



Consultative Document

**Framework on
Internet Radio Broadcasting Services
in Trinidad and Tobago**

(First of Two Rounds)

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Abbreviations

AM	amplitude modulation
AMR	Annual Market Report
DIS	Digital Inclusion Survey
FM	frequency modulation
FTA	free-to-air
GORTT	Government of the Republic of Trinidad and Tobago
ICP	Internet content provider
ICT	information and communications technology
IMDA	Infocomm Media Development Authority
IPR	intellectual property right
ISP	Internet service provider
ITU	International Telecommunication Union
OECD	Organisation for Economic Co-operation and Development
OTT	over-the-top
QoS	quality of service
RTÜK	Turkish Radio and Television Supreme Council
SDG	Sustainable Development Goal
TRIPS	TradeRelated Aspects of Intellectual Property Rights
UN	United Nations
WIPO	World Intellectual Property Office

1. Introduction

1.1 Background

Radio broadcasting has traditionally been understood to mean the transmission of audio (sound) by radio waves to a receiver (radio) via amplitude modulation (AM) or frequency modulation (FM), from either a terrestrial land-based station or a satellite in a linear¹ programming format.

Since its inception, radio broadcasting has played an integral part in entertainment, information-sharing and disaster management, and in shaping societal cultures, values, and norms. As a means of mass media, radio brought various aspects of the world into people's homes and business places and introduced a level of convenience and modernity – characteristics that would later be known as “globalisation”.

Trinidad and Tobago has been no stranger to radio broadcasting since it was first introduced locally in the early 1920s. The local demand from the population during those early decades was for news, sports, and current affairs. Up until 1991, citizens received radio programming from four radio stations – two AM and two FM. As of 2022, the sector comprises 36 licensed free-to-air (FTA) FM radio broadcasters² who provide programming across various genres, thus catering to the needs of our diverse listening audience.

The Telecommunications Authority of Trinidad and Tobago (the Authority) has been charged with the responsibility of regulating the broadcasting sector in Trinidad and Tobago, pursuant to the conditions outlined in the Telecommunications Act, Chap. 47:31³ (the Act). To this end, the Authority has a regulatory mandate aimed, inter alia, at promoting and protecting consumer interests. Some notable achievements over the past 15 years have been the establishment of a broadcasting content complaints process; the hosting of the Annual Broadcasters Forum; consumer awareness campaigns; the formulation of broadcasting technical quality of service (QoS) standards; and the development of a draft Broadcasting Code⁴.

¹ Linear programming refers to programmes that are delivered on a scheduled basis.

² TATT Annual Market Report: <https://tatt.org.tt/ReportsPrices/AnnualMarketReport.aspx>

³ Telecommunications Act, Chap. 47:31:
[https://tatt.org.tt/Portals/0/Telecommunications%20Act%20Chap.%2047.31%20\(2022\).pdf?ver=2022-03-03-075048-513](https://tatt.org.tt/Portals/0/Telecommunications%20Act%20Chap.%2047.31%20(2022).pdf?ver=2022-03-03-075048-513)

⁴ Draft Broadcasting Code for the Republic of Trinidad and Tobago:
https://tatt.org.tt/DesktopModules/Bring2mind/DMX/API/Entries/Download?Command=Core_Download&EntryId=302&PortalId=0&TabId=222

Of considerable importance to the local broadcasting industry is the value placed on high standards of propriety and integrity in broadcasting content. These accepted standards have been influenced and largely shaped by the norms, values, and ethos of the people of Trinidad and Tobago. Embedded in the regulatory framework for broadcasting, particularly the Broadcasting Code, are a set of standards to safeguard these social, cultural, moral, and religious norms and values. The Broadcasting Code also seeks to promote tolerance for our multi-ethnic and multi-religious society and protect and preserve the identity of our nation. Similarly, the Vision 2030⁵ National Development Strategy of the Government of the Republic of Trinidad and Tobago (GORTT) places emphasis on the need for the media to promote and disseminate positive values and information on the family (GORTT n.d.)

One significant trend emerging in the broadcasting industry globally is the provision of broadcasting services over the Internet. This would include both linear and on demand television and radio services which can be either subscription or non-subscription based. Locally, licensed TV and radio broadcasters have capitalised on the Internet to offer access to their programming on websites, apps and platforms such as YouTube and Facebook, thus expanding their audience reach.

Amidst this opportunity for the growth of the sector is the concern over the lack of safeguards on Internet broadcasting services, to ensure that programmes accessed by citizens of Trinidad and Tobago conform to acceptable standards. This Framework focuses solely on Internet radio broadcasting in the first instance, and follow-up work will be done separately by the Authority on TV broadcasting via the Internet. The intention, therefore, is to present the public policy considerations, inclusive of the Authority’s short-term and long-term strategies, for ensuring that the Internet radio market in Trinidad and Tobago develops in a responsible and sustainable manner.

The Trinidad and Tobago government has recognised the opportunities the media, the Internet and digital services bring to its citizens. In terms of the media, Goal 6 of Vision 2030 articulates the need for measures that “entail encouraging the media to place greater emphasis on promoting and disseminating positive values and information on the family”. In relation to the Internet, the National ICT Plan (the ICT Blueprint)⁶ places emphasis on improving connectivity and modernising the legal and regulatory framework. Further, the ICT Blueprint states that the Internet, its governance, and the policies for its use are critical in determining the benefits that society derives from ICT. The Government’s vision for the ICT sector aligns with the United Nations (UN) Sustainable Development Goals (SDGs), and specifically goal 9 – Industry, Innovation and

⁵ Vision 2030: <https://www.planning.gov.tt/sites/default/files/Vision%202030-%20The%20National%20Development%20Strategy%20of%20Trinidad%20and%20Tobago%202016-2030.pdf>

⁶ The National ICT Plan (2018–2022): https://mpa.gov.tt/sites/default/files/file_upload/publications/ICT%20BLUEPRINT%20JULY%202019.pdf

Infrastructure⁷, geared towards the realisation of the country's macro-economic objectives, as articulated in Vision 2030.

