

Decisions on Recommendations on the draft Telecommunications (Universal Service) (Amendment) Regulations, 2016

The following summarizes the comments and recommendations received from stakeholders on the draft Telecommunications (Universal Service) (Amendment) Regulations, 2016, and the decisions made by the Telecommunications Authority of Trinidad and Tobago as incorporated in this revised document dated August 30th, 2016.

The following are the acronyms attached to the relevant entities that have submitted comments on the draft Telecommunications (Universal Service) (Amendment) Regulations, 2016, issued for consultation on June 24th, 2016:-

Columbus Communications Trinidad Limited - CCTL
 Digicel (Trinidad and Tobago) Limited - Digicel
 Telecommunications Services of Trinidad and Tobago - TSTT

Document Section	Submission Made By:	Respondent Category ¹ :	Comments Received	Recommendations Made	Decisions
POLICY DOCUMENT					
Introduction	CCTL	B	CCTL welcomes the opportunity to provide input to the further development of the Telecommunications Universal Service Regulations. The views expressed in this response are not exhaustive. Where issues are not specifically addressed, this does not in any way indicate acceptance, agreement or the relinquishing of any of CCTL's rights.		The Authority expresses its gratitude for the responses received and welcomes the opportunity to engage with all the relevant stakeholders regarding these Regulations.

¹ Regional regulatory or governmental agencies, (A); Existing service and/ or facility providers and affiliates (B); Potential service and/ or facility providers and affiliates (C); Service provider associations/ clubs/ groups (D); Consumers/ consumer groups (E); General public (F).

General	TSTT	B	<p>TSTT responds to the Authority's <i>Draft amendments to the Universal Service Regulations</i> hereunder.</p> <p>TSTT expressly states that failure to address any particular issue does not necessarily signify our agreement in whole or in part with the Authority's position. TSTT reserves the right to comment on these matters at a later date.</p>	<p>TATT is asked to clarify which of these amendments require the laying in Parliament for the amendment of the law, and which of these amendments can be effected by Order.</p>	<p>Clause 16(4) of the USR, provides that "(4) The Minister may, on the advice and recommendation of the Authority, by Order, amend Schedule 3."</p> <p>All other amendments will be laid pursuant to section 78(1) which requires regulations to be made by the Minister with the recommendation of the Authority, subject to negative resolution of Parliament.</p>
Introduction: 1.3 Consultation Process.	TSTT	B	<p>TSTT notes and would like to raise as a matter of context that, according to the chronology outlined in this section, the Regulations which TATT proposes to amend at this time has not been robustly implemented or tested by TATT in the 12 months since its Gazetting.</p>		<p>The Authority wishes to clarify that work has commenced towards the implementation of Mandatory Universal Service Initiatives (MUSIs) subsequent to the promulgation of these Regulations in 2015.</p> <p>The Authority wishes to advise that consultation is well underway as regards the implementation and rollout of the first and second MUSIs with operators.</p> <p>However, the Authority noted that in the implementation of these MUSIs, based on feedback from operators, that necessary changes would be required to enable the successful implementation of these initiatives.</p> <p>Please note that meetings continue to be well underway on both Initiatives with the relevant operators.</p>

Preliminary	TSTT	B	TSTT has noted that neither the Telecommunications Act nor the Regulations provide distinct definitions for the terms Universal Access and Universal Access Connectivity. Whilst we appreciate that the terms Universal Service (US) and Universal Access (UA) are frequently considered to be the same concept however, US generally means providing service to individuals or households whereas UA refers to making service accessible to communities, we request that for the avoidance of doubt, these terms be explicitly defined in these Regulations.	TATT is asked to define the following terms: 1. Universal Access 2. Universal Access Connectivity	The Authority agrees to include the following definition: <i>“Universal access refers to the ability of the entire population to access affordable basic telecommunications services either on an individual or shared basis, as far as reasonably practicable”.</i> As regards Universal access connectivity, the Authority shall, for consistency, delete the word “connectivity” from the term “universal access connectivity” from Schedule 3, number 3, first column.
Section 1.3 - Consultation Process	CCTL	B	In the document Procedures for Consultation in the Telecommunications and Broadcasting Sector of Trinidad and Tobago January 21, 2013, the Authority revised the procedure for consultations to allow for a single round where an existing policy framework is being modified, or in the case of draft regulations prior to submission to the Minister and laying in Parliament. CCTL has several concerns; i. The decision to effect the change (in document referenced above) is inconsistent with the procedures for consultation outlined on pages 2 to 3 of the same document. The eight step process set out in section 1.3, stage five is consultation on	All consultation procedures should be at least two rounds.	The Authority’s Consultation Procedures of 2010 are currently in force and utilised. The draft Consultation Procedures of 2013 have not yet been finalised or implemented as the Authority took cognizance of the nature of the comments received by the relevant stakeholders at that time. It is to be noted that that in the Draft Telecommunications (Universal Service) (Amendment) Regulations, 2016 submitted for consideration, the Authority indicated at

