



**Consultative Document**

**Framework on  
Illicit Media Streaming  
in  
Trinidad and Tobago**

**Version 0.3**

**(Second of Two Rounds)**

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## Abbreviations

DIS	Digital Inclusion Survey
ETA	Electronic Transactions Act
FTA	free-to-air
ICT	information and communications technology
IP	Internet protocol
IPO	Intellectual Property Office
IPRs	Intellectual Property Rights
ISP	Internet service provider
MOU	memorandum of understanding
TPM	technological protection measure
TRIPS	Trade Related Aspects of Intellectual Property Rights
TT-CIRT	Trinidad and Tobago Cyber Security Incident Response Team
TTPBA	Trinidad & Tobago Publishers & Broadcasters Association
TTPS	Trinidad and Tobago Police Service
WCT	WIPO Copyright Treaty
WIPO	World Intellectual Property Organization
WPPT	WIPO Performers and Producers Rights Treaty

# 1. Introduction

## 1.1 Background

The Telecommunications Authority of Trinidad and Tobago (the Authority) was established under the Telecommunications Act, Chap. 47:31 (the Act)<sup>1</sup> as the independent regulatory body for the telecommunications and broadcasting sectors. The Authority's regulatory function includes monitoring industry trends and publishing data on market performance. These activities inform and guide the organisation's strategies, to ensure that the two sectors operate optimally and in conformance with national laws.

National statistics in the subscription TV market show that gross revenues in this market trended downwards between 2019 and 2023 (TATT 2023). Some subscription TV broadcasters have indicated that access to illicit media streams and the growing use of media streaming devices to access the illicit streaming services may be a possible reason for these declining figures.

Illicit media streaming services utilise websites, applications, or platforms that allow users to stream content for which the permission of copyright holders was not granted. Globally, more than 80% of online piracy is attributable to illegal streaming services<sup>2</sup>. This situation varies across regions, including Trinidad and Tobago. The Authority's 2021 *National Digital Inclusion Survey* (DIS 2021)<sup>3</sup> sheds light on proportion of individuals using the Internet by type of activity. The DIS 2021 reported that 41.8% of the survey participants use the Internet specifically for streaming. It is worth noting that streaming emerged as one of the top three Internet activities in Trinidad and Tobago. In addition, the survey reveals that online streaming is ranked third in viewer's preferences for viewing television content.

Online streaming services can be accessed through a wide range of devices, including tablets, phones, laptops and media streaming devices (TV boxes). While these devices are versatile, in that, they can be used for various purposes, TV boxes are primarily designed for media streaming. For instance, Amazon's Fire TV Sticks, Roku boxes, Kodi boxes, and Android boxes are specifically designed to provide a seamless streaming experience. Although legal when used to

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<sup>1</sup> 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)

<sup>2</sup> U.S. Chamber of Commerce: [https://www.uschamber.com/technology/data-privacy/impacts-of-digital-piracy-on-the-u-s-economy?utm\\_source=www.theglobalipcenter.com&utm\\_medium=redirect](https://www.uschamber.com/technology/data-privacy/impacts-of-digital-piracy-on-the-u-s-economy?utm_source=www.theglobalipcenter.com&utm_medium=redirect)

<sup>3</sup> DIS 2021:

[https://tatt.org.tt/DesktopModules/Bring2mind/DMX/API/Entries/Download?Command=Core\\_Download&EntryId=1628&PortalId=0&TabId=222](https://tatt.org.tt/DesktopModules/Bring2mind/DMX/API/Entries/Download?Command=Core_Download&EntryId=1628&PortalId=0&TabId=222)

access legitimate content, these devices become illegal when configured with software that allows unauthorised access to protected content, such as TV programmes, films and subscription sports channels, without paying a subscription fee. The Intellectual Property Office of Trinidad and Tobago (IPO) asserts that streaming devices are illegal when the software on the device circumvents technological protection measures (TPMs) used to protect copyright content online.

According to a publication prepared by the IPO and available on its website:

These TPM circumvention devices are often called ‘illicit streaming devices’ or ‘illegal streaming devices’ as they allow for protected content to be accessed without the permission of the rights holder/s, namely without paying the required fee or subscription etc. It should be noted that a streaming device only becomes an illegal streaming device when its software permits the circumvention of TPMs. Such actions can include the addition of software, ‘jailbreaking’ or modifying the device to circumvent TPMs (IPO 2020).

Access to illicit media streams and the use of illicit streaming devices in Trinidad and Tobago have raised several public policy concerns, including the threat to fair competition in the broadcasting sector, consumer protection in the context of illicit streaming, intellectual property rights (IPRs) and the allowing of modified streaming devices as approved devices. These policy areas are aligned with the Authority’s legislative mandate to, inter alia, ensure that there is effective competition; promote and protect the interest of consumers; approve and certify devices; and authorise persons or entities to provide telecommunications or broadcasting services.

In keeping with its legislative remit, the Authority enters into concession arrangements with authorised providers via contractual agreements. These agreements outline the obligations to which they must adhere. Given the IPR infringement associated with illicit media streaming, there is merit in considering the contractual obligations of broadcasters as they pertain to preventing IPR infringement, in conformance with national laws.

Before adopting an approach to address this issue, the Authority published, for public consultation, a *Discussion Paper on Android Boxes* (Discussion Paper)<sup>4</sup>, to elicit feedback on the impact of illicit media streaming on various stakeholder groups. The Discussion Paper also served as a first step in establishing the appropriate course of regulatory action that can be taken by the Authority. The Authority subsequently developed this *Framework on Illicit Media Streaming in Trinidad and Tobago* (the Framework) which considers the comments and recommendations arising from the Discussion Paper and adopts a broader approach in analysing the impact of, and approaches, for

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<sup>4</sup>*Discussion Paper on Android Boxes*:

[https://tatt.org.tt/DesktopModules/Bring2mind/DMX/API/Entries/Download?Command=Core\\_Download&EntryId=1115&PortalId=0&TabId=222](https://tatt.org.tt/DesktopModules/Bring2mind/DMX/API/Entries/Download?Command=Core_Download&EntryId=1115&PortalId=0&TabId=222)

regulating, illicit media streaming. The Framework therefore outlines regulatory approaches and policies that will be employed to curb access to these streams, taking into account the Authority's legislative framework, the concession obligations of authorised providers, and the copyright laws of Trinidad and Tobago.

## **1.2 Purpose**

The purpose of this Framework is to present the Authority's policies and strategies to address illicit media streaming, with respect to the availability of the devices that facilitate this illegal activity, as well as the source of the content that the end user is trying to illegally access.

## **1.3 Objectives**

The Framework is intended to:

1. introduce and describe the concept of illicit media streaming.
2. present stakeholders' perspectives on illicit media streaming and illicit media streaming devices.
3. discuss the impact and implications of illicit media streaming and illicit media streaming devices on market conditions.
4. examine the legal and regulatory approaches adopted internationally.
5. present the Authority's policy positions on illicit media streaming.
6. specify the Authority's options for addressing illicit media streaming within its legislative and regulatory framework.
7. outline the nature and extent of support the Authority will give to those agencies responsible for the enforcement of copyright laws.

## **1.4 Scope**

This Framework outlines the Authority's regulatory approaches to address illicit media streaming. Considering that illicit streams can be accessed via alternative devices, such as tablets and laptops,

this Framework promotes collaborative strategies and policies employed to curb access to these streams.

The Framework also presents the Authority’s legislative framework and the copyright laws of Trinidad and Tobago that relate specifically to this area.

This Framework does not seek to regulate the importation, sale and use of streaming devices in Trinidad and Tobago that access content through legitimate means.