One of the objectives of the *National Policy on Broadcast and the Broadcasting Industry* (2004) (National Broadcast Policy) is to create an enabling environment for the development of a fully modernised and dynamic broadcasting sector. The National Broadcast Policy recognises that the expansion of the broadcasting sector into the online space may present a few regulatory challenges, including the efforts to minimise the dissemination of harmful and unlawful content. Given the increasing presence of Internet radio broadcasting services, this *Framework for Internet Radio Broadcasting Services in Trinidad and Tobago* (the Framework) seeks to apply the principles contained within the Broadcasting Code to Internet radio broadcasters. The intention is to steer Internet radio broadcasters along the path of responsible broadcasting, so that Trinidad and Tobago's listening audience is protected against harmful, abusive, unwanted, illegal or discriminatory broadcasting content.

1.2 Purpose

This Framework presents the Authority's proposed strategies and recommendations for addressing Internet radio broadcasting services in Trinidad and Tobago.

1.3 Objectives

The Framework is intended to:

1. present the definition of Internet radio broadcasting service adopted by the Authority.
2. outline the public policy considerations for Internet radio broadcasting services, including challenges and opportunities.
3. explore the regulatory options available to the Authority for discharging the broadcasting responsibilities under its purview.
4. present the Authority's short-term and long-term strategies in relation to Internet radio broadcasting.
5. propose guidelines for Internet radio broadcasters.

⁷ UN SDG 9: <https://sdgs.un.org/goals/goal9>

1.4 Policy and Legal and Regulatory Framework

1.4.1 The Telecommunications Act, Chap. 47:31

Pursuant to the conditions outlined in the Act, the Authority is a converged regulator responsible for both the telecommunications and broadcasting sectors. In developing this Framework, the Authority is guided by the following sections of the Act.

Section 3 establishes the objects of the Act, which include, inter alia, providing for the protection of consumers and regulating broadcasting services “consistently with the existing constitutional rights and freedoms contained in sections 4 and 5 of the constitution”.

Section 18 outlines the functions and powers of the Authority as they relate to the classification of broadcasting services. Some of the functions imposed on the Authority pursuant to this section are to:

18 (1) (b) classify telecommunications networks and services as public telecommunications networks, public telecommunications services, closed user group services, private telecommunications services, value-added services, broadcasting services or any other type of telecommunications service.

18 (1) (m) to investigate complaints by users, operators of telecommunications networks, providers of telecommunications and broadcasting services or other persons arising out of the operation of a public telecommunications network, or the provision of a telecommunications service or broadcasting service, in respect of rates, billings and services provided generally and to facilitate relief where necessary.

Section 18 (2) states:

In the performance of its functions under subsection (1)(b), the Authority shall require that all persons operating or intending to operate any of the services listed in subsection (1)(b) notify the Authority accordingly and the Authority shall establish a Register of all such persons and services.

Section 23 establishes the conditions applicable to a concession for a broadcasting service. This section states:

In addition to the conditions stipulated in section 22, a concession for a broadcasting service shall require the concessionaire to adhere to the Broadcasting Code promulgated pursuant to this Act.

1.4.2 The National Policy on Broadcast and the Broadcasting Industry (2004) (National Broadcast Policy) of the Government of the Republic of Trinidad and Tobago

The *National Policy on Broadcast and the Broadcasting Industry* (2004) (National Broadcast Policy) of the Government of the Republic of Trinidad and Tobago recognises the Internet as an indispensable tool for transforming education, business and personal interactions. As such, one of the objectives of this policy is to create a sustainable and enabling environment for the development of a fully modernised and dynamic broadcasting sector.

1.5 Review Cycle

This Framework will be reviewed every four years or otherwise, as deemed necessary by the Authority, to reflect the evolving needs of the telecommunications industry and meet changing circumstances. When the need for modification is identified, the Authority will announce its intention to review the Framework, and any entity in the telecommunications sector or any appropriate industry forum or interested party may suggest changes. Questions or concerns regarding the maintenance of this Framework may be directed to the Authority via e-mail at consultation@tatt.org.tt.

1.6 Consultation Process

In accordance with its *Procedures for Consultation in the Telecommunications Sector of Trinidad and Tobago* (2021) (the Procedures), the Authority will seek the views and opinions of the general public and other stakeholders regarding the proposals made herein. Consideration will be given to comments and recommendations made during the consultation process, and the document will be re-examined and revised accordingly.

This document will be made available for public consultation for a six-week period. Comments can be submitted to consultation@tatt.org.tt or mailed to:

Telecommunications Authority of Trinidad and Tobago,
5, Eighth Avenue Extension, off Twelfth Street,
Barataria,
Trinidad and Tobago

1.7 Other Relevant Documents

Other relevant policies, plans and regulations to be read along with this Framework include:

1. *Framework on Over-the-Top Services (OTTs) in Trinidad and Tobago.*
2. *Authorisation Framework for the Telecommunications and Broadcasting Sectors of Trinidad and Tobago.*

2. Internet Radio Broadcasting Service

A broadcasting service is defined by the Act as “the offering of the transmission of programmes whether or not encrypted, by any means of telecommunications, for reception by the general public, including sound, radio, television and other types of transmissions, such as those on a point to multi-point basis”.