			<p>comments received. A single stage of consultation does allow for consultation on comments received from respondents.</p> <p>ii. The changes being contemplated in this process are approved Regulations not draft Regulations.</p> <p>In addition to the above, CCTL continues to believe that a two stage process allows for more transparency and accountability, as stakeholders have the opportunity to get feedback from the Authority on their input.</p>		<p>paragraph 5 of section 1.3, that these proposed amendments would be subject to one round of consultation in accordance with our Consultation procedures, namely, the 2010 Procedures.</p> <p>Further, given the urgency of this matter and the national import of the projects hoped to be achieved under these Regulations and the fact that operators have been previously consulted by way of face to face meetings, the Authority is of the view that it should adhere to the established one round of consultation for proposed amendments to regulations.</p>
<p>Section 2.1 - Summary of Proposed Amendments</p>	CCTL	B	<p>The section outlining the proposed amendments is very useful and could improve the efficiency of the process as respondents could readily identify changes.</p>	<p>Not all the amendments are included in this summary, for example the definition “Contractual Universal Service” is excluded. It is unclear why this is excluded, CCTL is requesting clarification on this exclusion.</p> <p>All amendments should be included.</p> <p>This section should provide a list of all amendments to the document being revised.</p>	<p>The definition was inadvertently omitted from the draft submitted for consultation. However, the definition appears in Legal Notice No. 63 of 2015, which is the official Telecommunications (Universal Service) Regulations. It is not proposed to remove the definition of “Contractual Universal Service”.</p>

Regulation 3.3 - Authority to administer the Universal Service Fund	TSTT	B	<p>In principle, TSTT has some concern with the removal of the term “recurrent” from the text of this regulation.</p> <p>First, without amendment to Schedule 3, TSTT would have concern with this modification as it does not provide for TSTT recouping its cost for the provision of equipment for persons with disabilities, especially if the cost of that equipment is sought to be recouped over an extended period - akin to how the cost of equipment purchases are recouped in the mobile space. In this regard, TSTT would express caution at the removal of the word “recurrent”.</p>	<p>TSTT recommends that regulation 3 (3) be amended by inserting: “...both capital and...” before the word “recurrent” in the existing regulation.</p>	<p>The Authority proposed the removal of the term “recurrent” from Regulation (3)(3) (a) so as to allow the flexibility to provide for the recoupment of relevant charges as may be necessary under Schedule 3. The use of the word “charges” would not reduce the ability to recover the cost associated with the Persons with Disabilities (“PWD”) initiative since the word “charges” is all inclusive.</p>
			<p>Secondly, and alternatively, TSTT would welcome the availability of refunds from the USF in the instance of capital cost recovery associated with a mandatory US initiative. Both in the circumstances of the proposed amendment to Schedule 3, and the original Schedule 3, this ability to access refunds on capital expenditure would be appreciated.</p> <p>While R.3(3) references “charges set out in Schedule 3”, Schedule 3 does not actually refer to charges. TATT defers to defining these charges “from time to time” without any discernible, transparent framework.</p>	<p>TSTT recommends that TATT outline how these matters will be determined “from time to time.” In this regard, the regulation should include a template form of the Notice of such determinations, and an indication of the duration of such determinations’ applicability. The Regulations are flawed by deferring determination of matters to a</p>	<p>The Authority notes TSTT’s comment and wishes to reassure TSTT that capital cost recovery shall also be considered for recoupment for MUSIs, as indicated in Schedule 3.</p> <p>The Authority notes this comment and wishes to advise that the exercise of any power “from time to time” is exercised under section 44 of the Interpretation Act and in accordance with the mandates of the Telecommunications Act.</p> <p>However, the Authority shall consult with operators on the costs proposed to be included for the relevant MUSI in Schedule 3, 1.</p>