This Framework does not address matters related to net neutrality and over the top technology services (OTTs)

## **1.5 Relevant Legislation**

The development of this Framework was informed by the Act, and the Copyright Act of Trinidad and Tobago Chap. 82:80 as amended by the Copyright (Amendment) Act No. 14 of 2020 (the Copyright Act<sup>5</sup>).

The relevant sections of the Act are as follows:

Section 2 (1) defines broadcasting 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 multipoint basis”.

Section 3 contains the objects of the Act, including, inter alia, establishing conditions for:

- (a) an open market for telecommunications services, including conditions for fair competition, at the national and international levels;
- (b) the facilitation of the orderly development of a telecommunications system that serves to safeguard, enrich and strengthen the national, social, cultural and economic well-being of the society;
- (c) promoting and protecting the interests of the public by—
  - (i) promoting access to telecommunications services;
  - (ii) providing for the protection of customers;
  - (iii) promoting the interests of customers, purchasers and other users in respect of the quality and variety of telecommunications services and equipment supplied.

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<sup>5</sup> Copyright Act, Chap. 82:80: [https://rgd.legalaffairs.gov.tt/laws2/alphabetical\\_list/lawspdfs/82.80.pdf](https://rgd.legalaffairs.gov.tt/laws2/alphabetical_list/lawspdfs/82.80.pdf)

Section 18(1):

Subject to the provisions of this Act, the Authority may exercise such functions and powers as are imposed on it by this Act and in particular –

- (o) test and certify telecommunications equipment, subject to section 48(3), to ensure compliance with—
  - (i) international standards; and
  - (ii) environmental health and safety standards, including electromagnetic radiation and emissions;

Section 21(1):

No person shall operate a public telecommunications network, provide a public telecommunications service or broadcasting service, without a concession granted by the Minister.

Section 32:

Any terminal equipment may be connected to a public telecommunications network where the Authority, after consultation with the concessionaire, has certified such terminal equipment as—

- (a) being safe for the user;
- (b) being in compliance with international standards, and environmental health and safety standards including standards for electromagnetic radiation and emissions;
- (c) meeting requirements of electromagnetic compatibility if specified;
- (d) not posing a risk of harm to the network;
- (e) effectively utilising the electromagnetic spectrum and preventing interference between satellite and terrestrial-based systems and between terrestrial systems; and
- (f) being compatible with the network.

Section 48 (1):

The Authority shall, for the purpose of certifying or approving terminal equipment and other equipment to be installed or used for a public telecommunications network or telecommunications service or broadcasting service determine whether such equipment fulfils the criteria stipulated in section 32 and such other requirements as the Authority may prescribe.

The relevant sections of the Copyright Act are:

Section 3:

“circumventing technological protection measures” means avoiding, bypassing, removing, deactivating or impairing technological protection measures, including descrambling a scrambled work or decrypting an encrypted work;

“technological protection measures” means any technology, device or component that, in the normal course of operations, is designed to prevent or restrict acts, in respect of works or objects of neighbouring rights, which are not authorised by the owner of the rights or permitted by law;

“technological protection measures circumvention device” means a device or means that—  
(a) is primarily designed, produced, or adapted for the purpose of enabling or facilitating the circumvention of technological protection measures; and  
(b) has only a limited commercially significant purpose or use other than to circumvent technological protection measures;

Section 34A(1):

The following shall constitute infringements of copyrights and neighbouring rights:

- (a) circumventing technological protection measures; and
- (b) the manufacture or importation for sale or rental of any technological protection measures circumvention device

Section 41(2)(c):

A person commits an offence who makes, imports, sells, distributes, lets for hire, offers or exposes for sale or hire, or advertises for sale or hire, a technological protection measures circumvention device.

## **1.6 Other Relevant Documents**

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

1. *Authorisation Framework for the Telecommunications and Broadcasting Sectors of Trinidad and Tobago* (ver. 0.5, 2005)
2. *Consumer Rights and Obligations Policy* (ver. 1.0, 2014)

## **1.7 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 document, 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 document may be directed to the Authority via email to [consultations@tatt.org.tt](mailto:consultations@tatt.org.tt)

## **1.8 Consultation Process**

After examining the views and recommendations received from the public consultation on the Discussion Paper, the Authority decided that a framework was better suited to achieving the desired outcome of providing oversight of the legitimate use of streaming devices. Hence, the Discussion Paper was converted to this Framework, which allows the Authority to adequately enunciate policy positions and recommendations on this issue. Moreover, the Framework provides the mechanism for the Authority to convey its direction and decisions, and to identify actions or interventions that can be taken consistent with the Act.

The following changes were made since the development of the Discussion Paper:

1. The document was converted from a discussion paper to a framework.
2. The term “Android box” has been replaced with “illicit media streaming devices”, to refer to devices which have been preloaded with software that may facilitate copyright infringement.
3. In addition to the devices, emphasis is placed on illicit media streaming throughout the document and, in particular, in section 2 of the Framework.
4. The discussion on the Copyright Act now forms a section on its own (section 3). The section highlights the relevant amendments to the Copyright Act which provides the legislative basis for determining that a media streaming device is illicit.
5. In presenting the service providers’ perspectives, updated and new data are presented, to illustrate the most recent trends in subscription TV subscriptions and revenues. In addition, subsection 4.2 presents the perspectives of free-to-air (FTA) TV broadcasters.
6. A new section (section 6) presents the public policy issues associated with illicit media streaming and captures the Authority’s regulatory approaches to addressing these.

The Framework has been revised and is being issued for the second of two rounds of public consultation in May 2024, following the completion of the first round in December 2023.

The Authority seeks the views and opinions of the general public and other stakeholders regarding the proposals made in the document, in accordance with its *Procedures for Consultation in the Telecommunications and Broadcasting Sectors of Trinidad and Tobago*.

Consideration will be given to comments and recommendations made during the consultation process, and the Framework will be re-examined and revised accordingly.

Comments can be submitted to [consultation@tatt.org.tt](mailto:consultation@tatt.org.tt) or mailed to:

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

## 2. Illicit Media Streaming

The widespread availability of online video content, combined with increased Internet penetration and the dissemination of streaming devices, have transformed the way broadcasting content is distributed and consumed. In contrast to traditional subscription TV services, online media streaming services offer an array of content at a lower price point, or for free in some instances. Another striking difference is that consumers have the flexibility to access content on demand, thereby watching what they want, when they want, and on any device.

While online media streaming brings perceived benefits to end users, the presence of illicit media streaming services has led to legal, regulatory, and public policy concerns. Illicit media streaming services are websites, applications, or platforms that allow users to stream content for which the permission of the copyright holders was not granted. This is an infringement of IPRs and therefore a violation of copyright laws. Copyright owners are deprived of their rightful earnings when their content is accessed and distributed without their authorisation. This is to the detriment of the entire creative industry which includes broadcasting. Moreover, the unlawful provision of streaming services poses a threat to fair competition, since authorised providers are required to obtain the necessary permission from rights holders prior to distributing their works.

Inextricably linked with illicit media streaming are the devices used to access the services, including illicit media streaming devices. Illicit media streaming devices are electronic devices<sup>6</sup> configured with software which enables unauthorised access to copyrighted content, such as live sports, television series, or recently released movies. Typically, this type of content requires a subscription fee from a subscription TV broadcaster. Some of the software used includes additional features and proprietary applications (apps) that can be accessed through different means, such as app stores and websites.