The traditional mode of broadcasting entails the transmission of programmes in a linear and real-time manner via radio waves, and is commonly called “free-to-air” (FTA) broadcasting. A similar transmission of programmes also occurs over the Internet facilitated by the advancements in digital technologies. This form of broadcasting is referred to as webcasting. The ITU-T Rec. J.120 defines webcasting as “the distribution of sound and television programs over the IP network” (ITU 2000). According to the Organisation for Economic Co-operation and Development (OECD) (1997), “webcasting services use the Internet to deliver content to users in ways that sometimes closely resemble other traditional communication services such as broadcasting”. Another definition describes webcasting as “an event streamed live (over the Internet) to an audience in real time. Whether broadcasting to a small audience or a large one, broadcasting a live stream of audio, video, or presentation is covered under the broad scope of webcasting” (Deutch 2020).

An example of a broadcasting service delivered over the Internet is Internet radio. Internet radio is the airing of linear audio programmes, typically in real time, regardless of if they can be paused or replayed. This is similar to the linear programming of an FTA broadcasting service. These programmes include content such as sports, talk, news and music geared towards education, entertainment or as a source of news. To access Internet radio services, an Internet connection is required, which means that the service can be received on any device which is Internet enabled.

Given the definition of broadcasting service in the Act, as well as the key criteria which comprise a broadcasting service (namely, it must offer the transmission of programmes^{8 9}; be delivered via the use of telecommunications; and be offered for reception by the general public), the Authority considers Internet radio, which fits the definition and meets the criteria, to be a broadcasting service.

⁸ Concession D3 states that “the programming transmitted by broadcasting services may include information, entertainment, advertisements, announcement or any other material as the concessionaire may determine in compliance with this concession.”

⁹ Whether or not encrypted

2.1 Definition of Internet Radio Broadcasting Service

To address the provision of broadcasting services online, some regulators have established definitions of online broadcasting. The Turkish By-Law on The Provision of Radio, Television and On-Demand Media Services Via Internet Environment states that an online audio broadcast means “other than individual communication services, audio and data broadcasting via internet environment on the basis of a Broadcasting Schedule” (RTUK 2019). Canada, in their proposed amendments to their Broadcast Act (the Online Streaming Act¹⁰), includes “online undertaking” within the definition of “broadcasting undertaking”. These proposed amendments recognise online undertaking to mean “an undertaking for the transmission or retransmission of programs over the Internet for reception by the public by means of broadcasting receiving apparatus¹¹” (Parliament of Canada 2022). These country examples are further explored in section 5.1.

For the purpose of this Framework, the Authority defines Internet radio broadcasting service as audio programming provided over the Internet in a linear manner. This is similar to the linear programming which occurs with FTA radio broadcasting. Programmes may include information, entertainment, advertisements, announcement or any other material as the Internet radio broadcaster may offer.

Statement on the Definition of Internet Radio Broadcasting Service

- 1. Internet radio broadcasting service is the provision of audio programming over the Internet in a linear manner.*

¹⁰ The amended Broadcasting Act (Online Streaming Act) was re-introduced for debate in Parliament in 2022.

¹¹ Canada’s Broadcasting Act defines a broadcasting receiving apparatus as a device, or combination of devices, intended for or capable of being used for the reception of broadcasting (Government of Canada 1991).

3. Overview of the Radio Broadcasting and the Internet Markets

3.1 The Trinidad and Tobago Radio Broadcasting Market

As at December 2021, the radio broadcasting industry in Trinidad and Tobago consisted of 28 national broadcasters, 5 major territorial, 3 minor territorial and 1 broadcaster providing service to a specific geographic area (niche)¹². According to the Authority's Digital Inclusion Survey (DIS 2021)¹³, talk¹⁴ and local¹⁵ radio were reported to be the genres most listened to, with 39% of all respondents indicating that these were their preferred content types. This figure surpassed urban/hip hop (34%) and Eurocentric (30%). Urban/hip hop programming was preferred most by persons 24 years and younger, and talk and local programming by persons 15–44 years. Most respondents (77%) did not have a preferred day for listening to radio, and 79% did not have a preferred time for listening to radio.

Most of the local broadcasters have capitalised on digital technologies to create an Internet feed to go beyond their geographical boundaries, thereby expanding their audience reach. Their content can be accessed via various online platforms such as the radio station's website or app, YouTube, Facebook and on apps such as TuneIn. Another reason broadcasters are creating an online presence is to harness the unique capacity to offer both live and on-demand audio programmes through Internet radio websites. As such, Internet radio broadcasters have the opportunity to broaden their range of service offerings. For example, with the growing trend of podcasts, some FTA radio broadcasters with an online presence are repurposing segments of their programmes as podcasts for replay at a time convenient to the listener. Mixed Nuts Comedy offered by Vibe CT 105 is one such example. Table 1 presents a list of local FTA radio broadcasters in Trinidad and Tobago with Internet websites for live streaming and other forms of online presence the public can access.

¹² TATT Annual Market Report: <https://tatt.org.tt/ReportsPrices/AnnualMarketReport.aspx>

¹³ TATT Digital Inclusion Survey (2021): https://tatt.org.tt/DesktopModules/Bring2mind/DMX/API/Entries/Download?Command=Core_Download&EntryId=1628&PortalId=0&TabId=222

¹⁴ Talk radio consists of news (including entertainment news), interviews, sports and call-in segments which facilitate discussions on social, political and cultural issues.

¹⁵ "Local" refers to content of Trinidad and Tobago origin. It encompasses pan, soca, calypso, chutney, religious, dancehall, and rapso.