				process which is itself not defined.	
Regulation 8 - Prohibition Against Charging Users	CCTL	B	<p>This section reads, “A contributor shall not charge or otherwise pass on to users without the approval of the Authority, any portion of cost of any contribution made or due to be made to the Universal Service Fund in accordance with these regulations.”</p> <p>In the context of USF, we believe the intention is to make a distinction between fund types where an explicit universal service charge is levied on customers as against fund types where this is not the case, such as in this instance. However the drafting could be interpreted to mean providers cannot recoup legitimate cost incurred without specific approval from TATT.</p>	<p>We do not believe this is the intention, as such, the section should be redrafted to reflect the correct intentions or deleted.</p> <p>We recommend that this section is deleted.</p>	<p>On review of the regulation in question, the Authority holds the view that it is a critical element for universal service obligations. The user should not be disadvantaged for the provision of a service for which there may have been a USF contribution by the provider.</p> <p>It is further noted by the Authority that no operator raised this concern during the consultation process on the Universal Service Regulations in 2013. As such, the Authority respectfully advises that no amendment shall be made to this approved regulation.</p>
Regulation 9 Submission of financial statements	TSTT	B	<p>TSTT reminds TATT that late in August 2015, TATT sought information from some concessionaires so as to assist its preparation of the appropriate invoices to be issued to each concessionaire. In its request, TATT advised the relevant concessionaires to utilise a Data Template attached to its initial correspondence (and not currently available on its website), but not identified or legitimised anywhere else in the Regulations.</p> <p>TSTT reminds TATT that when we requested clarification on the statutory legitimacy of the Data Template as the Regulations only required the submission of audited financial statements, TATT in a letter dated October 30, 2015 cited Concession Condition A28 demanding that, despite the variance from the law, TSTT submit information in the Data Template. When TSTT pointed out that</p>	<p>TATT is obliged by the Act to operate in a transparent and non-discriminatory fashion.</p> <p>Accordingly, if TATT intends to utilise the information collected in the previously circulated Data Template, that Template should be recorded transparently as a tool to be utilised in the data collection efforts of the Universal Service Programme. This would require the inclusion of:</p>	<p>Regulation 5(1) indicates that providers shall contribute to the USF in accordance with directions issued by the Authority and in such manner prescribed by the Authority. Further, Schedule 2 sets out the percentage contributions to the USF by operators.</p> <p>The Authority therefore will, as in the past, forward directions regarding the manner within which such information shall be submitted under these Regulations by all providers.</p>

			<p>the request was not reasonable - a requirement for the application of Condition A28 - and that the Concession Condition is superseded by the Regulations, TATT insisted upon this line of action, threatening the enforcement provisions of the regulations.</p> <p>While TSTT eventually, in good faith, submitted the information in the Data Template, such submission was without prejudice to the error in TATT's approach. TSTT reaffirms that TATT is obliged to include the Data Template as a Schedule to the Regulations, and, if necessary, reference same in the relevant regulation. TSTT raises this concern, as one would think that if TATT required the information in the data Template - which is still not available for public viewing on its website - it would seek to regularise the status of the Form at this time.</p>	<ul style="list-style-type: none"> - the Data Template as a Schedule of the Regulations; and - references to that Schedule in regulation 9. <p>In the absence of these, there must be provision for such tools to be published in the Gazette <u>and</u> on TATT's website before TATT could seek to utilise such as a regulatory direction, backed by the full weight of enforcement action.</p> <p>As stated above, it is a flaw in this Regulations that the procedures defer to processes which are themselves undefined. This must be rectified.</p>	<p>The Authority notes that the form will be consistent with deriving the calculations in Schedule 2. The proposed process by TSTT would lead to an unnecessary delay in a process with an annual rotation, and further, would unduly fetter the discretion of the regulator and/or Ministry in the implementation of these Regulations.</p>
Regulation 14 – Oversight of Universal Service Committee	TSTT	B	<p>The Authors of the Telecommunications Act Section 28 (3) of the Act state: —“In accordance with the policy established by the Minister, the Authority shall periodically determine the manner in which a public telecommunications service or value added service shall be provided and funded in order to meet the requirements of Universal Service for that service, including the obligations, if any, of the providers and users of the service”</p> <p>While TSTT accepts that TATT has established itself as the</p>	<p>TSTT recommends the adoption of an alternative structure which allows for the composition of the Universal Service Committee to include members of the wider stakeholder group, so as to facilitate greater transparency and accountability.</p>	<p>The Authority is established as the fund manager for universal service by virtue of section 28 of the Telecommunications Act, Chap 47:31 and Parts II and III of the USR.</p> <p>TSTT is guided that the governance structure enunciated within Parts II and III of the USR is consistent with standard global practice for</p>

