

## **Decisions on Recommendations (DORs) Matrix from the Second of Two Rounds of Public Consultation on the *Framework on Over-the-Top Services in Trinidad and Tobago***

The following summarises the comments and recommendations received from stakeholders during the second round of consultation on the *Framework on Over-the-Top Services in Trinidad and Tobago* (the Framework), held in August 2023, and the decisions made by the Telecommunications Authority of Trinidad and Tobago (the Authority) as incorporated in the revised document.

The Authority wishes to express its appreciation to the following stakeholders for their feedback:

1. ACT| The App Association
2. Columbus Communications Trinidad Limited (Flow)
3. Digicel (Trinidad & Tobago) Limited
4. Meta Platforms, Inc.
5. Latin American Internet Association (ALAI)
6. Telecommunications Management Group, Inc. (TMG)
7. Telecommunications Services of Trinidad and Tobago (TSTT)

Item	Section	Section Title	Stakeholder	Comments	Recommendations	TATT's Decisions
1.	General		ALAI	The Latin American Internet Association (“ALAI”) is pleased to submit to the Telecommunications Authority of Trinidad and Tobago (TATT) on the 2nd round Consultation on the proposed FRAMEWORK ON OVER-THE-TOP SERVICES (OTTS) IN TRINIDAD AND TOBAGO.	ALAI’s recommendations on the proposed OTT Framework are included below.	The Authority thanks ALAI for its participation in the second round of consultation on the <i>Framework on Over-the-Top Services (OTTs) in Trinidad and Tobago</i> (the Framework).
2.	General		Digicel	<p>Digicel (Trinidad &amp; Tobago) Limited (“Digicel”) welcomes the opportunity to comment on the Framework on Over-the-Top Services (OTTs) in Trinidad and Tobago dated August 2023.</p> <p>The views expressed herein by Digicel are not exhaustive. Any failure to treat with any issue in this response, does not in any way indicate acceptance, agreement or relinquishing of Digicel’s rights.</p> <p>The Axon Partners Group<sup>1</sup> (2022) posit that there are two primary factors disrupting the relationship between OTT providers and Caribbean network operators. They are namely:</p> <p>a. Uneven regulatory frameworks, which place substantial constraints on Caribbean operator</p>	<p>Digicel asks for the same level of regulatory oversight for OTT providers and operators regarding principles of fair competition, consumer protection and Universal Service Fund obligations in conformance with Sections 3(a) and 18.3(b) of the Act. Both types of entities are active participants in the Trinidad and Tobago internet space with direct impacts on the telecommunications sector of Trinidad and Tobago.</p> <p>Digicel also asks that the Authority provide guidance/schedule</p>	<p>The Authority thanks Digicel for participating in the consultation on the Framework.</p> <p>The Authority notes the findings of the Axon Group (2022) report and other research presented in Digicel’s submission, particularly with respect to statements on regulatory imbalances and disproportionate bargaining power between OTTs and telecommunications service providers (TSPs). These critical issues are considered in section 3.1 OTTs and Competition Concerns and have guided the Authority’s recommendations on OTTs in section 5 of the Framework.</p> <p>Specifically, section 5 addresses the issue of regulatory oversight, and outlines the</p>

<sup>1</sup> Impact of OTTs on Caribbean networks and implications of their fair share contribution to countries’ development, Axon Partners Group, September 2022.

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				<p>margins and revenues but leave OTT providers largely unregulated.</p> <p>b. Disproportionate bargaining power, biased towards the larger OTTs and effectively denying Caribbean network operators the right to receive fair compensation for the relevant cost associated to OTT-generated traffic.</p> <p>The aforementioned is prevalent in the Caribbean telecommunications landscape as Caribbean network operators grapple with declining ARPUs, eroded value of local currencies, high inflation and high cost of capital.</p> <p>The Authority's Annual Market Report (2022), highlights marked increments in the percentage of fixed (residential and business) broadband subscriptions for the 'equal or above 100Mbit/s tier' of broadband speeds for the period 2018 – 2022. It was also observed that there was a 4.8% increment in active mobile internet subscriptions for the period 2021 to 2022.</p> <p>This is indicative of growth in demand for and usage of broadband services. This demand is met solely by domestic network operators undertaking fixed and</p>	<p>highlighting the commencement/end dates of its regulatory activities (i.e., proposed market assessments, legislative amendments to existing legislative/regulatory frameworks) to operators and stakeholders in the interest of maintaining regulatory certainty regarding OTTs in the domestic telecommunications sector.</p>	<p>Authority's strategy for addressing regulatory imbalances, through the authorisation of OTTs that provide telecommunications and broadcasting services.</p> <p>The Framework also acknowledges the pivotal role telecommunications network infrastructure plays in the digital transformation landscape. In pursuance of section 3 (f) of the Act, the Authority recognises the need for regulatory strategies to attract alternative sources of investment in the region. Consequently, the Authority has included recommendations on OTT contributions and fostering OTT investment in the development of digital infrastructure in Trinidad and Tobago are in in section 7 of the Framework. Section 7 states that the Authority will continue to monitor global trends in OTT investment, with the aim of developing and implementing a strategy to treat with OTT contributions to local telecommunications infrastructure. It also states that the Authority will evaluate the feasibility of the appropriate models, possibly a fair share arrangement, that quantifies OTTs' contribution to infrastructure investment.</p>

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				<p>mobile telecommunication network deployment and upgrades at significant cost with zero cost being borne by Over-The-Top providers (“OTT’s”) whose applications are driving the increased demand for data</p> <p>Upon consideration of the aforesaid, there is indeed a pressing need for regulatory oversight to be applied to OTT service providers in Trinidad and Tobago. This proposed action should not be premised only on the need to regularize observed regulatory/market imbalances but with a view to ensuring the facilitation of Sections 3(a), 3(b) and 18(3)(b) of the Telecommunications Act, Chapter 47:31 (the “Act”) which include, inter alia, establishing conditions for:</p> <ul style="list-style-type: none"> <li>c. an open market for telecommunications services, including conditions for fair competition, at the national and international levels;</li> <li>d. the facilitation of the orderly development of a telecommunications system that serves to safeguard, enrich and strengthen the national, social, cultural and economic well-being of the society;</li> </ul>		<p>Regarding timeframes, the Authority advises that the Framework has also been amended, in sections 5 and 7, to provide more detailed information, including expected timeframes.</p>

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				<p>Section 18 (3): “In the performance of its functions, the Authority shall have regard to the interests of consumers and in particular— ...</p> <p>(b) to fair treatment of consumers and service providers similarly situated;”</p> <p>Considering the adverse commercial environment in the telecommunications landscape evinced by unfavourable equity risk premiums, stagnant revenues, and low returns on investment currently faced by operators, there also appears to be a shared concern expressed by equipment manufacturers<sup>2</sup> and operators on a credible business case for 5G in most countries in the region<sup>3</sup>.</p> <p>Domestic network operators also find themselves constrained within a one-sided market model, receiving revenue exclusively from end-users for network usage, rather than establishing revenue streams from content providers.</p>		

<sup>2</sup> See ‘5G: The 3-5 Year Forecast for the Caribbean’, Huawei, CTU ICT Week 2022.

<sup>3</sup> Outside of Puerto Rico (an unincorporated U.S. territory).

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				<p>This dynamic affects the long-term sustainability of networks and reduces the financial capacity for investment by domestic network operators.</p> <p>Concurrently, because networks play a pivotal role in the digital transformation landscape, the current situation further delays the realization of digital divide reduction objectives in Trinidad and Tobago, where there is an observable increase in demand for broadband services that may potentially be unmet by operators as a result of the prevailing regulatory and market imbalances in the internet ecosystem.</p> <p>The Authority has also articulated its intention as encapsulated in Section 5.1 of “Framework on Over-the-Top Services (OTTs) in Trinidad and Tobago” to undertake various long and short term strategies to remedy this situation from a regulatory standpoint but fails to provide indicative timelines as to when such long term (i.e., broaden Authority’s legislative framework) legislative regulatory initiatives would be commenced and/or completed.</p> <p>Digicel is aware of the Authority’s engagement with other stakeholders (i.e., OTT providers, operators) at the regional level as part of its short-term strategy and commends the Authority’s participation.</p>		

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				<p>However, the provision of these indicative timelines is deemed important when considered from the standpoint of regulatory certainty<sup>4</sup> that is required for all existing participants in the domestic telecommunications space and potential market entrants.</p> <p>Section 5.3, Statement 15 on OTT Communication Regulation states as follows:</p> <p>To effectively cover the full range of communications and audio-visual media services, the Authority's legislative framework will be broadened to explicitly provide for OTTs, where applicable.</p> <p>The above statement highlights that the Authority's legislation will be revised but does not provide any inclination as to when said revision will start or end. The statement could be misconstrued to mean that the status quo with respect to OTT non-regulation would continue ad infinitum.</p>		

<sup>4</sup> Regulatory certainty means working to facilitate the maximum possible clarity between the regulator and the regulated.

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				The aforementioned and Statement 5 within the Authority's Framework document state that action would be undertaken but with no definitive timelines to signpost the commencement/completion of said action. This does not bode well for regulatory certainty regarding the Authority's treatment of OTTs in the domestic telecommunications sector.		
3.	General		Meta	Meta Platforms, Inc. ("Meta") is pleased to submit to the Telecommunications Authority of Trinidad and Tobago (TATT) on the 2nd round Consultation on the proposed FRAMEWORK ON OVER-THE-TOP SERVICES (OTTS) IN TRINIDAD AND TOBAGO	Meta's recommendations on the proposed OTT Framework are included below.	The Authority thanks Meta for its participation in the second round of consultation on the Framework.
4.		General	TMG	TMG is pleased to submit comments in response to the consultation by the Telecommunications Authority of Trinidad and Tobago (TATT) on the "Framework on Over-the-Top Services (OTTs) in Trinidad and Tobago (August 2023)." OTT services generate significant social and economic benefits for users in the Caribbean and around the world, including promoting meaningful communications with friends and family, providing a level-playing field for small businesses, and allowing quick access to information and entertainment. For the citizens of Trinidad and Tobago to continue harnessing these benefits, we encourage an evidence-based,		The Authority thanks TMG for its participation in the second round of consultation on the Framework.  The Authority acknowledges the significant social and economic benefits that OTT services bring to users in Trinidad and Tobago and globally. The Authority is committed to adopting regulatory measures that are evidence based, proportionate, and aligned with the objectives of the Telecommunications Act, Chap. 47:31, (the Act), with respect to promoting fair competition, encouraging



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				<p>proportionate approach that avoids burdensome regulation, as this could ultimately stifle innovation and limit options for users. While TATT proposes a feasibility study of a “fair share” arrangement, we note that such arrangements have been rejected by policymakers around the world based on extensive analysis. Turning to such fees would harm competition and users, while potentially fragmenting the digital ecosystem in Trinidad and Tobago.</p>		<p>investment, and protecting consumers. Consequently, the Authority has engaged, and continues to engage, in numerous consultations on this topic, and is proposing in the Framework that several studies and assessments be conducted on the interventions put forward.</p> <p>For example, in section 5 of the Framework, the Authority states that it shall conduct assessments prior to declaring any OTTs or classes of OTTs as telecommunications or broadcasting services. In section 7, the Authority indicates that feasibility studies on OTT contributions will be conducted, to determine the best regulatory strategy for promoting investment in broadband infrastructure. These steps constitute the evidence-based approach the Authority is adopting.</p> <p>The Authority appreciates TMG's insights regarding the global stance on “fair share” arrangements. The proposed feasibility studies are intended to thoroughly assess the potential impacts of such a model within the local</p>

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				<p>While the consultation document points to “concerns” related to competition and consumer impact, concerns alone are not sufficient reason for regulatory intervention. Concerns do not equate to evidence. For example, the document notes that the “free rider problem” may potentially lead to the underdevelopment of network infrastructure and calls for a cooperative regional approach to regulate OTTs. However, the notion of OTTs “free riding” is incorrect as OTTs already invest heavily in networks. OTTs are estimated to invest over USD 120 billion annually in internet infrastructure, enhancing the quality of their services for users and lowering costs for telecommunication service providers (TSPs).<sup>5</sup> Further, OTTs offer rich and diverse content that consumers seek, which drives demand for TSPs’ networks and services as new broadband customers find value in internet services and existing customers upgrade their data plans. Rather than compete, the relationship between OTTs and TSPs in the internet ecosystem is mutually beneficial.</p> <p>Not only are OTTs already investing in infrastructure and content, the Body of European Regulators for Electronic Communications (BEREC) found no</p>		<p>context, considering the unique characteristics of Trinidad and Tobago’s digital ecosystem.</p> <p>Additionally, the Framework has been amended to expand its focus from fair share models to include other contribution models, to comprehensively evaluate this topic.</p> <p>The Authority agrees that regulatory intervention should be supported by evidence. The Authority has conducted and will continue to conduct assessments considering the role of OTTs in competition in the telecommunications and broadcasting markets. This will inform the Authority’s regulatory strategy on OTTs.</p> <p>The Authority recognises the significant investments made by OTTs in network infrastructure and the mutual benefits shared between OTTs and TSPs. Section 4 of the Framework has been amended to expand on this perspective.</p>

<sup>5</sup> Analysys Mason, The Impact of Tech Companies’ Network Investment on the Economics of Broadband ISPs (Oct. 2022), available at: <https://www.analysismason.com/contentassets/b891ca583e084468baa0b829ced38799/main-report---infra-investment-2022.pdf>

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				<p>evidence that “operators’ network costs are already not covered and paid for in the internet value chain.”<sup>6</sup> Thus, a “fair share” model would effectively enable TSPs to double charge for the same service. In addition, BEREC did not find increased traffic flows to generate significant new costs, noting the costs of upgrading networks are low and incremental compared to total network costs, and that fixed access networks are not traffic-sensitive, while mobile networks are only somewhat traffic sensitive.</p> <p>While the framework seeks to remedy competition concerns through the potential imposition of a network usage fee, such fees can have the opposite effect. According to a 2022 Analysis Mason report, the imposition of network usage fees could risk increasing costs for many TSPs/ISPs by reducing OTT’s incentives to invest in infrastructure which improves the quality of their services. Higher costs for TSPs/ISPs could heighten barriers to entry and growth, reducing long-term competition and investment in connectivity.<sup>7</sup> Similarly, new and</p>		<p>The Authority is aware of the findings of the Body of European Regulators for Electronic Communications (BEREC), and the complexities involved in implementing a “fair share” model. The Authority also acknowledges the potential risks associated with network usage fees, and the insights provided by the Analysis Mason report. The Authority is committed to ensuring that regulatory measures are fair, transparent, and consistent with international best practices. Any regulatory measures, including feasibility studies on network usage fees and fair share arrangements, where applicable, will explore all challenges in detail, to determine the most appropriate course of action for Trinidad and Tobago.</p>

<sup>6</sup> BEREC, BEREC Preliminary Assessments of the Underlying Assumptions of Payments from Large CAPS to ISPs (Oct. 2022), available at: [https://www.berec.europa.eu/system/files/2022-10/BEREC%20BoR%20%2822%29%20137%20BEREC\\_preliminary-assessment-payments-CAPs-to-ISPs\\_0.pdf](https://www.berec.europa.eu/system/files/2022-10/BEREC%20BoR%20%2822%29%20137%20BEREC_preliminary-assessment-payments-CAPs-to-ISPs_0.pdf)

<sup>7</sup> Analysys Mason, The Impact of Tech Companies’ Network Investment on the Economics of Broadband ISPs (Oct. 2022), available at: <https://www.analysismason.com/contentassets/b891ca583e084468baa0b829ced38799/main-report---infra-investment-2022.pdf>.

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				<p>small OTT service providers would face additional barriers, limiting competition among OTTs.</p> <p>A sender pays model also risks harming consumers and violating the principle of net neutrality by enabling TSPs to discriminate against certain types of content, applications, and services that consumers choose to enjoy. If, for example, TSPs are permitted to demand payment from OTT providers and such payments are not made, then TSPs may block or throttle the OTTs' content, which would be considered a direct violation of basic net neutrality principles. In the limited instances where such mandatory payments have been considered, consumer harms have been identified. For example, the European Parliamentary Research Service found that the implementation of a "fair contribution law" in South Korea has led to a reduction in the diversity of internet services and applications, a rise in the cost of services, and a decline in the performance of their contracted Internet services.<sup>8</sup> The Internet Society (ISOC) also found that the "sender pays rule has had a profound negative effect on the openness, global reach, and trustworthiness of the Internet in South</p>		<p>The Authority remains resolute in its commitment to upholding the principles of net neutrality, including fair competition, reasonable traffic management, and transparency, as articulated in the <i>Framework on Net Neutrality</i> in Trinidad and Tobago that is currently in the consultation process.</p>

<sup>8</sup> European Parliamentary Research Service, Digital Issues in Focus: Network Cost Contribution Debate (2023), available at [https://www.europarl.europa.eu/RegData/etudes/ATAG/2023/745710/EPRS\\_ATA\(2023\)745710\\_EN.pdf](https://www.europarl.europa.eu/RegData/etudes/ATAG/2023/745710/EPRS_ATA(2023)745710_EN.pdf).