Table 1. Licensed FTA radio broadcasters whose service is available on the Internet

Station Name	Frequency (MHz)	URL	Additional Online Service Offered
BBC	98.7	https://www.bbc.co.uk/sounds/play/live:bbc_world_service	-
Radio Jaagriti	102.7	https://trinidadradiostations.net/jaagriti/	-
The People's Station Radio 90.5 FM	90.5	https://tunein.com/radio/The-Peoples-Station-Radio-905-FM-s7220/	-
Isaac 98.1 FM	98.1	https://radio.securenetsystems.net/v5/FFBN	-
Taj 92.3 FM	92.3	https://tunein.com/radio/Taj-923fm-s115898/	-
Hott 93/ Gem Radio (93.5 FM)	93.5	https://linktr.ee/hott93	HOTT93 Spotify HOTT93 Livestream HOTT93 Instagram
I95.5 FM	95.5	http://i955fm.com/#	-
RED 96.7 FM	96.7	http://www.red967fm.com/	Streams live on Youtube @Red967tt
W107.1 FM The Word	107.1	104.238.99.1:8000/w107_128.mp3	-
Remix 95.1	95.1	https://trinidadradiostations.net/best-mix/	-
Radio Vibe CT 105.1	105.1	https://tbcradionetwork.co.tt/vibect105fm/	Podcast Mixed Nuts Comedy Friday, advertising on web page
Sangeet 106 FM	106.1	https://tbcradionetwork.co.tt/sangeet1061fm/	Podcasts available

Station Name	Frequency (MHz)	URL	Additional Online Service Offered
Aakash Vani 106.5	106.5	https://tbcradionetwork.co.tt/aakashvani1065/	Podcasts available
Slam 100.5	100.5	https://trinidadradiostations.net/slam/	Podcasts available, advertising on webpage
Sky 99.5	99.5	https://tbcradionetwork.co.tt/sky995fm/	Podcasts available
Lime 101.7	101.7	https://trinidadradiostations.net/lime/	-
Radio Tambrin	92.7	https://www.tambrintobago.com/	-
WACK 90.1FM	90.1	https://www.wackradio901fm.com/	Live audio-visual stream from website and on YouTube and Facebook; chat features are available.
Heartbeat Radio 104.1FM	104.1	https://heartbeatradiott.com/?fbclid=IwAR31nDq9SKeEaNIXecSx4V4nrupVno5nYZOeMwkae3GFRu93yG-Ybls8-co	-
Power 102.3	102.3	https://trinidadradiostations.net/power/	-
Boom Champions	94.1	https://boomchampionstt.com/?fbclid=IwAR1bmN6HIMc49yehvd_b8-BDGVF9b-9dM1mcYaAMIubmjIJfRqbJLWzzNiY	-
Music Radio 97.1	97.1	https://www.musicradio97.com/?fbclid=IwAR1ySqp1ORB0UGONBtvya7B6kh2DhCBOzoFtd6mgmixFbL0e6DqYrykLcs4	-

Station Name	Frequency (MHz)	URL	Additional Online Service Offered
The Street 91.9 FM	91.9		Some segments are broadcast live on Facebook.
WE FM	96.1	ojoworldtt.com	-
Star 947	94.7	ojoworldtt.com	-
107.7 Music for Life	107.7	ojoworldtt.com	-
Talk City 91.1 FM	91.1	http://www.talkcity91fm.com/?fbclid=IwAR3Kk7EyDa0b5Tvi_HzYieszj-gQTD00V4YsSi_KCsDfyOJL4zrTx72A1fs	-
Next 99.1 FM	99.1	http://www.next99fm.com/stream.html	-
Sweet 100.1 FM	100.1	http://sweet100fm.com/	-
Platinum Hits 103.5 FM	103.5	http://www.platinumhitstt.com/	-
U97.5 FM	97.5		Some segments are broadcast live on Facebook.

In addition to FTA broadcasters who have expanded their services to the Internet, a search for online radio stations in Trinidad and Tobago reveals that there are a significant number of persons or entities operating exclusively on the Internet (Internet-only) that are both local and extra-territorial. These range from broadcasters providing services which bear considerable resemblance¹⁶ to FTA radio broadcasting, to smaller niche-type individual streaming stations which provide scheduled streams of music. Table 2 presents a non-exhaustive list of Internet-only radio stations which currently operate from Trinidad and Tobago.

¹⁶ This means there are elements of talk (radio host), music and advertising provided on a scheduled basis.

Table 2: Internet-only radio from Trinidad and Tobago

Station Name	URL	Genre
Mayaro Radio	https://www.mayaroradio.com/	Mixed
ENFXRadio	https://enfxfadio.com/	Mixed
Storm HD Radio	http://trinidadradiostations.net/play/storm-hd-valencia/	Mixed
Woods Hit Radio	https://woodsnetworkac.webs.com/	Mixed (pop, rock, contemporary hits, contemporary RnB)
Global FM Reggae Radio	https://globalfmreggaeradio.blogspot.com/	Reggae
Bacchanal Radio	https://bacchanalradioonline.weebly.com/	Mixed
Real Radio	https://mytuner-radio.com/radio/real-radio-396692/	Pop
Praise 360 Live	https://mytuner-radio.com/radio/praise-360-4719D058/	Christian, Christian contemporary, gospel
Caribbean Gospel and Prayerline	https://mytuner-radio.com/radio/prophetic-prayerline-470226/	Gospel
I.A.M. Radio TT Live	https://mytuner-radio.com/radio/iam-radio-tt-471353/	Gospel
TSDC Team Soca Live	https://mytuner-radio.com/radio/tsdc-team-soca-465260/	Soca
Luv Radio	stream.zeno.fm/expxf0wfzs8uv	Mixed
Sports and the World Live	https://mytuner-radio.com/radio/sports-and-the-word-461746/	Gospel, sports

These trends illustrate that not only is there an expansion of radio broadcasting into the online space but there is a co-existence of both legacy and new forms of radio broadcasting.