		<p>“Administrator” of the fund (Reg. 3.1), it is of concern that TATT also intends to establish a Universal Service Committee with responsibility for the selection, execution and monitoring of the implementation of Universal Service initiatives, comprised solely of members of the Authority. Unfortunately, this single model for USF administration though widely used, does not align itself with the best examples of USF management. Ideally, the responsibility for fund management and administration should not sit squarely on the shoulders of the Authority. TSTT maintains that a higher degree of accountability with a clearly defined governance structure allowing for wider stakeholder involvement, not provided for in the current Regulatory form should be considered.</p> <p>The industry is replete with examples of Universal Funds administered and managed in their entirety by the local Regulatory body with no involvement from external stakeholders (approximately 60%) however, it must be noted that models so patterned, do not yield positive utilization dividends.</p>	<p>Funds which do not appear to have been consistent in applying this approach have performed poorly in achieving universal access/service.</p>	<p>the administration of USFs, and that such a mechanism has proved to be effective. No evidence has been proffered to indicate otherwise and thus cannot refute the set practice.</p> <p>Further, the Universal Service Framework, published on the Authority’s website https://tatt.org.tt/Portals/0/ConsultativeDocuments/Universality%20Framework/Universal%20Service%20Framework%20June%202012.pdf provides in sections 7.3, 7.4 and Figure 12, the establishment of a wider stakeholder group. This effectively means that the Authority will seek to consult the relevant stakeholder input groups in the decision-making and implementation process for universal service projects.</p> <p>In this regard, it is to be noted that meetings have already begun with key stakeholders on two MUSIs which include Internet Service Providers (“ISPs”), mobile telecommunications services providers, PWD stakeholder organizations and relevant ministries.</p> <p>Consultation in all forms is an integral part in the facilitation and rollout of all programmes under the purview of the Authority.</p>
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Regulation 17 (1) and (3) - Refund from the Universal Service Fund pursuant to mandatory Universal Service Initiatives	TSTT	B	<p>Sub regulation (1) of this regulation again references “...in the form approved by the Authority.” This form should be defined and included as a Schedule to these Regulations.</p> <p>In that way, all parties are aware of what information is relevant, what needs to be submitted and what is assessed by TATT. This will remove the opportunity for arbitrary or discriminatory practice and engender greater trust in the regulatory regime.</p> <p>Similarly, sub regulation (3) speaks to rejection or agreement of a submission, with little framework to contextualise the broad discretion that TATT seeks to abrogate unto itself. Further, these “procedures” that are referred to in this sub-regulation remain, at this time, undefined. This procedure should be outlined in some Regulation of TATT, and when defined, appropriately referenced.</p>	<p>TSTT recommends that TATT establishes the form for the application for refund from the USF. This form must be included as a Schedule to these Regulations.</p> <p>TATT should, in sub-regulation (3), determine the key evaluation criteria for accepting or rejecting an application for refund.</p> <p>TATT should establish in Regulations its process to refund concessionaires, and in sub-regulation 17(3), appropriately reference that process. It is a flaw in this Regulation that the procedures defer to processes which are themselves undefined. This must be rectified.</p>	<p>The submission of the relevant details associated with the request for an applicable refund for a MUSI shall be submitted in the form as outlined under Regulation 17(1). This form shall include the specifics stated in regulation 17(2).</p> <p>TSTT is asked to note that in the each MUSI may require diverse sets of data and as such to restrict the inclusion or exclusion of information may not be prudent in the facilitation of Regulations 17(1). For example, the recent WiFi initiative conducted by the Government of the Republic of Trinidad and Tobago requires substantially different data for the claiming of a refund than the PWD initiative.</p> <p>As such, to restrict the submission of information to one simple form may not be prudent in the Authority’s view.</p> <p>In both instances, the refunds would be determined in consultation with the stakeholders.</p>