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				<p>Korea.”<sup>9</sup> This has “led to inefficient infrastructure and traffic flows, leading to high costs and low quality of content services.” In fact, on September 18, South Korean press reported that Korean internet service provider SK Broadband and Netflix agreed to end disputes over network usage fees and work together as partners for the future, demonstrating that regulatory intervention can be avoided.<sup>10</sup></p> <p>The consultation document also suggests considering the feasibility of extending universal service obligations, similar to the model under consideration in the United States. However, recent economic analysis by the Brattle Group found the proposal to include various “edge providers” in the Universal Service Fund (USF) contribution base to be “inconsistent with sound economic principles,” as it would increase costs for consumers and distort the market, leading to a reduction in investment.<sup>11</sup> Instead, they recommend expanding the contribution base to include revenues from broadband internet</p>		<p>The Authority notes the concerns raised regarding the extension of universal service obligations and the findings of the Brattle Group. Our approach to universal service obligations will be guided by sound economic principles. The Authority will continue to engage with stakeholders to ensure that any proposed measures are balanced, equitable, and promote long-term investment in connectivity, and also take into consideration the contributions of OTTs to the growth of data revenues, as well as the existing and projected</p>

<sup>9</sup> Internet Society, Internet Impact Brief: South Korea’s Interconnection Rules (May 2022), available at: <https://www.internetsociety.org/wp-content/uploads/2022/05/IIB-South-Korea-Interconnection-Rules-2022.pdf>.

<sup>10</sup> The Korea Times, SK Broadband, Netflix agree to end net usage fee battle (September 2023), available at: [https://www.koreatimes.co.kr/www/tech/2023/09/129\\_359426.html](https://www.koreatimes.co.kr/www/tech/2023/09/129_359426.html)

<sup>11</sup> The Brattle Group, The Economics of Universal Service Fund Reform (August 2023), available at: [https://www.incompas.org/Files/filings/2023/The%20Economics%20of%20USF%20Reform%20Brattle\\_FINAL.pdf](https://www.incompas.org/Files/filings/2023/The%20Economics%20of%20USF%20Reform%20Brattle_FINAL.pdf).

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				<p>access service, given it is a broad and non-distortionary base.</p> <p>Proponents of mandated fees argue that contributions from OTTs are necessary as ISPs are suffering economically. However, the average profitability of the telecommunications sector is still among the highest of all sectors.<sup>12</sup> In fact, a Research ICT Solutions study focused on Africa found that most operators experienced “strong revenue growth due to an OTT-induced increase in data revenues that outpace potential decreases in voice and SMS revenues.”<sup>13</sup> Instead of faulting OTTs for losses in revenues, a 2023 report focused on the internet value chain in the Caribbean found that losses in revenues could be attributed to the fact that Caribbean mobile operators have been late in transitioning to the data-centric model.<sup>14</sup></p>		<p>state of profitability and sustainability of broadband infrastructure.</p> <p>The Authority will continue to evaluate the economic impacts of any proposed regulatory measures, to ensure they support the sustainable development of the sector.</p>

<sup>12</sup> Research ICT Solutions, Competition and Investment in the Internet Value Chain in Europe (October 2022), available at: <https://researchictsolutions.com/home/wp-content/uploads/2022/11/RIS-Europe-FINAL.pdf>.

<sup>13</sup> Research ICT Solutions, OTT Applications Driving Data Revenue Growth (June 2018), available at: [https://researchictsolutions.com/home/wp-content/uploads/2019/01/ITS\\_2018\\_Seoul\\_OTT.pdf](https://researchictsolutions.com/home/wp-content/uploads/2019/01/ITS_2018_Seoul_OTT.pdf).

<sup>14</sup> Research ICT Solutions, Competition and Investment in the Internet Value Chain in the Caribbean (2023), available at: [https://researchictsolutions.com/home/wp-content/uploads/2023/06/Meta\\_Caribbean-June23.pdf](https://researchictsolutions.com/home/wp-content/uploads/2023/06/Meta_Caribbean-June23.pdf).

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				<p>TATT should support the existing internet interconnection market, which is based on voluntary agreements between OTTs and TSPs; incentives to attract the streaming film industry and its corresponding benefits should also be considered. The existing system has functioned effectively for decades on the basis that OTTs and TSPs have aligned incentives to enhance networks. OTTs rely on TSPs to help distribute content, while TSPs benefit from the demand generated by the OTTs' significant investments in content. This symbiotic relationship incentivizes the parties to focus on the best technical approach for users via their voluntary commercial arrangements. Analysys Mason's report indicates that implementing network usage fees could disrupt existing interconnection arrangements and reverse advances in interconnection, peering, and caching, which have lowered costs and improved service experiences for users.<sup>15</sup></p> <p>In lieu of investment mandates which would have broader consequences, we encourage further research with stakeholders to better understand the dynamics of supply</p>		<p>The Authority acknowledges the effectiveness of the existing Internet interconnection market and the benefits of voluntary agreements between OTTs and TSPs. Section 7.3 of the Framework outlines the Authority's policy position, which aligns with ITU's recommendation to encourage relevant stakeholders to work towards an enabling regulatory environment that supports and fosters the development of innovative business models, in line with technological advancements and innovations.</p> <p>The Authority agrees on the importance of research and stakeholder engagement to fully understand the dynamics of connectivity in the region. This Framework and its subsequent</p>

<sup>15</sup> Analysys Mason, The Impact of Tech Companies' Network Investment on the Economics of Broadband ISPs (Oct. 2022), available at: <https://www.analysismason.com/contentassets/b891ca583e084468baa0b829ced38799/main-report---infra-investment-2022.pdf>

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				<p>and demand of connectivity in the region. We also encourage TATT to explore measures to promote innovation and voluntary investment from the broader set of actors involved in the ever-evolving Internet value chain, not just traditional telecommunication networks and services. Based on the current evidence in the Caribbean and worldwide, requiring OTTs to pay TSPs to deliver the content, applications, and services that users select would undermine an open Internet, harm competition, reduce consumer choice, and increase consumer costs without necessarily leading to TSP investments in networks that improve the availability and uptake of affordable broadband for all.</p>		<p>proposed work outputs explore innovative measures that promote voluntary investment and ensure the continued growth, development, and sustainability of broadband infrastructure. The Framework is designed to gather insights from all stakeholders to inform a balanced and forward-looking regulatory framework on OTTs.</p>
5.		General	TSTT	<p>Telecommunications Services of Trinidad and Tobago Limited (“TSTT”) appreciates that the Telecommunications Authority of Trinidad and Tobago (“TATT”) has given operators 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.</p>		<p>The Authority thanks TSTT for its participation in the second round of consultation on the Framework and welcomes all comments submitted during its consultation process.</p>



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6.		Maintenance History	TSTT	<p>TATT's revised Consultation Procedures (2021) is clear in Section 3.9 that the "[TATT] shall complete each consultation within one year of the commencement of the consultation process".</p> <p>On review of the Maintenance History of the subject document, it is noted that the first round of the current consultation was issued on the 29th August 2022. The window for response to this document closes after 29th August 2023. Accordingly, this consultation persists, and is not yet complete, over a year after the initiation of the public consultative rounds. This consultation is thus in fatal breach of Section 3.9 of TATT's procedures. Accordingly, this process should be halted, and a first round of consultation re-issued. Any commentary hereafter is without prejudice to TSTT relying on the evident breach of process as the basis for relief in any other place.</p>	<p>TATT must adhere to its own procedures.</p> <p>TATT's must cancel the current consultation, and reinitiate same so that the rules governing the timing of the completion of the consultation is adhered to.</p>	<p>The Authority acknowledges the extended duration of the current consultation process regarding the Framework. While section 3.9 of the <i>Procedures for Consultation in the Telecommunications and Broadcasting Sectors of Trinidad and Tobago</i> (Consultation Procedures) outlines a one-year timeframe for the completion of consultations, it also allows for the extension of the time period, based on factors such as stakeholder requests for extensions and allowances in the Authority's internal approval process. The Consultation Procedures also states, "There may also be the need for consideration of matters in relation to recent and emerging trends, changes in technologies or prevailing conditions in the ICT sector that may affect the sectors. Where such instances arise, the Authority may not finalise its position within the expected time period for completion, as it may not be judicious or practicable to do so"<sup>16</sup>.</p> <p>Furthermore, the Authority notes the complexity and importance of the issues under consideration, which has necessitated careful</p>

<sup>16</sup> Telecommunications Authority of Trinidad and Tobago (TATT 2020), *Procedures for Consultation in the Telecommunications and Broadcasting Sectors of Trinidad and Tobago* (January 2021). Barataria, Trinidad and Tobago. Pg. 14.

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						<p>deliberation to ensure that the regulatory framework is comprehensive and effective.</p> <p>This extended consideration reflects global trends, as observed in countries like India and regions such as the European Union (EU), where similar extended periods have been necessary to develop appropriate OTT regulatory frameworks.</p> <p>Notwithstanding these issues, the Authority is looking forward to completing the consultation process after the publication of the final document in October 2024.</p>
7.	1	Introduction	CCTL	<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 Columbus Communications Trinidad Limited's (CCTL's) rights.</p> <p>On examination of Appendix I: Decisions on Recommendations (DoRs) on the consultative document: Framework on Over-the-Top Services (OTTs) in Trinidad and Tobago,</p>	<p>Appropriate steps must be taken to ensure CCTL comments omitted from Appendix I: Decisions on Recommendations (DoRs) on the consultative document, Framework on Over-the-Top Services (OTTs) in Trinidad and Tobago, published alongside the consultation document are published so they are considered as part of the decision-making process.</p>	<p>The Authority sincerely apologises for the unintended exclusion during the second round of consultation. The Authority assures CCTL that the omitted comments, along with the Authority's response, are included in the ongoing consultation process, to ensure thorough consideration.</p>

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				<p>published alongside this consultation document, CCTL notes that its contribution to the previous round of this consultation process was only partially reflected. Our comments up to item 4.4 (OTTs and Industry Investment) are reflected in the DoRs, however from 5.1.</p> <p>(Global Trends in Including OTTs in Legislative Frameworks) down to 7.5 (Collaborative Framework for OTTs and TSPs) does not appear in the DoRs.</p> <p>The consultation process <sup>17</sup>must ensure that information and feedback from stakeholders are considered in the regulatory decision making process. We trust that the Telecommunication Authority of Trinidad and Tobago (“the Authority”) will take the necessary measures to ensure this error is corrected.</p>		
<b>8.</b>	1.3	Objectives	CCTL	In formulating strategies and recommendations to address OTT services in Trinidad and Tobago, we	CCTL recommends that the Authority continues with the	The Authority acknowledges CCTL's recommendation which stresses the

<sup>17</sup> Page 2 Procedures for Consultation in the Telecommunications and Broadcasting Sectors of Trinidad and Tobago, August 2020

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				<p>note that the Authority maintains its objectives as follows:</p> <ul style="list-style-type: none"> <li>a. present the definition of OTTs adopted by the Authority;</li> <li>b. outline the policy considerations for OTTs, including challenges and opportunities;</li> <li>e. examine approaches adopted internationally and their relevance within the local context;</li> <li>a. present the Authority's short-term and long-term strategies for addressing OTTs within its legislative framework;</li> <li>b. propose recommendations for the harmonisation of OTT-based policies and regulations at the regional level &amp;</li> <li>a. explore options for OTT providers' investment within the industry, inclusive of infrastructure and local content development.</li> </ul> <p>With respect to objectives 5 and 6, we are encouraged by the Authority's involvement in the Fair Share Initiative chaired by the Caribbean</p>	<p>collaborative approach to develop a specific and actionable plan to make appropriate policy and regulations to ensure fair competition between traditional TSPs and OTTs. Reforms and strategies done in other markets should be used to inform strategies and actions in the local market.</p> <p>Incorrect reference to a section 5.7 should be corrected.</p>	<p>importance of maintaining a collaborative approach to developing a concrete and implementable plan for OTT policies and regulation. The Authority also acknowledges that the reforms and strategies implemented in other markets are invaluable resources in the development of a local strategy to OTTs. The Authority shall continue to engage in collaborative efforts with stakeholders, drawing upon international best practices, to formulate comprehensive policies.</p> <p>The Authority clarifies that the correct references are to sections 5 and 7 of the Framework, not section 5.7.</p>

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				<p>Telecommunications Union (CTU). The initiative aims to facilitate consultation and collaboration among key stakeholders, mainly Caribbean telecommunications operators, and global platform providers / OTTs, to develop recommendations for a harmonised approach to support commercial and regulatory remedies to address the inequities between telecommunications service providers (TSPs) and OTTs. addressing our comments to the previous round, the Authority states that long-term solutions such as amendments to the legislative frameworks and regional collaborative initiatives may be required and are presented in sections 5.7 and 6 respectively. However, a section 5.7 does not appear in the document. This reference should be corrected.</p>		
9.	1.3	Objectives	Digicel	<p>Item 6 of this Section states as follows:</p> <p>“...explore options for OTT providers’ investment within the industry, inclusive of infrastructure and local content development.”</p> <p>From a causality (i.e., principle of cause and effect) perspective, to begin any discourse on options for OTT provider investment, there has to be deliberation on what prompts said OTT provider investment. The Authority needs to state its position</p>		<p>The Authority acknowledges in section 3.1 of the Framework the challenges presented by the entry of OTTs into the market, highlighting their potential impact on market dynamics and competition. The Authority has also acknowledged, in section 3.4, the expanding role of OTT services in data traffic, noting increasing calls from industry stakeholders for OTT providers to contribute to local broadband infrastructure. The Authority actively promotes collaborative initiatives</p>

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				<p>on the existing market imbalance in the internet ecosystem enabled by OTT providers under the auspices of Net Neutrality from a Trinidad and Tobago perspective.</p> <p>In layman terms, a feature of the present internet market is that it is a 'two-sided' market but operates in a one-sided manner. Operator networks are used by OTT providers, as well as consumers. While consumers pay for their connectivity services, there is no payment from OTTs for their connectivity services. Operators have to abide with 'must carry' regulatory obligations (i.e., Net Neutrality Regulations) with regard to OTT data traffic on their networks. In such a situation, the incentive to pay on the OTT provider side is diminished as the OTT providers know the operator cannot refuse to carry their traffic.</p> <p>How the aforementioned market imbalance sets the stage for any amendment or review of the Authority's existing legislation and regulatory frameworks is a credible question that needs to be addressed.</p>		<p>aimed at boosting OTT investment in broadband infrastructure, recognising the pivotal role such partnerships play in meeting the escalating demands for digital connectivity<sup>18</sup>.</p> <p>At the same time, the Authority remains resolute in promoting fair competition in OTT provider/TSP arrangements, including the promotion of transparency and non-discriminatory conditions. This is in alignment with ITU recommendations, aimed at creating a collaborative framework between OTTs and TSPs</p> <p>Regarding timeframes, the Authority advises that sections 5 and 7 of the Framework have been amended to provide more detailed information, including the projected timeframes.</p>

<sup>18</sup> See section 7 of the Framework.