3.2 The Trinidad and Tobago Internet Market

According to the Authority's Annual Market Report (AMR) 2021, Trinidad and Tobago's total Internet subscriptions¹⁷ in 2021 stood at 1,189,000. The fixed Internet penetration rate for 2021 stood at 27, which indicates that approximately 27 out of every 100 individuals have a fixed Internet subscription. On a household basis, approximately 88 out of every 100 households subscribed to a fixed Internet service in 2021. The mobile Internet penetration rate stood at 60% in 2021. This suggests that 60 of every 100 persons were using mobile Internet services.

DIS 2021 reported that Internet use was high (upwards of 90%) across all age cohorts between 5 and 44 years. The survey also reported that a significantly high proportion of the local population (83%) used over-the-top (OTT) technologies. For persons using OTT services (OTTs), 79% access the services daily.

The data presented in AMR 2021 and DIS 2021 indicate that there is a demand for access to the Internet and its services.

¹⁷ Total Internet subscriptions are the sum of fixed Internet subscriptions and mobile postpaid Internet subscriptions.

4. Policy Considerations for Internet Radio Services in Trinidad and Tobago

The original policy objective for regulating radio broadcasting addresses the need to manage spectrum as a scarce or finite resource. This entails minimising interference through effective and efficient assignment of spectrum. As a scarce resource, it is also imperative that spectrum is utilised to ensure that maximum public benefit is achieved.

For these reasons, broadcasting regulation in Trinidad and Tobago has been focused on the following key public policy objectives:

1. Spectrum management
2. Consumer protection
3. Promoting local content
4. Promoting diversity and plurality
5. Encouraging investment
6. Promoting fair competition

Pursuant to section (3) of the Act, the Authority has a mandate to provide for the protection of consumers and to regulate broadcasting services consistently with the constitutional rights and freedoms contained in sections 4 and 5 of the Constitution. As the Internet is engaged more and more as a medium to provide broadcasting services, consumer protection in particular stands out as an immediate public policy concern, especially in relation to harmful, offensive or unlawful content which may include slanderous, discriminatory or inflammatory statements. Having regard to the Authority's mandate, a delicate balance must be struck in making allowances for persons to freely express themselves, as enshrined in the Constitution, while protecting consumers and ensuring that other fundamental rights and laws are not infringed.

Also of particular concern to the Authority is the potential infringement of copyright by Internet radio broadcasting services. Trinidad and Tobago is a member of the two World Intellectual Property Office (WIPO) treaties¹⁸. We are also party to the World Trade Organization's Trade-Related Aspects of Intellectual Property Rights (TRIPS) and the Berne Convention for the Protection of Literary and Artistic Works. These are the main international treaties that address copyright and related rights on the Internet and clarify that existing rights continue to apply in the digital environment. Being party to such international treaties means that there is a requirement for Trinidad and Tobago to provide full protection within our territory to local as well as foreign rights holders.

¹⁸ These WIPO treaties are the WIPO Copyright Treaty (WCT) and the WIPO Performers and Producers Rights Treaty (WPPT) of 1996.

5. Regulatory Approaches to Internet Broadcasting Services

5.1 Cases of Sector-Specific Regulations for Online Broadcasting Services

The emergence of online services, such as Internet radio broadcasting and video-on-demand services, has prompted some jurisdictions, including Canada, Germany, Singapore and Turkey, to adjust their broadcasting frameworks to explicitly include the provision of online broadcasting services.

Canada

Canada's Ministry of Heritage recently proposed a Bill¹⁹ for debate in Parliament to amend their 1991 Broadcast Act that incorporates "online undertakings" within their definition of "broadcasting undertaking". The amended Broadcast Act (the Online Streaming Act) states that "broadcasting undertaking includes a distribution undertaking, an online undertaking, a programming undertaking and a network; (entreprise de radiodiffusion)".

Additionally, "online undertaking means an undertaking for the transmission or retransmission of programs over the Internet for reception by the public by means of broadcasting receiving apparatus²⁰". (Parliament of Canada 2022)

Germany

Germany replaced their State Treaty on Broadcasting with a State Media Treaty which came into force on 7th November 2020. The new treaty will not only govern the broadcasting of "classic" television and radio services but also new forms and formats of communication and broadcasting, such as video-on-demand services, social media platforms, app stores, search engines, user-generated content and blogging portals, as well as electronic language assistants and news aggregators. It will also govern cable network operators and OTTs such as WhatsApp, Skype and Netflix (Simmons&Simmons 2020).

Specific to Internet radio, broadcasters operating exclusively over the Internet are not required to obtain a licence. To provide this service, Internet radio broadcasters must notify the state authority of their intent to provide the service, disclose the contents of their programming, and submit other

¹⁹ Bill C-11: <https://www.parl.ca/DocumentViewer/en/44-1/bill/C-11/second-reading>

²⁰ Canada's Broadcasting Act defines a broadcasting receiving apparatus as a device, or combination of devices, intended for or capable of being used for the reception of broadcasting (Government of Canada 1991)

relevant information²¹. While Internet-only radio broadcasters do not require a licence, they must comply with all legal requirements pertaining to programming. These requirements encompass areas such as child protection and placement of advertisements.

Singapore

The Infocomm Media Development Authority (IMDA) of Singapore provides another example of the application of sector-specific regulation vis-à-vis Internet radio services. The IMDA requires that Internet content providers, including those offering Internet radio services, be automatically class licensed under the Broadcasting (Class Licence) Notification (N1) of the Broadcasting Act (Chapter 28). Internet content providers would therefore have to comply with the Class Licence Conditions.