A media streaming device configured with such illegitimate software is considered an illicit streaming device, since it circumvents the technological protection measures<sup>7</sup> used to protect copyrighted material from unauthorised access and use. This circumvention contravenes the Copyright Act and infringes upon the IPRs of content creators and copyright owners. Illicit media streaming devices are often advertised with taglines such as “jailbroken”, “fully loaded”, “unlimited movies and sports”, or “pre-installed”. These terms are an indication that the device has been adapted and facilitates unlawful access to content. Another factor that may indicate that a streaming device is illicit is its low price point for access to content when compared to legitimate services.

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<sup>6</sup> The electronic device is connected to a television set for viewing content.

<sup>7</sup> See section 5 for details on technological protection measures circumvention devices.

### **3. Copyright Law in Trinidad and Tobago**

#### **3.1 General Concepts Applicable to Streaming**

The Copyright Act governs the rights provided under copyright and related rights. The creators of works (e.g., sound recordings, films and television shows), such as performers, producers and broadcasting organisations, enjoy such copyright protection. The legislative framework allows creators to control and/or be compensated for the various ways in which their work is used by others. Creators want to maintain control over their works and prevent others from copying their material without permission, in whatever form that reproducing may take. The creators will hold the exclusive right to use their works or authorise others to use them on agreed terms.

According to the Copyright Act, broadcasting is:

Broadcasting is “the communication of visual images, sounds or both to the public in any country or territory by wireless transmission including transmission by satellite, and includes an encrypted transmission where the means to decode the transmission has been provided by or with the authority of the person making the communication, and “broadcast” has a corresponding meaning.

“communication to the public” means the transmission to the public by wire or wireless means, including the making available to the public of the images or sound or both, of a work, performance or sound recording, in such a way that members of the public may access it from a place and at a time individually chosen by them.

In accordance with section 24 (1) of the Copyright Act, a broadcasting organisation has the exclusive right to authorise or prohibit any of the following acts:

1. The rebroadcasting of its broadcast
2. The communication to the public of its broadcast
3. The fixation of its broadcast
4. The reproduction of a fixation of its broadcast

Illicit media streaming therefore infringes on one or a combination of the rights afforded to rights holders.

### **3.2 Legislative Basis for the Determination that a Media Streaming Device is Illicit**

The Copyright Act makes it an offence to circumvent TPMs that are put in place by copyright owners to prevent their content from being accessed without their permission. Accordingly, media streaming devices that allow users to gain unauthorised access to copyrighted content are deemed illicit because they circumvent TPMs, in contravention of the Copyright Act.

TPMs are digital management tools used to restrict access to digital works. These access control measures include, inter alia, passwords, registration key subscriptions, time limits and encryption. Disabling or circumventing TPMs can be achieved through various means, including computer programs or devices.

Section 3 of the Copyright Act defines circumventing technological protection measures as:

avoiding, bypassing, removing, deactivating or impairing technological protection measures, including descrambling a scrambled work or decrypting an encrypted work;

Accordingly, a technological protection measures circumvention device is defined by the Copyright Act as a device that:

- a. is primarily designed, produced, or adapted for the purpose of enabling or facilitating the circumvention of technological protection measures; and
- b. has only a limited commercially significant purpose or use other than to circumvent technological protection measures.

Media streaming devices available to consumers online and in retail stores are customisable due to their open-source operating systems. This means that the devices can be modified with software which does not conform to predefined rules, standards or protection mechanisms. Media streaming devices modified with software that allows unauthorised access to works protected by copyright are classified as devices that circumvent TPMs. This is so because the installed software bypasses the copyright protection mechanism, allowing persons to stream content for which the permission of the rights holder/s was not granted. Such modified devices violate the Copyright Act and are therefore illegal.

The Copyright Act provides civil remedies for the copyright infringement of circumventing TPMs and importing TPM circumvention devices to sell.

Section 31 (1) of the Copyright Act states the following:

31. (1) Subject to this Act, infringements of rights of the owner of copyright or neighbouring rights shall be actionable in the Court at the suit of the owner of copyright or neighbouring rights; and in any action for such an infringement all such relief by way of damages, injunction, accounts or otherwise shall be available to the plaintiff as is available in any corresponding proceedings in respect of infringements of other proprietary rights.

Under the Copyright Act, it is a criminal offence to make, import, sell, distribute, let for hire, offer or expose for sale or hire, or advertise for sale or hire, a technological protection measures circumvention device knowing or having reason to believe that it is being used for infringement, in the course of business.

Section 41 (2), as amended, states:

A person commits an offence who—

(c) makes, imports, sells, distributes, lets for hire, offers or exposes for sale or hire, or advertises for sale or hire, a technological protection measures circumvention device.”

It should be noted that the criminal offence provisions are targeted at commercial activities, that is, persons who commit the offences as a business activity.

Likewise, it must be underscored that enforcement of IPRs is the jurisdiction of the Trinidad and Tobago Police Service (TTPS) and the Customs and Excise Division.

# 4. Stakeholders’ Perspectives on Illicit Media Streaming

## 4.1 The Subscription TV Provider’s Perspective

According to the results of the DIS 2021, 41.8% of the survey participants reported using the Internet specifically for streaming<sup>8</sup>. This statistic places streaming as one of the top three Internet activities in Trinidad and Tobago. While access to illicit media streams and the use of such illicit streaming devices provide an alternative source of audio-visual content for end users, their presence in the market has fuelled complaints by subscription TV providers regarding illegitimate streaming services, the loss of subscription TV customers and revenue, and unfair competition within the market.

Figures 1 and 2 illustrate the five-year trend of subscription TV basic package subscriptions and subscription TV gross revenues over the period 2018 to 2022, respectively. Figure 1 shows a continuous decline in subscription TV basic subscriptions from 2019 to 2022. Figure 2 shows a steady decline in subscription TV gross revenues from 2019 to 2022.

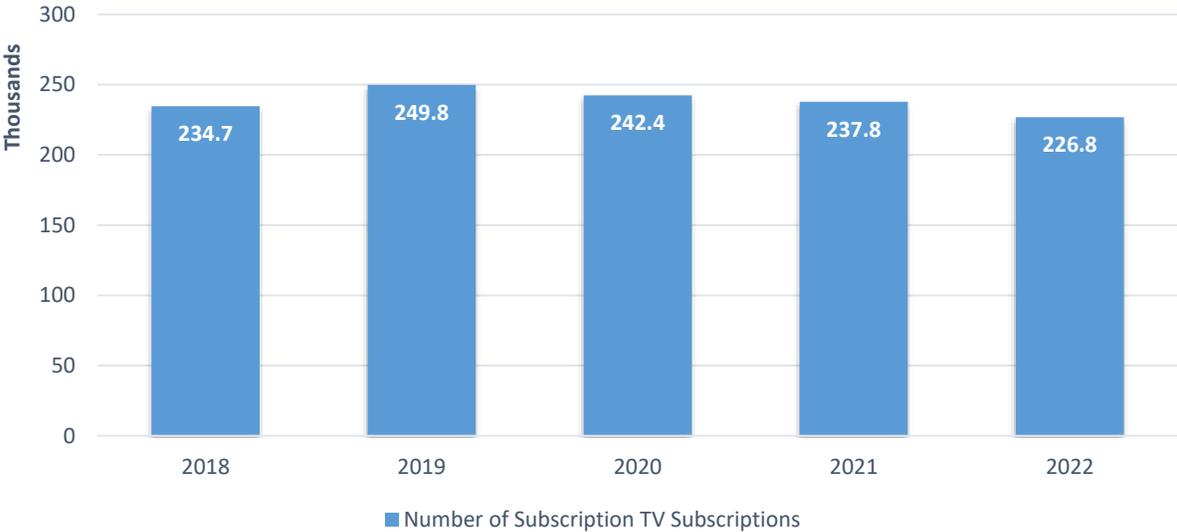


Figure 1: Number of subscription TV subscriptions 2018 to 2022 (TATT 2023)

<sup>8</sup> Streaming includes streaming or downloading images, movies, videos or music and playing or downloading games.