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				<p>The Authority in its 1st Round Consultation responses stated as follows:</p> <p>“Section 5.4 Framework recommends a case-by-case approach, whereby an OTT service or classes of OTT services are assessed against the criteria of a telecommunications or broadcasting service contained in the Act.”</p> <p>There is no indicative timeline provided by the Authority as to when these assessments would commence or end.</p>		
10.	1.5	Legal and Regulatory Framework	ALAI	The Telecommunications Act of Trinidad and Tobago (Chap 47:31) provides for the regulation of telecommunications and broadcasting services only.	ALAI members build technologies that help people connect, find communities and grow businesses. ALAI members' services are accessed over the Internet and do not fall under the ambit of the Telecommunications Act of Trinidad and Tobago and therefore not under the jurisdiction of the Telecommunications Authority of Trinidad and Tobago (TATT).	<p>The Authority notes ALAI's assertion that its members' services, accessed over the Internet, do not fall within the scope of the Telecommunications Act of Trinidad and Tobago, and therefore do not require a concession or fall under the jurisdiction of the Telecommunications Authority of Trinidad and Tobago (TATT).</p> <p>However, the Authority, as outlined in section 5.2 of the Framework, will conduct an</p>

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					<p>Additionally, under the Telecommunications Act, ALAI members do not require a Concession from the Government of Trinidad and Tobago (GoRTT) and is therefore outside of the jurisdiction of TATT.</p>	<p>assessment to determine which OTT services prevalent in Trinidad and Tobago may be classified as telecommunications or broadcasting services under section 18 (1) (b) of the Act. This assessment will establish whether any such services fall within the remit of the Act. For those OTTs that meet the criteria, the Authority may apply a light-handed regulatory if and where applicable.</p>
11.	1.5	Legal and Regulatory Framework	CCTL	<p>The Authority states that “The Telecommunications Act Chap 47:31 (the Act)<sup>5</sup> provides the legislative basis for the regulation of OTT services.”</p> <p>In examining the legal and regulatory framework, the Authority focuses on the provisions in the existing framework e.g., Section 3 of the Telecommunications Act Chap 47: 31 (the Act), which sets out the objects of the Act, Section 21(1) requiring a concession granted by the Minister, for persons to operate public telecommunications networks and provide public telecommunications or broadcasting services, as well as existing definitions of telecommunications and broadcasting services.</p> <p>CCTL considers the approach an appropriate starting point for the examination of the issues, we believe</p>	<p>The existing legal and regulatory framework should be examined to identify all aspects that need to be addressed, to create a level playing field for TSPs and OTTs.</p>	<p>The Authority notes CCTL’s recognition of the current legal and regulatory framework as an appropriate starting point for examining the regulation of OTT services. The Authority’s focus remains on OTT services that meet the criteria, as outlined in the Act and, specifically, those that qualify as telecommunications and broadcasting services. The scope of the Framework aligns with our statutory mandate to establish conditions that promote competition, consumer protection, and investment in the telecommunications and broadcasting sectors.</p> <p>The Authority recognises that, as new technology emerges and the market evolves, legislative changes may be required, to keep</p>



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				<p>that the examination and discussion should be extended to address specific changes needed to overall the Act and supporting regulations, to bring these in line with the existing market realities and create a level playfield for TSPs and OTTs.</p> <p>In response to our recommendations in round 1, regarding the need to examine and identify all aspects of the framework that needs to be addressed, to create a level playing field for TSPs and OTTs the Authority points to Section 5.4.2 dealing with the classifications of an OTT service as a telecommunications or broadcasting service, based on the existing framework. What is not clear is what would obtain for OTT services that do not fit into these classifications.</p> <p>Strategies, polices and regulations should incorporate all services provided by OTT services providers, in competition with those provided by TSPs.</p>	<p>The Authority should enforce the provisions of the Act against persons or entities advertising and providing subscription television services in Trinidad and Tobago without a concession.</p>	<p>pace with these developments. The Authority remains committed to adapting our regulatory framework to ensure it stays relevant and effective for addressing the needs of the sector.</p> <p>The Authority acknowledges the importance of enforcing existing provisions of the Act in accordance with its statutory mandate. Where the Authority has determined an entity operates in direct violation of section 21 (1) of the Act, the appropriate enforcement actions shall be taken.</p>

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12.	1.5	Legal and Regulatory Framework	Digicel	<p>Digicel notes the amendments to Section 6 to promote collaboration between relevant domestic agencies and regulatory bodies on OTTs.</p> <p>Operators are regulated in the Trinidad and Tobago telecommunication space premised on the granting of a concession while OTT providers, on the other hand, provision competing services without the mandatory concession. Operators continue to face regulatory constraints such as tariff notifications, product notifications, consumer protection guidelines and quality of service standards as part of their concession obligations. However, OTT providers are not subject to the aforesaid.</p> <p>Similar conditions apply when contemplating regulatory fees (Concession fees, Universal Service Fund fees) and taxes paid by operators which accrue as a result of engaging in the domestic telecommunications sector of Trinidad and Tobago. These regulatory imbalances have to be addressed and in a timely manner.</p>	<p>Digicel asks for the same level of regulatory oversight for OTT providers and operators regarding principles of fair competition, consumer protection and Universal Service Fund obligations in conformance with Sections 3(a) and 18.3(b) of the Act. Both types of entities are active participants in the Trinidad and Tobago internet space with direct impacts on the telecommunications sector of Trinidad and Tobago.</p>	<p>The Authority acknowledges Digicel's recommendation for same-level regulatory oversight for OTT providers and operators. The Framework presents the Authority's strategy for addressing OTT services in accordance with the principles of fair competition, consumer protection, and the encouragement of broadband investment, as outlined in section 3 of the Act.</p> <p>Section 5 of the Framework details the Authority's regulatory approach to addressing OTT services that qualify as telecommunications and broadcasting services. The Authority recognises that the nature of OTT services may require different regulatory approaches, such as in the authorisation of these services. As such, the Framework states that the Authority shall adapt its Authorisation Framework to specify new classifications for OTT telecommunications and broadcasting services, where applicable.</p> <p>With respect to Universal Service Fund (USF) contributions, section 7 of the Framework addresses the matter of regulatory strategies</p>

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						for OTT investment in infrastructure in Trinidad and Tobago, including USF contributions by OTTs.
13.	1.5	Legal and Regulatory Framework	Meta	The Telecommunications Act of Trinidad and Tobago (Chap 47:31) provides for the regulation of telecommunications and broadcasting services only.	Meta builds technologies that help people connect, find communities and grow businesses. Meta's services are accessed over the Internet and do not fall under the ambit of the Telecommunications Act of Trinidad and Tobago and therefore not under the jurisdiction of the Telecommunications Authority of Trinidad and Tobago (TATT). Additionally, under the Telecommunications Act, Meta does not require a Concession from the Government of Trinidad and Tobago (GoRTT) and is therefore outside of the jurisdiction of TATT	<p>The Authority notes Meta's assertion that its members' services, accessed over the Internet, do not fall within the scope of the Telecommunications Act of Trinidad and Tobago, and therefore do not require a concession or fall under the jurisdiction of the Telecommunications Authority of Trinidad and Tobago.</p> <p>However, the Authority, as outlined in section 5.2 of the Framework, will conduct an assessment to determine which OTT services prevalent in Trinidad and Tobago may be classified as telecommunications or broadcasting services under section 18 (1) (b) of the Act. This assessment will establish whether any such services fall within the remit of the Act. For those OTTs that meet the criteria, the Authority may apply a light-handed regulatory if and where applicable.</p>
14.	1.6	Review Cycle	Digicel	The Authority should indicate a timeline for consideration rather than use the generic term	Digicel asks the Authority to ensure regulatory certainty by providing	The Authority agrees with Digicel's comments regarding regulatory review timeframes and

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				"periodically" which is vague. Given the rapid evolution of the ICT landscape, it would be prudent to state a timeline (i.e., every three and/or five years). A mechanism for operators requesting for a review where there has been an observable/material change to the internet ecosystem should be considered for inclusion in the Framework.	clearly defined timelines as to when the Framework document will be reviewed.  The Authority should amend the section to include a mechanism/process for operators requesting for a review where there has been an observable/material change to the internet ecosystem.	stakeholder input. The amended section 1.6 of the Framework now specifies a review timeframe of up to five years, subject to substantial changes in the industry. Additionally, it emphasises stakeholder consultation during these reviews. The Authority welcomes stakeholders' requests for reviews in response to observable or material changes in the Internet ecosystem.
15.	1.7	Consultation Process	Digicel	Digicel expresses its concern over the referencing of a regulatory document that has not yet completed the mandated two rounds of consultation.	Digicel asks the Authority to make the appropriate revisions to Section 1.7 and reference the existing Consultation Procedures document until the 2021 version has completed its consultation cycle.  It would also be prudent for the Authority to indicate when said Procedures for Consultation Document would be issued for 2 <sup>nd</sup> round of consultation.	The Authority notes Digicel's comments and advises that it conducted two rounds of consultation to finalise the Consultation Procedures. The first round took place in August 2019, and the second from August to September 2020. The final version of the document was published in January 2021 <sup>19</sup> .

<sup>19</sup> [DownloadableDocuments-19.pdf \(tatt.org.tt\)](#)

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16.	1.8	1.8 Other Relevant Documents	CCTL	<p>We do not believe that the mere listing of other relevant consultation documents to be read in conjunction with this consultation document is sufficient to address other policies that intersect with the issue of OTTs. In the global debate on changes necessary to bring about regulatory balance for TSPs and OTTs, net neutrality policy is a major point of debate.</p> <p>In the consultation document Framework on Net Neutrality in Trinidad and Tobago, the authority proposes a range of prescriptive net neutrality rules. As we have argued in our response to this consultation, the Authority should first specify its concerns with ISPs transmission practices in Trinidad and Tobago, and this specification must be based upon facts and not founded on theory and speculation.</p> <p>Unnecessary net neutrality rules are much more likely to discourage ISPs from being innovative with their product offerings and could be detrimental to consumers and the economy as a whole.</p> <p>We also note that the issue of net neutrality features prominently in the global debate on OTTs contributing their fair share to network development.</p>	To ensure transparency in the decision-making process, we recommend that where related policy positions impact other policy areas these should be discussed and highlighted in the decision-making process.	<p>The Authority assures CCTL that it considers all relevant policy documents collectively in its decision-making process. The Authority's current position on OTT substitutability is detailed in the <i>Determination: Domestic Retail Fixed Telephony and Fixed Broadband Market Definition</i> (the Determination). The Determination found that while OTT services share some similarities with fixed voice services, their reliance on separate broadband connections, lower prices, and limited demand and supply-side substitutability mean they do not belong to the same relevant market.</p> <p>The Authority recognises the interconnectedness between net neutrality and OTTs. Net neutrality questions are being addressed in the consultative process for the <i>Framework on Net Neutrality in Trinidad and Tobago</i>, where the Authority actively engaged stakeholders in discussions on the importance of a proactive approach, which illustrates its use of empirical evidence to inform the Framework.</p>

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				<p>The Authority recently issued a consultation document,  Determination: Domestic Retail Fixed Telephony and Fixed Broadband Market Definitions, in which it makes a preliminary assessment that “<sup>20</sup>Based on the demand-side considerations set out above, the Authority is of the preliminary view that OTT services should not be part of the same market as domestic fixed voice services.” This despite significant evidence to the contrary. In Section 2 (Internet Trends and Perspectives) the National Digital Inclusion Survey 2021 (DIS 2021), records that 83% of the population reported that they used OTTs, and 79% accessing OTT services on a daily basis. This substitution for traditional telecommunications services reinforced by the over 50% fall off in voice revenues between 2015 and 2021.</p> <p>To ensure transparency in the decision-making process, where related policy positions impact other policy areas these should be highlighted and fully discussed.</p>		

<sup>20</sup> Determination: Domestic Retail Fixed Telephony and Fixed Broadband Market Definitions, Page 78

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17.	2	Internet Trends and Perspectives	ALAI	<p>From the discussion presented under this section and based on TATT's Market Report (2022) and TATT's Digital Inclusion Survey (2021), it is very evident that there is no issue of customer welfare being adversely affected by OTTs. The question therefore arises: what is the reason for TATT's proposed intervention in the matter? OTTs operate in a highly competitive market in which it is easy for consumers to simultaneously use competing communications applications (so called "multi-homing") and to switch between such competing communications applications. ALAI's products and services are chosen by consumers, but these decisions are constantly renewed among multiple alternatives, increasing consumers' choice and welfare. A proof of this competitive landscape is shown by the latest figures from Sandvine, which evidence for 2023 a 9-percentage-points decline in the contribution to the total Internet traffic from major players due to "an expanding number of app categories and greater number of apps".<sup>21</sup></p> <p>In this scenario, regulation can harm rather than foster competition, serving as a barrier to entry for new entrants to the OTT marketplace as it increases</p>	<p>ALAI recommends that TATT reconsider its proposed intervention in the matter and allow customers to continue to benefit from the access to OTTs in Trinidad and Tobago. ALAI strongly recommends that TATT conducts a study into the possible adverse effects to customer welfare and innovation if OTTs were to be regulated, as proposed in the Framework document.</p>	<p>The Authority notes ALAI's comments on the benefits consumers derive from OTTs, such as cost savings, increased service choice, and enhanced connectivity. These benefits are acknowledged in section 3.2 of the Framework, which outlines the significant economic and social advantages that OTTs provide.</p> <p>Furthermore, the Authority has considered the potential challenges OTTs may pose to consumers, including data privacy and security risks. These challenges underscore the need for a regulatory framework that not only fosters innovation and consumer choice but also ensures consumer protection and fairness in competition. Additionally, the Authority is mindful of the potential negative impact on overall service provision if there is a declining incentive for TSPs to build, upgrade, and maintain infrastructure. A balanced regulatory approach is necessary to ensure that infrastructure investment continues, as it underpins the availability and quality of both traditional and OTT services.</p>

<sup>21</sup> [https://www.sandvine.com/hubfs/Sandvine\\_Redesign\\_2019/Downloads/2023/reports/Sandvine%20GIPR%202023.pdf](https://www.sandvine.com/hubfs/Sandvine_Redesign_2019/Downloads/2023/reports/Sandvine%20GIPR%202023.pdf)

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				costs of compliance. Regulation could as such harm Trinidadians and Tobagonians by preventing the entrance or development of new, innovative services that consumers want and enjoy.		Regarding the recommendation for a study, the Authority will continue to assess both the advantages and disadvantages of its proposed interventions, for example, through stakeholder consultations. The Authority will also monitor technological developments to ensure that citizens continue to benefit from access to OTT services, while maintaining a fair and competitive market.
18.	2	Internet Trends and Perspectives	Digicel	<p>Digicel notes the analysis undertaken by the Authority. However, it is appropriate to note that Section 2 does not capture any review of relevant literature on observed market failure/imbances prevalent in the internet ecosystem.</p> <p>For example, according to Axon (2022)<sup>22</sup>,</p> <p>“... The combined market capitalization of the largest OTT providers is over a hundred times larger than the combined capitalization of the network operators serving the Caribbean Region.”</p>	Digicel asks the Authority to amend Section 2 to capture the relevant discourse on market failure/imbances (that is, asymmetric bargaining power of OTTs, one-sided price signalling to mention a few) in the internet ecosystem.	<p>The Authority notes Digicel's comments and recommendations regarding the need to capture a review of relevant literature on OTTs within the Internet ecosystem in section 4 of the Framework.</p> <p>The Authority has amended section 4 of the Framework to include a discussion on the impact of OTTs on Caribbean networks.</p>

<sup>22</sup> Axon Partners, September 2022. Impact of OTTs on Caribbean networks and implications of their fair share contribution to countries' development



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				<p>“... Network operators are therefore at a disadvantage in defending their commercial interests when these vary against those of large OTT providers. This situation tilts the scale to the advantage of OTTs and is a key factor at play today in Internet market dynamics.”</p> <p>“.... As a consequence, network operators’ investment and production costs have been radically decoupled from revenue generation: network operators have to increase investments to address exponential data traffic demand without a possibility to obtain sufficient (or any) incremental revenues from the associated traffic increase.”</p> <p>Frontier Economics<sup>23</sup> in its 2022 report on estimating OTT traffic related costs on European telecommunication networks opined that;</p> <p>“...Data traffic on telecom networks continues to grow at an exponential rate, largely driven by an increase in the usage and quality of internet services delivered ‘over-the-top’ (OTT) to end users. Telecommunications operators have invested to ensure that their networks can support this exponential growth in traffic. While the resulting</p>		

<sup>23</sup> Frontier Economics, April 2022. Estimating OTT Traffic Related Costs On European Telecommunications Networks. A Report for Deutsche Telekom, Orange, Telefonica and Vodafone

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				market is 'two sided', telecoms operators have effectively only been able to recover network costs from end users."		
19.	2	Internet Trends and Perspectives	Meta	<p>From the discussion presented under this section and based on TATT's Market Report (2022) and TATT's Digital Inclusion Survey (2021), it is very evident that there is no issue of customer welfare being adversely affected by OTTs. The question therefore arises: what is the reason for TATT's proposed intervention in the matter?</p> <p>OTTs operate in a highly competitive market in which it is easy for consumers to simultaneously use competing communications applications (so-called "multi-homing") and to switch between such competing communications applications. Meta's products and services are chosen by consumers, but these decisions are constantly renewed among multiple alternatives, increasing consumers' choice and welfare. A proof of this competitive landscape is shown by the latest figures from Sandvine, which evidence for 2023 a 9-percentage-points decline in the contribution to the total Internet traffic from</p>	<p>Meta recommends that TATT reconsiders its proposed intervention in the matter and allow customers to continue to benefit from the access to OTTs in Trinidad and Tobago.</p> <p>Meta strongly recommends that TATT conducts a study into the possible adverse effects to customer welfare and innovation if OTTs were to be regulated, as proposed in the Framework document.</p>	<p>The Authority notes Meta's comments on the benefits consumers derive from OTTs, such as cost savings, increased service choice, and enhanced connectivity. These benefits are acknowledged in section 3.2 of the Framework, which outlines the significant economic and social advantages that OTTs provide.</p> <p>Furthermore, the Authority has considered the potential challenges OTTs may pose to consumers, including data privacy and security risks. These challenges underscore the need for a regulatory framework that not only fosters innovation and consumer choice but also ensures consumer protection and fairness in competition. Additionally, the Authority is mindful of the potential negative impact on overall service provision if there is a declining incentive for TSPs to build, upgrade, and maintain infrastructure. A balanced regulatory approach is necessary to ensure that infrastructure investment continues, as it</p>