An Internet content provider is defined in the Broadcasting (Class Licence) Notification as follows:

Internet Content Provider means —

- (a) any individual in Singapore who provides any programme, for business, political or religious purposes, on the World Wide Web through the Internet; or
- (b) any corporation or group of individuals (including any association, business, club, company, society, organisation or partnership, whether registrable or incorporated under the laws of Singapore or not) who provides any programme on the World Wide Web through the Internet. (IMDA 1996)

The Broadcasting (Class Licence) Notification sets out the following:

1. “An Internet Content Provider who is, or is determined by the Authority to be, a body of persons engaged in the propagation, promotion or discussion of political or religious issues relating to Singapore on the World Wide Web through the Internet, shall register with the Authority within 14 days after the commencement of its service, or within such longer time as the Authority may permit.” (IMDA 1996)
2. If required by the Authority to do so by notice in writing —
“an Internet Content Provider who is, or is determined by the Authority to be, an individual providing any programme, for the propagation, promotion or discussion of political or religious issues relating to Singapore, on the World Wide Web through the Internet, shall register with the Authority within the time stipulated by the Authority in the notice”.
(IMDA 1996)

²¹ See article 32 of the State Media Treaty.

All Internet service providers (ISPs) and Internet content providers (ICPs) licensed under the Broadcasting (Class Licence) Notification are also required to comply with the Internet Code of Practice²². Material prohibited by the Code of Practice includes material which:

1. depicts nudity or genitalia in a manner calculated to titillate.
2. promotes sexual violence or sexual activity.
3. advocates homosexuality or lesbianism.
4. depicts detailed or relished acts of extreme violence or cruelty.
5. glorifies, incites or endorses ethnic, racial or religious hatred, strife or intolerance.

The IMDA has the power to impose sanctions, including fines, on licensees who contravene this Code of Practice. Under the code, ISPs and ICPs are obligated to deny access to material considered by the Authority to be prohibited, if directed to do so by the Authority.

According to section 4(1):

prohibited material is material that is objectionable on the grounds of public interest, public morality, public order, public security, national harmony, or is otherwise prohibited by applicable Singapore laws.

Turkey

In August 2019, the Turkish Radio and Television Supreme Council (RTÜK) published a Regulation on Radio, Television and On-Demand Broadcasts on the Internet (the Regulation).

The Regulation came into force in 2019 and aims to regulate Internet broadcasts. RTÜK is therefore authorised to supervise such broadcasts and their content. Media service providers that wish to broadcast their radio, television and on-demand broadcasting services solely through the Internet are obliged to get a broadcasting licence from RTÜK, and platform operators wishing to transmit these broadcasts on the Internet are required to obtain broadcast transmission authorisation from RTÜK (Esq., et al. 2019).

²² Infocomm Media Development Authority, Internet Code of Practice, 1997

Licences granted by RTÜK are as follows:

1. INTERNET-RD radio broadcasting licence to provide online radio broadcasts
2. INTERNET-TV television broadcasting licence to provide online television broadcasts
3. INTERNET-IBYT online on-demand media service licence to provide online on-demand media service

The Regulation will also be applicable to content or hosting providers located in a foreign country; media service providers that are under the jurisdiction of another country; and media service providers broadcasting over the Internet in Turkish and targeting Turkey, or broadcasting in another language but targeting Turkey, and including commercial broadcasts to Turkey (Esq., et al. 2019).

The Regulation stipulates the applicable licence fees and sanctions that will be applied to online media broadcasters who provide the service without a licence. According to the procedures set out in the Regulation, where it is found by RTÜK that a broadcaster is in breach of the Regulation, the broadcaster shall be put on notice. The notified broadcaster is given the opportunity to make a request for a licence and pay in cash the equivalent to a three-month duration of the authorisation of the online transmission fee. If the licence application is not made, RTÜK may make a request to the Judge of the Criminal Court of Peace for the removal of the content and/or the blocking of access due to the unlicensed broadcasts.

The cases above show the application of sector-specific regulations to online broadcasting services. These jurisdictions pursued legislative amendments to remove any ambiguity within their existing frameworks and adopted minimalist intervention strategies such as class licensing or mere notification regimes.

5.2 Non-sector Specific Regulatory Approaches to Online Services

The International Telecommunication Union²³ (ITU) advises that, as an alternative to regulation, co-operative mechanisms to facilitate collaboration with other agencies can be adopted (ITU 2020). ITU's advocacy for alternative regulatory approaches to new technologies and services is also rooted in the notion that measures which are flexible may encourage greater sectoral growth. ITU therefore proposes alternative approaches to regulation, which may include a self-regulatory model, or a co-regulatory approach such as the industry/government collaborative model.

²³ The International Telecommunication Union (ITU) is the United Nations' specialised agency for information and communication technologies (ICTs).

5.2.1 Self-Regulatory Approach

The self-regulatory approach places much of the regulatory responsibility on the service providers in the market. A report entitled *Modes and Models of Self-Regulation, Incentive-Based Regulation, Co-regulation, Cross Sector Regulation in Social Media*, prepared by Detecon for ITU, posits that self-regulation encourages industry members to voluntarily take responsibility for their content without significant regulatory intervention (Detecon 2014). The report clarified that “self-regulatory” should not be taken to mean that there is no regulation, since this approach is usually adopted with some legislation to set appropriate boundaries (Detecon 2014).

Case study on India’s self-regulatory approach

India’s Ministry of Electronics and Information published rules known as the Information Technology (Intermediary Guidelines and Digital Media Ethics Code) Rules, 2021. The Rules apply to social media intermediaries²⁴ and are intended to regulate the content – news, current affairs, and curated audio-visual material – of online publishers. A social media intermediary means an intermediary which primarily or solely enables online interaction between two or more users and allows them to create, upload, share, disseminate, modify or access information using its services (Ministry of Information and Broadcasting 2021).

To ensure adherence to the Code of Ethics within the Rules and to address complaints made against publishers, the Ministry has prescribed a three-tier grievance redressal mechanism built on different levels of self-regulation.

