

## **Appendix II: Decisions on Recommendations on the *Framework on Illicit Media Streaming in Trinidad and Tobago v0.2***

The following summarises the comments and recommendations received from stakeholders from the first round of public consultation on the *Framework on Illicit Media Streaming in Trinidad and Tobago v0.2* (the Framework), held in December 2023, and the decisions made by the Telecommunications Authority of Trinidad and Tobago (the Authority).

The Authority wishes to express its appreciation to the following stakeholders for participating in this consultation:

1. Columbus Communications Trinidad Limited (CCTL)
2. Digicel (Trinidad & Tobago) Limited
3. Telecommunications Services of Trinidad and Tobago Limited (TSTT)
4. VertiCast Media Group

Item	Section	Section Title	Stakeholder	Comments Received	Recommendations	TATT's Decisions
1.		Entire Document	Digicel		<p>Digicel (Trinidad &amp; Tobago) Limited (“Digicel”) recommends that all future commentary/documentation relating to illicit media streaming should progress without reference to the device used to access illicit streaming services. This would go some way to mitigate the incremental negative feedback during the consultation progress which Digicel believes is clouding the discussion. Currently, too many consumers are too focused on the risk of these devices being removed from the market as opposed to restrictions on how the device is used.</p>	<p>The Authority appreciates Digicel’s recommendation and asserts that illicit media streaming and illicit streaming devices are intrinsically linked. Illicit media streaming encompasses both the platforms and the devices adapted with software to enable unauthorised access to copyrighted content. Consequently, the Framework addresses both of these areas in various sections of the document.</p> <p>Section 2 highlights the impact of media streaming and devices on the distribution and consumption of broadcasting content.</p> <p>Section 3 examines the legal and regulatory considerations relating to streaming and illicit streaming devices in the context of the Copyright Act of Trinidad and Tobago (the Copyright Act).</p>

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						<p>Section 6 explores public policy issues areas associated with illicit media streaming, of which illicit devices are a subset, and presents the Authority's approach to addressing these issues.</p> <p>It is important to note that selling, importing, or advertising configured devices, that is, those pre-loaded with software that facilitates copyright infringement, contravenes the Copyright Act, as amended, as section 41 (2) states:</p> <p>“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.”</p> <p>The Authority proposes initiatives to have such devices removed from the market. Significantly reducing their availability constrains users' ability to access illicit streaming services.</p>

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						<p>The Authority is also recommending strategies that will help to restrict consumers' access to illicit streaming services, thereby promoting the protection of intellectual property rights (IPRs) in the online space.</p>
2.		Entire Document	DIGICEL	<p>Local providers of TV services should not be seen or promoted as the drivers of this initiative. While it may be impacting providers' revenue, it is the Authority, and ultimately the Government's responsibility, to protect global content providers from intellectual property ("IP") infringements.</p>		<p>The Authority notes that Trinidad and Tobago has a responsibility to provide IPR protection within our territory, to local as well as foreign rights holders. This obligation is enshrined in various copyright international treaties to which Trinidad and Tobago is a signatory.</p> <p>The Authority also recognises its role in safeguarding against IPR infringements. The Authority assures Digicel that we are committed to fulfilling this responsibility within our legislative remit, while also actively pursuing collaborative initiatives with the Intellectual Property Office (IPO) and the Ministry of Trade and Industry.</p>

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3.		General	TSTT	Telecommunications Services of Trinidad and Tobago Limited (“TSTT”) appreciates that the Telecommunications Authority of Trinidad and Tobago (“TATT”) has given stakeholders the opportunity to comment on these matters. It should be noted that TSTT’s comments on this document do not preclude TSTT from making further comments in the future.		The Authority welcomes the views, comments and recommendations of TSTT and all other stakeholders, and appreciates TSTT’s participation in this consultation process.
4.		General	TSTT	Given TATT’s position on the proliferation of illicit media streaming devices, TSTT strongly recommends that TATT includes a section on how it intends to work with the relevant bodies to treat existing illicit streaming devices.	TATT to include a section on how it intends to work with the relevant bodies to treat existing illicit streaming devices.	<p>The Authority notes the importance of dealing with illicit streaming devices currently on the local market. As such, the Framework adopts a multifaceted approach that covers both the devices currently available and those that are yet to be imported.</p> <p>Specific to current devices, the Authority’s proposed strategy, as outlined in subsection 6.2.2 of the Framework, includes:</p> <ol style="list-style-type: none"> <li>1. establishing partnerships with agencies with expertise in copyright infringement, for the identification of infringing devices.</li> </ol>

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						<p>2. collaboration with the Ministry of Trade and Industry to prevent the importation of illicit media streaming devices.</p> <p>3. supporting IPO's efforts to discourage the use of infringing devices.</p> <p>4. reporting breaches related to the sale of identified infringing devices to the relevant enforcement authorities.</p> <p>In addition to the Authority's proposed strategies, copyright owners can take legal action via the courts if they believe their rights are being infringed due to the sale of illicit media streaming devices. The Copyright Act provides civil remedies for copyright infringement relating to the importation and sale of devices that circumvent technological prevention measures (TPMs).</p>

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5.	1	Introduction	CCTL	<p>Columbus Communications Trinidad Limited (dba “Flow”) thanks the Telecommunication Authority of Trinidad and Tobago (the “Authority”), for the opportunity to comment on the consultation document “Framework on Illicit Media Streaming in Trinidad and Tobago”. The views expressed herein are not exhaustive. Failure to address any issue in this response does not in any way indicate acceptance, agreement or relinquishing of Flow’s rights.</p> <p>Growth in video streaming continues to be fueled by increased internet / broadband connectivity, the penetration of over the top “OTT” platform players, increased availability of content and changes in consumer viewing preferences. Along with this growth in access to media streaming, a major challenge has been the unauthorized streaming of certain content.</p>		<p>The Authority appreciates CCTL’s participation in this consultation process.</p> <p>The Authority acknowledges that unauthorised streaming continues to pose a significant challenge. To effectively address this issue, the Authority proposes a multifaceted approach, which involves targeting the illegal devices and implementing strategies for identifying and removing copyright-infringing content or websites.</p> <p>Please note that the authorisation of OTT platform operators is also being consulted upon, through the Authority’s <i>Framework on Over-the-Top Services (OTTs) in Trinidad and Tobago</i>.</p>

