

Decisions on Recommendations (DORs) Matrix from the Second of Two Rounds of Public Consultation on the *Framework on Illicit Media Streaming in Trinidad and Tobago* (June 2024)

The following summarises the comments and recommendations received from the second round of public consultation, held in June 2024, on the *Framework on Illicit Media Streaming in Trinidad and Tobago* (the Framework) 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

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1.		Entire Document	Digicel	<p>Digicel (Trinidad & Tobago) Limited (“Digicel”) wishes to thank the Authority for the opportunity to provide its feedback on this document in this second round of consultation.</p> <p>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 Digicel’s rights.</p>		The Authority welcomes Digicel’s views, comments and recommendations and thanks Digicel for participating in this consultation process.
2.	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>		The Authority welcomes CCTL's views, comments and recommendations and thanks CCTL for participating in this consultation process.

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3.	1.3	Objectives	CCTL	<p>We note the addition of statements 3 and 4 to Section 6 of the consultation document, aimed at expanding the coverage to more fully address illicit media streaming generally.</p> <p>While this is a positive development in the right direction, it is our considered view that the scope should be further broadened to include unlicensed providers of media streaming services.</p>		<p>The Authority acknowledges CCTL's recommendation.</p> <p>The Authority expects that, by the term “unlicensed providers of media streaming services”, CCTL refers to providers of over-the-top (OTT) broadcasting services who are not authorised by the Authority.</p> <p>The Authority advises that matters related to OTT services are not considered within the scope of this Framework and are being dealt with in the <i>Framework for Over-the-Top Services (OTTs) in Trinidad and Tobago</i>. That document has just completed its second round of consultation, and its final position will be published in the near future.</p>
4.	1.5	<p>Relevant Legislation Section 32:</p> <p>Any terminal equipment may be connected to a</p>	Digicel	<p>Digicel wishes to inquire as to how Section 32(b) of the Telecommunications Act, Chapter 82:80 (“Act”), will be operationalized by the Authority in the context of illicit media streaming. Would the Authority actively engage in identifying streaming devices that have circumvented technological protection measures (“TPMs”)?</p>	<p>Digicel requests that the Authority outline the method/mechanism or approach by which it intends to identify streaming devices that have circumvented TPM.</p>	<p>A key component of the Authority's equipment standardisation and certification process is partnering with government entities responsible for the importation, of equipment, to ensure</p>

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		<p>public telecommunications network where the Authority, after consultation with the concessionaire, has certified such terminal equipment as— ... (b) being in compliance with international standards, and environmental health and safety standards including standards for electromagnetic radiation and emissions; ...</p>				<p>that only approved devices are used locally.</p> <p>In the context of media streaming devices, the Authority intends to leverage strategic partnerships with relevant copyright enforcement agencies and anti-piracy organisations.</p> <p>This approach entails working with anti-piracy groups, such as Alianza, to identify illicit devices, and coordinating with the Customs and Excise Division for interception of identified devices at the point of importation.</p>
5.	3	Illicit Media Streaming	CCTL	In responding to CCTL's comments in Round 1 of this process, to expand the definition of illicit media streaming services from "...	CCTL maintains its recommendation that within	The Authority acknowledges CCTL's recommendation but emphasises that

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				<p>websites, applications or platforms that allow users to stream content for which the permission of copyright holders is not granted” to include entities or individuals providing said access to the content for a commercial benefit, the Authority maintains its position on the narrow definition, which limits its application to the Copyright Act.</p> <p>There is no contention as to whether streaming is a broadcasting service. On page 11 of the DORs the Authority states that the overarching concept of broadcasting is consistent in the Telecommunication Act Chapter 47:31 (“the Act”), and the Copyright Act.</p> <p>Section 21 of the Telecommunication Act for which the Authority has direct oversight responsibility states, “No person shall operate a public telecommunications network; provide a public telecommunications service or broadcasting service, without a concession granted by the Minister.” CCTL maintains that the definition of illegal streaming services should be expanded to include entities or individuals providing a streaming service without the requisite concession.</p> <p>Further, the Authority failed to address the fact that the regulatory framework has not kept pace with either technology or market developments and address the need for sector specific as well as economy wide companion legislations such as copyright laws, to be updated to effectively address the new market realities.</p>	<p>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>Given the lag between the existing legislative and regulatory frameworks and current technology and market realities, a definitive plan should be developed and</p>	<p>matters related to entities or individuals providing media streaming services to end users without the requisite concession are outside the scope of this Framework.</p> <p>Matters such as these are addressed in the <i>Framework for Over-the-Top Services (OTTs) in Trinidad and Tobago</i> which has just completed its second round of consultation.</p> <p>The Authority recognises that a lag does exist, and we also understand the importance of developing and implementing a definitive plan to align the relevant aspects of its legislative and</p>