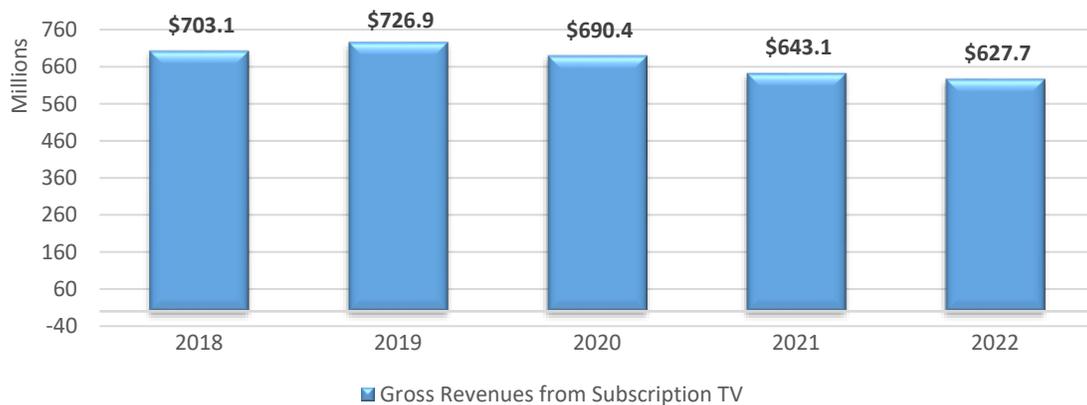


Figure 2: Subscription TV gross revenues from 2018 to 2022 (TATT 2023)

In light of the concerns raised by industry stakeholders about the enforcement measures on illicit media streaming, the Authority consulted with these stakeholders, to solicit feedback on the proliferation of illicit media streaming devices, with specific focus on the impact of these devices on their business operations. At that forum, it was purported that, although service providers experienced falls in revenues and subscriptions, the problem was not brought on by streaming devices per se but by those devices with software installed to facilitate access to pirated content.

It was also proposed that, with the support of organisations such as the World Intellectual Property Organization (WIPO), the IPO, and the Trinidad & Tobago Publishers and Broadcasters Association (TTPBA), public education campaigns should be deployed, specifically informing consumers of the legal and security risks they are exposed to by using these devices and their related software.

## 4.2 The Free-to-Air (FTA) TV Broadcaster’s Perspective

An FTA TV broadcast transmission is intended for public reception via an antenna, for viewing on a television set. In Trinidad and Tobago, FTA TV broadcasts are also available on specified channels from subscription TV broadcasters.

Advertisers of illicit media streaming devices also often offer access to FTA local programmes such as Crime Watch and the TV6 News. Any distribution of an FTA broadcaster’s content without prior permission constitutes an infringement of the broadcaster’s IPRs. In addition, this act undermines the local broadcasting industry since broadcasters are not compensated for the use of their content.

### 4.3 The Consumer's Perspective

With the increase in digital services and applications, consumers have a wide range of online content at their disposal, available to them at any time, through various delivery options and devices. Many consumers are attracted by advertising that promises “free” movies and TV shows for just a one-time fee to purchase the device. WIPO, in its study entitled *Current Market and Technology Trends in the Broadcasting Sector*, stated that persons may gravitate towards illegal streaming because they are unwilling or unable to pay for content (WIPO, 2015).

Additionally, consumers may opt for online streaming because the content they are interested in is not legally available for viewing within their jurisdiction, or is available only after a delayed period from its initial broadcast. Non-availability or delayed availability of content often occurs as a result of either the geo-blocking<sup>9</sup> or the “windowing”<sup>10</sup> strategies adopted by broadcasters and film studios when releasing their content into different markets. Prohibitive costs to acquire more content is another factor that impacts the availability of content in this jurisdiction. Local subscription TV broadcasters have indicated that, in their attempts to acquire more content, they have encountered problems such as prohibitive costs.

On the demand side, consumers, in their attempt to satisfy their entertainment needs, often do not realise that some of the content available online is illegal, i.e., that it has infringed the copyrights of content owners. Some users may rely on the popularity of the devices, as well as the lack of any legal enforcement, to justify the use of illicit streaming devices. According to Alianza<sup>11</sup>, “one of the main challenges is the availability of pirated audio-visual content on legal Internet platforms, which somehow legitimizes them in the eyes of the users” (Alianza 2019). Alianza further posits that consumers are often under the impression that piracy is a “victimless crime” and are unaware of how the unauthorised use of copyrighted content negatively affects the entertainment industry and the wider economy.

It should be noted that, in Trinidad and Tobago, the IPO advises on its website that the live streaming of content that violates another’s copyright is prohibited by law (IPO, 2018). Internationally, a significant ruling made by the European Court of Justice, which has implications for EU Member States, found that streaming copyright protected work from a website via a multimedia player does not satisfy the exemption requirements of an act of temporary

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<sup>9</sup> “Geo-blocking” is a type of technological protection where access to content is restricted based on the user’s geographical location.

<sup>10</sup> The process of “windowing” involves the sale of content through different channels or “windows” (in this case, regions), with the sequence of releases arranged in order of the most profitable. Thus the “window” with the least expected revenues will experience the greatest delay.

<sup>11</sup> Alianza is a group comprising content providers, subscription TV broadcasters and technology providers whose aim is to combat FTA piracy in Latin America.

reproduction. Accordingly, the reproduction of that work via streaming without the consent of the copyright holder is illegal (IPcuria, 2017).

Consumers using illicit streaming devices, or any Internet-enabled device for that matter, may not be fully aware of the security risks they open themselves to by visiting sites with pirated content. Experts warn of the increased exposure to malware and other cybersecurity and privacy issues that are typically associated with “pirate” add-ons.

## 5. International Legislative Approaches to Illicit Media Streaming

### 5.1 Australia

In June 2015, the Australian Parliament amended the Copyright Act 1968. The Copyright Amendment (Online Infringement) Act 2015 empowers the Federal Court of Australia, on the application of a copyright owner, to order Internet service providers (ISPs) to block non-domestic websites primarily designed to infringe, or facilitate the infringement of, copyright (whether or not in Australia)<sup>12</sup>.

This new law was successfully used in court, for the first time, in August 2016, when a judgement<sup>13</sup> was handed down ordering several ISPs to block access to a number of copyright-infringing websites<sup>14</sup>.

Another ruling was made in February 2022, in which the Federal Court of Australia presided over an application for site blocking made by Roadshow Films<sup>15</sup> against 48 ISPs. In the case, *Roadshow Films Pty Ltd v Telstra Corporation Limited* [2021] FCA 1588, the court ordered the ISPs to disable access to a domain name, IP address or URL<sup>16</sup>.

### 5.2 Canada

Canadian legislation is geared towards the prosecution of individuals who use or operate illegal streaming services. The law does not prohibit streaming content, but it does make it more difficult to distinguish between legal and illegal content. Although the law allows streaming for licensed content, courts decide on a case-by-case basis whether a content provider has infringed copyright or not.

In 2016, Canadian cable companies Bell Canada, Rogers Communications Canada Inc. and other cable providers filed an injunction in the Federal Court against at least 45 Canadian dealers who

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<sup>12</sup> See section 115A of the Copyright Amendment (Online Infringement) Act 2015.

<sup>13</sup> Further details on this landmark case can be found in *Roadshow Films Pty Ltd v Telstra Corporation* [2016] FCA 1503.