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				<p>major players due to “an expanding number of app categories and greater number of apps”.<sup>24</sup></p> <p>In this scenario, regulation can harm rather than foster competition, serving as a barrier to entry for new entrants to the OTT marketplace as it increases costs of compliance. Regulation could as such harm Trinidadians and Tobagonians by preventing the entrance or development of new, innovative services that consumers want and enjoy.</p>		<p>underpins the availability and quality of both traditional and OTT services.</p> <p>Regarding the recommendation for a study, the Authority will continue to assess both the advantages and disadvantages of its proposed interventions, for example, through stakeholder consultations. The Authority will also monitor technological developments to ensure that citizens continue to benefit from access to OTT services, while maintaining a fair and competitive market.</p>
20.	2	2 Internet Trends and Perspectives	TSTT	<p>TSTT seeks confirmation that through its statements “...the National Digital Inclusion Survey 2021 (DIS 2021) showed that a significantly high proportion of the local population (83%) reported that they used OTTs. ... According to DIS 2021, the highest reported advantage of OTTs compared to mobile, and SMS was better quality of connection particularly through a Wi-Fi connection, perceived by the respondents.” that TATT agrees with the premise of the major operators that OTTs represent a substitutable service for mobile voice and messaging services</p>	<p>TATT to confirm that it believes OTT Services to be a substitutable competitive service to mobile voice and messaging services.</p>	<p>Regarding the <i>National Digital Inclusion Survey 2021</i> (DIS 2021) findings, the Authority notes that OTTs have garnered significant usage among the local population, with perceived advantages such as better-quality connections, particularly through Wi-Fi. While recognising these benefits, it is important to emphasise that the determination of whether OTTs are fully substitutable for traditional mobile voice and messaging services involves a comprehensive analysis,</p>

<sup>24</sup> [https://www.sandvine.com/hubfs/Sandvine\\_Redesign\\_2019/Downloads/2023/reports/Sandvine%20GIPR%202023.pdf](https://www.sandvine.com/hubfs/Sandvine_Redesign_2019/Downloads/2023/reports/Sandvine%20GIPR%202023.pdf)

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						<p>considering regulatory frameworks, market dynamics, and service characteristics.</p> <p>The recently published <i>Determination: Retail Domestic Mobile Telephony Market Definition</i> offers valuable insights into the market structure of retail domestic mobile telephony services. The Authority concludes that there is a single relevant economic market encompassing both traditional mobile telephony services and OTT services which are recognised as partial substitutes for mobile voice and messaging services. However, that determination also highlights that, while OTT services offer significant demand-side substitutes, there are notable limitations to their substitutability<sup>25</sup>.</p>
21.	2.1	Global Trends in Including OTTs in Legislative Frameworks	ALAI	Based on the case reports presented on how various countries have responded to OTTs, it is evident that there is not a common approach taken by countries worldwide on the legislative treatment of OTTs. However, a majority of countries appear to recognise the fundamental technical and functional differences between OTT services and telecommunications and/or broadcasting services, and do not apply to	ALAI recommends that TATT reconsiders its proposed intervention in the matter and allow customers to continue to benefit from the access to OTTs in Trinidad and Tobago, particularly considering TATT's conclusion that increasing demand for Internet services has contributed	The Authority notes ALAI's feedback on international regulatory approaches to OTTs. The Authority recognises the significance of these observations in shaping regulatory strategies for OTT services in Trinidad and Tobago.

<sup>25</sup> [Final-Determination-Retail-Domestic-Mobile-Telephony-Market-Definition.pdf \(tatt.org.tt\)](https://tatt.org.tt/Final-Determination-Retail-Domestic-Mobile-Telephony-Market-Definition.pdf)

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				<p>OTTs the same regulation applicable to TSPs or, for video, broadcasters and cable companies. We concur with TATT's observation that "the adoption of OTTs is closely associated with the growth of the Internet." TSPs are able to charge for internet access because of consumer demand for OTT applications and content. Any regulation that hinders the growth of OTT services could therefore harm consumer demand for internet access and, accordingly, TSPs. As to countries studied by TATT, we note, further to TATT's observations, that:</p> <ul style="list-style-type: none"> <li>● Regarding Canada's Online Streaming Act, the government's stated intent is to exclude social media services from regulation except "insofar as they are acting like broadcasters."<sup>26</sup> Further, the Online Streaming Act has been heavily criticised as "an attack on freedom of expression" and for its potential to harm the creator economy. <sup>27</sup></li> <li>● Regarding the European Electronic Communications Code (EECC), number-independent ICS are expressly carved out from the</li> </ul>	<p>to "continuous growth in subscriptions in the local internet market over the past 15 years" (other than 2018-19). Any intervention by TATT could have an adverse impact to customer welfare and overall internet value chain investments that is contrary to TATT's legal obligation under the Telecommunications Act, i.e. protecting and promoting the interests of customers. TATT should benefit more by assessing the policy options and waiting for greater consensus on the need of a regulatory intervention. This is a topic under study and has not yet been regulated nor the impacts of any measures been assessed.</p>	<p>Similar to the approach adopted in Canada, the Authority's proposed regulatory framework excludes social media services that do not function as telecommunications services or broadcasting services under the Act.</p> <p>ALAI's concerns about the potential adverse impacts of regulatory intervention on customer welfare and Internet value chain investments are also noted. The policy recommendations outlined in the Framework align with the Authority's statutory objectives, which include protecting consumer interests, promoting fair competitive conditions, and encouraging investments in telecommunications. Specifically, the Framework contains recommendations to address regulatory imbalances, implement regulatory controls for enhanced consumer protection, and foster collaborative initiatives between OTT providers and TSPs. Ultimately, these efforts contribute to a more vibrant and competitive market environment, where consumers benefit</p>

<sup>26</sup> <https://www.gazette.gc.ca/rp-pr/p1/2023/2023-06-10/html/reg1-eng.html>.

<sup>27</sup> <https://www.cbc.ca/news/politics/c11-online-streaming-1.6824314>.

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				<p>authorization regime that applies to number-based ICS. Number-independent ICS are subject only to a limited subset of the types of obligations applicable to number-based ICS. Differential treatment is justified under the EECC because of the fundamental differences between number-independent ICS and number-based ICS, including that number-independent ICS do not take assignments of publicly assigned numbering resources, and do not connect to the PSTN.</p>		<p>from increased choice, higher service standards and enhanced broadband infrastructure security.</p> <p>The Authority acknowledges that the regulation of OTT services is an evolving issue, necessitating continuous regulatory efforts to address market changes driven by technological advancements. The Authority remains committed to adapting its regulatory approach, as the need arises, to effectively safeguard consumer interests and promote fair competition in the digital environment. This commitment includes actively monitoring industry developments, and international precedents, to ensure that the Framework incorporates best practice strategies.</p>
22.	2.1	Global Trends Including OTTs In Legislative Framework	CCTL	<p>With the exception of the United States of America (USA), where OTT services are classified as information service and not subject to telecommunication regulations, all the other jurisdictions referenced, such as the European Union (EU), Canada and Australia have made legislative changes to deal with the challenges posed by OTT services. These legislative changes aim to:</p>	<p>Legislation and regulations should be amended to explicitly cover OTT services to ensure a level playfield for equivalent services provided by TSPs and OTTs.</p>	<p>The Authority acknowledges the diverse international approaches to regulating OTT services, including the significant legislative changes implemented by Australia, Canada and the EU to address the challenges posed by these services.</p> <p>The Authority's strategy is based on a comprehensive and adaptive approach that</p>

Item	Section	Section Title	Stakeholder	Comments	Recommendations	TATT's Decisions
				<p>a. bring online streaming platforms under the same regulatory framework as traditional broadcasters including requiring OTTs to make financial contributions to Canadian content creators;</p> <p>b. expand definition of electronic communication services (ECS) to include OTTs in the EU;</p> <p>c. extend regulatory enforcement assistance obligations to cover providers of communication services and devices in Australia, irrespective of the base of their operations.</p> <p>The range of responses globally demonstrates the kinds of policy and legislative changes that are employed to explicitly incorporate OTT services in the regulatory framework.</p> <p>This is in direct contrast to The Authority's piecemeal approach that is grounded in the existing regulatory framework.</p>		<p>leverages the existing regulatory framework while preparing for future developments. This strategy is anchored in the current legislation which already provides the Authority with the mandate to regulate telecommunications services, including OTT services. By utilising the existing framework, the Authority can immediately address the regulatory needs posed by OTTs.</p> <p>Furthermore, the strategy acknowledges that OTT services are rapidly evolving and, as such, the regulatory environment must also adapt. While the existing framework addresses immediate concerns, the Authority is committed to evolving its legislative framework as technology and digital services continue to develop. This future-oriented approach ensures that the regulatory regime remains relevant and effective as new challenges and opportunities arise in the telecommunications landscape.</p>
23.	2.1	Global Trends in Including OTTs in	Meta	Based on the case reports presented on how various countries have responded to OTTs, it is evident that there is not a common approach taken by countries worldwide on the legislative treatment of OTTs.	Meta recommends that TATT reconsiders its proposed intervention in the matter and allow customers to continue to benefit from the access to	The Authority notes Meta's feedback on international regulatory approaches to OTTs. The Authority recognises these factors in

Item	Section	Section Title	Stakeholder	Comments	Recommendations	TATT's Decisions
		Legislative Frameworks		<p>However, a majority of countries appear to recognise the fundamental technical and functional differences between OTT services and telecommunications and/or broadcasting services, and do not apply to OTTs the same regulation applicable to TSPs or, for video, broadcasters and cable companies.</p> <p>We concur with TATT's observation that "the adoption of OTTs is closely associated with the growth of the Internet." TSPs are able to charge for internet access because of consumer demand for OTT applications and content. Any regulation that hinders the growth of OTT services could therefore harm consumer demand for internet access and, accordingly, TSPs.</p> <p>As to countries studied by TATT, we note, further to TATT's observations, that:</p> <ul style="list-style-type: none"> <li>• Regarding Canada's Online Streaming Act, the government's stated intent is to exclude social media services from regulation except "insofar as they are acting like broadcasters."<sup>28</sup> Further, the Online Streaming Act has been heavily criticised as</li> </ul>	<p>OTTs in Trinidad and Tobago, particularly considering TATT's conclusion that increasing demand for Internet services has contributed to "continuous growth in subscriptions in the local internet market over the past 15 years" (other than 2018-19).</p> <p>Any intervention by TATT could have an adverse impact to customer welfare and overall internet value chain investments that is contrary to TATT's legal obligation under the Telecommunications Act, i.e. protecting and promoting the interests of customers. TATT should benefit more by assessing the policy options and waiting for greater consensus on the need of a regulatory intervention. This is a topic under study and has not yet been regulated nor the impacts of any measures been assessed.</p>	<p>shaping regulatory strategies for OTT services in Trinidad and Tobago.</p> <p>Similar to the approach adopted in Canada, the Authority's proposed regulatory framework excludes social media services that do not function as telecommunications services under the Act.</p> <p>ALAI's concerns about the potential adverse impacts of regulatory intervention on customer welfare and Internet value chain investments are also noted. The policy recommendations outlined in the Framework align with the Authority's statutory objectives, which include protecting consumer interests, promoting fair competitive conditions, and encouraging investments in telecommunications. Specifically, the Framework contains recommendations to address regulatory imbalances, implement regulatory controls for enhanced consumer protection, and foster collaborative initiatives between OTT providers and TSPs. Ultimately, these efforts contribute to a more vibrant and competitive</p>

<sup>28</sup> <https://www.gazette.gc.ca/rp-pr/p1/2023/2023-06-10/html/reg1-eng.html>.



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				<p>“an attack on freedom of expression” and for its potential to harm the creator economy. 29</p> <p>Regarding the European Electronic Communications Code (EECC), number-independent ICS are expressly carved out from the authorisation regime that applies to number-based ICS. Number-independent ICS are subject only to a limited subset of the types of obligations applicable to number-based ICS. Differential treatment is justified under the EECC because of the fundamental differences between number-independent ICS and number-based ICS, including that number-independent ICS do not take assignments of publicly assigned numbering resources, and do not connect to the PSTN.</p>		<p>market environment, where consumers benefit from increased choice, higher service standards, and enhanced broadband infrastructure security.</p> <p>The Authority acknowledges that the regulation of OTT services is an evolving issue, necessitating continuous regulatory efforts to address market changes driven by technological advancements. The Authority remains committed to adapting its regulatory approach, as the need arises, to effectively safeguard consumer interests and promote fair competition in the digital environment. This commitment includes actively monitoring industry developments, and international precedents, to ensure that the Framework incorporates best practice strategies.</p>
24.	2.1.6	2.1.6 The United States	TSTT	TATT's description is accurate with respect to the approach of the FCC. However, it is evident that various State Regulators have different approaches that impact how these states regulate going concerns, including OTTs.	TATT to interrogate the USA overview to appreciate the difference in approaches pursued by State Regulators in this regard	The Authority acknowledges the observation that, while the Federal Communications Commission (FCC) in the United States generally takes a light-touch approach to regulating OTT services, various state regulators adopt different strategies that can

<sup>29</sup> <https://www.cbc.ca/news/politics/c11-online-streaming-1.6824314>.

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						<p>significantly impact OTT regulation. For example, some states impose taxes on digital streaming services, implement stricter consumer protection laws, or enforce their own net neutrality rules.</p> <p>The Authority shall continue to study these diverse approaches to inform and adapt its own regulatory strategy for OTT services in Trinidad and Tobago, ensuring it remains comprehensive and responsive to the evolving telecommunications landscape.</p>
25.	2.2	Global Trends in OTT Investment in Infrastructure	ALAI	The summary of investment options presented by TATT is severely limited and only speaks to investment from a network operator's viewpoint. No mention is made of the significant investments made by OTTs (ALAI, Google, etc) in seeking to make Internet services more accessible and effective and less costly to consumers. As highlighted in a report from Research ICT Solutions over the Competition and Investment in the Internet Value Chain in the Caribbean <sup>30</sup> , the Internet is a connected ecosystem, where TSPs also benefit from the demand for, and supply of, content. Consumers want to use OTTs,	TATT has presented a constrained perspective of the issue of investment in internet infrastructure. Should TATT decide to propose regulation, before doing so TATT should conduct a study on all the different types of investments in infrastructure that the multiple actors secure and how they contribute to the Internet ecosystem as a whole, including as to how OTTs' substantial investment in content and	The Authority notes ALAI's comments and recommendations for the adoption of a more comprehensive and balanced approach to the regulation of OTT services. The Authority acknowledges the significant evidence provided regarding the extensive investments by content and application providers (CAPs), and their crucial role in the Internet ecosystem. Section 4 of the Framework has been amended to include an expanded perspective on OTT investment in broadband infrastructures.