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6.	1.1	Background	TSTT	TATT continues to place emphasis on streaming devices in the revised framework. TATT is reminded that the issue is the availability of unauthorised content and the infractions upon IP. Such infractions occur not because of the device itself, but software and/or access to sites which circumvent Technological Protection Measures (TPMs).	In this framework, emphasis should be placed on working with the relevant legal bodies to regulate the software and/or access to sites which circumvent TPMs.	<p>The Authority agrees that the infringement occurs due to the use of software that enables unauthorised access to content. But it is also important to curb the selling, importing, or advertising of configured devices (i.e., those pre-loaded with the software that facilitates copyright infringement), which also contravenes the Copyright Act, as stated in section 41 (2), as follows:</p> <p>“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.”</p> <p>For this reason, the Authority continues to focus on streaming devices and has, thus, proposed initiatives to have these removed from the market. Significantly reducing their availability constrains users' ability to access illicit streaming services.</p>



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						<p>The Authority's position is therefore that it is equally important to curb access to illicit sources of online content and to the devices that facilitate such streaming. Consequently, the Framework addresses both aspects. Subsection 6.1.3 of the Framework has been revised, emphasising the Authority's policy recommendations to address access to infringing websites.</p> <p>The policy recommendations on illicit media streaming are:</p> <ol style="list-style-type: none"> <li>1. advocacy for the full proclamation of the Electronic Transactions Act (ETA), which would give effect to notice and takedown procedures.</li> <li>2. collaborative efforts with stakeholders for the establishment of voluntary agreements geared</li> </ol>

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						<p>towards identifying and removing unauthorised content or websites.</p> <p>These proposed policy initiatives are reflected in policy statements 3 and 4 of the revised Framework.</p>
7.	3.1	General Concepts	TSTT	In paragraph 1, the phrase “the Copyright Act” is repeated.	TATT to amend redundancy.	The repeated phrase has been deleted.
8.	3.1	General Concepts Applicable to Streaming	TSTT	<p>TSTT acknowledges the definition of broadcasting outlined in the Copyright Act, and how streaming services can be seen as a form of broadcasting copyrighted material.</p> <p>However, this definition is not wholly compatible with the definition of “broadcasting service” as provided for in the Telecommunications Act (“the Act”), which reads as follows:</p> <p><i>“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 <b>point to multipoint basis</b>”</i> (Emphasis ours)</p> <p>The distinction, of course, is the concept of point-to-multipoint service delivery, which implies that the broadcasting service provider provides the same broadcast signal to all its customers simultaneously.</p>		<p>The Authority acknowledges the differences between the two definitions of broadcasting services.</p> <p>The Authority notes TSTT’s emphasis on the phrase “point to multipoint basis” in the broadcasting definitions of the Copyright Act and the Telecommunications Act, Chap. 47:31 (the Act).</p> <p>When read in context, this phrase suggests that point to multipoint is provided as an example of a transmission method. In other words, broadcasting can occur using various methods, including “point-to-multipoint”. So, it is essential to</p>

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				<p>In the case of streaming services, where it is provided via Video on Demand (VoD) it can be argued that customers are not being sent the same broadcast signal simultaneously, and that the relationship between the user and the host is a point-to-point relationship. Accordingly, the broadcasting service regulated by TATT is not exactly within the scope of services defined in the Copyright Act.</p> <p>Thus, although it is undeniable that streaming services are a form of broadcasting copyrighted materials, it can be argued that streaming is <u>not</u> a broadcasting service according to the Telecommunications Act.</p> <p>As TATT is a statutory body whose powers are bounded by the four corners of its enabling legislative statute, it is not sufficient for TATT to establish that streaming of content falls under the ambit of the Copyright Act. TATT must further demonstrate that VoD streaming service providers fall under the jurisdiction of regulated parties. Without that consideration, TATT cannot depend on Section 21 of the Act or the Concession to regulate the streaming service provider.</p>	<p>TATT should also consider whether streaming service providers are deemed broadcasting service providers under the Act, as the definition according to the Act seems to exclude point-to-point relationships between broadcasting service providers and their customers.</p> <p>Without that consideration, TATT cannot depend on</p>	<p>consider point to multipoint as one of several ways to deliver content to the general public, rather than isolating the term as the only form of transmission.</p> <p>The Authority's position is that the overarching concept of broadcasting remains consistent across both definitions. The definitions entail the transmission of audio and visual content intended for public reception via telecommunications.</p> <p>The Authority emphasises that the purpose of this Framework is to present the Authority's policies and strategies for addressing illicit media streaming, specifically in relation to IPRs. IPR infringements predominantly fall under the purview of the Copyright Act. In this context, the Authority assumes a supportive and collaborative role in combatting copyright infringements.</p> <p>The authorisation of streaming services, and in particular the</p>

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					Section 21 of the Act or the Concession to regulate the streaming service provider	application of section 21 of the Act, is outside the scope of this Framework. This is being dealt with in the consultation on the Authority's <i>Framework on Over-the-Top Services (OTTs) in Trinidad and Tobago</i> .
9.	1.4	Scope	VertiCast Media Group	<p>The regulation of streaming devices warrants consideration by TATT in collaboration with other relevant government stakeholders such as the Intellectual Property Office, Customs, and the TTPS. This position is based on the understanding that modern streaming devices are capable of accessing content through both legitimate and illegal means concurrently.</p> <p>Given this dual functionality, regulation is essential to ensure compliance with copyright and intellectual property laws. Failure to address this aspect could inadvertently facilitate the proliferation of illegal streaming activities, undermining the rights of content creators and legitimate content owners and distributors. A comprehensive approach is needed to safeguard the content distribution ecosystem.</p> <p>Note that The UK IPO clarifies 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).</p>		<p>The Authority agrees that the effective regulation of illegal streaming devices requires close collaboration with the IPO, the Trinidad and Tobago Police Service (TTPS), and Customs and Excise Division. This collaborative effort aims to ensure adherence to copyright and intellectual property laws.</p> <p>The Authority is committed to engaging with stakeholders to devise an appropriate mechanism for regulating the importation, sale, and use of illegally configured devices.</p>

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				<p>Therefore, while the importation of devices such as Amazon Fire TV Sticks (for example) is not illegal, the devices subsequently become illicit when circumvented post importation. There therefore must be some mechanism to regulate their importation, sale and use.</p>		
10.	1.3	Objectives	CCTL	<p>This consultation “Framework on Illicit Media Streaming in Trinidad and Tobago” is identified as the first of two phases. We note however, this follows another consultation process, a June 2018 first round consultation “Discussion Paper on Android Boxes in Trinidad and Tobago.”</p> <p>Flow supports the objectives of this process and notes in particular the following:</p> <p>Objective 1 - “... to introduce and describe the concept of illicit media streaming”</p> <p>Objective 5 – “present the Authority’s policy positions on illicit media streaming services and TPM circumvention devices”</p> <p>Objective 6 – “describe the Authority’s options for addressing illicit media streaming within its legislative framework.”</p>	<p>We recommend that treatment of the subject is widened to more fully capture illicit media streaming services and not limited to illicit media streaming devices.</p>	<p>The Authority appreciates CCTL’s submission highlighting that illicit media streaming devices are a subset of illicit media streaming. The objectives of this Framework were established to comprehensively address the entire scope of illicit media streaming services, which encompasses platforms and devices.</p> <p>To ensure that the Framework adequately captures the identified objectives, section 6 has been amended to present the Authority’s policy positions on access to illicit media streaming services. The added statements are items 3 and 4 and read as follows:</p>