<sup>14</sup> These sites include Pirate Bat, Torrentz, Torrent Hound and IsoHunt.

<sup>15</sup> Roadshow Films is a group of copyright owners comprising Columbia Pictures Industries Inc., Disney Enterprises Inc., Netflix Studios LLC., Paramount Pictures Corporation, Universal City Studios LLC and Warner Bros. Entertainment Inc. *Roadshow Films Pty Ltd v Telstra Corporation Limited* [2022] FCA 134 <https://fedcourt.gov.au/>

were selling illicit media streaming devices. The court ordered a temporary ban on the sale of the devices<sup>17</sup>. The injunction was later upheld by the Court of Appeal after the defendants appealed the first ruling.

As of 2023, the Online Streaming Act (C-11)<sup>18</sup> received royal assent in Canada. The legislation clarifies that online streaming services fall under the Broadcasting Act and ensures that the regulator has the proper tools to put in place a modern and flexible regulatory framework for broadcasting. These tools include the ability to make rules, gather information, and assign penalties for non-compliance.

### 5.3 European Union

In April 2017, the European Court of Justice ruled in the case of *Stichting Brein v Jack Frederik Willems*, acting under the name *Filmspeler*, that selling devices pre-configured to obtain copyright-infringing content is illegal<sup>19</sup>. This case had been referred to the European Court by the Dutch District Court in 2015, for its consideration as to whether it was illegal to sell a product (media player) with pre-installed add-ons containing hyperlinks to websites from where copyrighted works such as movies, television shows and live broadcasts are made available without the copyright holders' permission. According to the European Court's ruling, the streaming of copyrighted works that are obtained from websites without permission from copyright holders can be considered illegal, as it infringes on the European Union's Copyright Directive No. 2001/29.

### 5.4 United Kingdom (UK)

In the UK, there have been convictions by the courts for the sale, supply or use of set-top boxes for illicit streaming. For instance, in the case of *R v William O'Leary and Terence O'Reilly* (2016), the Premier League Football Association received a conviction against William O'Leary and Terence O'Reilly, under conspiracy to defraud (common law offence) (UK IPO 2017). The defendants were held liable for supplying devices to pubs and individuals, which facilitated piracy. The court held that the defendants conspired with persons unknown to defraud the broadcasters – the Premier League Football Association and other persons – of subscription TV services, by

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<sup>17</sup> *Bell Canada et al. v 1326030 Ontario Inc. dba ITVBox.net et al.*, 2016 FC 612

<sup>18</sup> Online Streaming Act: <https://www.parl.ca/legisinfo/en/bill/44-1/c-11>

<sup>19</sup> *Stichting Brein v Jack Frederik Willems*, (“*Filmspeler*”) – Case C-527/15

supplying devices and services that facilitated the viewing of subscription TV without appropriate payment to said broadcasters.

The Digital Economy Act 2017<sup>20</sup> is an Act of the Parliament of the UK which addresses policy issues related to electronic communications infrastructure and services and updates the conditions for, and sentencing of, criminal copyright infringement. It covers a wide range of areas, including broadband speeds, access to online pornography and government data-sharing. Amid the rising popularity of streaming media boxes running add-on software, an increase to the maximum prison term – from two years to ten – was included. Anyone caught streaming television shows, films and sports events illegally using websites, torrents and add-ons could face a prison term of ten years.

In November 2017, the Intellectual Property Office of the United Kingdom (UK IPO) published guidance on illicit streaming devices, which defines them as “physical boxes that are connected to your TV or USB sticks that plug into the TV, such as adapted Amazon Fire TV Sticks and so called “Kodi” boxes or Android TV boxes” (UK IPO 2017). The UK IPO explains that the devices themselves are legal, but they become illegal when they are adapted by loading software or add-ons or extensions to stream illicit content, like TV programmes, films and subscription sports channels, without paying for the appropriate subscriptions (UK IPO 2017).

In more recent developments in the UK aimed at safeguarding IPRs and maintaining the integrity of digital content, in 2024, the City of London Police launched a targeted operation against illegal streaming services. This operation primarily focuses on Firesticks that have been configured to provide users with unauthorised access to premium TV content, including live Premier League matches. The Police Intellectual Property Crime Unit (PIPCU) conducted a country-wide exercise, specifically targeting individuals involved in selling these modified Firesticks. During this exercise, 11 persons were suspected of selling access to premium TV content through modified Firesticks and other smart TV devices. As a result of this operation, one person was arrested, marking a significant step in the legal pursuit against digital piracy, while 10 others were interviewed under caution.

## **5.5 United States (US)**

The Protecting Lawful Streaming Act of 2020<sup>21</sup> is a United States law that makes it a felony to engage in large-scale streaming of copyrighted material. This act, which is part of the Consolidated Appropriations Act of 2021 (Public Law No: 116-260), was signed into law in December 2020. It specifically targets commercial or for-profit websites that operate as a digital transmission service

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<sup>20</sup> Digital Economy Act: <https://www.legislation.gov.uk/ukpga/2017/30/contents/enacted>

<sup>21</sup> Consolidations Appropriations Act - The Protecting Lawful Streaming Act of 2020: <https://www.govinfo.gov/content/pkg/PLAW-116publ260/pdf/PLAW-116publ260.pdf>

and primarily function in order to stream copyrighted material without the authorisation of the copyright holders.

The Act significantly increases criminal penalties for those who, wilfully and for commercial advantage or private financial gain, illegally stream copyrighted material. Previously, illegal streaming was treated as a misdemeanour. Under the new law, the Department of Justice can bring felony charges against the providers (as opposed to the users) of such illegal services.

In 2022, United King Film Distribution Ltd, D.B.S. Satellite Services (1998) Ltd, HOT Communication Systems Ltd, Charlton Ltd, Reshet Media Ltd, and Keshet Broadcasting Ltd took legal action against operators of a website linked to the domain [www.Israel.TV](http://www.Israel.TV). The United States District Court for the Southern District of New York issued a judgement in April 2022, ordering ISPs to block three pirate streaming sites. These pirate streaming sites were re-broadcasting and streaming original content, broadcasting channels and TV services which are only authorised for broadcasting and/or viewing in the territory of the State of Israel and under a licence. The defendants were found liable for violating the anti-circumvention provision of the Digital Millennium Copyright Act (DMCA). The DMCA prohibits the circumvention of technology measures (such as encryption or copy protection) that effectively prevent access to copyrighted material. The law also bans the distribution of tools or technology designed to assist users in circumventing TPMs.

## **6. Public Policy Issues Associated with Illicit Media Streaming and the Authority's Regulatory Approach**

The perspectives of different stakeholder groups on illicit media streaming have brought to the fore several legal, public policy and regulatory issues, such as:

1. the infringement of content owners' IPRs via illicit media streaming.
2. the availability of illicit media streaming devices, which are devices that are illegally configured with software allowing access to copyrighted content.
3. unfair competition experienced by authorised broadcasters.
4. consumer protection from potential cybersecurity risks associated with accessing illicit media streams.
5. consumers' discontent with the available content and cost.

To address the diversity of issues, it is imperative that the Authority adopts a multifaceted approach involving key stakeholders, including the IPO as an authoritative source of information and the regulator for IPRs; enforcement agencies i.e. TTPS and Customs and Excise); ISPs as intermediaries who provide access to Internet services; and statutory bodies responsible for updating and proclaiming relevant pieces of legislation.