<sup>30</sup> <https://researchictsolutions.com/home/competition-and-investment-in-the-caribbean/>

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				<p>which generates demand for telecommunications services. Content and application providers (CAPs) have invested in infrastructure in particular on international connectivity, data centres, and content delivery networks (CDNs), reducing the potential for congestion and improving users' experience. Indeed, Analysys Mason has shown how CAPs have invested significantly into internet infrastructure and reduced costs for telcos:</p> <ul style="list-style-type: none"> <li>● CAPs invested more than USD 120 billion each year in internet infrastructure from 2018 to 2021.</li> <li>● CAPs invested USD 883 billion in internet infrastructure from 2011 to 2021.</li> <li>● CAP investments to bring traffic closer to end users improve the quality of experience for broadband users and save ISPs USD 5-6.4 billion each year.</li> <li>● A “significant amount of the demand for broadband services is driven by end users who decide to access online services and content from CAPs.”<sup>31</sup></li> </ul> <p>Analysys Mason further found that network traffic increased by over 160% from 2018 to 2021, yet network-related ISP costs increased by only 3% in</p>	<p>applications drives demand for internet access (i.e. revenues for TSPs). In this regard, the authority needs to be more balanced in their account of trends in OTT investment in infrastructure. The internet value chain is very diverse and continually evolving and TATT should be assessing it with a forward-looking view in order to issue a future proof regulation. TATT's current proposed approach risks resulting in an old and outdated regulation that will stifle innovation and investments.</p>	<p>In section 7.1 of the Framework, the Authority outlines its plans to evaluate the feasibility of appropriate models on OTTs' contribution to infrastructure investment in Trinidad and Tobago. This evaluation shall include an analysis of the investments made by OTTs and their impact on the Internet ecosystem.</p>

<sup>31</sup> 5 <https://www.incompas.org/Files/2022%20Tech%20Investment/FINAL%20Analysys%20Mason%20Report%20-%20Impact%20of%20tech%20companies%27%20network%20investment%20on%20the%20economics%20of%20broadband%20ISPs.pdf>

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				total in that same period. <sup>32</sup> Finally, we observe that no country currently requires network fee subsidies to be paid by internet companies to TSPs.		
26.	2.2	Global Trends in OTT Investment in Infrastructure	Meta	The summary of investment options presented by TATT is severely limited and only speaks to investment from a network operator's viewpoint. No mention is made of the significant investments made by OTTs (Meta, Google, etc) in seeking to make Internet services more accessible and effective and less costly to consumers. As highlighted in a report from Research ICT Solutions over the Competition and Investment in the Internet Value Chain in the Caribbean <sup>33</sup> , the Internet is a connected ecosystem, where TSPs also benefit from the demand for, and supply of, content. Consumers want to use OTTs, which generates demand for telecommunications services. Content and application providers (CAPs) have invested in infrastructure in particular on international connectivity, data centres, and content delivery networks (CDNs), reducing the potential for congestion and improving users' experience.	TATT has presented a very limited perspective of the issue of investment in internet infrastructure. Should TATT decide to propose regulation, before doing so TATT should conduct a study on all the different types of investments in infrastructure that the multiple actors secure and how they contribute to the Internet ecosystem as a whole, including as to how OTTs' substantial investment in content and applications drives demand for internet access (i.e. revenues for TSPs). In this regard, the authority needs to be more balanced in their account of trends in OTT investment in	The Authority acknowledges Meta's comments and recommendations for adopting a more comprehensive and balanced approach to regulating OTT services. It recognises the significant evidence provided regarding the extensive investments CAPs and their crucial role in the Internet ecosystem. Section 4 of the Framework has been amended to include an expanded perspective on OTT investment in broadband infrastructure.  In section 7.1 of the Framework, the Authority outlines its plans to evaluate the feasibility of appropriate models for OTTs' contribution to infrastructure investment in Trinidad and Tobago. This evaluation will encompass an analysis of the diverse investments made by OTTs and their impact on the Internet ecosystem.

<sup>32</sup> Id. at 10.

<sup>33</sup> <https://researchictsolutions.com/home/competition-and-investment-in-the-caribbean/>

Item	Section	Section Title	Stakeholder	Comments	Recommendations	TATT's Decisions
				<p>Indeed, Analysys Mason has shown how CAPs have invested significantly into internet infrastructure and reduced costs for telcos:</p> <ul style="list-style-type: none"> <li>• CAPs invested more than USD 120 billion each year in internet infrastructure from 2018 to 2021.</li> <li>• CAPs invested USD 883 billion in internet infrastructure from 2011 to 2021.</li> <li>• CAP investments to bring traffic closer to end users improve the quality of experience for broadband users and save ISPs USD 5-6.4 billion each year.</li> <li>• A “significant amount of the demand for broadband services is driven by end users who decide to access online services and content from CAPs.”<sup>34</sup></li> </ul> <p>Analysys Mason further found that network traffic increased by over 160% from 2018 to 2021, yet network-related ISP costs increased by only 3% in total in that same period.<sup>35</sup> Finally, we observe that no country currently requires network fee subsidies to be paid by internet companies to TSPs.</p>	<p>infrastructure. The internet value chain is very diverse and continually evolving and TATT should be assessing it with a forward-looking view in order to issue a future proof regulation. TATT's current proposed approach risks resulting in an old and outdated regulation that will stifle innovation and investments.</p>	
27.	2.2.1	The EU Case Study: Fair and	ALAI	<p>We note that the EU has not issued any regulation on network fees and has so far only engaged in an</p>	<p>Before proceeding with any regulation, TATT</p>	<p>The Authority notes ALAI's comments regarding the EU's approach to network fees</p>

<sup>34</sup> [incompas.org/Files/2022 Tech Investment/FINAL Analysys Mason Report - Impact of tech companies%27 network investment on the economics of broadband ISPs.pdf](https://incompas.org/Files/2022_Tech_Investment/FINAL_Analysys_Mason_Report_-_Impact_of_tech_companies%27_network_investment_on_the_economics_of_broadband_ISPs.pdf)

<sup>35</sup> Id. At 10.

Item	Section	Section Title	Stakeholder	Comments	Recommendations	TATT's Decisions
		Proportionate Contribution		<p>exploratory study of the subject. It is not yet even certain that legislation will follow Although the Framework document mentions only one study, by Frontier Economics, which we believe gives a one-sided view of the issue, TATT should take notice of the many other studies which provide an entirely different perspective on the matter. For example, the Body of European Regulators for Electronic Communications (BEREC) has recently stated that “currently, different players contribute in different ways to the internet ecosystem: for example, some players provide access networks, backbone networks, submarine cables, others digital infrastructures such as content delivery networks (CDNs) or IP transit services, others content, applications and services, and others again provide digital skills, or a combination thereof. All players invest, and thereby partake, in the digitalisation of society and the economy. This should be reflected when considering any policy option.”<sup>36</sup></p> <p>Moreover, recent reporting indicates substantial opposition to or skepticism of network fees in</p>	<p>conduct a study on all the different types of investments in infrastructure that the multiple actors secure and how they contribute to the Internet ecosystem as a whole. In this regard, we encourage TATT to consider the perspectives of all stakeholders in the debate about so-called ‘fair share’ (a term that itself introduces a predisposed bias into this debate and that experts have observed is a misnomer because there is no “fairness” problem that can be solved with network fees).<sup>38</sup></p>	<p>and the importance of considering a variety of perspectives. The Authority acknowledges the diversity of viewpoints on this issue, as highlighted by various studies and statements from other regulatory agencies such as BEREC referenced by ALAI. Additionally, the Authority emphasises the importance of considering the unique data and the critical role of broadband investment, particularly within the Caribbean context.</p> <p>Section4 of the Framework has been expanded to include a more comprehensive overview of the range of perspectives and research findings relevant to OTT contributions to the development of broadband infrastructure.</p> <p>The Authority is committed to ensuring that any assessments it undertakes on fair share agreements, as identified in section 7 of the Framework, encompass a balanced view. This includes considering the perspectives of all stakeholders, including telecommunications</p>

<sup>36</sup><https://www.berec.europa.eu/en/document-categories/berec/others/berec-input-to-the-ecs-exploratory-consultation-on-the-future-of-the-electronics-communications-sector-and-its-infrastructure>

<sup>38</sup><https://truthonthemarket.com/2023/06/06/theres-nothing-fair-about-eu-telecoms-proposed-fair-share-plan/>

Item	Section	Section Title	Stakeholder	Comments	Recommendations	TATT's Decisions
				Europe: “a majority of EU countries have rejected a push by Europe's big telecoms operators to force major tech companies” to pay network fees, as “telecoms ministers from 18 countries either rejected the proposed network fee levy on tech firms, or demanded a study into the need and impact of such a measure.” <sup>37</sup>		<p>operators and OTT providers. The Authority aims to develop a comprehensive strategy on fair share agreements that accurately reflects the diverse contributions and perspectives within the digital ecosystem.</p> <p>Regarding the use of the term “fair share”, the Authority emphasises its growing prominence and the active consideration being given to it in various regulatory contexts, including within the Caribbean and the EU. In this Framework, the Authority has adopted the term to reflect the principle of equitable cost distribution among all stakeholders who benefit from the network infrastructure.</p>
28.	2.2.1	The EU Case Study: Fair and Proportionate Contribution	Meta	<p>We note that the EU has not issued any regulation on network fees and has so far only engaged in an exploratory study of the subject. It is not yet even certain that legislation will follow.</p> <p>Although the Framework document mentions only one study, by Frontier Economics, which we believe gives a one-sided view of the issue, TATT should take notice of the many other studies which provide</p>	Before proceeding with any regulation, TATT should conduct a study on all the different types of investments in infrastructure that the multiple actors secure and how they contribute to the Internet ecosystem as a whole. In this regard, we encourage TATT to consider the perspectives of all stakeholders in	<p>The Authority notes Meta’s comments regarding the EU’s approach to network fees and the importance of considering a variety of perspectives.</p> <p>The Authority acknowledges the diversity of viewpoints on this issue, as highlighted by various studies and statements from other regulatory agencies such as BEREC referenced</p>

<sup>37</sup> <https://www.reuters.com/business/media-telecom/majority-eu-countries-against-network-fee-levy-big-tech-sources-say-2023-06-02/>

Item	Section	Section Title	Stakeholder	Comments	Recommendations	TATT's Decisions
				<p>an entirely different perspective on the matter. For example, the Body of European Regulators for Electronic Communications (BEREC) has recently stated that “currently, different players contribute in different ways to the internet ecosystem: for example, some players provide access networks, backbone networks, submarine cables, others digital infrastructures such as content delivery networks (CDNs) or IP transit services, others content, applications and services, and others again provide digital skills, or a combination thereof. All players invest, and thereby partake, in the digitalisation of society and the economy. This should be reflected when considering any policy option.”<sup>39</sup></p> <p>Moreover, recent reporting indicates substantial opposition to or skepticism of network fees in Europe: “a majority of EU countries have rejected a push by Europe's big telecoms operators to force major tech companies” to pay network fees, as “telecoms ministers from 18 countries either rejected the proposed network fee levy on tech firms, or</p>	<p>the debate about so-called ‘fair share’ (a term that itself introduces a predisposed bias into this debate and that experts have observed is a misnomer because there is no “fairness” problem that can be solved with network fees).<sup>41</sup></p>	<p>by Meta. Additionally, the Authority emphasises the importance of considering the unique data and the critical role of broadband investment, particularly within the Caribbean context.</p> <p>Section 4 of the Framework has been expanded to include a more comprehensive overview of the range of perspectives and research findings relevant to OTT contributions to the development of broadband infrastructure.</p> <p>The Authority is committed to ensuring that any assessments it undertakes on fair share agreements, as presented in section 7 of the Framework, encompass a balanced view. This includes considering the perspectives of all stakeholders, including telecommunications operators and OTT providers. The Authority aims to develop a comprehensive strategy on fair share agreements that accurately reflect the diverse contributions and perspectives within the digital ecosystem.</p>

<sup>39</sup> <https://www.berec.europa.eu/en/document-categories/berec/others/berec-input-to-the-ecs-exploratory-consultation-on-the-future-of-the-electronics-communications-sector-and-its-infrastructure>

<sup>41</sup> <https://truthonthemarket.com/2023/06/06/theres-nothing-fair-about-eu-telecoms-proposed-fair-share-plan/>



Item	Section	Section Title	Stakeholder	Comments	Recommendations	TATT's Decisions
				demanded a study into the need and impact of such a measure.” <sup>40</sup>		Regarding the use of the term “fair share”, the Authority emphasises its growing prominence and active consideration in various regulatory contexts, including within the Caribbean and the EU . In this Framework, the Authority has adopted the term to reflect the principle of equitable cost distribution among all stakeholders who benefit from the network infrastructure.
29.	2.2.2	The United States Case Study: Contributions to Universal Service Fund (USF)	ALAI	This matter is ongoing. As TATT observes, the FAIR Contributions Act is a legislative proposal, not US law, and would only direct the FCC to study the feasibility of collecting USF contributions from edge providers but would not mandate such contributions or give the FCC the authority to mandate contributions by edge providers.	It should be noted that this matter is ongoing, and no conclusions should be drawn by TATT from the proposing of the FAIR Contributions Act as to whether the U.S. will require USF contributions from edge providers.	The Authority acknowledges the ongoing status of the FAIR Contributions Act as a legislative proposal, not currently established as US law. The Authority shall actively monitor developments in this matter to stay abreast of any changes or advancements.
30.	2.2.2	The United States Case Study: Contributions to Universal Service Fund (USF)	Meta	This matter is ongoing. As TATT observes, the FAIR Contributions Act is a legislative proposal, not US law, and would only direct the FCC to study the feasibility of collecting USF contributions from edge providers but would not mandate such contributions or give the FCC the authority to mandate contributions by edge providers.	It should be noted that this matter is ongoing, and no conclusions should be drawn by TATT from the proposing of the FAIR Contributions Act as to whether the U.S. will require USF contributions from edge providers.	The Authority acknowledges the ongoing status of the FAIR Contributions Act as a legislative proposal, not currently established as US law. The Authority will continue to monitor developments in this matter to stay abreast of any changes or advancements.

<sup>40</sup> <https://www.reuters.com/business/media-telecom/majority-eu-countries-against-network-fee-levy-big-tech-sources-say-2023-06-02/>

Item	Section	Section Title	Stakeholder	Comments	Recommendations	TATT's Decisions
31.	2.2.3	South Korean Case Study: Recovery through Network Charges	ALAI	<p>A skewed view of the approach taken in South Korea is provided that ended in an agreement between parties and no regulatory action was undertaken. Indeed, the European Parliamentary Research Service has stated of South Korea's "Sending Party Network Pays" regime that:</p> <p>"[r]eports and expert views, with some exceptions, tend to agree that the South Korean experiment is failing."<sup>42</sup> Unsurprisingly, then, proposals to double down on this failure by more explicitly mandating network fees have not advanced. In fact, hearings on new network fee proposals were met with a public outcry, including a petition by "tens of thousands of domestic users [who] believe that telecommunications companies are harming the rule of network neutrality by demanding CPs pay network fees" and by concerns of content creators.<sup>43</sup></p>	A more in-depth study of the South Korean experience needs to be undertaken before any conclusions are drawn.	The Authority notes the information provided by ALAI regarding the South Korean approach. The Authority will continue to monitor developments in this matter to stay abreast of any changes or advancements.
32.	2.2.3	South Korean Case Study: Recovery through	Meta	A limited view of the approach taken in South Korea is provided. Indeed, the European Parliamentary Research Service has stated of South Korea's "Sending Party Network Pays" regime that:	A more in-depth study of the South Korean experience needs to be undertaken before any conclusions are drawn.	The Authority notes the information provided by ALAI regarding the South Korean approach. The Authority will continue to

<sup>42</sup> [https://www.europarl.europa.eu/RegData/etudes/ATAG/2023/745710/EPRS\\_ATA\(2023\)745710\\_EN.pdf](https://www.europarl.europa.eu/RegData/etudes/ATAG/2023/745710/EPRS_ATA(2023)745710_EN.pdf)

<sup>43</sup> <https://koreajoongangdaily.joins.com/2022/11/01/business/tech/Korea-network-usage-fee-Google/20221101172720310.html>

Item	Section	Section Title	Stakeholder	Comments	Recommendations	TATT's Decisions
		Network Charges		“[r]eports and expert views, with some exceptions, tend to agree that the South Korean experiment is failing.” <sup>44</sup> Unsurprisingly, then, proposals to double down on this failure by more explicitly mandating network fees have not advanced. In fact, hearings on new network fee proposals were met with a public outcry, including a petition by “tens of thousands of domestic users [who] believe that telecommunications companies are harming the rule of network neutrality by demanding CPs pay network fees” and by concerns of content creators. <sup>45</sup>		monitor developments in this matter to stay abreast of any changes or advancements.
33.	2.3  2.3.1	Global Trends in OTT Contribution to Local Content Investment  Australia Case Study	ALAI	This matter is on-going.	As such, no conclusions should be drawn by TATT on this matter.	The Authority notes that the matter is ongoing and will continue to monitor developments to stay abreast of any changes or advancements.