<p>Regulation 24 - Funding Cabinet Approved Universal Service Initiative</p>	<p>CCTL</p>	<p>B</p>	<p>The current Regulations allow for the Authority to provide an amount not exceeding five percent of the value of the contributions to the Fund in any financial year, towards services approved by the Authority to community centres that are established by State Agencies. Based on the Authority’s decision making process, approved services would be determined after industry consultation.</p> <p>The proposed change is for the approval of the initiatives to be funded to come from Cabinet. The direct involvement of the Cabinet in determining initiatives to be funded from the Universal Service Fund, reduces the degree of autonomy and independence of these decisions and increase the scope for influence from the day to day political pressures.</p> <p>Good regulatory practice demands that decisions of this nature are transparent and independent. There should also be regulatory accountability for such decisions.</p>	<p>The existing drafting of Section 24(1) should be retained.</p> <p>For the above reasons CCTL does not support this change.</p>	<p>The Authority notes the concern and on its review has agreed to remove the words “Cabinet approved” and retain “Universal Service initiatives” under subregulation (1). The wording shall now read “...<i>the provision of services for Universal Service initiatives as approved by the Authority which are established by the State or State agencies.</i>”</p> <p>Further, the Authority cannot accede to the request to retain the original wording of Regulation 24(1) since it was linked to a specific initiative which may no longer be pursued in the original form.</p> <p>It is important to note that this amendment will allow for flexibility of use of an allocation from the USF for any State based <u>US initiatives</u>.</p>
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<p>Regulation 24 - Funding Cabinet Approved Universal Service Initiative</p>	<p>TSTT</p>	<p>B</p>	<p>TSTT has some concern with the replacement of the Government administered Community Access Centres - a distinct programme, where the concessionaire's commitment thereto is defined and limited - to a broad, undefined term such as proposed: “Cabinet approved Universal Service initiatives”</p> <p>The obvious question arises as to why the Cabinet approved Universal Service Initiative (CaUSI) would need funding separate and apart from the Contractual or Mandatory Universal Service Initiatives explicitly provided for in the Regulations. This clause seems an attempt to legitimise extraordinary removal of money from the USF which should be targeted to the US Programme.</p> <p>TATT is reminded that the US Programme is an economic distortion which seeks to achieve specific socio-economic aims within the framework of a liberalised market environment. Ideally, once the access gap is closed, there should be no need for the continuance of the Programme and contributions to the USF should cease. This open language could become an avenue through which there is the arbitrary continuance of the US Programme, and USF contributions after the closure of the Access Gap. Such an abuse should not be countenanced.</p> <p>In that regard, as a check to arbitrary application of this provision,</p>	<p>TATT should outline a procedure in these Regulations whereby these CaUSIs are mainstreamed into the biennial US Work Programme defined by TATT in accordance with these Regulations. These procedures should include as a minimum:</p> <ul style="list-style-type: none"> • associated forms and templates included as Schedules • definition of how the CaUSI is included into the official US Programme governed by the Regulations; and provide for • transparency such that when the access gap is closed, where there is no biennial US Work Programme there would be no further CaUSIs. 	<p>The Authority notes the concern and on its review has agreed to remove the words “Cabinet approved” and retain “Universal Service initiatives”. The wording shall now read “...<i>the provision of services for Universal Service initiatives as approved by the Authority which are established by the State or State agencies.</i>”</p> <p>Further, the Authority cannot accede to the request to retain the original wording of Regulation 24(1) since it was linked to a specific initiative which may no longer be pursued in the original form.</p> <p>It is important to note that this amendment will allow for flexibility of use of an allocation from the USF for any State based US initiatives.</p> <p>The Authority notes that universal service funding is meant to assist with closing access gaps and not for addressing market gaps that can be cured by competition. As such, there is no economic distortion in the provision of a US programme.</p> <p>These USIs shall be accounted for in full within the Authority's US work programme for access to the USF.</p>
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			<p>TATT should outline a procedure whereby these CaUSIs are mainstreamed into the biennial US Work Programme defined by TATT in accordance with these Regulations.</p> <p>Accordingly, there will be a transparent mechanism – explicitly defined in these Regulations with associated forms and templates included as Schedules – which will define how the CaUSI is included into the official US Programme governed by the Regulations with appropriate financial and operational accountability. Further, when the access gap is closed, where there is no biennial US Work Programme there would be no further CaUSIs which would limit the potential abuse and impropriety.</p>		<p>The Authority further advises that it will conduct digital divide surveys from time to time due to need and will review its Universal Service programme accordingly.</p>
<p>Regulation 25 - Publication of Reports</p>	TSTT	B	<p>In 25(1) TATT proposes the biennial publication of a US Implementation Report which will contain, inter alia, “a report on the progress of the current Universal Service initiatives being funded by the USF...”. This update must also take place more frequently and, in the least, on a quarterly basis, for ongoing projects. More frequent reporting will allow for an improved level of transparency...identified as a critical success factor in high performing USF Programmes, and will allow for key stakeholders, particularly fund contributors to be kept abreast of fund progress allowing corrective action to be taken urgently and decisively where necessary.</p>	<p>In addition to the biennial reporting proposed, US implementation reports for live projects to be provided, at the minimum, on a quarterly basis. In addition to the above, TATT is requested to demonstrate in their biennial update what the fund has achieved in terms of meeting the overall Universal Service obligations expected to be identified as well as the following:</p> <ul style="list-style-type: none"> • A recap & results of any USF tenders held • Status update of USF projects in progress (project 	<p>The Authority notes the recommendation but advises that given the administrative burden of managing the USF, reports shall be maintained at a biennial level. This mechanism will maintain due transparency and accountability.</p>