### *Policy Statements on the Framework on Illicit Media Streaming*

1. *The Authority shall adopt a multifaceted approach, in consultation with key stakeholders, aimed at suppressing unauthorised access to sites that infringe on intellectual property rights or breach copyright laws in Trinidad and Tobago.*
2. *The Authority recognises that:*
  - a) *The IPO classifies media streaming devices with software that facilitates unlawful access to works protected by copyright as devices that circumvent technological protection measures. Such devices contravene the Copyright Act of Trinidad and Tobago and are therefore illegal.*
  - b) *It is an offence under the Copyright Act to make, import, sell, distribute, let for hire, offer or expose for sale or hire, or advertise for sale or hire, an illicit media streaming device.*

## **6.1 Illicit Media Streaming – IPR Infringement**

The primary issue associated with illicit media streaming is the violation of IPRs. Accessing and using the works of creatives without their permission constitutes an infringement of their intellectual property rights. Furthermore, this practice undermines the broadcasting industry since rights holders are not compensated for their works.

It should be noted that broadcasting organisations that are based outside of Trinidad and Tobago are also protected under the provisions of the Copyright Act, by virtue of any international convention or agreement to which Trinidad and Tobago is a party.

Trinidad and Tobago is party to various copyright-related international treaties. More specifically, Trinidad and Tobago is a member of the two WIPO treaties – the WIPO Copyright Treaty (WCT) and the WIPO Performers and Producers Rights Treaty (WPPT) of 1996 – as well as the Trade Related Aspects of Intellectual Property Rights (TRIPs) and the Berne Convention for the Protection of Literary and Artistic Works, which govern mutual intellectual property law, minimum protection, and enforcement requirements that were designed to strengthen copyright protection on the Internet. 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 these treaties means there is a requirement for Trinidad and Tobago to provide full protection within our territory to local as well as foreign rights holders.

Based on the international cases examined, various enforcement mechanisms exist and are adopted to address IPR infringements in the online space. These mechanisms are deployed to prevent the unauthorised use of copyrighted material and include strategies such as blocking websites or servers or removing content online. Under the law, direct orders from the courts or regulatory bodies are used to instruct ISPs to block or remove the content. In the absence of such orders, collaborative voluntary arrangement (self-regulation) is encouraged.

### **6.1.1 IPR Infringement Enforcement Mechanisms – Legislative Approaches**

#### **Court Injunctions**

A court injunction is the most common legislative approach to website blocking or content removal. It is used to restrain an ISP or other intermediary from allowing its services to be used to infringe copyright. More specifically, court injunctions require the intermediary to restrict their subscribers' access to websites distributing infringing material or, more recently, streaming services accessible through set-top boxes loaded with special software (WIPO, 2019).

Website blocking via court injunctions is a process initiated by rights holders. Copyright holders who have knowledge that their content is illegally distributed online engage this measure to seek protection from the courts. A court issues an injunction which orders ISPs to disable access to identified sites.

In considering the legislative approach for Trinidad and Tobago, the remedy of injunctive relief via the courts is provided for by the Copyright Act. This gives a general power to the courts to grant injunctions prohibiting copyright infringement.

Section 38 (1) of the Copyright Act states:

The Court shall have the authority—

- (a) to grant injunctions to prohibit the committing, or continuation of committing, of an infringement of any right protected under this Act.

#### **“Notice and Take Down” Procedures**

The Electronic Transactions Act, Chap. 22:05 (ETA) contains provisions for the removal of content. Pursuant to the ETA, service providers or intermediaries are required to remove or secure

data messages or electronic records that give rise to civil or criminal liability once they have actual knowledge of same.

Section 51 (1) of the ETA states:

If an intermediary or telecommunications service provider has actual knowledge that the information in a data message or an electronic record gives rise to civil or criminal liability then, as soon as is practicable after acquiring such knowledge, the intermediary or telecommunications service provider shall—

remove and secure the information from any information system within the control of the intermediary or telecommunications service provider and cease to provide or offer to provide services in respect of that information or take any other action authorized by written law or in accordance with the established code of conduct.

This provision for content removal is akin to the “notice and take down” procedures used to abate the availability of copyrighted content online. In general, with notice and take down procedures, a notification is sent to a service provider indicating that copyright-infringing material or activity is taking place on the provider’s system or network. It should be noted that, as at the date this Framework was published, Part VI of the ETA, which contains the provisions for notice and take down, is still to be proclaimed.

## **Regulatory Orders**

Like court injunctions, a regulatory order is a legislative measure which can be implemented by regulatory authorities who have been entrusted with the power to instruct ISPs to block or take down copyright-infringing content. It is a process initiated by rights holders who lodge their complaint or notify the regulatory body once they have knowledge of the infringement. This mechanism requires the appointed regulatory authority to have the legislative remit to put in place administrative procedures for addressing complaints, conducting investigations, and administering compliance and enforcement.

### **6.1.2 IPR Infringement Enforcement Mechanisms – A Collaborative Approach to Voluntary Agreements**

The collaborative approach is implemented through an agreement by parties including ISPs, regulators, government and copyright holders. This approach does not necessarily have to be provided for in statute and the courts are not involved.

The adoption of a collaborative approach to curb online piracy requires all ISPs to sign a memorandum of understanding (MOU) with relevant parties, agreeing to disable access to websites once they have been notified and instructed by the relevant authority. The effectiveness of this strategy is contingent on all ISPs cooperating and signing the agreement, since there would be a clear competitive advantage to non-participants.

Due to the lack of judicial oversight associated with this strategy, the services of an expert or recognised anti-piracy organisation, agency, software or other medium may be required to make decisions on whether a website should be disabled or if the content should be taken down. This serves to minimise cases of over-blocking and wrongful blocking by ISPs, based on false claims made by rights holders.

### **6.1.3 IPR Infringement – The Authority’s Approach**

After exploring the legislative approaches that can be used to address illicit streaming, the Authority has determined that there is an injunctive solution in section 38 (1) of the Copyright Act. This approach is facilitated by the courts, where the copyright owner can petition the courts to order ISPs to block an infringing site. The Authority notes that in addition to addressing the liability of intermediaries and telecommunications service providers, Part VI of the ETA, once proclaimed, will provide another legislative solution to address copyright infringement. Proclamation of Part VI of that Act will empower the Minister to develop a code of conduct detailing the necessary notice and take down procedures. By advocating for full proclamation, the Authority aims to clarify the legal responsibilities of telecommunications and service providers thereby promoting responsible practices and risk mitigation. The Authority will therefore continue to advocate for the full proclamation of the ETA to bolster copyright enforcement in Trinidad and Tobago.

The Authority recognises that non-legislative strategies do exist, as an alternative approach, but they require collaborative and concerted efforts by stakeholders. The Authority shall facilitate and coordinate collaborative efforts with ISPs and other stakeholders to encourage the establishment of a voluntary agreement geared towards the identification, removal or blocking of copyright-infringing content or websites, consistent with the principle of net neutrality<sup>22</sup>.

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<sup>22</sup> The Authority’s policy recommendations on net neutrality are contained in the *Framework on Net Neutrality in Trinidad and Tobago*

### *Policy Statements on the Framework on Illicit Media Streaming*

- 3. The Authority shall advocate for the full proclamation of the Electronic Transactions Act so that there is clarity in the legal responsibilities of telecommunications and service providers concerning the code of conduct for notice and take down procedures.*
- 4. The Authority shall facilitate and coordinate collaborative efforts with Internet service providers and other stakeholders, to encourage the establishment of a voluntary agreement geared towards the identification, removal or blocking of copyright-infringing content or websites.*

## **6.2 Illicit Media Streaming Devices**

As stated in subsection 3.2 of this Framework, illicit media streaming devices are devices that circumvent TPMs. This is because the software installed allows users to access content for which permission was not granted. These configured devices contravene the Copyright Act, thus providing grounds for enforcement action to be taken against persons found committing any of the offences under the Copyright Act.