<sup>44</sup> [https://www.europarl.europa.eu/RegData/etudes/ATAG/2023/745710/EPRS\\_ATA\(2023\)745710\\_EN.pdf](https://www.europarl.europa.eu/RegData/etudes/ATAG/2023/745710/EPRS_ATA(2023)745710_EN.pdf)

<sup>45</sup> <https://koreajoongangdaily.joins.com/2022/11/01/business/tech/Korea-network-usage-fee-Google/20221101172720310.html>

Item	Section	Section Title	Stakeholder	Comments	Recommendations	TATT's Decisions
34.	2.3  2.3.1	Global Trends in OTT Contribution to Local Content Investment  Australia Case Study	Meta	This matter is on-going.	As such, no conclusions should be drawn by TATT on this matter.	The Authority notes that the matter is ongoing and will continue to monitor developments to stay abreast of any changes or advancements.
35.	2.3	2.3 Global Trends in OTT Contribution to Local Content Investment	TSTT	While TSTT appreciates the broader context provided by this section, TATT is reminded that its jurisdiction excludes “value added services” which, in the definition of Telecommunications Act, Chap 47:31 (“the Act”), can be summarised as “content-based services”. TATT is reminded that it is constrained to operate within the parameters of its statutory mandate.	TATT should limit its considerations to telecommunications and broadcasting services and should not veer into the broader question of content-based services and investment into same	The Authority notes TSTT’s comments on the jurisdictional boundaries as defined by the Act, particularly concerning the exclusion of “value-added services” or “content-based services”. However, the Authority disagrees with the assertion that its jurisdiction excludes value-added services. In fact, section 18 (b) of the Act explicitly empowers the Authority to classify value-added services or any other telecommunications service, thereby affirming its regulatory oversight in this area.  Notwithstanding the above, the purpose of section 2.3, now section 4.4 of the Framework is to highlight the importance of local content investment in the context of the broadcasting industry and its sustainability. This section

Item	Section	Section Title	Stakeholder	Comments	Recommendations	TATT's Decisions
						provides stakeholders with a comprehensive overview of global trends and the implications of OTT services on local telecommunications and broadcasting sectors.
36.	2.3.2	Canada Case Study	ALAI	We observe that Section 2.1.4 of TATT's consultation references C-10, which was the predecessor to C-11 (The Online Streaming Act). C-11 has passed into law in Canada. As we note above, the government's stated intent is to exclude social media services from regulation under the C-11/The Online Streaming Act except "insofar as they are acting like broadcasters." <sup>46</sup>	C-10 is no longer under consideration in Canada following the passage of C-11 and should not be considered precedent by TATT. Please refer to our comments and observations in Section 2.1 as to C-11.	The Authority acknowledges ALAI's observation regarding the legislative changes in Canada, specifically the transition from Bill C-10 to Bill C-11 which has now been enacted as the Online Streaming Act. Section 4.6.2 of the Framework has been amended to include this update.
37.	2.3.2	Canada Case Study	Meta	We observe that Section 2.1.4 of TATT's consultation references C-10, which was the predecessor to C-11 (The Online Streaming Act). C-11 has passed into law in Canada. As we note above, the government's stated intent is to exclude social media services from regulation under the C-11/The Online Streaming Act except "insofar as they are acting like broadcasters." <sup>47</sup>	C-10 is no longer under consideration in Canada following the passage of C-11 and should not be considered precedent by TATT. Please refer to our comments and observations in Section 2.1 as to C-11.	The Authority acknowledges Meta's observation regarding the legislative changes in Canada, specifically the transition from Bill C-10 to Bill C-11 which has now been enacted as the Online Streaming Act. Section 4.6.2 of the Framework has been amended to include this update.

<sup>46</sup> <https://www.gazette.gc.ca/rp-pr/p1/2023/2023-06-10/html/reg1-eng.html>

<sup>47</sup> <https://www.gazette.gc.ca/rp-pr/p1/2023/2023-06-10/html/reg1-eng.html>

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38.	2.3.3	France Case Study	ALAI	Under Europe's Audiovisual Media Services Directive, video sharing platform services (VSPS) are subject to only a subset of the obligations applicable to traditional video providers and video on demand providers. This is in consideration of the fundamental differences between traditional video services (e.g. cable, broadcast) and VSPS, including that VSPS do not exert the degree of editorial control over content on the service that traditional and video on demand services do.	To the extent that TATT is considering regulation for video services, TATT should take note that the EU framework recognizes the fundamental differences between video sharing platforms and traditional video services.	The Authority acknowledges that there are differences between traditional video services and the video sharing platform services (VSPS) outlined in the EU's Audiovisual Media Services Directive. In assessing regulatory frameworks for OTT broadcasting services, the Authority proposes an approach that recognises these differences, which may necessitate varying regulatory approaches. The Authority also reiterates that the focus of the Framework is solely on those services that qualify as broadcasting services under the Act, as specified in section 5.2 of the Framework.
39.	2.3.3	France Case Study	Meta	Under Europe's Audiovisual Media Services Directive, video sharing platform services (VSPS) are subject to only a subset of the obligations applicable to traditional video providers and video on demand providers. This is in consideration of the fundamental differences between traditional video services (e.g. cable, broadcast) and VSPS, including that VSPS do not exert the degree of editorial control over content on the service that traditional and video on demand services do.	To the extent that TATT is considering regulation for video services, TATT should take note that the EU framework recognizes the fundamental differences between video sharing platforms and traditional video services.	The Authority acknowledges the fundamental differences between traditional video services and the VSPS outlined in the EU's Audiovisual Media Services Directive. In assessing regulatory frameworks for OTT media services, the Authority proposes an approach that recognises these differences, which may necessitate varying regulatory approaches. The Authority also reiterates that the focus of the Framework is solely on those services that qualify as broadcasting services under the Act, as specified in section 5.2 of the Framework.

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40.	3	Definition of an OTT Service	ACT	<p>With respect to defining OTT services, OTT services provide audio, video, and other media over an IP network in real time. As discussed above, generally, OTT services are not similar or the same to TSP services, save for OTT communications services that have the primary purpose of providing real-time person-to-person telecommunication voice services using the network infrastructure (e.g., utilizing a telephone number) of a TSP. Any other OTT services should not be considered the same or similar to TSP services for the reasons provided above in our general comments above.</p> <p>Substitutability may be used in comparing regulatory or licensing norms applicable to TSPs and OTT service providers based on the primary purpose of a service, as consideration of any ancillary purposes would, in practice, have OTTs unduly determined to be substitutable for TSP services when additional (even minor) features in OTT services are considered. More specifically, a “primary purpose” test should be utilized to OTT communications services that provide real-time person to person telecommunication voice services using the network infrastructure (e.g., utilizing a telephone number) of a TSP.</p>		<p>The Authority acknowledges the distinctions highlighted between OTT services and TSPs. The Authority differentiates between general OTT services and OTT telecommunications and broadcasting services that can substitute for traditional voice services using TSP infrastructure or traditional broadcasting services. Specifically, in section 5.2 of the Framework, the Authority lists its criteria, based on the Act, for classifying an OTT service as a telecommunications service or a broadcasting service.</p> <p>Other types of OTT services, which do not meet these criteria, are not considered equivalent to TSP services and are outside the scope of the Framework. This approach ensures that the regulatory framework is appropriately tailored, reflecting the functional differences between various OTT services and traditional telecommunications services.</p>

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				<p>Further, as discussed above, providing the capacity for services as opposed to providing services that are available over the top of the networks providing such capacity. As noted above in our general comments, TSP and OTT services are not similar or the same and are fundamentally different. This difference further is illustrated through the relations between TSP and OTT service providers: OTT services reduce consumer costs by stimulating telecommunications network growth which in turn increases demand for uptake of data and the need for more bandwidth, driving further investment in infrastructure (which OTTs, by definition, cannot provide) by the telecommunications network operator.</p>		
41.	3	Definition of an OTT Service	ALAI	<p>We observe that this definition is broad and appears to encompass a variety of different services, including communication and video services. As such, in the event any regulation is applied to all such services, it may be a poor fit for certain such services.</p>	<p>TATT should consider the definition used by the FCC in the USA at 47 U.S.C. § 153(24) in which virtually all internet services provided are considered “information services” and not telecommunications services, per se, and are not regulated as telecommunications by the FCC. As per Statement 1. above.</p>	<p>The Authority acknowledges the concern that the current definition is broad and may encompass a variety of services, including communication and video services.</p> <p>The Authority refers to section 2.1 of the Framework, which outlines the different types of OTT services. These include:</p> <ol style="list-style-type: none"> <li>1. OTT voice and messaging services</li> <li>2. OTT broadcasting services</li> </ol>



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						<p>This categorisation ensures a nuanced approach to regulation, tailored to the specific nature and function of each type of OTT service.</p> <p>Regarding the suggestion to adopt the FCC's approach, the Authority holds a different perspective on the equivalence of OTT communications and information services. While OTT voice and messaging services involve real-time data transmission via telecommunications networks, information services typically involve processing or accessing stored data rather than immediate user-to-user communication. Consequently, the Authority has adopted a distinct regulatory approach to the classification of OTT services. Additionally, the classification of OTT services as "information services" is deemed unsuitable for the regulatory framework, as the Act does not include this term.</p>
42.	3.	Definition of an OTT Service	CCTL	For the purpose of the framework, Authority states that it "shall utilise the following definition of an OTT service:	Language used in the consultation process should promote discussion and debate.	<p>The Authority notes CCTL's perspective on the use of the term "shall" in the referenced statement.</p> <p>Definitive language, where appropriate, such as "shall", is used to establish a clear and</p>

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				<p>1. Content, service or application, accessed by the public via the Internet, that may be a full or partial substitute for, and/or may compete with a public telecommunication and/or broadcasting service</p> <p>2. The scope of this Framework shall be limited to OTT communications (voice and messaging) and OTT media services.”</p> <p>CCTL reiterates the position that it has no issues with Statements 1 and 2. However the use of the term “shall” suggest that there is no scope for different views, this belies the purpose of a consultation process.</p>		<p>precise intention by the Authority for consultative documents.</p> <p>The participatory nature of the consultation process encourages stakeholder feedback, which may lead to changes or adjustments to the document. For example, feedback received during both rounds of consultation has resulted in amendments to various sections and policy statements within the Framework.</p>
43.	3	Definition of OTT Services	Digicel	<p>Digicel notes the Authority’s comments on its definition being aligned with that of the ITU as well as its commitments to revise the definition to capture future services.</p> <p>However, Digicel still finds it prudent to make its case again considering the absence of a mechanism/process in the Authority’s Framework to trigger such a review as well as no indicative timeline regarding the review cycle of the Framework document.</p>	<p>The Authority is asked to formulate a process/mechanism that would trigger a review of the OTT Framework and its attendant OTT service definition as well as provide definitive timelines for the review of the Framework document</p>	<p>The Authority notes Digicel’s statements on the scope and definition of OTT services within the Framework.</p> <p>At this time, the Authority’s focus is on those OTT services that fall under its remit in accordance with the Act. As such, the Framework specifically targets OTT services that serve as direct substitutes for, and/or compete with, public telecommunications and broadcasting services.</p>

Item	Section	Section Title	Stakeholder	Comments	Recommendations	TATT's Decisions
				<p>As such, Digicel disagrees that the proposed Framework should be limited to only OTT communications and OTT media services that</p> <p>“may be a direct substitute for, and/or may compete with, a public telecommunications and/or broadcasting service.”</p> <p>This definition and the overall scope of the document should be revised. In our view, the Authority should not constrain itself in this way as it will unavoidably confine the Authority to looking at future needs through a lens that has been focused on past experience.</p> <p>In other words, the Authority may find itself is anchored to a definition that may potentially be out-of-date (i.e., as a result of the rapid and continuous evolution of ICT and telecommunication technology) at the time when its long and/or short term</p>		<p>With respect to the need for a structured review process, the Framework has been amended in section 1.6 to include a definitive timeframe of five years for its review.</p>

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				strategies are being applied to address OTT issues.		
44.	3	Definition of an OTT Service	Meta	We observe that this definition is broad and appears to encompass a variety of different services, including communication and video services. As such, in the event any regulation is applied to all such services, it may be a poor fit for certain such services.	TATT should consider the definition used by the FCC in the USA at 47 U.S.C. § 153(24) in which virtually all internet services provided are considered “information services” and not telecommunications services, per se, and are not regulated as telecommunications by the FCC. As per Statement 1. above.	<p>The Authority acknowledges the concern that the current definition is broad and may encompass a variety of services, including communication and video services.</p> <p>The Authority refers to section 2.1 of the Framework, which outlines the different types of OTT services. These include:</p> <ol style="list-style-type: none"> <li>1. OTT voice and messaging services</li> <li>2. OTT broadcasting services</li> </ol> <p>This categorisation ensures a nuanced approach to regulation, tailored to the specific nature and function of each type of OTT service.</p> <p>Regarding the suggestion to adopt the FCC's approach, the Authority holds a different perspective on the equivalence of OTT communication and information services. While OTT voice and messaging services involve real-time data transmission via</p>

Item	Section	Section Title	Stakeholder	Comments	Recommendations	TATT's Decisions
						telecommunications networks, information services typically involve processing or accessing stored data rather than immediate user-to-user communication. Consequently, the Authority has adopted a distinct regulatory approach to the classification of OTT services. Additionally, the suggestion to classify OTT services as “information services” is deemed unsuitable in the regulatory framework, as the Act does not include this term.
45.	3	Definition of an OTT	TSTT	<p>TSTT again reiterates that TATT should focus on those matters within its regulatory remit. Accordingly, the regulation of content-based services should not be included in the definition of OTT. Such an approach leaves any OTT-related action open to challenge as being ultra-vires the Act, per se.</p> <p>TSTT recommends that the word “content” be removed from the definition to avoid such legal challenges and facilitate the application of the proposals within this framework today.</p> <p>Accordingly, the definition should read as follows: “Services or applications accessed by the public via the Internet, that may be a full or partial substitute for, and/or may compete with a public telecommunications and/or broadcasting service”</p>	<p>TSTT recommends that the word “content” be removed from the definition to avoid such legal challenges and facilitate the application of the proposals within this framework today.</p> <p>Accordingly, the definition should read as follows: “Services or applications accessed by the public via the Internet, that may be a full or partial substitute for, and/or may compete with a public telecommunications and/or broadcasting service”.</p>	<p>The Authority agrees with TSTT's recommendation to remove the word “content” from the definition. Accordingly, section 5.1 of the Framework includes the following definition of an OTT service:</p> <p>“Services or applications accessed by the public via the Internet that may be a full or partial substitute for, and/or may compete with, a public telecommunications and/or broadcasting service”.</p>

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46.	3.1	OTT Classifications under the Existing Telecommunications Act	ALAI	Noted.	As mentioned above, TATT should consider the definition used by the FCC in the USA in which services provided via OTT platforms over the Internet are viewed as Information services.	The Authority acknowledges the suggestion to consider the FCC's definition used in the USA, where services provided via OTT platforms over the Internet are classified as "information services". The Authority holds a different perspective on the equivalence of OTT communications and information services. While OTT voice and messaging services involve real-time data transmission via telecommunications networks, information services typically involve processing or accessing stored data rather than immediate user-to-user communication. Consequently, the Authority has adopted a distinct regulatory approach to the classification of OTT services. Additionally, the suggestion to classify OTT services as "information services" is deemed unsuitable in the regulatory framework, as the Act does not include this term.
47.	3.1	OTT Classifications under the Existing Telecommunications Act	CCTL	The question as to whether OTT services fall under the existing Act is a reasonable starting point for this analysis.  Statement 3 provides that,	Solutions to bring about balance and equity in the treatment of similar services provided by TSPs and OTTs must go beyond the existing legislative framework.	The existing legislative framework covers OTT services that provide telecommunications and broadcasting services. The Authority recognises that these services may require different regulatory approaches based on their distinct characteristics and the transformative changes in technology and service markets.