The three-tier grievance redressal mechanism is as follows:

1. Level-I: Self-regulation by the publishers
Publishers are required to appoint a grievance redressal officer.
2. Level-II: Self-regulation by the self-regulating bodies of the publishers
Publishers are required to establish a self-regulating body headed by a retired judge or an independent eminent person from the field of media, broadcasting, entertainment, child protection human rights or such other relevant field.

²⁴ Social media intermediary means an intermediary which primarily or solely enables online interaction between two or more users and allows them to create, upload, share, disseminate, modify or access information using its services. [IT \(Intermediary Guidelines and Digital Media Ethics Code\) Rules, 2021 English.pdf \(mib.gov.in\)](#)

3. Level-III: Oversight mechanism

This level entails an oversight mechanism at the governmental level. The Ministry may publish a charter for self-regulating bodies, including Codes of Practices; establish an Inter-Departmental Committee for hearing grievances; issue appropriate advisories and orders to publishers; and issue orders and directions to the publishers for maintenance and adherence to the Code of Ethics.

To comply with the Rules, intermediaries must, among other things:

1. publish on their websites and/or mobile apps their rules and regulations, privacy policies and user agreements.
2. incorporate, as part of their regulations, privacy policies or user agreements, rules that prohibit the hosting, display, uploading, transmitting and storing of harmful or unlawful content. This includes, but is not limited to, defamatory, libellous, obscene, pornographic or paedophilic material; and any material that is insulting or harassing on the basis of gender or race, is harmful to a child, violates any law, and threatens the unity, integrity, security or sovereignty of India.

5.2.2 Industry-Regulatory Collaboration Model

Industry-regulatory collaboration is described by ITU as a bridge between self-regulation and full regulation (ITU 2020). According to ITU, this collaborative model allows authorities or governments to exercise some level of oversight while maintaining industry autonomy²⁵. This arrangement provides a balance between having strict control from government enforcement and having the freedom and flexibility from self-regulation (Detecon 2014). It entails the involvement of industry members and government in the development and enforcement of regulatory tools such as a code of practice, code of ethics or code of conduct²⁶.

²⁵ For example, Netflix, Facebook, Microsoft and Google, have taken steps to reduce the amount of bandwidth consumed by their services, both of their own accord and at the request of regulators (ITU 2020).

²⁶ A code of practice, code of ethics, or code of conduct is a set of guidelines to be followed by persons or entities operating within the industry.

Case study on the United Kingdom’s industry-regulatory approach

Section 103 of the Digital Economy Act 2017²⁷ requires the Secretary of State of the Department of Digital, Culture, Media and Sport to publish a code of practice for “social media providers”. Section 103 states:

The Secretary of State must issue a code of practice giving guidance to persons who provide online social media platforms for use by persons in the United Kingdom (“social media providers”).

In accordance with the above mandate, the Secretary of State for the Department of Digital, Culture, Media and Sport published The Statutory Code of Practice²⁸, which seeks to address bullying, insulting and humiliating behaviours that may occur on social media platforms. While the code is directed to social media platforms, it is also relevant to any site hosting user-generated content, such as gaming platforms.

In the development of the code, various stakeholders, including tech companies, trade bodies, civil society and vulnerable users, were engaged in consultation to identify good practice standards.

Adherence to the code is not mandatory, but it is expected that social media providers, in following the four principles set out within the code, will strive to:

1. maintain clear and accessible reporting processes, to enable users to notify the providers of harmful conduct.
2. maintain efficient processes for dealing with notifications from users about harmful conduct.
3. have clear and accessible information about reporting processes in their terms and conditions.
4. give clear information to the public about action they take against harmful conduct²⁹.

As the code is voluntary, there is no mechanism for monitoring and compliance. Additionally, while this is a code of conduct intended for social media, the underlying principles can be applied to other platforms inclusive of media platforms such as Internet radio broadcasting.

²⁷ UK Digital Economy Act (2017): <https://www.legislation.gov.uk/ukpga/2017/30/contents/enacted>

²⁸ [Code of Practice for providers of online social media platforms – GOV.UK \(www.gov.uk\)](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/614422/code-of-practice-for-providers-of-online-social-media-platforms.pdf)

6. A Collaborative Regulatory Approach to Internet Radio Broadcasting Services in Trinidad and Tobago

ITU recognises the Authority as a G4³⁰ (Generation 4) regulator which is characterised by integrated regulation led by economic and social policy goals. As the pace of digital transformation accelerates, formulating an effective regulatory approach becomes critical. To progress to G5 (Generation 5) regulator status, a collaborative approach to regulation is required, which includes a harmonised system across sectors. Collaborative regulation places emphasis on consumer benefits and protection, and leverages regulation and the industry to deliver them through collaboration and conciliation. Further, a holistic and harmonised approach can deliver greater positive impact to the industry and consumers³¹. G5 regulation is the desired destination for regulation at time.

The Authority therefore considers the industry-regulatory collaborative approach to be an adequate response at this time to manage audio content provided by Internet radio broadcasters. This approach will create an environment that responds to the evolving sector and conforms to regulatory best practice. It is imperative, however, that the measures adopted with this approach are flexible enough to strike the right balance between freedom of expression and of the press, and protecting consumers against harmful, offensive or unlawful content in the online space.

Statement on the Authority's Approach to Internet Radio Services

- 2. The Authority will adopt an industry-collaborative regulatory approach for Internet radio broadcasting services.*

³⁰ ITU Policy and Regulatory Frameworks: <https://www.itu.int/en/ITU-D/Regulatory-Market/Pages/Policy-&-Regulatory-Frameworks.aspx>

³¹ Global ICT Regulatory Outlook (2020): https://www.itu.int/dms_pub/itu-d/opb/pref/D-PREF-BB.REG_OUT01-2020-PDF-E.pdf

The Authority's industry-regulatory collaborative approach entails a combination of consultative strategies to develop a code of conduct for Internet radio broadcasters. These include but are not limited to:

1. drafting a public consultative document with proposed standards and guidelines on acceptable and appropriate practices for Internet radio broadcasters.
2. hosting collaborative meetings with targeted stakeholders to allow for information gathering and feedback on a baseline of standards and guidelines proposed by the Authority.
3. facilitating discussions with industry advisors and other advisory bodies accepted as sources of expert advice.