The Authority recognises that, ultimately, the enforcement of IPR legislation for criminal offences is the jurisdiction of the TTPS and the Customs and Excise Division. The Authority is also cognisant of the IPO's responsibility for the administration of all laws relating to intellectual property, as per section 2 of the Patents Act, Chap. 82:76.

Section (2) states:

There shall be a Controller in charge of the Intellectual Property Office who shall have the responsibility for the administration of all laws relating to intellectual property, and who shall exercise the powers and perform the functions conferred by and under this Act, and by and under any law.

To this end, enforcement in certain areas will be left to the relevant authorities. The Authority will intervene with regulatory measures within its ambit only when required to do so.

## **6.2.1 Illicit Media Streaming Devices – the Authority’s Regulatory Framework**

### **Authorisation of Broadcasting Services**

The Authority, as the regulator for the broadcasting sector, is mindful of the ever-evolving technological landscape and the ways that services are now being offered. One way is the offering of broadcasting services through illicit media streaming.

The Act defines a broadcasting service 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 multipoint basis”.

Section 21 of the Act stipulates that any person who provides a public broadcasting service requires authorisation to do so. Section 21 (1) states:

- (1) No person shall operate a public telecommunications network, provide a public telecommunications service or broadcasting service, without a concession granted by the Minister.

Having regard to the Authority’s role in the authorisation of broadcasting services, and taking into consideration the anti-circumvention provisions enshrined in the Copyright Act, the Authority shall adopt regulatory measures to ensure that broadcasting services are always provided in a legal manner. In light of this, the Authority shall not authorise any person or entity who offers or uses illicit media streaming devices to provide broadcasting services.

### **Equipment Certification and Approval**

Pursuant to section 18 (1) (o)<sup>23</sup> of the Act, the Authority is mandated to test and certify telecommunications equipment, to ensure compliance with international standards and environmental, health and safety regulations. To certify or approve terminal equipment and other equipment to be installed or used, the Authority determines whether such equipment fulfils the criteria stipulated in section 32 of the Act, which states that:

- Any terminal equipment may be connected to a public telecommunications network where the Authority, after consultation with the concessionaire, has certified such terminal equipment as—
- (a) being safe for the user;

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<sup>23</sup> See section 1.5 of this document.

- (b) being in compliance with international standards, and environmental health and safety standards including standards for electromagnetic radiation and emissions;
- (c) meeting requirements of electromagnetic compatibility if specified;
- (d) not posing a risk of harm to the network;
- (e) effectively utilising the electromagnetic spectrum and preventing interference between satellite and terrestrial-based systems and between terrestrial systems; and
- (f) being compatible with the network.

The Authority is not limited to the requirements listed above but is empowered by section 48 (1) to prescribe other requirements, as stated in the following:

The Authority shall, for the purpose of certifying or approving terminal equipment and other equipment to be installed or used for a public telecommunications network or telecommunications service or broadcasting service determine whether such equipment fulfils the criteria stipulated in section 32 and such other requirements as the Authority may prescribe.

The equipment standardisation and certification process ensures that the use of telecommunications equipment in Trinidad and Tobago, as produced by manufacturers and supplied by commercial distributors, complies with the manufacturers' technical operating parameters, and conforms with the Authority's technical operating standards. The emergence of new devices used to access telecommunications or broadcasting services has given rise to new regulatory requirements which the Authority must consider within its overall equipment certification and approval scheme. One example is the adaptation of devices with software that facilitates illegal access to copyrighted content. Given that these configured devices are regarded as TPM-circumventing devices under the Copyright Act, the Authority shall not approve them for use in Trinidad and Tobago.

Similarly, the Authority shall support the relevant authorities, for example, the Customs and Excise Division, as and when required, through its equipment certification and approval function for the interception of illicit media streaming devices.

### ***Policy Statements on the Framework on Illicit Media Streaming***

- 5. The Authority shall not authorise any person or entity who offers or uses illicit media streaming devices to provide broadcasting services.*
- 6. The Authority shall not approve illicit media streaming devices for use in Trinidad and Tobago.*
- 7. The Authority shall support the relevant authorities, for example, the Customs and Excise Division, as and when required, through its equipment certification and approval function for the interception of illicit streaming media devices.*

### **Concession Agreement**

In accordance with the Concession for the Operation of a Public Telecommunications Network and/or Provision of Public Telecommunications and/or Broadcasting Services, a concessionaire, in broadcasting any of its programmes, should not infringe the IPRs of any person.

Concession D13 states:

The concessionaire shall not broadcast any programmes, information or other material without first obtaining all required permissions from the relevant owners of any intellectual property in such programmes, information and other material, and shall not otherwise infringe the intellectual property rights of any person.

Furthermore, all concessionaires are required to adhere to the laws of Trinidad and Tobago, as indicated in concession condition A2, which states:

The concessionaire shall comply with the Act, all regulations or other instruments made under the Act, the conditions of this Concession, and all laws in force from time to time in the Republic of Trinidad and Tobago.

Moreover, authorised broadcasters, pursuant to their concession obligation, are required to comply with all laws of Trinidad and Tobago. As such, they shall not utilise illicit media streaming devices to provide broadcasting services. Similarly, authorised providers are encouraged to make reasonable efforts to prevent modifications to their devices by end users to facilitate unlawful access to copyrighted material.

### ***Policy Statements on the Framework on Illicit Media Streaming***

- 8. The Authority shall continue to ensure that all authorised providers adhere to the relevant legal and regulatory conditions regarding intellectual property rights. This includes, but is not limited to, concession conditions A2 and D13.*
- 9. Authorised telecommunications and broadcasting service providers shall comply with the Copyright Act and shall not use illicit media streaming devices to provide broadcasting services.*
- 10. Authorised telecommunications and broadcasting service providers are encouraged to make reasonable efforts to prevent modifications to their TV boxes by end users to facilitate unlawful access to copyrighted material.*

### **6.2.2 Illicit Media Streaming Devices – the Authority’s Collaborative Approach**

In Trinidad and Tobago, the IPO has undertaken various initiatives to raise awareness of, and educate the public on, IPR infringements. As the authoritative source of information on IPRs, the IPO periodically updates its website with a wealth of information on topical IPR issues. In the context of illicit media streaming, the IPO advocates for legal alternatives and provides a list of legal streaming services available in Trinidad and Tobago.

To support the IPO’s efforts to foster a culture that values and respects IPRs, the Authority has embarked on a comprehensive multimedia public awareness campaign. This campaign aims to educate consumers about illegal forms of content access and, more importantly, where to find legal content, both online and offline. The Authority intends to continue with this and similar campaigns. Additionally, the Authority shall collaborate with the IPO and other agencies with expertise in copyright infringement, to identify infringing software, devices and websites. The goal is to inform the public about the illegality of these and discourage their use.

The Authority shall also explore collaborative opportunities with the Ministry of Trade and Industry to prevent the importation of illicit media streaming devices.

