetary penalties, or offences punishable on summary conviction. The applicable enforcement measure will depend on the nature of the activity. Prosecution of offences punishable on summary conviction may only be commenced with the consent of the CRTC.

The limitation periods for the enforcement of violations vary between two years from the day on which the act or omission occurred, to three years from the day on which the subject matter of the proceedings became known to the CRTC.

The CRTC and the Minister of Innovation, Science and Economic Development may also suspend or revoke licenses if they are satisfied that the license holder has contravened the applicable acts, regulations, or terms of authorization. Prior to suspension or revocation, the license holder must first be given written notice and a reasonable opportunity to make representations to the relevant party.

AUSTRALIA

CIVIL PENALTIES

See what penalty amounts should be included [here](#).

INFRINGEMENT NOTICES

Under the Telecommunications Act 1997, ACMA can, instead of instituting court proceedings, give infringement notices for alleged contraventions of certain civil penalty provisions relating to telecommunications. If the penalty under the infringement notice is paid within the specified time frame (or other period agreed to by ACMA) then civil penalty proceedings cannot be initiated, and the matter is disposed of without admission of guilt or a conviction. If the penalty is not paid then court action may be taken for civil penalties in relation to the alleged contravention.

PRIVACY LAWS

Greater powers have been introduced for the Information Commissioner to deal with breach of Australia's privacy laws.

BREACH OF TELECOMMUNICATIONS CONSUMER PROTECTIONS CODE

ACMA enforces the code and it can take the following steps:

- Agree with the telecommunications provider on steps it will take to remedy the breach or improve compliance;
- Give a formal warning; and
- Give a Direction to Comply with code provisions.

TELECOMMUNICATIONS INDUSTRY OMBUDSMAN:

- Is authorized to investigate complaints by residential and small business users of telecommunications and internet services; and
- Can enforce resolution of complaints of up to AUD 50,000, and make recommendations for complaints of up to AUD 100,000.

UNITED KINGDOM

Where Ofcom (acting reasonably) identifies a breach, it will notify the relevant provider and require it to take necessary steps to rectify the breach. Failure to comply with the initial notice may lead to Ofcom issuing an enforcement notice and where the terms of the enforcement notice are not complied.

Ofcom may instigate civil proceedings and levy a fine. In addition, in the most serious of cases, Ofcom may suspend or restrict the providers entitlement to provide a regulated communications service and require that compensation is paid to the providers' customers. Breach of a direction is a criminal offence although providers in receipt of a notice or direction must be given the opportunity to make representations in their defense.

Ofcom has the power to issue enforcement notices to cease persistent misuse of a network or service. Ofcom may also require entities to provide certain information relating to Ofcom's regulation or networks and services.

UNITED STATES OF AMERICA

Compliance with the Act, the FCC rules, and the terms and conditions of licenses and authorizations are investigated and enforced by the Enforcement Bureau of the FCC. The Enforcement Bureau may first contact the licensee through a notice of inquiry or proceed directly to a Notice of Apparent Liability. If the Bureau finds noncompliance, the investigation is typically resolved through an Order of Forfeiture, which can mandate fines or order the seizure of property. Alternatively, the Bureau and licensee can resolve the investigation by jointly entering into a Consent Decree, which may involve an admission of liability, a reduced fine, and a multi-year compliance plan. A violation of a consent decree's terms is considered a violation distinct from any subsequent violation of the FCC's rules. In cases of egregious violation, the FCC may revoke some or all of a wrongdoer's licenses. The FCC has delegated investigative capacity to USAC to review (in the first instance) a carrier's compliance with its Universal Service Fund contribution obligation.

ANNEX 5. EXAMPLE AMENDMENT ILLEGAL RADIO ENFORCEMENT ACT²³ (USA)