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					<p>executed to bring the legislative and regulatory frameworks in line with technology and market developments.</p>	<p>regulatory frameworks with the evolving landscape.</p> <p>As outlined in the Review Cycle, this Framework will undergo a review every four years or otherwise as deemed necessary by the Authority, to reflect the evolving needs of the telecommunications industry and to meet changing circumstances. This review process is part of the Authority's broader approach to maintaining relevance and effectiveness of its legislative and regulatory frameworks, ensuring they are consistently updated to reflect the evolving landscape</p> <p>The Authority will therefore work with the relevant agencies, including the Ministry of Digital Transformation, to shorten the timeframe to bring legislation in line with technology and market developments.</p>
6.	4.1	The Subscription TV Provider's Perspective	CCTL	CCTL takes issue with the Authority's assertion that discussions by licensed providers around declining revenues did not take into account streaming services provided by major platform operators, but solely		The Authority acknowledges the concern regarding the impact of streaming services provided by major

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				<p>around the circumvention of technical protection measures in media streaming devices.</p> <p>To address the impact of media streaming on the local telecommunications landscape, services provided by major platform providers as well as media streaming devices equipped to circumvent technical protection measures must be addressed.</p>		<p>platform operators on licensed providers' declining revenues.</p> <p>The Authority recognises the importance of addressing this issue comprehensively. However, it is important to note that this Framework focuses on IPR infringement in relation to existing legislation. This includes addressing the circumvention of technical protection measures in media streaming devices.</p> <p>Regarding the broader impact of services provided by major platform operators, the Authority reminds that this aspect is being addressed within the <i>Framework for Over-the-Top Services (OTTs) in Trinidad and Tobago</i> which has just completed its second round of consultation.</p>
7.	6.1.1	IPR Infringement Enforcement Mechanisms- Legislative Approaches:	Digicel	Digicel is of the view that section 51(1) of the Electronic Transactions Act, Chapter 22:05 ("ETA"), does not apply to illicit streaming in Trinidad and Tobago.	The Authority is asked to provide a detailed explanation as to how this section of the ETA applies to illicit streaming and exactly how it	Section 51 (1) of the Electronic Transactions Act (ETA) pertains to the procedure for an intermediary or telecommunications service provider to

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		<p>“Notice and Take Down” Procedures</p>		<p>It is our respectful view that these Notice and Take Down procedures apply only to electronic transactions which does not include illicit media streaming. In any event, by the Authority’s very own admission, this section of the ETA has not yet been proclaimed.</p>	<p>will be operationalised to prevent illicit media streaming when the section is proclaimed.</p>	<p>deal with unlawful or defamatory information transmitted electronically.</p> <p>This provision stipulates that, if an intermediary or telecommunications service provider becomes aware that information in a data message or electronic record may lead to civil or criminal liability, the service provider or intermediary is required to remove and secure the information as soon as is practicable. The term “data message” encompasses various forms of electronic content, including videos transmitted via electronic means. Therefore, if a video, i.e., a data message, breaches the Copyright Act, it will give rise to civil or criminal liabilities under the Copyright Act.</p> <p>Under section 51(1), once a service provider has actual knowledge of infringing material, typically by way of a notice, then the provider must remove and secure that information from its network. This mechanism is, in effect, an unofficial notice and take down</p>