			<p>25(2)TATT has undertaken to provide an Annual <u>Accounting Report each fiscal year which focuses specifically on the numeric delta of the fund's performance. This is the bare minimum and does not achieve the required standard of transparency expected of a programme such as this.</u></p>	<p>description, coverage goals and timelines)</p> <ul style="list-style-type: none"> Variance reports of USF projects against targets with respect to coverage targets, project budget, timelines, etc. <p>TSTT recommends that in the interest of good governance, the Annual report proposed herein be publicly reported and published on the website of the Authority. This report should include details on the Fund's financial performance listing levies collected, amounts contributed to Fund and balances not yet disbursed as well as the following:</p> <ul style="list-style-type: none"> explanation of any impediments encountered in disbursement of funds 	<p>The Authority agrees and it is intended that same will be done. In this regard, the Authority looks forward to the support of the providers in submitting information which the Authority shall require to compile such reports.</p>
Regulation 27 - Offences	CCTL	B	<p>This item should be numbered 26 to maintain the numbering sequence.</p>	<p>Correct numbering of this section.</p>	<p>Agreed.</p>

Schedule 1	TSTT	B	<p>TSTT notes that TATT has yet to define the throughput of Internet Services associated with Basic Telecommunications Services.</p> <p>TSTT also notes, that there is no framework through which TATT can make this determination which reaffirms bona fide publication and recognition (e.g. includes publication in the Gazette)</p> <p>This reaffirms TSTT's concern that it is a flaw in these Regulations that the procedures defer to processes which are themselves undefined. This must be rectified.</p>	<p>TATT should establish a clear mechanism through which the various determinations that are required for these Regulations to function can be made.</p> <p>It is a flaw in these Regulations that the procedures defer to processes which are themselves undefined. This must be rectified.</p>	<p>The Authority is currently preparing a determination, which shall be published on the Authority's website.</p> <p>This is usual practice as both parent and subsidiary legislation are meant to provide enabling powers and these powers are supported by the issuance of procedures, guidelines and reference papers.</p>
Schedule 3	CCTL	B	<p>We support the change to make the provision of public access to basic telecommunications for specified institutions (e.g. public schools, public libraries, hospitals, health centres & police stations Etc.) eligible for USF funding.</p> <p>However, as currently drafted, this eligibility for funding is to be determined by the Authority on a case by case basis. This approach lacks transparency and objectivity and leaves too much to the discretion of TATT. With no clearly guidelines established for determining which projects are eligible for funding, such decisions could be arbitrary. There should be clearly defined guidelines to determine the eligibility of projects to be funded.</p>	<p>Such projects should be reclassified as Contractual Universal Service initiatives as provided for under Section 19 of these Regulations. Alternatively the regulations should specifying a set percentage of annual fees that contributors could retain for investment in such projects, and require operators to provide annual report of the investments carried out with the amounts set off.</p>	<p>The eligibility for USF funding is determined by the nature of the project being considered for funding and therefore would need to be considered on a case by case basis. The Authority assures providers that this determination will be made in consultation with relevant stakeholders as outlined in the US Framework, section 7 under the Governance Framework for the implementation of the Universal Service Projects.</p> <p>However, in light of the concerns raised, the Authority proposes to redraft the comment under Schedule 3, number 2, third column which will now read <i>"To be determined by the Authority on a case by case basis, <u>in consultation with the relevant stakeholders</u>".</i></p>

					Further, regarding the reclassification of Projects under Schedule 3 as Contractual Universal Service Projects, these projects cannot be reclassified as contractual initiatives, since the initiatives require the involvement of all providers similarly placed.
		<p>Any requirement for operators to undertake universal service projects of the nature outlined in Schedule 3 and Item 2 must be funded from Fund contributions. This is the purpose for which such funds are established. One option is to classify such projects as Contractual Universal Service Initiatives as provided for under Section 19 of these Regulations.</p> <p>Alternatively, consideration could be to specifying a set percentage of annual fees that contributors could retain for investment in such projects. In this case operators should provide annual report of the investments carried out with the amounts set off.</p> <p>Item 3 of Schedule 3 – the provision of universal access connectivity to public schools, libraries, hospitals and health centers should also be funded from the Universal Service Fund. In terms of implementation, service providers should deduct the full charges for providing connectivity services to these institution form annual universal service fees and provide information to justify such deductions.</p>		<p>The provision of universal access connectivity to public schools, should also be funded libraries, hospitals and health centers should be fully funded from the Universal Service Fund.</p>	<p>The Authority notes the comment. The Authority can make no commitment at this time until the conduct of a review of the level of funding provided to the stated institutions, subsequent to a review of the use of the USF over a period of time. The demands of these institutions would be varied and not necessarily within the limits required by the Regulations.</p>