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				<p>However, we do not believe that consultation document covers the full scope, as set out in the objectives. The focus is on media streaming devices, as opposed to media streaming in general. We submit the issues around illegal media streaming devices, is a subset of the wider issue.</p>		<p>3. The Authority shall continue to advocate for the full proclamation of the ETA, to bolster copyright enforcement in Trinidad and Tobago.</p> <p>4. The Authority shall facilitate and coordinate collaborative efforts with Internet service providers (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.</p> <p>The inclusion of these statements seeks to ensure that the Framework effectively addresses illicit media streaming and is not limited to illicit media streaming devices.</p>

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11.	1.5	Relevant Legislation	CCTL	<p>Flow notes that there is no reference to the legislative provisions in the Telecommunications Act Chapter 47:31 (the “Act”) that deals with broadcasting.</p> <p>With respect to TATT’s remit as a content regulator, Section 3 (g) lists one of the objects of the Act as,</p> <p><i>“... to regulate broadcasting services consistently with the existing constitutional rights and freedoms contained in sections 4 and 5 of the Constitution.”</i></p> <p>In Section 2(1) of the Act broadcasting service is defined as <i>“...means 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;”</i></p> <p>On page 25 of the consultation document, in discussing the authorization of broadcasting services, the Authority states <i>“...One way is the offering of broadcasting services through illicit media streaming.”</i></p> <p>We consider that provisions in the Act that are related to broadcasting should be included among the legislative provisions mentioned in this section.</p>	Legislative provisions related to broadcasting should be included as relevant legislation.	Subsection 1.5 has been amended to include the definition of broadcasting. The Authority holds the view that section 3 (g) of the Act is not relevant in the context of this Framework and therefore need not be included.

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12.	2	Illicit Media Streaming	CCTL	<p>The Authority defines illicit media streaming services as “... <i>websites, applications or platforms that allow users to stream content for which the permission of copyright holders is not granted.</i>”</p> <p>In the context of the pervasive availability of media streaming by intermediaries, including global platform providers as well as local individuals / entities that sell streaming devices to end users along with accessibility to specified content for a one-time or monthly subscription fee, it is our considered view that the definition of illicit media services provided above is too narrow.</p> <p>The definition focusses on the end users, and their use of a media streaming device to circumvent the rights of copyright holders who have not granted permission to access their works / content, but neglects to address the entities or individuals providing said access to the content for a commercial benefit. Such individuals or entities provide a broadcasting service as defined by the Act.</p> <p>Section 21 of the Act states,</p> <p><i>“No person shall operate a public telecommunications network; provide a public telecommunications service or broadcasting service, without a concession granted by the Minister.”</i> As such, under the current Act, an individual or</p>	<p>In the context of the current regulatory framework, the definition of illegal media streaming should be widened to cover entities or individuals providing media streaming services to end users without the requisite concession.</p>	<p>The Authority notes CCTL’s recommendation regarding the definition of illicit media streaming.</p> <p>It is essential to clarify that the scope of illicit media streaming primarily pertains to copyright infringement. Therefore, the Authority maintains that the existing definition of illicit media streaming services is adequate in the context of this Framework, which is providing access to media streaming services without the necessary copyright authorisation.</p> <p>The Authority recognises the importance of regulatory compliance for streaming service providers. Therefore, the authorisation of online streaming services is being considered in the Authority’s <i>Consultative Framework on Over-the-Top Services (OTTs) in Trinidad and Tobago</i>. The OTT framework outlines the Authority’s short and long-term strategies for regulating OTT media services (online streaming).</p>



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				<p>entity providing a broadcasting service without a license is doing so in contravention of the legislation. We therefore submit the definition of illegal streaming services should be expanded to include entities or individuals providing a broadcasting service without the requisite concession.</p> <p>TATT's remit as sector regulator as set out in Section 18(1)(a) of the Act, provides for TATT to,</p> <p><i>"... make recommendations to the Minister on the granting of concessions and licences and monitor and ensure compliance with the conditions set out therein."</i> It follows that TATT has a responsibility to ensure compliance with the Act.</p> <p>One also must consider the intentions of the Act. When the Act was last amended in 2004, technology such as media streaming was not available, so would not have been catered for in the framework. The drafters could not have envisaged the dramatic changes that have taken place within the telecommunications industry, as well as emergence and developments in the digital economy. The result is that there is a significant lag between the legal and regulatory framework and the realities of the market.</p>	<p>Given the lag between the existing legislative and regulatory frameworks and current technology and market realities, a definitive plan should be developed and executed to bring the legislative and regulatory frameworks in line with technology and market developments.</p>	<p>In the short term, the Authority recommends an examination of online media streaming services against the existing legislative framework, to determine whether a concession is required, pursuant to section 21 of the Act.</p> <p>The Authority further recognises the need for a review of the legislative framework, to bring it in alignment with technological and market developments. This is one of the strategies outlined in the OTT framework.</p>

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				<p>We do understand that the regulatory framework has not kept pace with either technology or market developments. In the medium to long term, gaps in regulatory framework, both sector specific as well as economy wide companion legislation such as copyright laws must be updated to effectively address the new market realities.</p>		
13.	3.2	Legal Basis for the Determination that a Media Streaming Device is Illicit	CCTL	<p>Flow has no issues with this section but would point out that the focus here is on illicit media streaming devices, as opposed to illicit media streaming services. A distinction should be made between media streaming services and media streaming devices.</p>	<p>A distinction should be made between media streaming services and media streaming devices.</p>	<p>The Authority notes CCTL's non-objection to this section and clarifies that, under section 3, the distinction has been made between media streaming and media streaming devices. This section explores copyright law related to both media streaming and media streaming devices.</p> <p>Subsection 3.1 examines the legal aspects related to streaming. It aims to shed light on the possible infringements that can occur with streaming unauthorised content. In contrast, subsection 3.2 focuses on the devices themselves, delving into the specific provisions of the Copyright Act that pertain to illicit media streaming devices.</p>