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					<p>Additionally, exactly which regulatory body will be issuing the “Notice and Take Down” directive.</p> <p>Digicel recommends that the Authority remove any reference to the ETA from this consultation document.</p>	<p>procedure for addressing copyright infringement.</p> <p>According to section 52 (1) of the ETA, the Minister responsible for information and communications technology (ICT) may develop codes of conduct and standards for intermediaries and telecommunications service providers, which may include formalised notice and take down procedures. Therefore, the responsibility for issuing and implementing official notice and take down procedures under the ETA will be determined by the Ministry with responsibility for ICT, which is currently the Ministry of Digital Transformation.</p> <p>Upon the promulgation of the relevant sections of the ETA, these provisions will serve as an effective mechanism for curbing access to illicit streams.</p>
8.	6.1.1	IPR Infringement Enforcement Mechanisms-	Digicel	Digicel wishes to inquire as to how Section 51(1) of the ETA is relevant in the context of illicit media streaming.	The Authority is asked to provide a detailed explanation as to how this section of the	As indicated in our response to item 7, Section 51 (1) of the Electronic Transactions Act (ETA) provides for the

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		Legislative Approaches: "Notice and Take Down" Procedures		It is our respectful view that these Notice and Take Down procedures apply only to electronic transactions which do not include illicit media streaming. In any event, by the Authority's very own admission, this section of the ETA has not yet been proclaimed.	ETA applies to illicit streaming and exactly how it will be operationalised to prevent illicit media streaming when the section is proclaimed.	<p>removal of information or data message by ISPs one they become aware that the content may lead to civil or criminal liability.</p> <p>Given that the term "data message" encompasses various forms of electronic content, including videos transmitted via electronic means, these Notice and Take Down Procedures apply where a data message such as a video breaches the Copyright Act.</p> <p>According to section 52 (1) of the ETA, the Minister responsible for information and communications technology (ICT) may develop codes of conduct and standards for intermediaries and telecommunications service providers, which may include formalised notice and take down procedures. Therefore, the responsibility for issuing and implementing official notice and take down procedures under the ETA will be determined by the Ministry with responsibility for ICT, which is</p>

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					<p>Additionally, exactly which regulatory body will be issuing the “Notice and Take Down” directive.</p> <p>Digicel recommends that the Authority remove any reference to the ETA from this consultation document.</p>	<p>currently the Ministry of Digital Transformation.</p> <p>Upon the promulgation of the relevant sections of the ETA, these provisions will serve as an effective mechanism for curbing access to illicit streams.</p>
9.	6.1.3	<p>IPR Infringement- The Authority's Approach: Policy Statement No. 3 on the Framework on Illicit Media Streaming</p>	Digicel	<p>Apart from the notice and take down procedures outlined in the ETA, Digicel is unclear as to how the ETA correlates to illicit media streaming.</p>	<p>The Authority is asked to provide a detailed explanation as to how the Authority's support of the proclamation of the ETA will make a material contribution to the state of play regarding illicit streaming.</p>	<p>Section 51 (1) of the Electronic Transactions Act (ETA) relates to the removal of content that may result in criminal or civil liability, including data messages such as videos, that breach the Copyright Act.</p> <p>Having regard to the applicability of Section 51(1) to illicit streaming, the Authority considers the proclamation of this section as a valuable enforcement mechanism to address unlawful media distribution.</p>