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				<p>“In classifying OTT services with different integrated features, the Authority shall give considerations to the findings of the ECJ, including consideration of the nature and purpose of additional features of the service.”</p> <p>The statement is grounded in the findings of the European Court of Justice (ECJ) and is based on a more technical rather than functional definition of OTT services. The fact is that since the promulgation of the current Act, the technology, the service markets, and how people use the services have been transformative, a reality which The Authority discusses in various sections of the consultation document, for example Section 2.</p> <p>The global response to the issue is also very instructive. Section 2 of the consultation document deals with the issue at great length.</p> <p>In consideration, solutions to bring about balance and equity in the treatment of similar services provided by TSPs and OTTs must go beyond the existing legislative framework.</p>		<p>To address these differences and emerging issues effectively, the Authority shall amend its Authorisation Framework. The amended Authorisation Framework shall classify OTT services appropriately and promote a fair regulatory environment for all service providers.</p>
48.	3.1	OTT Classifications	Meta	Noted.	As mentioned above, TATT should consider the definition used by the	The Authority acknowledges the suggestion to consider the FCC's definition used in the USA,

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		under the Existing Telecommunications Act			FCC in the USA in which services provided via OTT platforms over the Internet are viewed as Information services.	where services provided via OTT platforms over the Internet are classified as “information services”. The Authority holds a different perspective on the equivalence of OTT communications and information services. While OTT voice and messaging services involve real-time data transmission via telecommunications networks, information services typically involve processing or accessing stored data rather than immediate user-to-user communication. Consequently, the Authority has adopted a distinct regulatory approach to the classification of OTT services. Additionally, the suggestion to classify OTT services as “information services” is deemed unsuitable in the regulatory framework, as the Act does not include this term.
49.	3.2 Types of OTT Services	3.2 Types of OTT Services	TSTT	While TSTT agrees in principle with the types of OTT Services referenced (assuming the application of the ECJ findings would limit “OTT Media” to not include social media platforms), there is a concern that its decisions remain purely theoretical. TSTT inquires as to when TATT intends to, in accordance with the technology-neutral definitions of the Act proceed to declare those OTT services that it intends, in the first instance, to require regularisation under	TATT to declare specific OTT services that are under consideration to be required to either: i) Be regularised under Section 21 of the Act; or ii) Be subject to appropriate discretions by concessionaires in treating with carriage of “unlawful content”.	The Authority notes TSTT's statements regarding the regularisation of OTT services under section 21 and appreciates the emphasis on the timeframe for this process. The Authority refers to section 5.2 of the Framework which outlines its approach to OTT classification based on criteria defined in the Act. Section 5.2 has been amended to include a timeframe for the classification of



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				the Act, or provide concessionaires the discretion to treat with as providers of “unlawful content”.		OTT services, with the process expected to be completed within one year of the publication of this Framework.
50.	3.2.1 OTT Voice Services	3.2.1 OTT Voice Services	Digicel	<p>Digicel finds it prudent to set out its prior position again after careful consideration of the Authority’s response. A commitment to account for OTT applications that utilize mobile numbering and messaging services (for caller identification and other purposes) would not suffice given the following:</p> <ul style="list-style-type: none"> <li>a. The Authority’s response does not provide indicative timelines as to when said assessment of OTTs as a telecommunication service would commence or end. It should be noted that reference was made to the assessment as currently in progress in Section 3.1</li> <li>b. Given the Authority’s acknowledgment of the merit of Digicel’s position and the aforementioned consideration in line item 1.</li> </ul>	The delineation of OTT VoIP services into the categories of those which enable app-to-app connectivity and those enabling app-to-public switched telephone network (PSTN) connectivity should be revised. The Authority should be forward looking in its treatment of OTT Voice Services and capture all relevant modes of OTT-VoIP services.	<p>Section 3.2.1, now 2.1 of the Framework provides a descriptive overview of the various forms of OTT services, recognising the different modes through which these services operate. This section outlines the types of OTT services, without making specific regulatory distinctions. It aligns with the EU’s framework, which differentiates between OTT services that connect to the PSTN and those that do not<sup>48</sup>. The Framework acknowledges both modes of service and applies regulatory oversight to all under the umbrella of OTT services.</p> <p>Section 5.2 has been amended to include a timeframe for the classification, with the process expected to be completed within one year of the publication of the Framework.</p>

<sup>48</sup> [Directive - 2018/1972 - EN - eecc - EUR-Lex \(europa.eu\)](#)

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				<p>As such, Digicel continues to disagree with this approach used by the Authority to distinguish between OTT VoIP services on the basis of whether or not they “enable app-to-public switched telephone network (PSTN) connectivity”.</p> <p>This approach is no longer significant and minimizes both the ubiquitous nature of OTT voice and messaging services and the extent to which they compete with traditional telecommunications services.</p>		
51.	4	Policy Considerations for OTT Services: Challenges and Opportunities	ACT	<p>The application of an OTT-specific regulatory framework in a local jurisdiction would be detrimental to the growth of OTT applications and services and to the availability of these OTT applications and services to consumers in that jurisdiction.</p> <p>OTTs also already pay local, regional/provincial, and national taxes. The imposition of further OTT-</p>	<p>We strongly urge TATT to acknowledge that these OTT application and service providers already go to great lengths to comply with general consumer protection laws in the jurisdictions they do business. Further, TATT should avoid applying legacy Telecommunications Service</p>	<p>The Authority notes ACT's concerns and emphasises the importance of applying the Act to OTT services where they fall within the definition of telecommunications or broadcasting services. This comprehensive regulation ensures consumer protection, market fairness, technological neutrality, and future proofing. By including OTTs, the Authority aims to safeguard consumers</p>

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				<p>specific fees, levies, or taxes will have a negative impact on the provision of OTT services. Additionally, these fees, levies, and taxes will be diverted from OTT application and service providers' resources which are available to invest in both the innovation in services themselves and the means of delivery in which they already invest. Particularly, for small businesses, these fees, levies, and taxes can represent insurmountable barriers to market entry. In order for these OTT application and service providers to grow and create jobs, they must look to expand to new customers across the global digital economy. Targeted fees, levies, or taxes in a locality (along with other trade barriers) present the possibility of different legal liability concerns depending on the jurisdiction, degrading the ability to more quickly reach a global scale.</p> <p>We note that OTTs provide different services from TSPs, which focus on providing the capacity to end users. It is important that TATT understand and acknowledge that OTT service providers already bear costs to ensure content delivery networks can provide their application or service to stay competitive and a part of the virtuous cycle of innovation that includes OTT application and service providers, telecommunications network operators,</p>	<p>Provider (TSP) regulatory requirements to OTTs; such attempts often have the effect of "locking in" older technology and stagnating innovation, harming the quality and reliability of consumer service.</p>	<p>through consistent standards, ensure a level playing field between OTT providers and TSPs, and adapt to ongoing technological and market developments.</p> <p>The Authority is committed to balancing regulation with innovation by implementing proportional regulations, promoting collaborative initiatives between OTT providers and TSPs, and continuously engaging with stakeholders for informed decision making. This approach ensures that any regulatory intervention is well-informed and adaptable to the evolving digital landscape, ultimately benefiting both consumers and service providers by fostering a fair and dynamic market environment.</p>

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				<p>and consumers. OTT services reduce consumer costs by stimulating telecommunications network growth which in turn increases demand for uptake of data and the need for more bandwidth. This drives further investment in infrastructure by the TSP. Customer service issues and quality assurance concerns for OTTs are best addressed through free market competition; in the hyper-competitive OTT application and service provider world, customer service and/or quality assurance are key market differentiators. Failure to innovate in either area will quickly drive customers to a competing OTT application or service provider because of very low switching costs. These are also assured through compliance with general consumer protection laws in place around the world today.</p>		
52.	4.  4.1	Policy Considerations for OTT Services: Challenges and Opportunities  OTTs and Competition Concerns	ALAI	<p>As noted above, telecommunications services and OTT services are fundamentally different services and TSP regulations should not be extended to OTT services.</p>	<p>As mentioned under 1.5 above, OTTs currently do not fall under the ambit of the Telecommunications Act (Ch 47:31.)</p> <p>Before proceeding with any regulation, TATT should undertake relevant studies to first examine the possible effect of regulation of OTTs on consumer welfare before</p>	<p>Section 5.2 of the Framework lists the criteria the Authority shall use to make a determination on whether an OTT service is classified as a telecommunications service, based on the requirements of the Act. The Authority recognises that OTT services may call for different regulatory approaches; therefore, there may be differences in classification and regulation.</p>

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					contemplating any action concerning the regulation of OTTs.	With respect to conducting relevant studies, the Framework is grounded in a balanced approach that weighs both the advantages and drawbacks of proposed interventions. Through this consultation process, the Authority is actively engaging with all stakeholders, including consumers, service providers, and industry experts and gathering different perspectives on OTTs. This feedback will be invaluable in informing the Authority's final Framework on OTT services.
53.	4.  4.1	Policy Considerations for OTT Services: Challenges and Opportunities  OTTs and Competition Concerns	Digicel	Digicel notes the Authority's response. However, it still finds it prudent to reiterate its previous concerns given the absence of indicative timelines in the Framework document to signpost the Authority's commitment to providing regulatory certainty on its treatment of OTT services in Trinidad and Tobago.	The Authority must act now and uphold the existing law by virtue of which (i) OTT voice and messaging services should be declared to be public telecommunications services under the Act; and (ii) OTT service providers that provide voice and messaging services to consumers in Trinidad & Tobago should be required to hold a concession granted by the Minister in accordance with the requirements of section 21 of the Act	The Authority reiterates the importance of conducting a careful assessment of OTT services and their alignment with the Act before classifying OTT services as telecommunications or broadcasting services. As amended, Section 5.2 outlines the process for conducting this assessment and provides timeframes for its completion, specifically targeting the 2024/25 financial year.

Item	Section	Section Title	Stakeholder	Comments	Recommendations	TATT's Decisions
54.	4.  4.1	Policy Considerations for OTT Services: Challenges and Opportunities  OTTs and Competition Concerns	Meta	As noted above, telecommunications services and OTT services are fundamentally different services and TSP regulations should not be extended to OTT services.	<p>As mentioned under 1.5 above, OTTs currently do not fall under the ambit of the Telecommunications Act (Ch 47:31).</p> <p>Before proceeding with any regulation, TATT should undertake relevant studies to first examine the possible effect of regulation of OTTs on consumer welfare before contemplating any action concerning the regulation of OTTs.</p> <p>Before proceeding with any regulation, TATT should undertake relevant studies to first examine the possible effect of regulation of OTTs on consumer welfare before contemplating any action concerning the regulation of OTTs.</p>	<p>Section 5.2 of the Framework lists the criteria the Authority shall use to make a determination on whether an OTT service is classified as a telecommunications service, based on the requirements of the Act. The Authority recognises that OTT services may call for different regulatory approaches; therefore, there may be differences in classification and regulation.</p> <p>With respect to conducting relevant studies, the Framework is grounded in a balanced approach that weighs both the advantages and drawbacks of proposed interventions. Through this consultation process, the Authority is actively engaging with all stakeholders, including consumers, service providers, and industry experts and gathering different perspectives on OTTs. This feedback will be invaluable in informing the Authority's final policy on OTT services.</p>

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55.	4.1	OTTs and Competition Concerns	CCTL	<p>The section commences with the statement “A key challenge of OTTs entry within the market is determining whether fair competition conditions are being upheld.”</p> <p>That OTTs are offering functionally similar services to end users as TSPs is not in dispute. The empirical evidence supports this as a reality globally. In this same document, (pg. 12), in describing customer impacts it states, “For example, with respect to voice calls, OTT substitutions are often associated with savings on local and long-distance calls and roaming charges.”</p> <p>In our review of the DORs, in response to CCTL’s comments, while acknowledging that OTTs with similar features and functions as traditional services may be substitutable to these services, the Authority maintains that there may be perceived differences in the nature and function of some OTT services, and in these instances that they are not deemed as functional equivalent to services provided by TSPs, and maintains its position that a case by case assessment is necessary to determine whether OTT services are in the same relevant markets as traditional telecommunications services. This, against the preponderance of evidence that end users are</p>		<p>The results of the final <i>Determination: Retail Domestic Mobile Telephony Market Definition</i> (the Determination), which was published on 13<sup>th</sup> May 2024, provide the Authority’s position on OTT services substitutability with traditional mobile voice and messaging services.</p> <p>The Determination establishes that OTT services are substantial demand-side substitutes for traditional mobile voice and messaging services usage in Trinidad and Tobago.</p> <p>The Authority acknowledges, however, that certain OTT services may differ in nature and function from traditional telecommunications services, suggesting they are not functionally equivalent but functionally similar. Therefore, regulatory measures may vary to accommodate these differences. For instance, pricing regulations may not apply uniformly to OTTs offering zero-priced services. This approach allows for nuanced regulatory treatment that aligns with the unique characteristics and business models of different OTTs.</p>

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				<p>increasingly using broadband services to substitute traditional TSP services with OTT services.</p> <p>CCTL does not see any challenges in determining whether fair competition conditions exist between OTTs and TSPs. TSPs need a license to operate, pay industry specific and general economy wide taxes, and are subject to regulatory constraints such as pricing, quality of service and other consumer safeguards. OTTs operate without a license, do not pay economy wide or industry specific taxes, and are not subject the other regulatory constraints.</p>		
56.	4.1	OTTs and Competition Concerns	Digicel	<p>Digicel notes the analysis undertaken by the Authority. However, it is appropriate to note that Section 4.1 does not capture any review of relevant literature on observed market failure/imbalance prevalent in the internet ecosystem. Competitive concerns were treated with from a regulatory standpoint only.</p> <p>Digicel also notes the Authority's response to another domestic operator comments in Section 4.1 on the merit in assessing the nature and function of these services to determine whether they are in the</p>	<p>Digicel asks the Authority to amend Section 4.1 to capture relevant discourse on market failure/imbalance (that is, asymmetric bargaining power of OTTs, one-sided price signalling to mention a few) in the internet ecosystem.</p> <p>Digicel asks the Authority to indicate how it would undertake its determination of whether OTTs are</p>	<p>The Authority notes Digicel's statements regarding market imbalances, the asymmetric bargaining power of OTTs, and one-sided price signalling within the Internet ecosystem. Section 3.1 has been amended to include an expanded perspective on these imbalances between OTTs and TSPs. The amendments now reflect a more comprehensive understanding of the challenges posed by these dynamics within the market.</p>



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				<p>same relevant markets as traditional telecommunications services:</p> <p>“...the Authority stands by its statement that there is “merit in assessing the nature and function of these services to determine whether they are in the same relevant markets as traditional telecommunications services.”</p> <p>“The Authority recommends this assessment be conducted on a case-by-case basis”.</p> <p>Digicel would like to inquire as to whether this OTT market definition would be captured as part of the Authority’s dominance assessments or separate assessments would be undertaken by the Authority given its aforesaid response that the assessment would be</p>	<p>in the same relevant markets as traditional telecommunication services and when said exercise would commence.</p>	<p>The Authority confirms that the process will utilise relevant information from the determinations on both fixed and mobile markets that it conducted recently. Regarding the timeframe, the Framework has been amended to specify that the Authority shall commence the exercise in the 2024/25 financial year, with the goal of completing it within one year.</p>

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				<p>conducted on a case by case basis. It would also be prudent to indicate when these OTT market definitions would commence to provide regulatory certainty given the rapidly evolving telecommunications landscape.</p>		
57.	4.2	OTTs and Consumer Impact	ACT	<p>Consumers benefit from over-the-top (OTT) services—applications and services that are accessible over the internet and are accessed via telecommunications network operators’ networks—in a variety of ways. OTT applications and services provide consumers with access to personalized and customizable services at lower costs and higher efficiency, driven by enhanced competition that allows new innovations across the array of use cases that consumers rely on for internet connectivity. Further, OTT services reduce consumer costs by stimulating telecommunications network growth by increasing demand for bandwidth, driving further investment in infrastructure, and facilitating innovation. These benefits are already seen today across numerous sectors of the global economy, such as communications, transport, retail, and</p>	<p>We urge the TATT to avoid approaching OTT as its own standalone sector or market segment.</p> <p>We reiterate our view that OTTs which have the primary purpose of providing real-time person-to-person telecommunication voice services using the network infrastructure (utilizing a telephone number) of a TSP should be required to provide emergency services connection capabilities to align with reasonable consumer expectations. Expanding such obligations to OTTs past this category would not align with consumer expectations and</p>	<p>The Authority acknowledges the significant benefits that OTT services bring to consumers, such as enhanced consumer choice and higher demand for telecommunications infrastructure.</p> <p>In addition to consumer expectations, the Framework considers key policy aspects, such as competition and consumer protection, including safety and security. By appropriately integrating OTTs into regulatory frameworks and accounting for their unique characteristics, the Authority aims to enhance consumer protection, foster fair competition, and promote innovation.</p>

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				entertainment. In addition, this trend will likely continue. The demand for OTT services continues to grow and is expected to provide \$129 billion of value annual by 2023. <sup>49</sup>	would impose unreasonably high costs to OTTs, discouraging innovation and investment.	
58.	4.2	OTTs and Consumer Impact	ALAI	ALAI is committed to giving users control over their privacy and protecting their information, for example by offering end-to-end encryption <sup>50</sup> .	As mentioned above, before proceeding with any regulation, TATT should also undertake studies to examine the impact of possible regulation of OTTs on consumer welfare.	The Authority adopts a balanced approach in the Framework, weighing the benefits and potential drawbacks of interventions regarding OTT services. The Authority engages consumers, service providers, and experts, to gather diverse perspectives, which is crucial for informing policy decisions, as an alternative to conducting a formal study.
59.	4.2	OTTs and Customer Impact	CCTL	The Authority comments that it may become necessary to implement laws to ensure that OTT service providers safeguard consumer concerns such as consumer privacy, security, and safety.  In the digital economy given the proliferation of services provided by OTT service providers there is	Legislation and regulations regarding consumer rights matters such as data protection and consumer privacy should apply equally OTT service providers.	The Authority agrees on the importance of telecommunications and broadcasting service providers adhering to consumer privacy and data protection laws, regardless of the platforms or technologies used. Where OTT services are classified as telecommunications or broadcasting services, in accordance with the Act, the Authority advises that its regulatory framework governing consumer