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14.	3.2	Legislative Basis for the Determination...	TSTT	The sentence in paragraph 5 which states that “ <i>Media streaming devices modified with software that allows access to works protected by copyright are classified as devices that circumvent TPMs.</i> ” should be amended to state “Media streaming devices modified with software that allows unauthorised access to works protected by copyright are classified as devices that circumvent TPMs.”	TATT to amend in line with TSTT’s recommendation.	The sentence in paragraph 5 has been amended, as per the recommendation from TSTT.
15.	3.2	Legislative Basis for the Determination that a Media Streaming Device is Illicit -	VertiCast Media Group	rE: 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.	TATT should use this as an opportunity to partner with the IPO and TTPS demonstrate rigorous enforcement, given the widespread availability and promotion of TPM circumvention devices in the market.	The Authority appreciates the concern regarding the proliferation of TPM circumvention devices in the market.  In response to this recommendation, the Authority advises that it is actively exploring collaborative opportunities with the IPO and the Ministry of Trade and Industry and is committed to working with other stakeholders, including law enforcement agencies, to curb the availability and promotion of these devices.
16.	4.1	The Subscription TV Provider’s Perspective	CCTL	In addressing the perspective of subscription television providers, the Authority discusses the outcome of a service provider’s forum where it was established that “... <i>although</i>		Due to the proliferation of illicit media streaming devices in the market at that time, the focus of the forum was the

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				<p><i>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.”</i></p> <p>Any discussion by licensed providers around declining revenues would take into account streaming services including those provided by major platform operators, and not solely around the circumvention of technical protection measures in media streaming devices.</p> <p>We reiterate that in order to fully capture the market impact on the emergence of the streaming delivery of content on licensed providers, there is a need to distinguish between the impact of media streaming services versus that of media streaming devices.</p>	<p>A distinction should be made between media streaming services and media streaming devices.</p>	<p>impact of those devices on the revenue base of subscription TV providers. As such, discussions by authorised providers did not consider streaming services provided by major platform operators.</p> <p>Due to technological changes, evolving market conditions and shifting consumer patterns within recent years, the Authority acknowledges that a distinction can be made between media streaming and media streaming devices, however, both media streaming and media streaming devices are interlinked.</p> <p>The Framework therefore captures the Authority's regulatory approaches to addressing illicit media streaming, as well as the importation, sale and use of illicit media streaming devices.</p>
17.	4.1	The Subscription TV Provider's Perspective	TSTT	TATT refers to 51% respondents of the DIS 2021 survey having Android Boxes but does not reference the total amount of people surveyed. This should be disclosed to increase the credibility of the results. Further, the fact that 51% of	TATT should include the number of people surveyed in the document.	The Authority clarifies that the statistic is related to Android box ownership data collected from an independent

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				respondents have android boxes does not necessarily indicate use for illicit media streaming.	TATT to also clarify if 51% of respondents utilise said android boxes for illicit media streaming.	<p>survey commissioned by the Authority in November 2018.</p> <p>Please note that the Framework is amended to provide more recent statistical information relevant to online streaming instead of streaming devices from the DIS 2021.</p> <p>The Authority informs that the sample size of the 2021 DIS is 6000 households<sup>1</sup>.</p> <p>The DIS 2021 measured the ITU's core list of ICT indicators, including, the indicator HH9. This indicator measures the proportion of individuals using the Internet by type of activity. According to the results of the DIS 2021, 41.8% of the survey participants reported using the Internet specifically for streaming<sup>2</sup>. It is worth noting that streaming emerged as one of the top</p>

<sup>1</sup> The survey report inclusive of the methodology can be found on the Authority's website via the following link [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)

<sup>2</sup> Streaming includes streaming or downloading images, movies, videos or music and playing or downloading games.

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						<p>three Internet activities in Trinidad and Tobago.</p> <p>The Authority considers this indicator pertinent as it provides useful information to guide policy formulation since it is an indication of the demand for streaming services.</p> <p>Although data from the DIS 2021 and other surveys guided the overall direction of the Framework, the Authority has incorporated more recent global trends in this section of the Framework to illustrate the growing trend towards online streaming .</p>
18.	4.1	The Subscription TV Provider's Perspective	VertiCast Media Group	Question: What percentage of these Android Boxes were inherently illegal? In other words, how many of these Android Boxes, used to access illegal content, were TPM circumvention devices as opposed to streaming devices that can also access content through legitimate means? The point here is that only addressing devices pre-configured to obtain copyright-infringing content is inadequate since such content can also be accessed through devices that can also access legitimate content.		<p>Please note that the Framework is amended to provide statistical information relevant to online streaming instead of streaming devices from the DIS 2021.</p> <p>The DIS 2021 measured the ITU's core list of ICT indicators, including, the indicator HH9. This indicator</p>

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						<p>measures the proportion of individuals using the Internet by type of activity. According to the results of the DIS 2021, 41.8% of the survey participants reported using the Internet specifically for streaming<sup>3</sup>. It is worth noting that streaming emerged as one of the top three Internet activities in Trinidad and Tobago.</p> <p>Though the overarching issue is illicit media streaming, the Authority also focuses on pre-configured devices because these are adapted to facilitate copyright infringement. Such devices are different from legitimate devices that can also access infringing content but are not intended or modified for that purpose. these adapted devices are classified as circumventing technological protection measures devices which are prohibited under the Copyright Act, as amended, with section 41 (2) stating:</p>

<sup>3</sup> Streaming includes streaming or downloading images, movies, videos or music and playing or downloading games.

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						<p>“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.”</p> <p>For this reason, the Authority continues to emphasise streaming devices and has thus proposed initiatives to have these removed from the market. By doing so, we can significantly reduce their availability thereby deterring users from accessing illicit streaming services.</p> <p>The Authority's position is that is equally important to focus on curbing access to illicit sources of online content. Consequently, the Framework addresses both areas.</p> <p>Subsection 6.1.3 has been revised, emphasising the Authority's policy recommendations to address access to infringing websites.</p>