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10	6.2.1	Illicit Media Streaming Devices- The Authority's Regulatory Framework	Digicel	<p>Under this section the Authority has confirmed that illicit media streaming is a “broadcasting service” and that under Section 21(1) of the Act, that any person who provides a public broadcasting service requires authorisation to do so. The Authority goes on to state that it <i>“shall not authorise any person or entity who offers or uses illicit media devices to provide broadcasting services.”</i></p> <p>Does it not then logically follow that websites that are accessed via illicit media streaming devices that provide illicit media streaming and are open to the public in Trinidad and Tobago should be under the remit of the Authority for a Notice and Take Down directive as being in breach of section 21(1) of the Act?</p>	<p>Digicel recommends, as an immediate solution to illicit media streaming, that the Authority, within its remit under section 21(1) of the Act, issues to all internet service providers (“ISPs”) in Trinidad and Tobago a Notice and Take Down directive for any website deemed to be offering illicit media streaming via illicit media streaming devices to the public within Trinidad and Tobago.</p>	<p>The Authority thanks Digicel for its recommendation regarding combatting illicit media streaming through a notice and take down directive. It is important to note that the Authority’s remit under section 21 (1) of the Telecommunications Act, Chap. 47:31 (the Act) does not currently include the specific power to issue such directives. Digicel is advised that directives for notice and take down typically fall within the purview of IPR regulatory bodies or the Court empowered by specific legislation governing telecommunications, broadcasting, or copyright enforcement.</p> <p>In Trinidad and Tobago, the court is empowered under section 38 (1) of the Copyright Act to issue such directives.</p> <p>Section 38 (1) of the Copyright Act states:</p> <p>The Court shall have the authority—</p>

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						<p>(a) to grant injunctions to prohibit the committing, or continuation of committing, of an infringement of any right protected under this Act.</p> <p>This provision allows the Court to grant injunctions prohibiting copyright infringement.</p>
11	6.2.1	Illicit Media Streaming Devices- Equipment Certification and Approval	Digicel	<p>Digicel notes that the application for equipment certification and approval is usually made by the manufacturer or distributor of the device. As these illicit media streaming devices are clearly illegal in Trinidad and Tobago pursuant to section 41(2)(c) of the Copyright Act (as amended), it is unlikely that the manufacturer or distributor will initiate such an application. Who will then be the initiator of such an application?</p> <p>Digicel wishes to enquire as to what methods would be utilised by the Authority in determining whether a device has circumvented TPM.</p>	The Authority is asked to outline the method/mechanism or approach by which it will identify streaming devices that have circumvented TPM.	<p>A key component of the Authority's equipment standardisation and certification process is partnering with government entities responsible for the importation of equipment to ensure that only approved devices are used locally.</p> <p>In the context of media streaming devices, the Authority shall leverage strategic partnerships with relevant copyright enforcement agencies and anti-piracy organisations. This approach entails working with anti-piracy groups, such as Alianza, to identify illicit devices, and coordinating with the Customs and Excise Division for</p>

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					<p>As this is a certification process and as such devices as mentioned above will not be certified by the Authority, how will the public be made aware that these devices are not certified and therefore should not be used within Trinidad and Tobago.</p>	<p>interception of identified devices at the point of importation.</p> <p>The Authority intends to inform the public through various channels, such as publications on its website, and via a multimedia public awareness campaign.</p>
12	6.2	Illicit Media Streaming Devices:- Policy Statements on the Framework on Illicit Media Streaming	Digicel	The Authority has not clearly established its methodology in terms of how it would arrive at its determination that a device is circumventing TPM.	The Authority is asked to outline the method/mechanism or approach by which it will identify streaming devices that have circumvented TPM.	The Authority's proposed approach involves collaborating with recognised anti-piracy organisations, such as Alianza, with expertise in copyright infringement. This collaborative effort is geared towards actively identifying illicit media streaming devices, as well as the distributors and manufacturers associated with these devices.
13	6.4.1	The Authority's Regulatory Approach	Digicel	This regulatory approach proposed by the Authority is contrary to the narrative in Section 6.4, which reads, " <i>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</i>	Subscription TV providers should not be asked to adopt steps that would result in increased operational costs as	The Authority notes Digicel's comment and concerns regarding the operational costs for subscription TV providers and