					The Authority thinks that it is reasonable, as in Schedule 3 Item 3, that providers recover up to 40% of the commercial rate from these institutions. A full funding approach will trigger an increase in the required contributions by providers to the fund.
Item 2 of Schedule 3 (Mandatory Universal Service Initiatives)	Digicel	B	(1) Digicel does not see the need for pay phones to be included when defining "Nodes" as pay phones are quite an outdated technology given the high mobile penetration rate in Trinidad and Tobago.	(1) We recommend the removal of pay phones as a node under the section "Other Notes".	The Authority disagrees with the removal of payphones as it is still a current, albeit outdated form, of universal access to voice services, especially in times of an emergency.
			(2) As the public's access to the basic telecommunications services may need to be managed, we see the need to include "access point controllers" when defining "Nodes.	(2) We recommend the insertion of "access point controllers" when defining Nodes under the section "Other Notes".	The Authority is of the view that the recommended wording is too specific. However, the following words will be inserted in the provision addressing Nodes Schedule 3, (2): " <u><i>and other related equipment</i></u> ".
			(3) As "health centres" and "waiting areas at public transport hubs" are new additions to item 2 and as these locations are quite numerous, we believe that the charges for same to the Universal Service Fund should not be determined on a case by case basis but should attract one hundred per cent (100%) funding.	(3) We recommend that "health centres" and "waiting areas at public transport hubs" be categorized separately under item 2 and that under the corresponding section entitled "Charges to Universal Service Fund", "one hundred per cent (100%) of all costs" be included.	The Authority does not agree that these two (2) locations should be considered as separate items in the Schedule, as they form part of the same category of locations. However, the Authority shall take into consideration the funding recommendation or part thereof in its discussions with relevant stakeholders.