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						<p>The policy recommendations on illicit media streaming are:</p> <ol style="list-style-type: none"> <li>1. advocacy for the full proclamation of the Electronic Transactions Act which would give effect to notice and takedown procedures.</li> <li>2. collaborative efforts with stakeholders for the establishment of voluntary agreements geared towards identifying and removing unauthorised content or websites.</li> </ol>
19.	4.1	The Subscription TV Provider's Perspective	VertiCast Media Group	<p>RE: It was also proposed that, with the support of organisations such as the World Intellectual Property Organization (WIPO), the Intellectual Property Office of Trinidad and Tobago (IPO), and the Trinidad and Tobago Publishers and Broadcasters Association (TTPBA), public education campaigns be deployed, specifically informing consumers of the legal and security risks they are exposed to by using these devices and their related software.</p>	<p>In addition to these public education campaigns, the membership of the TTPBA should also institute a policy of rejecting any advertisement requests from sellers of TPM circumvention devices, as is currently seen and heard on most media platforms to date. This, in addition to the fact that it contravenes section 41 (2) c. of the Copyright Act.</p>	<p>The Authority appreciates Verticast's recommendation.</p> <p>Recognising that advertising for the sale or hire of TPM circumvention devices is an offence under the Copyright Act, the Authority is committed to continued collaborative efforts with the relevant agencies to address this issue.</p>

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					This fact also demonstrates the dire need for enforcement of the Act.	
20.	5	Legislative Approaches to Illicit Media Streaming Devices Utilised Internationally	CCTL	<p>It is noteworthy that the actions taken in the various international jurisdictions discussed involved the updating of the legal frameworks. Canada, for example referenced the Online Streaming Act that clarifies that online streaming services falls under the Broadcasting Act. There are also tools in place to address noncompliance. In the Trinidad and Tobago, as discussed in Section 1.5 above, online streaming services should fall within the definition of a broadcasting service as defined by the Act.</p> <p>While we appreciate that other agencies like the Trinidad and Tobago Police Services and the Customs and Excise Division, have a role to play in addressing the illicit use of media streaming devices, we reiterate that the Authority by virtue of its defined functions under the Act, has a role to play to ensure compliance with its provisions.</p>	We recommend that treatment of the subject is widened to cover illicit media streaming services in general.	<p>The Authority appreciates the recommendation and advises that the subject of this section has been revised to emphasise illicit media streaming in a broader context. The title of this section has therefore been revised to “Legislative Approaches to Illicit Media Streaming Utilised Internationally”. Additionally, to place more emphasis on legislative approaches to illicit streaming, section 5 has been updated, providing another example of legal action taken against operators of an illicit website.</p> <p>Regarding the roles of TTPS and the Customs and Excise Division, these entities are responsible for enforcement action related to criminal offences. It is important to emphasise that the Authority, guided by its statutory functions under the Act, has a distinct role to play. Our responsibility</p>

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						lies in ensuring compliance with the provisions outlined in the Act. Based on the Authority's role and function, it is our view that, by working collaboratively with other agencies, we can collectively safeguard intellectual property rights.
21.	6	Public Policy Issues Associated with Illicit Media Streaming and the Authority's Regulatory Approach	CCTL	<p>The Authority provides the following statements on its Framework on Illicit Streaming:</p> <p><i>1. " Considering the legal issues and risks created by accessing copyrighted content, the Authority recognises that:</i></p> <p><i>a. Media streaming devices modified with software that facilitates unlawful access to works protected by copyright are classified as devices that circumvent technological protection measures. Such devices contravene the Copyright Act of Trinidad and Tobago and are therefore illegal.</i></p> <p><i>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."</i></p>	The Authority should clearly articulate the steps it will take to ensure compliance with the Act.	<p>The Authority understands that this comment and recommendation are in relation to the Copyright Act.</p> <p>The Authority advises that ensuring compliance with the Copyright Act falls primarily within the purview of the IPO. Simultaneously, the Authority is responsible for ensuring compliance with the provisions outlined in the Act and Concession Conditions. By working collaboratively with other agencies, we can collectively safeguard intellectual property rights.</p> <p>The Authority's proposed strategy includes:</p>

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				<p>2. <i>“The Authority shall adopt a multifaceted approach involving key stakeholders to address illicit media streaming in Trinidad and Tobago.”</i></p> <p>Flow has no issues with the above statements but would encourage the Authority to clearly articulate what steps it will take to ensure compliance with the provisions of the Act.</p>		<ol style="list-style-type: none"> <li>1. establishing partnerships with agencies with expertise in copyright infringement, for the identification of infringing devices.</li> <li>2. supporting IPO's efforts to discourage the use of infringing devices.</li> <li>3. reporting breaches relating to the sale of identified infringing devices to the relevant enforcement authorities.</li> </ol>
22.	6	Public Policy Issues Associated with Illicit Media	TSTT	<p>Policy Statement 1:</p> <p>TSTT welcomes the belated determination by TATT that <i>“media streaming devices modified with software that facilitates unlawful access to works protected by copyright are classified as devices that circumvent technological protection measures. Such devices contravene the Copyright Act of Trinidad and Tobago and are therefore illegal.”</i> (Emphasis Ours)</p>	TSTT awaits an affirmative strategy by TATT to treat with this practice immediately.	<p>The Authority appreciates TSTT's feedback and concerns regarding the immediate implementation of the multifaceted approach following the finalisation of the Framework.</p> <p>The Authority advises that ensuring compliance with the Copyright Act falls primarily within the purview of the IPO. Simultaneously, the Authority is responsible for ensuring compliance</p>

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				<p>However, TSTT is disappointed that the multi-faceted approach does not purport to be implementable immediately upon the finalisation of the instant framework.</p>		<p>with the provisions outlined in the Act and Concession Conditions.</p> <p>With respect to the immediate implementation of a multifaceted approach, TSTT is advised that this approach entails policy action items that would be implemented immediately upon completion of this Framework, which include:</p> <ol style="list-style-type: none"> <li>1. advocating for the full proclamation of the ETA to bolster copyright enforcement in Trinidad and Tobago.</li> <li>2. coordinating collaborative efforts with ISPs and other stakeholders.</li> <li>3. collaborating with the Ministry of Trade and Industry to prevent the importation of illicit media streaming devices.</li> </ol>

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23.	6.1	Illicit Media Streaming – IPR Infringement	TSTT	<p>This section provides much insight into enforcement approaches but does not provide any clear indication of an approach that is applicable to this market immediately upon the finalisation of this framework.</p> <p>As an example: Is TATT, as a statutory authority, establishing a list of illegal websites/ web sources which can be identified for blocking by ISPs, pursuant to a directive, per a consultative process, to stymie illegal streaming?</p> <p>TSTT would have thought that pursuant to the framework, TATT would have compiled an initial list of illegal websites/ web sources for consideration by the marketplace, to facilitate the development of a framework for immediate action by ISPs subject to its finalisation.</p> <p>TATT has not indicated why it has not undertaken the necessary work under the Telecommunications Act.</p> <p>While there is a conversation about Notice and Takedown Procedures under Part VI of the Electronic Transactions Act, the same process would have to be undertaken, and TATT – as the Telecoms Regulator – would be a key stakeholder in the compilation of any such list.</p>	<p>TSTT believes that TATT should have taken the opportunity at this time to compile a list of websites/ web sources which would be subject either to:</p> <ul style="list-style-type: none"> <li>- A determination under the Telecommunications Act now</li> <li>- or a Notice and Takedown Order under the Electronic Transactions Act, upon its full proclamation.</li> </ul>	<p>The Authority has established a partnership with a specialised agency that has expertise in addressing copyright infringement, including identifying websites and web sources that facilitate illicit streaming.</p> <p>An anticipated outcome of this partnership is obtaining information on illicit websites. This resource will play a pivotal role in our collective efforts to combat unauthorised streaming and protect intellectual property rights going forward, upon proclamation of section 51 (1) of the ETA.</p>