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				<p><i>competing with another service which unlawfully acquires that content at no cost."</i></p> <p>Digicel notes that the Authority's position is to urge subscription TV providers to provide variety in their programming and customize programming packages targeted at low income and households with specialized tastes and demands. As the Authority can appreciate, these proposed revisions to the programming line-up would come at a cost to the subscription TV providers/operators. Hence, subscription TV providers would be placed back in the same scenario where they are saddled with extra costs as a result of applying the regulatory approach put forward by the Authority. This can potentially lead to an increment in subscription TV package fees for customers thus exacerbating the problem whilst not addressing/remedying the direct issue of illicit media streaming.</p>	<p>this would exacerbate the problem already created by illicit media streaming.</p> <p>What is needed is an actual redress/remedy to treat with illicit media streaming.</p> <p>Digicel wishes to reiterate that it is the Authority, and ultimately the Government's responsibility, to protect global content providers from intellectual property rights ("IPR") infringements.</p> <p>Digicel recommends that the Authority review and revise this regulatory approach.</p>	<p>the need for effective remedies against illicit media streaming.</p> <p>As outlined in section 6 of the Framework, addressing illicit streaming requires a coordinated and multifaceted approach, including regulatory measures and collaboration with industry stakeholders.</p> <p>The Authority believes that by providing affordable packages that cater to diverse consumer preferences, there is potential to reduce the incentive for illicit streaming sources. However, the Authority recognises that effectively addressing illicit media streaming ultimately requires the enforcement of laws to protect intellectual property rights.</p>
14	6.4.1	Authority's Regulatory Approach: Policy Statement No. 17 on the	Digicel	Digicel is not in agreement with Policy Statement No. 17 (see above our comment and recommendation on this section of the consultation document)	Digicel recommends that the Authority review and revise this regulatory approach.	Research indicates that offering affordable packages that cater to diverse consumer preferences, reduces the incentive for consumers to turn to illicit streaming sources. This approach not only aims to make legal streaming

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		Framework on Illicit Media Streaming.				<p>options more attractive but also addresses one of the underlying reasons why consumers may resort to illicit sources. The Authority emphasises that this is just one measure of a multifaceted approach.</p> <p>Moreover, the Authority underscores that the enforcement of intellectual property laws is required to protect intellectual property rights.</p>
15	6.4.1	The Authority's Regulatory Approach	CCTL	<p>In responding to CCTL's comments, in the DORs the Authority states that amendments to the Act have been proposed and it is supporting the Ministry of Digital Transformation in promulgation of these critical pieces of legislation.</p> <p>As far as CCTL is aware, no consultations on changes to the Act have been done for several years, maybe as far back as 2012 to 2013 timeframe. Given the considerable time lapse and technology and market changes since then, planned legislative changes should be subjected to stakeholder consultations prior to promulgation of new legislation. To bring legislative and regulatory frameworks in line with current technology and market developments, a comprehensive and forward-looking plan should understand the challenges and opportunities presented by new technologies.</p>	Given the considerable time lapse and technology and market changes since changes were done to the Act, the necessary amendments should be subjected to stakeholder consultations prior to promulgation of new legislation.	The Authority thanks CCTL for this recommendation and wishes to advise that the current Act and the proposed amendments are technology neutral. As such, they are geared towards dealing with changes in technology and market changes. Furthermore, there is the need to ensure that the Act remains relevant and up to date with respect to other changes affecting the sector, as well as obligations and commitments like Economic Partnership Agreement (EPA).

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						As CCTL may be aware, changes to legislation is a lengthy process that requires consultation with stakeholders and approvals from the requisite legislative bodies. To this end, the Authority has been supporting the Ministry of Digital Transformation to advance the changes that are required.
16		Closing Comments	CCTL	CCTL thanks the Authority for the opportunity to provide input in this process. In balancing the interests of the varied stakeholders, TATT should be mindful of the broader objects of the Act, ensuring fair competition, and the orderly, sustainable development of the sector. Protecting intellectual property rights is necessary. The need to encourage network investment is critical. Clear and jurisdiction specific policy objectives will inform the regulatory approaches that are designed to meet these objectives.	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 acknowledges the importance of regularly reviewing and updating its legislative and regulatory frameworks to reflect the evolving needs of the industry and meet changing circumstances. The Authority is committed to conducting periodic assessments of, and revisions to, its existing framework, as necessary, to address new and emerging regulatory issues.