<p>Item 3 of Schedule 3 (Mandatory Universal Service Initiatives)</p>	<p>Digicel</p>	<p>B</p>	<p>As “health centres” is a new addition to item 3 and as these locations are quite numerous, we believe that the universal service initiative of providing basic telecommunications services to these locations should be eligible for Universal Service Funding and the corresponding Charges to the Universal Service Fund should be hundred per cent (100%).</p>	<p>We recommend that “health centres” be categorized separately in this item and that under the corresponding section entitled “Eligibility for Universal Service Funding”, “Yes” be included here whilst under the corresponding section entitled “Charges to Universal Service Fund”, “one hundred per cent (100%) of all costs” be included.</p>	<p>The Authority does not agree that these two (2) locations should be considered as separate items in the Schedule, as they form part of the same category of locations.</p> <p>However, the Authority shall take into consideration the funding recommendation or part thereof in its discussions with relevant stakeholders.</p>												
<p>Schedule 2 & Schedule 3.3</p>	<p>TSTT</p>	<p>B</p>	<p>TSTT is concerned that the existing contribution structure, coupled with the refund structure for item 3.3, in its current form, will be a burdensome and ultimately costly item to Operators which is tantamount to a type of double taxation charge.</p> <p>As an example, in the case where an Operator earns a return of Universal Access Rates of up to 40% of commercial rates as defined by the Authority, Operators can be significantly financially disadvantaged. As follows:</p> <table border="1" data-bbox="755 1062 1526 1300"> <thead> <tr> <th>Item</th> <th>Value</th> </tr> </thead> <tbody> <tr> <td>Commercial Rate (domestic)</td> <td>100.00</td> </tr> <tr> <td>40% of Commercial Rate</td> <td>40.00</td> </tr> <tr> <td>Gross Revenue</td> <td>40.00</td> </tr> <tr> <td>Less 25% Tax</td> <td>(10.00)</td> </tr> <tr> <td>Net Revenue</td> <td>30.00</td> </tr> </tbody> </table>	Item	Value	Commercial Rate (domestic)	100.00	40% of Commercial Rate	40.00	Gross Revenue	40.00	Less 25% Tax	(10.00)	Net Revenue	30.00	<p>TSTT recommends that Operators providing these discounts as identified in Schedule 3.3, receive payment either through an offset to their US contribution obligations or directly from the USF administrator.</p> <p>Alternatively, TATT is asked to make exempt from the contribution to the Universal Service Fund, such rates/revenues earned by Operators, where these rates/revenues are within the scope of Item 3 in schedule 3.</p>	<p>This item in Schedule 3 is not eligible for funding under the USF. If it is made eligible, then there may be a need to consider an increase in the contributions by providers to the USF, which the Authority is not prepared to consider at this time.</p>
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			<p>It is thus possible that in the case of a service with retail value of 100.00, the Operator only stands to earn revenue of 30.00.</p> <p>TATT is reminded that in the above example, Operators are still required to contribute 0.5% of the Gross return on what is expected to be a domestic service offering, further reducing the return to the Operator to an amount that may not even cover the cost of the service.</p>	<p>Thus the Contribution to the Universal Service as identified in Schedule 2 should read as follows:</p> <table border="1"> <thead> <tr> <th>% of Gross Revenues earned</th> <th>Type of Service Provided</th> </tr> </thead> <tbody> <tr> <td>0.05</td> <td>Domestic telecommunications services or operation of domestic telecommunications network facilities for non-US Initiatives</td> </tr> </tbody> </table>	% of Gross Revenues earned	Type of Service Provided	0.05	Domestic telecommunications services or operation of domestic telecommunications network facilities for non-US Initiatives	
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Schedule 3.2	TSTT	B	<p>TSTT has a concern with the proposal that TATT may determine, on a case by case basis, which nodes and/or access points would receive refund from the USF.</p> <p>This case-by case approach without an overarching framework will result in ad hoc determinations by TATT, which can result in claims of or actual discriminatory practice by the regulator. It is essential that the framework provides the necessary checks and balances for operators and regulators and that the nature of the processes be inherently unbiased and non-discriminatory.</p>	<p>TSTT welcomes the ability to access refunds from the USF for the implementation and maintenance of public access nodes.</p> <p>However, TATT must not insist on the ad hoc approach of case-by-case approval of such applications. All instances that meet pre-determined criteria</p>	<p>The Authority notes and appreciates the comment.</p> <p>The Authority notes that it adopts a case by case approach and not an ad hoc approach. The Authority will consult with relevant stakeholders on the approach to be undertaken as enunciated in the governance</p>				

			<p>This encourages the instance where TATT at its sole discretion approves one operator's nodes for refund, while rejecting another operator's similarly situated nodes. This proposal is inimical to the orderly development of the sector and will compromise the universal service framework's effectiveness.</p> <p>As such, while TSTT does not object to accessing the USF for the maintenance of these "public access nodes", TSTT rejects the ad hoc approach adopted by TATT and insists upon TATT creating an appropriate evaluation framework which transparently facilitates an appreciation of what is required to gain approval for a refund. Further, TSTT further recommends that such an evaluation framework be appended to these Regulations as a Schedule.</p>	<p>should be approved per se. TATT should establish the criteria, and evaluation framework of same, and include such as a Schedule to these Regulations to ensure transparency in the process.</p>	<p>structure of the US Framework.</p>
Schedule 3.3	TSTT	B	<p>TSTT recognises the need to provide discounted services to Public schools, libraries and hospitals in pursuit of the US objective. We do however hold the view that such discount should be available to the extent that the difference between the commercial and discounted rate is funded by the USF, subject to specific agreed terms and conditions.</p> <p>TATT has taken a decision that rates offered here should be at a discount of up to 60% of the commercial rate being offered, without any consideration being given to the cost associated with providing the services.</p>	<p>Schedule 3.3 to be revised to read as follows:</p> <p>Eligibility for Universal Service Funding: YES</p> <p>Other Notes: "Universal Access Rate of an amount to be agreed after Consultation with the Operator(s), the difference being provided for via an offset to their US contribution obligations or directly from the USF administrator...".</p>	<p>This item in Schedule 3 is not eligible for funding under the USF. If it is made eligible, then there may be a need to consider an increase in the contributions by providers to the USF, which the Authority is not prepared to consider at this time.</p>

Concluding Comments	CCTL	B	Given the continuing developments in the sector there is a need to revisit the underlying framework that underpins these Regulations to ensure they are relevant in the current market context.	Revisit the underlying framework that underpins these Regulations to ensure they are relevant in the current market context.	The Authority agrees and shall review and revise the Framework in due course.
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