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				In either case, using a directive under the Act or Part VI of the Electronic Transactions Act, TSTT's position is that TATT should have taken the opportunity to begin compiling the list of sites against which action should be taken.		
24.	6.1.1	Regulatory Orders	VertiCast Media Group	It would be helpful if the process whereby rights holders can petition TATT to implement regulatory orders and for the powers of TATT to be clearly outlined.		<p>The Authority is not currently empowered to implement regulatory orders to address unauthorised access to copyright content.</p> <p>The Authority clarifies that a petition for the implementation of regulatory orders is initiated by rights holders, who can file a complaint with the courts or to the appointed regulatory authority. Reference is made to subsection 6.1.1 of the Framework, which establishes how regulatory orders are implemented.</p>
25.	6.1.2	IPR Infringement	TSTT	There is the possibility that some ISPs could have a competitive advantage if all ISPs are not in agreement with the MOU. Once a decision is taken "by law", it should be enforced so that all ISPs are compliant simultaneously.	TATT to ensure that whatever is implemented ensures that all ISPs are compliant simultaneously.	The Authority acknowledges TSTT's consideration of potential competitive advantages amongst ISPs in the context of the MOU and recognises that mitigating such competitive

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						<p>advantage relies on the cooperation of all ISPs.</p> <p>TSTT can be assured that this mechanism will only be put into effect when there is full cooperation and simultaneous compliance by all ISPs.</p>
26.	6.1.2	IPR Infringement	TSTT	TATT is advised that if operators are to implement, an analysis needs to be undertaken to assess the requirements i.e. cost and time to achieve readiness.	TATT is advised that implementation would not be instantaneous, and funding and time for implementation would be required to ensure readiness.	The Authority recognises that implementing voluntary agreements requires careful planning, coordination, and resource allocation. These factors impact the readiness for implementation and, as such, a reasonable time frame will be provided.
27.	6.1.3	IPR Infringement - The Authority's Approach	VertiCast Media Group	It would be helpful if there is transparency in any issues hindering the proclamation of the remaining parts of the ETA so that the relevant stakeholders may attempt to address.		<p>The Authority notes this comment regarding the proclamation of the ETA.</p> <p>The Authority has been working with, and supporting, the Ministry of Trade and Industry and the Ministry of Digital Transformation on the promulgation of the ETA, particularly the specific areas related to IPRs.</p>



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						In the interim, the Authority continues its work to achieve its statutory mandate and to fulfil its functions and duties under the Act.
28.	6.2.1	Illicit Media Streaming ...	TSTT	<p>Policy Statement 4 which states that “<i>the Authority shall not approve illicit media streaming devices for use in Trinidad and Tobago</i>” is too vague and broad and requires a more detailed definition. It should specify that equipment with illegal software should be banned.</p> <p>Equipment Certification and Approval</p> <p>In Section 5.4 (United Kingdom), it states that “<i>the devices themselves are legal, but become illegal when they are adapted by loading software or add-ons or extensions to stream illicit content...</i>” Using an example of some of the devices previously listed, to ban all Amazon firesticks, Roku boxes, Kodi boxes and Android boxes because some have illegal software would be one-sided. TATT should instead make the software illegal and adapt the wording for the framework to state the same.</p>	TATT to reword Policy Statement 4 to specify that equipment with illegal software would be banned.	<p>The Authority advises that the wording of the policy statement is being maintained, as it is precise and it articulates the Authority’s policy position, within its legislative remit, on dealing with devices configured with illegal software.</p> <p>Going forward, the Authority intends to work with the relevant authorities and entities responsible for enforcing the IPR provisions under the Copyright Act.</p>
29.	6.2.1	Illicit Media Streaming Devices – The Authority’s	CCTL	In addressing its equipment certification and approval function the Authority posits the following policy statements on illicit media streaming devices:	The framework should cover illicit media streaming services and not just illicit media streaming devices.	The Authority acknowledges CCTL’s recommendation and emphasises that the Framework extends beyond the devices. The Framework also explores

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		Regulatory Framework		<p>3 <i>“The Authority shall not authorise any person or entity who offers or uses illicit media streaming devices to provide broadcasting services.”</i></p> <p>4 <i>“The Authority shall not approve illicit media streaming devices for use in Trinidad and Tobago.”</i></p> <p>5 <i>“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.”</i></p> <p>Flow has no issues with the above statements. We would point however that the framework needs to also address illicit media streaming services, and not be limited to illicit media streaming devices.</p>		<p>illicit media streaming services and presents legislative and non-legislative approaches to addressing access to these services.</p> <p>In response to the recommendation, subsection 6.1.3 of the Framework has been amended to explicitly incorporate policy statements outlining the Authority’s approach to addressing access to illicit media streams. The added statements are items 3 and 4, as follows:</p> <p>3. The Authority shall continue to advocate for the full proclamation of the ETA to bolster copyright enforcement in Trinidad and Tobago.</p> <p>4. 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</p>

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						<p>blocking of copyright-infringing content or websites consistent with the principle of net neutrality.</p> <p>This inclusion seeks to ensure that the Framework effectively addresses illicit media streaming and is not limited to illicit media streaming devices.</p>
30.	6.2.1	Illicit Media Streaming Devices – The Authority's Regulatory Framework Concession Agreement	CCTL	<p>In addressing the concession agreement, the Authority sets out the following policy statements:</p> <p>6. <i>“The Authority shall continue to ensure that all authorised providers adhere to the relevant legal and regulatory conditions regarding IPRs. This includes, but is not limited to, concession conditions A2 and D13.”</i></p> <p>7. <i>“Authorised telecommunications and broadcasting service providers shall comply with the Copyright Act and shall not use illicit media streaming devices to provide broadcasting services.”</i></p> <p>8. <i>“Authorised telecommunications and broadcasting service providers shall ensure that their TV boxes</i></p>	The framework should cover illicit media streaming services and not just illicit media streaming devices.	<p>The Authority acknowledges CCTL's recommendation and emphasises that, while subsection 6.2.1 specifically addresses devices, the overall Framework takes a broader perspective. It addresses both illicit media streaming services and the associated devices. Reference is made to subsection 6.1 which examines legislative and collaborative approaches aimed at curbing access to illicit media streams.</p> <p>In response to CCTL's recommendation, subsection 6.1.3 of the Framework has been amended to explicitly incorporate policy</p>