PUBLIC LAW 116-109—JAN. 24, 2020	134 STAT. 3
<p>Public Law 116-109 116th Congress</p>	
<p>An Act</p>	
<p>To amend the Communications Act of 1934 to provide for enhanced penalties for pirate radio, and for other purposes.</p>	<p>Jan. 24, 2020 [H.R. 583]</p>
<p><i>Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,</i></p>	
<p>SECTION 1. SHORT TITLE.</p>	
<p>This Act may be cited as the “Preventing Illegal Radio Abuse Through Enforcement Act” or the “PIRATE Act”.</p>	
<p>Preventing Illegal Radio Abuse Through Enforcement Act. 47 USC 609 note.</p>	
<p>SEC. 2. PIRATE RADIO ENFORCEMENT ENHANCEMENTS.</p>	
<p>Title V of the Communications Act of 1934 (47 U.S.C. 501 et seq.) is amended by adding at the end the following new section:</p>	
<p>“SEC. 511. ENHANCED PENALTIES FOR PIRATE RADIO BROADCASTING; ENFORCEMENT SWEEPS; REPORTING. 47 USC 511.</p>	
<p>“(a) INCREASED GENERAL PENALTY.—Any person who willfully and knowingly does or causes or suffers to be done any pirate radio broadcasting shall be subject to a fine of not more than \$2,000,000.</p>	
<p>“(b) VIOLATION OF THIS ACT, RULES, OR REGULATIONS.—Any person who willfully and knowingly violates this Act or any rule, regulation, restriction, or condition made or imposed by the Commission under authority of this Act, or any rule, regulation, restriction, or condition made or imposed by any international radio or wire communications treaty or convention, or regulations annexed thereto, to which the United States is party, relating to pirate radio broadcasting shall, in addition to any other penalties provided by law, be subject to a fine of not more than \$100,000 for each day during which such offense occurs, in accordance with the limit described in subsection (a).</p>	
<p>“(c) ANNUAL REPORT.—Not later than 1 year after the date of enactment of the PIRATE Act, and annually thereafter, the Commission shall submit to the Committee on Energy and Commerce of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate a report summarizing the implementation of this section and associated enforcement activities for the previous fiscal year, which may include the efforts by the Commission to enlist the cooperation of Federal, State, and local law enforcement personnel (including United States attorneys and the United States Marshals Service) for service of process, collection of fines or forfeitures, seizures of equipment, and enforcement of orders.</p>	
<p>“(d) ENFORCEMENT SWEEPS.—</p>	<p>Deadlines.</p>

²³ PUBLI09.PS ([congress.gov](https://www.congress.gov)) - <https://www.congress.gov/116/plaws/publ109/PLAW-116publ109.pdf> (last accessed March 2021)

“(1) ANNUAL SWEEPS.—Not less than once each year, the Commission shall assign appropriate enforcement personnel to focus specific and sustained attention on the elimination of pirate radio broadcasting within the top 5 radio markets identified as prevalent for such broadcasts. Such effort shall include identifying, locating, and taking enforcement actions designed to terminate such operations.

“(2) ADDITIONAL MONITORING.—Within 6 months after conducting the enforcement sweeps required by paragraph (1), the Commission shall conduct monitoring sweeps to ascertain whether the pirate radio broadcasting identified by enforcement sweeps is continuing to broadcast and whether additional pirate radio broadcasting is occurring.

“(3) NO EFFECT ON REMAINING ENFORCEMENT.—Notwithstanding paragraph (1), the Commission shall not decrease or diminish the regular enforcement efforts targeted to pirate radio broadcast stations for other times of the year.

“(e) STATE AND LOCAL GOVERNMENT AUTHORITY.—The Commission may not preempt any State or local law prohibiting pirate radio broadcasting.

Notification.

“(f) REVISION OF COMMISSION RULES REQUIRED.—The Commission shall revise its rules to require that, absent good cause, in any case alleging a violation of subsection (a) or (b), the Commission shall proceed directly to issue a notice of apparent liability without first issuing a notice of unlicensed operation.

Deadline.

“(g) PIRATE RADIO BROADCASTING DATABASE.—

“(1) IN GENERAL.—Not later than 90 days after the date of the enactment of this section, and semi-annually thereafter, the Commission shall publish a database in a clear and legible format of all licensed radio stations operating in the AM and FM bands. The database shall be easily accessible from the Commission home page through a direct link. The database shall include the following information:

Website.

“(A) Each licensed station, listed by the assigned frequency, channel number, or Commission call letters.

“(B) All entities that have received a notice of unlicensed operation, notice of apparent liability, or forfeiture order issued by the Commission.

“(2) CLEAR IDENTIFICATION.—The Commission shall clearly identify in the database—

“(A) each licensed station as a station licensed by the Commission; and

“(B) each entity described in paragraph (1)(B) as operating without a Commission license or authorization.

“(h) DEFINITION OF PIRATE RADIO BROADCASTING.—In this section, the term ‘pirate radio broadcasting’ means the transmission of communications on spectrum frequencies between 535 and 1705 kilohertz, inclusive, or 87.7 and 108 megahertz, inclusive, without a license issued by the Commission, but does not include unlicensed

operations in compliance with part 15 of title 47, Code of Federal Regulations.”.

Approved January 24, 2020.