### ***Policy Statements on the Framework on Illicit Media Streaming***

- 11. To support the IPO's efforts, the Authority shall continue its consumer awareness campaigns to foster a culture where IPRs are valued and respected.*
- 12. The Authority shall support the IPO and other agencies with expertise in copyright infringement, to identify infringing software, and websites.*
- 13. The Authority shall adopt measures to assist the relevant authorities with enforcement, by referring breaches related to the importation, sale or advertising of illicit media streaming devices, for action.*
- 14. The Authority shall explore additional collaborative opportunities, such as with the Ministry of Trade and Industry to prevent the importation of illicit media streaming devices.*

## **6.3 Illicit Media Streaming – Consumer Protection**

Illicit media streaming has raised safety concerns, particularly in relation to cybersecurity, data protection and privacy. These risk areas are of paramount importance to consumer protection in the online space and are specifically dealt with by relevant agencies such as Trinidad and Tobago Cyber Security Incident Response Team (TT-CSIRT). The Authority also has a mandate to promote and protect the interests of consumers. As consumers continue to migrate to online streaming services, the Authority is cognisant of the risks and challenges that may be involved and will therefore continue to uphold its statutory mandate.

### **6.3.1 The Authority's Approach to Consumer Protection**

Considering its role in consumer protection, and within the wider national ICT legislative agenda, the Authority shall promote and protect the interest of the public by ensuring that the relevant objects and statutory provisions of the Act are achieved. This will include, but not be limited to, mounting public awareness campaigns regarding the risks associated with illicit streaming, and undertaking other consumer-based measures aimed at suppressing access to unauthorised sites that promote copyrighted content.

In addition, the Authority shall lend support to agencies responsible for cybersecurity, data protection and privacy, to ensure that there is adequate consumer protection when accessing media streaming services.

### ***Policy Statement on the Framework on Illicit Media Streaming***

*15. The Authority acknowledges the presence of agencies and statutory bodies specifically responsible for monitoring risk areas such as cybercrime, data protection and privacy. The Authority shall lend support to these agencies to protect consumers who access online media streaming services.*

## **6.4 Illicit Media Streaming – Competition Concerns**

Consumers may gravitate to illicit media streaming to meet their entertainment needs, due to their inability to afford subscription TV services, unwillingness to pay for content, or the unavailability of customised content in this jurisdiction. Accessing and delivering content that consumers demand may require concerted commercial actions by stakeholders, especially subscription TV service providers, to overcome the challenges they face, such as restricted access to desired content in this jurisdiction and the significant costs associated with acquiring content distribution rights. These barriers are not faced by retailers of illicit streaming devices, who, through the use of software, can offer access to content that is illegitimately sourced. Authorised service providers contend that they are placed at a competitive disadvantage because of this, since they have to incur costs to acquire content legally whilst competing with another service which unlawfully acquires that content at no cost.

### **6.4.1 The Authority’s Regulatory Approach**

Having regard to the objects of the Act, which include establishing conditions for an open market for telecommunications services, including conditions for fair competition, the Authority shall continue its regulatory work to address market changes arising out of technological advancements, so that effective and fair competition can be maintained.

Therefore, to ensure that subscription TV services remain attractive to end users, the Authority shall continue to encourage subscription TV providers to offer more variety in their programming, with customised packages geared towards low-income households and households with specialised tastes and demands.

To ensure fair competition, the Authority shall facilitate and coordinate collaborative efforts with ISPs and other stakeholders, to encourage the establishment of a voluntary agreement geared towards the identification, removal or blocking of copyright-infringing content or websites, in order to curb access to illicit streams.

In addition, the Authority shall support the full proclamation of the ETA which will provide a legislative solution to addressing copyright infringement facilitated by illicit streaming.

***Policy Statements on the Framework on Illicit Media Streaming***

*16. The Authority shall continue its regulatory work to address market changes arising out of technological advancements, to ensure that effective and fair competition is maintained.*

*17. The Authority shall continue to encourage subscription TV providers to offer more variety in their programming, with customised packages geared towards low-income households and households with specialised tastes and demands.*

## References

- Alianza. 2019. *www.alianza.tv*. 9 May. Accessed March 16, 2021. <http://www.alianza.tv/1.0/5th-international-seminar-on-combating-audiovisual-content-piracy/>.
- Evens, Tom, and Karen Donders. 2018. *Platform Power and Policy in Transforming Television Markets*.
- IPO. 2020. *ipo.gov.tt*. Accessed September 2023. <http://ipo.gov.tt/ipo-news/streaming-and-intellectual-property/>.
- Lichtenberg, Sherry. 2016. 2016. *Product Substitution, Functional Equivalency, and the Technology*. National Regulatory Research Institute.
- TATT. 2023. *www.tatt.org.tt*. September. [https://tatt.org.tt/DesktopModules/Bring2mind/DMX/API/Entries/Download?Command=Core\\_Download&EntryId=1413&PortalId=0&TabId=222](https://tatt.org.tt/DesktopModules/Bring2mind/DMX/API/Entries/Download?Command=Core_Download&EntryId=1413&PortalId=0&TabId=222).
- UK IPO. 2017. *www.gov.uk*. 20 November. <https://www.gov.uk/government/publications/illicit-streaming-devices/illicit-streaming-devices>.
- . 2017. “www.gov.uk.” *www.gov.uk*. [https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/594048/illicit-IPTV-streaming-devices-call-for-views.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/594048/illicit-IPTV-streaming-devices-call-for-views.pdf).
- WIPO. 2019. *STUDY ON IP ENFORCEMENT MEASURES, ESPECIALLY ANTI-PIRACY MEASURES IN THE DIGITAL ENVIRONMENT*. Geneva: WIPO.

## Appendix I. Excerpts from Local Ads for Android Boxes

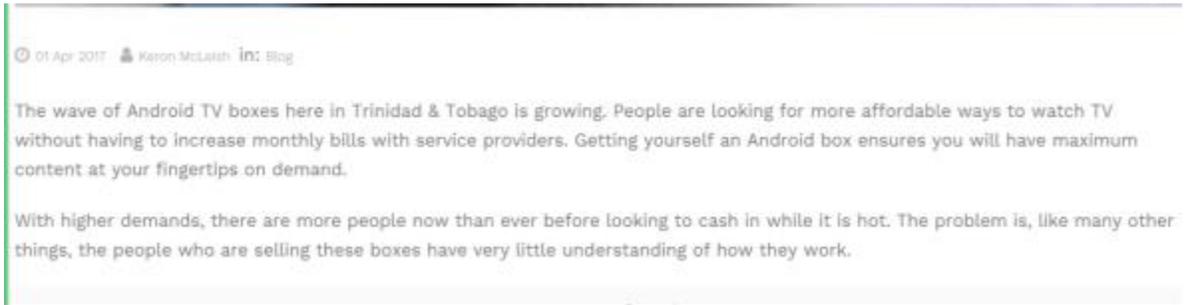


Figure 3: Excerpt from an Android box ad (McLeish, 2017)

**Tv Box For Sale In Trinidad**  
Updated recently

**MXQ PRO 4K ANDROID TV BOX Sale In Trinidad**

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**MXQ PRO 4K ANDROID TV BOX**

**Now In Stock**

**Price: \$600.00 TTD**

MXQ Pro is a smart Streaming Media Player with Android 5.1 Lollipop OS, powered by Quad core Amlogic S905 Cortex A53, includes a Penta-Core GPU that can reach speeds of up to 2.0GHz. Support 4K Ultimate HD video hardware decoding. With preinstalled Google Play Store and other apps, you can enjoy smooth multi-tasking, game playing or movie viewing.

**ARE you tired of paying those ridiculous prices for cable?**  
Well say no more the MXQ PRO Android TV BOX is the solution to your problems the MXQ PRO can stream and array of video content such as Netflix, Hulu, Crunchyroll, but that's not all you can also stream over 1000 cable channels at absolutely no cost to you, GET the MXQ PRO TV BOX and you can finally cut the cord on those pesky cable bills.



**QUICK Home & Office DELIVERY Available**

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Figure 4: Excerpt from an ad for the sale of an Android box (Computer and Supplies TT, n.d.)