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				<p><i>cannot be modified by end users to facilitate unlawful access to copyrighted material.”</i></p> <p>Statements 6 to 8 relate to media streaming devices. Flow takes no issues with these statements but reiterates the need for the framework to include media streaming services and not just media streaming devices.</p>		<p>statements outlining the Authority's approach to illicit media streaming. The added statements are items 3 and 4 and read as follows:</p> <ol style="list-style-type: none"> <li>3. The Authority shall continue to advocate for the full proclamation of the ETA to bolster copyright enforcement in Trinidad and Tobago.</li> <li>4. 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.</li> </ol>
31.	6.2.1	Illicit Media Streaming Devices	TSTT	<p>Concession Agreement:</p> <p>TSTT reminds TATT that the Concession Condition D13 only applies to those parties with a broadcasting services Concession. Parties who are not signatories to a broadcasting</p>	TATT to make the necessary amendments as it cannot rely on Concession Condition D13.	The Authority acknowledges that Concession Condition D13 only applies to those parties holding a concession for broadcasting services. Consequently, the Authority does not seek to rely on this condition when

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				<p>services concession are <u>not</u> bound by the conditions in Section D of the Concession.</p> <p>Accordingly, TATT cannot rely on D13 to treat with the question of VoD streaming services and VoD streaming service providers as they are not concessionaires – in theory by virtue of the definitions in the Act, and in practice, as none are concessionaires at this time.</p>		addressing providers of streaming services who are not concessionaires.
32.	6.2.1	Illicit Media Streaming Devices	TSTT	<p>Policy Statement 8: TSTT queries the enforceability of this Policy Position. Is TATT suggesting that Concessionaires are made liable for the illicit behaviours of customers?</p> <p>If this is the case, TSTT strongly disagrees with same. Such action is not proportionate per se and does not treat with the cause of the wrongdoing. Indeed, a major failing in this paper is that while it defers to matters outside of the control of TATT (e.g. the proclamation of the ETA), it does not offer any policy interventions that could be used in these broader policy considerations.</p> <p>As an example: Does TATT endorse the approach as outlined in its international review where customers who are found to be partaking in IPR piracy are identified and penalised? Otherwise, the customer, which creates the demand that then drives the illicit activity, is not being disincentivised. As</p>	<p>TSTT disagrees with this Policy Position as it places the liability of customers' wrongdoing on the concessionaire, which is not proportionate per se.</p> <p>Also, TATT should recommend policy considerations to be addressed in the broader regulatory context. Such should include</p>	<p>The Authority advises that the objective of policy statement 8 is to empower broadcasters to safeguard their TV boxes. By maintaining device integrity, authorised broadcasters actively contribute to combatting piracy. The Authority clarifies that the objective of policy statement 8 is therefore not to impose liability on concessionaires for customers' illicit behaviours.</p> <p>Please note that the referenced policy statement has been modified to clarify the misinterpretation. The revised statement, which is now numbered 10, reads as follows:</p>

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				<p>outlined in its long-dormant Consumer Quality of Service Framework, TATT should consider obligations for customers committing breaches, which enable operators to take measures to deter such continued action. Such considerations are absent from the current framework.</p>	<p>whether customers who are found in breach of IPR (through consumption initiated by their interaction with illicit devices or platforms) are to face any sanction as a means of disincentivising demand.</p>	<p>“Authorised telecommunications and broadcasting service providers are encouraged to make reasonable efforts to prevent the modification of their TV boxes by end users in order to facilitate unlawful access to copyrighted material.”</p> <p>In addition, in the process of establishing policy recommendations to address copyright breaches, the Authority is guided by the Copyright Act. It is essential to note that enforcement actions primarily target commercial activities such as retailing, advertising or importing.</p> <p>Section 41 (2) of the Copyright Act, as amended, states:</p> <p>“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.”</p>

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						<p>The Authority remains guided by the provisions set out in the Copyright Act and will take into consideration incorporating relevant consumer obligations within the Authority's Consumer Rights and Obligations Policy (CROP).</p> <p>To address illicit consumer behaviours, the Authority has initiated a comprehensive multimedia public awareness campaign aimed at discouraging consumers from accessing illegal content. The Authority intends to continue with this and similar campaigns.</p>
33.	6.2.1 (5)	Framework on Illicit Media Streaming Policy Statements	VertiCast Media Group	RE: 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.	Training and education of the relevant personnel at Customs is crucial for the successful enforcement of this initiative. Identification of known TPM circumvention devices as well as the ability to detect those that are not known or obvious.	The Authority agrees that ongoing training and education of customs personnel is critical for effective enforcement. Although this responsibility falls under the Customs and Excise Division, the Authority will support if and when required.

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34.	6.2.1 (6)	Framework on Illicit Media Streaming Policy Statements	VertiCast Media Group	RE: The Authority shall continue to ensure that all authorised providers adhere to the relevant legal and regulatory conditions regarding IPRs. This includes, but is not limited to, concession conditions A2 and D13.	The Authority has an opportunity to solidify this statement by bringing an end to its forbearance policy which is in contravention to both concession conditions A2 and D13.	The Authority appreciates this recommendation from VertiCast and advises that, despite any forbearance on the enforcement of Concession Condition D13 on foreign Free to Air (FTA) networks, all authorised broadcasters are encouraged to make their best efforts to regularise their channel lineup.
35.	6.2.2	Illicit Media Streaming Devices – The Authority's Collaborative Approach	CCTL	<p>Framework on Illicit Media Streaming Policy Statements</p> <p><i>9. To support the IPO's efforts, the Authority shall continue its consumer awareness campaigns to foster a culture where IPRs are valued and respected. The goal is to inform the public about the illegality of these and discourage their use.</i></p> <p><i>10. The Authority shall collaborate with the IPO and other agencies with expertise in copyright infringement to identify infringing software, devices, and websites.</i></p> <p><i>11. 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.</i></p>	The framework should include illicit media streaming services and not just illicit media streaming devices.	<p>The Authority recognises the importance of addressing both illicit streaming and illicit devices in the Framework.</p> <p>Please note that policy statements 9 and 10 apply to both. In addition, subsection 6.1.3 has been amended to include policy statements that present the Authority's approach to illicit media streaming.</p>