Statement on the Authority's Collaborative Approach to Internet Radio Broadcasting Services

3. *The Authority's industry-regulatory collaborative approach will entail a combination of consultative strategies which include, but are not limited to:*
 - i. *drafting a public consultative document with proposed standards and guidelines on acceptable and appropriate practices for Internet radio broadcasters.*
 - ii. *hosting collaborative meetings with targeted stakeholders, to facilitate information gathering and feedback on a baseline of standards and guidelines proposed by the Authority.*
 - iii. *facilitating discussions with industry advisors and other advisory bodies accepted as sources of expert advice.*

7. Proposed Code of Conduct for Internet Radio Broadcasting Services

7.1 Scope

The proposed code of conduct shall apply to Internet radio broadcasters domiciled and operating in Trinidad and Tobago and/or whose target audience is the public of Trinidad and Tobago.

7.2 Guidelines on Acceptable Behaviours and Practices for Internet Radio Broadcasters

The purpose of this code of conduct is to prescribe guidelines of acceptable behaviours and practices by Internet radio broadcasters. These proposed guidelines draw on relevant standards and principles established in the Broadcast Code.

7.2.1 Guidelines on Child Protection

Objective: To ensure that children are neither harmed nor misled by the broadcasting of inappropriate and/or inaccurate material

Statements on Child Protection

- 4. Internet radio broadcasters should take the necessary steps to safeguard children from any material that is bullying, insulting, or intimidating in nature.*
- 5. Internet radio broadcasters should take the necessary steps to safeguard children from any material that is lewd, licentious or sexual in nature.*
- 6. Where a programme contains a contribution from a child, consent should be obtained from a parent or guardian.*

7.2.2 Guidelines on Non-discrimination, Harm and Abuse

Objective: To ensure that standards are applied to provide adequate protection of audiences against harmful, abusive or discriminatory broadcast material

Statement on Non-discrimination, Harm and Abuse

- 7. An Internet radio broadcaster is encouraged to avoid the provision of any programme, information or other material which degrades, or portrays in a negative manner, or discriminates against, or encourages discrimination against, any person or group by reason of race, origin, class, religion or disability, which is not justified by the context.*

7.2.3 Guidelines on Public Order and National Security

Objective: To ensure that material likely to encourage or incite the commission of crimes or to lead to disorder is not broadcast

Statement on Public Order and National Security

- 8. An Internet radio broadcaster is urged against broadcasting any programme, information or other material which is hostile to any country; or, any programme, information or other material which endangers the security of the Trinidad and Tobago, violates any law, is of a defamatory nature, is subversive to peace or public order, or is otherwise contrary to the laws of the country.*

7.2.4 Guidelines on the Right to Privacy

Objective: To ensure that Internet radio broadcasters respect the privacy of individuals in their programmes and in connection with obtaining material included in such programmes

Statements on Right to Privacy

9. *An individual's privacy shall not be infringed, unless warranted, in any programme, or in connection with obtaining any material included or to be included in any programme.*
10. *In conducting all activities associated with the provision of Internet radio broadcasting services, Internet radio broadcasting providers are expected to observe and comply with applicable data protection laws and/or privacy law.*

7.2.5 Intellectual Property Rights (IPRs)

Objective: To ensure Internet radio broadcasters operate within the provisions of all intellectual property laws of Trinidad and Tobago

Statement on Intellectual Property Rights (IPRs)

11. *Internet radio broadcasters are urged not to provide any programme, information, material or content without first obtaining all required permissions from the owner(s) of the intellectual property in such programmes, information, material or content, and should not otherwise infringe the intellectual property rights of any person or organisation.*

7.3 Compliance with the Code of Conduct

The Authority notes that, while some Internet radio broadcasters have already established terms and conditions which address the public policy concerns outlined in this Framework, there are others who are yet to establish a formal policy on appropriate broadcasting conduct and behaviour.

To ensure audiences remain adequately protected regardless of the platforms on which they consume radio broadcasting services, Internet radio broadcasters are strongly encouraged to comply with the code of conduct by implementing internal policies, consistent with the guidelines contained in section 7.2 of this Framework. This co-regulatory approach places the responsibility on Internet radio broadcasters to comply with the guidelines set out within the code of conduct.

However, where significant non-compliance occurs, the Authority may intervene with legislative measures to enable compliance with the guidelines set out within the code of conduct. This may entail, where required:

1. amendments to the Authority's legislative framework (i.e., the Broadcast Policy, the Act and the Broadcasting Code) to include online broadcasting platforms.
2. amendments to the Authorisation Framework, to include a registration or service authorisation regime that would require all online broadcasters to register with, or be authorised by, the Authority unless otherwise exempt.

Statements on Compliance with the Code of Conduct

12. Internet radio broadcasters are strongly encouraged to comply with the code of conduct, by implementing internal policies consistent with the guidelines contained in section 7.2 of this Framework.

13. Where significant non-compliance occurs, the Authority may intervene with legislative measures to enable compliance with the guidelines set out in the code of conduct.

7.4 Revision of the Code of Conduct

As the Internet radio broadcasting market evolves, this code of conduct may be revised from time to time by the Authority.

Statement on Compliance with the Code of Conduct

14. The Authority may revise this code of conduct from time to time.

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