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36.	6.3.1	The Authority's Approach to Consumer Protection	CCTL	<p>In addressing consumer protection, the framework provides that;</p> <p><i>12. 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.</i></p> <p>Flow supports collaboration among the relevant agencies responsible for consumer protection.</p>		The Authority appreciates CCTL's support for collaboration among the relevant agencies.
37.	6.3.1	The Authority's Approach to Consumer Protection	TSTT	<p>The sentence in paragraph 1 which states that "<i>This will include, but not be limited to, public awareness campaigns regarding the risks associated with illicit streaming and undertaking other consumer-based measure aimed at suppressing access to sites that promote copyrighted content</i>" should be amended to state "This will include, but not be limited to, public awareness campaigns regarding the risks associated with illicit streaming and undertaking other consumer-based measure aimed at suppressing access to <b>unauthorised</b> sites that promote copyrighted content."</p>	TATT to amend in line with TSTT's recommendation.	The Authority notes the recommendation and has amended subsection 6.3.1 to include the word "unauthorised", as recommended by TSTT.
38.	6.4	Illicit Media Streaming –	DIGICEL	With this Trinidad and Tobago market being so small, some suppliers, such as Netflix, would not even engage with local TV		The Authority notes the challenge smaller markets may have in

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		Competition Concerns		service providers to allow them to bundle their products to deliver better value to consumers. If these said suppliers were strongly encouraged to deliver their services via local TV service providers, then the resulting revenue from these services would result in taxes being paid in this country.		establishing collaborative arrangements with global streaming providers. Overcoming this challenge will require strengthening regional integration. This would entail policy coordination and joint initiatives to enhance the bargaining power of local subscription TV providers in the region.
39.	6.4	Illicit Media Streaming – Competition Concerns.	DIGICEL	<p>In section 6.4, the Authority highlights that <i>“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 was 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”</i>.</p> <p>The Authority then proceeds to articulate Policy Statement 14 which states as follows:</p>	The Authority should provide clarification on how it intends to provide encouragement to existing/potential subscription TV providers to offer more variety in their programming.	<p>The Authority notes Digicel’s queries regarding the variety of programming offered by subscription television providers.</p> <p>The Authority intends to employ a range of strategies aimed at expanding the variety in programming, which would ultimately be beneficial to the consumer.</p> <p>Some of these strategies may include:</p> <ol style="list-style-type: none"> <li>1. encouraging subscription television providers to offer special packages that would</li> </ol>

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				<p><i>“The Authority shall continue to encourage subscription TV providers to offer more variety in their programming, with special packages geared towards low-income households”.</i></p> <p>The aforementioned policy statement raises the question: How does the Authority intend to provide said encouragement?</p> <p>The Authority identifies the primary competitive disadvantage on one hand then indicates that it would encourage subscription TV service providers to offer more variety on the other hand. This comes across as vague and counterproductive considering that the restricted access/cost issue remains extant regardless of the proposed position set out by the Authority in its policy statement.</p> <p>Does the Authority as part of commitment to provide encouragement to service providers envisage the following:</p> <ul style="list-style-type: none"> <li>a. Considering a reduction in regulatory fees for the subscription TV market given the competitive disadvantage set out in Section 6.4</li> <li>b. Taking up a role to advocate for incentives/tax breaks/subsidies on behalf of subscription TV providers to level the already uncompetitive playing field</li> </ul>		<p>encourage uptake by low-income households.</p> <ol style="list-style-type: none"> <li>2. pressing broadcasters to offer more local content, thereby expanding the variety in programming.</li> <li>3. facilitating regional and other collaborative efforts to widen the options available to broadcasters and consumers, thereby strengthening our regional presence.</li> </ol>

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				considering the already existing access restrictions/cost constraints borne by subscription TV providers?		
40.	6.4	6.4 Illicit Media Streaming - Competition Concerns	VertiCast Media Group	Investing in content for distribution is now riskier due to the widespread online video piracy. The value of acquired rights is often diluted by piracy when end users access content through illegal means. Piracy has become a significant obstacle in the rights acquisition business, and consumers need to understand that by accessing content illegally, they are limiting their options for reliable, legitimate, and diverse content.		The Authority concurs that it is necessary for consumers to understand the implications of accessing content illegally. To address this, the Authority has initiated a public awareness campaign to educate consumers about illegal forms of content access and, more importantly, guide them toward legal content sources, both online and offline. The Authority intends to continue with this and similar campaigns.
41.	6.4.1	The Authority's Regulatory Approach	CCTL	On its regulatory approach the Authority states:  <i>13. "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."</i>  <i>14. "The Authority shall continue to encourage subscription TV providers to offer more variety in their</i>	We recommend that the Authority spearhead a programme to review and update the legislative and regulatory framework to bring them in line with market realities.  Similar rules should apply to similar services.	The Authority notes CCTL's recommendation that priority should be given to the legislative and regulatory changes needed to update the Framework.  Amendments to the Act have been proposed. The Authority is working with, and supporting, the Ministry of Digital Transformation on the promulgation of these critical pieces of

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				<p><i>programming, with special packages geared towards low-income households.”</i></p> <p>Considering the disruptive market changes, TATT should revisit its regulatory priorities and where necessary adapt its approach to deal with the consequences of technology and market changes to ensure that market development is efficient and sustainable.</p> <p>CCTL believes that given the wider industry context and broader social impact, TATT's hands off approach is at variance with its function to <i>“ensure the orderly and systematic development of telecommunications throughout Trinidad and Tobago.”</i></p> <p>The regulatory framework is technology neutral so similar rules should apply to similar services.</p> <p>Legislative changes that facilitate the provision of online services are needed. These changes will take some time. While the longer-term changes are considered, (including new license approaches for online services, and rules to ensure global online service providers contribute to the local economy), appropriate regulatory responses are needed to manage the transition and mitigate the damage to the industry and economy.</p>		<p>legislation. Amendments will incorporate current market trends and the changes that have taken place in the market. In the interim, the Authority continues its work to achieve its statutory mandate and to fulfil its functions and duties under the Act.</p>

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42.		Closing comments	CCTL	<p>In balancing the interests of the varied stakeholders, TATT should be mindful of the broader objects of the Act, such as encouraging network investment, property rights, the orderly, sustainable development of the sector, and ensuring fair competition. Clear and jurisdiction specific policy objectives will inform the regulatory approaches that are designed to meet these objectives.</p> <p>We look forward to future engagement in this process.</p>		<p>The Authority thanks CCTL for engaging in this consultation process and looks forward to your future participation.</p>