<sup>49</sup> <https://www.multichannel.com/news/u-s-ott-revenue-will-spike-26-to-28-8b-in-2018-report-says>

<sup>50</sup> <https://about.ALAI.com/actions/protecting-privacy-and-security/>

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				<p>a heightened need to ensure the protection and consumer data and privacy rights.</p> <p>TSPs are required to comply with economy wide data protection laws as well as industry specific consumer rights regulatory requirements,</p> <p>In addressing consumer privacy and data protection in Section 5.4.2 of this consultation The Authority writes,</p> <p>“Governments across the world have increasingly taken a human rights-based approach to consumer protection and data privacy. Privacy is a fundamental human right which underpins key values such as freedom of association and freedom of expression. This justification for regulatory intervention is certainly no less valid for Trinidad and Tobago, especially in light of the increasing monetisation of personal data by OTT service providers in other jurisdictions”.</p> <p>It is our considered view that any regulatory approach that treats the data protection and consumer protection as conditional on the types of service providers is inappropriate.</p>		<p>protection applies. The Authority also notes that there are broader laws that apply to both telecommunications and broadcasting providers, as well as OTT providers more generally. The Authority continues to advocate for the adherence to these laws to ensure that consumer rights are consistently upheld.</p>

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60.	4.2	OTTs and Customer Impact	Digicel	Digicel notes the Authority's analysis and is in agreement. It is pertinent to note that due to the regulatory imbalance (non-regulation of OTT providers) prevalent in the market. There is a pressing need to ensure that the rights and protections due to consumers are upheld by OTT providers. This also highlights the validation for OTT providers to come under the same umbrella of regulations as other domestic operators offering similar and/or substitutable services.		The Authority appreciates Digicel's perspective on the regulatory landscape concerning OTT providers. Ensuring consumer protections remain robust across all service providers is a key objective of the Framework.
61.	4.2	OTTs and Consumer Impact	Meta	Meta is committed to giving users control over their privacy and protecting their information, for example by offering end-to-end encryption <sup>51</sup> .	As mentioned above, before proceeding with any regulation, TATT should also undertake studies to examine the impact of possible regulation of OTTs on consumer welfare.	The Framework adopts a balanced approach, weighing the benefits and potential drawbacks of interventions regarding OTT services. The Authority engages consumers, service providers, and experts, to gather diverse perspectives, which is crucial for informing policy decisions, as an alternative to conducting a formal study.
62.	4.3	Collaborative Opportunities between OTTs and TSPs	ALAI	TATT has noted that the ITU has advocated that "Member States should encourage mutual cooperation as far as practical between OTTs and network operators, with a view to fostering	ALAI has no objection to this recommendation by the ITU. However, this statement should not be used as a veiled way in which to	The Authority acknowledges ALAI's position on ITU's recommendation regarding cooperation between OTTs and network operators to promote innovative and

<sup>51</sup> <https://about.meta.com/actions/protecting-privacy-and-security/>.

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				innovative, sustainable, viable business models and their positive roles in fostering socioeconomic benefits.”	introduce network fees (under the so-called ‘fair share’ debate referenced above).	sustainable business models for socioeconomic benefit.  While the Authority notes ALAI’s concern that the ITU recommendation should not be used as a pretext for introducing network fees in the context of the “fair share” debate, it clarifies that its interpretation of the recommendation does not preclude discussions on the topic.
63.	4.3	Collaborative Opportunities Between OTTs and TSPs	CCTL	<p>We concur with The Authority’s assessment that while there are opportunities for collaboration between TSPs and OTTs, there is asymmetry in the bargaining power between the parties. This is particularly acute in the relationship between TSPs in small Caribbean states and large OTT players that account for a <sup>52</sup>significant portion of the Internet traffic carried on local networks.</p> <p>This underscores the need for collaboration among key regional stakeholders, including policy makers, regulators and TSPs, to seek harmonised solutions that brings more balance to the bargaining power between the parties.</p>		The Authority notes CCTL’s response and agrees on the importance of collaboration among regional stakeholders, including policymakers, regulators, OTT providers and TSPs, to develop harmonised solutions for the industry.

<sup>52</sup> Impact of OTTs on Caribbean networks and implications of their fair share contribution to countries’ development, Axon Partners Group, September 2022, Pg 8.

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64.	4.3	Collaborative Opportunities between OTTs and TSPs	Digicel	<p>Digicel notes the Authority's assertion that there exists opportunities for collaboration between OTT providers and operators. The discourse in Section 4.3 would be enhanced if actual examples of said collaboration were articulated and areas in which said collaboration took place highlighted.</p> <p>Despite the aforesaid avenues for collaboration between OTT providers and operators, the Authority is reminded that it bears sole responsibility for the promotion of the orderly development of the telecommunications sector as well as ensuring open and fair competition in conformance with Sections 3(a) and 3(b) of the Act.</p> <p>Hence, the Authority is duty bound to expedite regulatory action to address regulatory/market imbalances in the internet market thus levelling the playing field for both OTT providers and operators in Trinidad and Tobago.</p>		<p>To provide a clearer understanding of potential collaborative efforts and their benefits vis-à-vis OTTs and operators, the Authority has amended section 3.3 of the Framework to include examples.</p> <p>The Authority acknowledges the importance of its role in promoting the orderly development of the telecommunications sector and ensuring open and fair competition, as mandated by sections 3(a) and 3(b) of the Act. The Framework serves as a key step in incorporating OTTs in the process of achieving a fair and balanced playing field, through its recommendations on OTT authorisation, consumer protection and collaborative initiatives.</p>
65.	4.3	Collaborative Opportunities between OTTs and TSPs	Meta	TATT has noted that the ITU has advocated that "Member States should encourage mutual cooperation as far as practical between OTTs and network operators, with a view to fostering innovative, sustainable, viable business models and	Meta has no objection to this recommendation by the ITU. However, this statement should not be used as a veiled way in which to introduce network fees (under the	The Authority acknowledges Meta's position on ITU's recommendation regarding cooperation between OTTs and network operators to promote innovative and sustainable business models for socioeconomic benefit.

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				their positive roles in fostering socioeconomic benefits.”	so-called ‘fair share’ debate referenced above).	While the Authority notes Meta’s concern that the recommendation should not be used as a pretext for introducing network fees in the context of the “fair share” debate, it clarifies that its interpretation of the recommendation does not preclude discussions on the topic.
66.	4.4	OTTs and Industry Investment	ALAI	<p>Regarding TATT’s observation that an increase in data traffic has resulted in “growing pressure [for TSPs] to increase investment in their network infrastructure,” we note again Analysys Mason’s finding that while network traffic increased by over 160% from 2018 to 2021, network-related ISP costs increased by only 3% in total in that same period.<sup>53</sup></p> <p>Further, telcos tell investors that they profit from growth in demand for data. As TATT observes, adoption of OTTs “is closely associated with the growth of the internet,” as seen in the generally “continuous growth in subscriptions in the local Internet market.” More internet access subscriptions means more revenue for TSPs. Indeed, the actual risk</p>	<p>Requiring OTTs to contribute to network infrastructure (i.e. “network fees”) is unnecessary and would harm consumers and connectivity. To the extent any regulation on OTT network investment is considered necessary, before proceeding, TATT should carefully examine whether operators actually need to or have in fact increased investment in their network infrastructure above historical levels, and whether there is in fact any market failure that necessitates network fees. TATT should continue to monitor developments in this area before</p>	<p>The Authority notes ALAI’s concerns about the potential impact of regulation on consumers and connectivity. The Authority’s aim is to increase consumer connectivity through sustainable broadband development.</p> <p>In line with section 7.1 of the Framework, the Authority will continue to monitor global trends in OTT investment. The Authority will consider ALAI’s recommendation to examine historical data and trends on operators’ investment in networks. All information gathered will be used to make informed decisions that support sustainable network development, in collaboration with service</p>

<sup>53</sup> <https://www.incompas.org/Files/2022%20Tech%20Investment/FINAL%20Analysys%20Mason%20Report%20-%20Impact%20of%20tech%20companies%27%20network%20investment%20on%20the%20economics%20of%20broadband%20ISPs.pdf>.



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				<p>for TSPs may be the indications that traffic growth is in fact slowing.<sup>54</sup></p> <p>TATT has identified on-going developments concerning investment by OTTs in local content.</p>	making recommendations that may be later, in retrospect. viewed as premature.	providers, without adversely affecting consumers or the market.
67.	4.4	OTTs and Industry Investment	CCTL	<p>The document mentions studies done on the size of the global OTT media services market, estimated to reach US\$1,039.03 billion by 2027, and the resulting increase in data traffic. There is also mention of the growing call globally, for OTT providers to contribute to infrastructure investment in a more structured way. Reference is also made to legislative changes in Australia and Canada that would require OTTs to invest in local content.</p> <p>We are encouraged by the statement in the DORs that the Authority intends to look at strategies to capture OTT contribution to the local telecommunications infrastructure.</p>	CCTL recommends the adoption of a direct compensation model, where OTT providers contribute to the development and maintenance of the network by making payments to network operators based on commercial agreements.	The Authority notes CCTL's recommendation regarding the adoption of a direct compensation model. The Authority shall consider this suggestion as it continues to explore strategies on contributions to broadband infrastructure development, as outlined in section 7 of the Framework.
68.	4.4	OTTs and Industry Investment	Digicel	Digicel notes the Authority's acknowledgement of the network infrastructure demands that need to be met as a result of "...the <i>consequential increase in</i>	Digicel recommends that the Authority conduct some scenario analysis on supposed impacts on	The Authority notes Digicel's recommendations for scenario analyses of domestic network investment to be conducted.

<sup>54</sup> [https://www.analysismason.com/contentassets/1d7e13ed1dba4cc6917daa023f27834b/analysys\\_mason\\_fibre\\_in\\_europe\\_may2023.pdf](https://www.analysismason.com/contentassets/1d7e13ed1dba4cc6917daa023f27834b/analysys_mason_fibre_in_europe_may2023.pdf).

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				<i>data traffic on the networks</i> ". It was also observed that the Authority's analysis did not provide any domestic insight as to the sustainability of current investment models in relation to domestic telecommunications networks.	domestic network investment if current investment models and/or condition continue into the future.	The Authority shall consider this suggestion as it continues to explore strategies for contributions to broadband infrastructure development, including through collaboration with service providers.
<b>69.</b>	4.4	OTTs and Industry Investment	Meta	<p>Regarding TATT's observation that an increase in data traffic has resulted in "growing pressure [for TSPs] to increase investment in their network infrastructure," we note again Analysys Mason's finding that while network traffic increased by over 160% from 2018 to 2021, network-related ISP costs increased by only 3% in total in that same period.<sup>55</sup></p> <p>Further, telcos tell investors that they profit from growth in demand for data. As TATT observes, adoption of OTTs "is closely associated with the growth of the internet," as seen in the generally "continuous growth in subscriptions in the local Internet market." More internet access subscriptions means more revenue for TSPs. Indeed, the actual risk for TSPs may be the indications that traffic growth is</p>	<p>Requiring OTTs to contribute to network infrastructure (i.e. "network fees") is unnecessary and would harm consumers and connectivity. To the extent any regulation on OTT network investment is considered necessary, before proceeding, TATT should carefully examine whether operators actually need to or have in fact increased investment in their network infrastructure above historical levels, and whether here is in fact any market failure that necessitates network fees.</p> <p>TATT should continue to monitor developments in this area before</p>	<p>The Authority notes Meta's concerns about the potential impact of regulation on consumers and connectivity. The Authority's aim is to increase consumer connectivity through sustainable broadband development.</p> <p>In line with section 7.1 of the Framework, the Authority will continue to monitor global trends in OTT investment. The Authority will consider Meta's recommendation to examine historical data and trends on operators' investment in networks. All information gathered will be used to make informed decisions that support sustainable network development, in collaboration with service providers, without adversely affecting consumers or the market.</p>

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<https://www.incompas.org/Files/2022%20Tech%20Investment/FINAL%20Analysys%20Mason%20Report%20%20Impact%20of%20tech%20companies%27%20network%20investment%20on%20the%20economics%20of%20broadband%20ISPs.pdf>

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				in fact slowing. <sup>56</sup> TATT has identified on-going developments concerning investment by OTTs in local content.	making recommendations that may be later, in retrospect. viewed as premature.	
70.	5	Recommendations on OTT Regulation: Strategy 1 – A Legislative Approach	ACT	OTT service providers already bear costs to ensure content delivery networks can provide their application or service to stay competitive and a part of the virtuous cycle of innovation that includes OTT application and service providers, telecommunications network operators, and consumers. OTT services reduce consumer costs by stimulating telecommunications network growth which in turn increases demand for uptake of data and the need for more bandwidth. This drives further revenue and investment in infrastructure by the TSP. Customer service issues and quality assurance concerns for OTTs are best addressed through free market competition; in the hyper-competitive OTT application and service provider world, customer service and/or quality assurance are key market differentiators. Failure to innovate in either area will quickly drive customers to a competing OTT application or service provider because of low switching costs. These are also assured through	<p>The App Association does not believe that a regulatory or licensing imbalance is affecting infusion of investments in the telecom networks required from time to time for network capacity expansions and technology upgradations. As we have discussed above, OTTs do not maintain or provide network infrastructure services and are generally different from TSP services.</p> <p>We strongly urge TATT to acknowledge that OTT service providers already go to great lengths to comply with general consumer protection laws in the jurisdictions in which they do business. OTTs also already pay relevant local, regional/provincial, and national</p>	<p>The Authority notes ACT's statements on OTT providers' investment in content delivery networks. In line with section 7.1 of the Framework, the Authority will continue to monitor global trends in OTT investment, including the role of these types of investment in enhancing local Internet ecosystems and supporting the growth of telecommunications infrastructure.</p> <p>The Authority acknowledges that there is a symbiotic relationship between OTT providers and network operators. As such, the Authority is examining models on how OTT contributions can support the continuous growth and maintenance of high-quality networks, which ultimately benefits consumers by providing more reliable and extensive services.</p>

<sup>56</sup> [https://www.analysismason.com/contentassets/1d7e13ed1dba4cc6917daa023f27834b/analysys\\_mason\\_fibre\\_in\\_europe\\_may2023.pdf](https://www.analysismason.com/contentassets/1d7e13ed1dba4cc6917daa023f27834b/analysys_mason_fibre_in_europe_may2023.pdf).

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				<p>compliance with general consumer protection laws in place around the world today.</p> <p>While we do not believe that there is a regulatory or licensing imbalance affecting infusion of investments in the telecom networks, we underscore that requiring OTT service providers, who are already significantly contributing to global investment in telecommunications infrastructure (data centers, etc.), to new regulations (e.g., to attain special licenses and/or to contribute to universal service funds used for network infrastructure buildouts) would cause damage to the entire digital ecosystem in a variety of ways:</p> <ul style="list-style-type: none"> <li>• Such a requirement would effectively, and inappropriately, combine a TSP with an OTT service provider. Telecommunications network operators and OTT application and service providers are fundamentally different; OTT</li> </ul>	<p>taxes as applicable. Further, applying TSP regulatory requirements to OTTs would have the effect of “locking in” older technology and stagnating innovation, harming the quality and reliability of consumer service.</p>	<p>With respect to customer service and quality assurance through free market competition, the Authority notes that, while competition drives innovation and quality in services, relying solely on free market dynamics may not adequately protect consumers. Similarly, while OTTs may comply with broader laws, those qualifying as telecommunications and broadcasting services fall within the remit of the Act and the Authority. Regulatory oversight may be necessary to ensure consumers are adequately protected in these sectors, where the impact on public interest and consumer rights is significant.</p> <p>With respect to ACT's comments on the impact of introducing new regulations and investment requirements, the Authority presents the following responses:</p> <ol style="list-style-type: none"> <li>1. The Authority acknowledges the distinction between TSPs and OTT service providers and proposes regulatory measures that take into account the impact of these differences. This approach aims to ensure that regulatory frameworks appropriately</li> </ol>

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				<p>application and service providers do not primarily engage in the business of providing broadband connectivity to an end-user (instead, they offer applications or services over that broadband pipe).</p> <ul style="list-style-type: none"> <li>• The imposition of further OTT-specific fees, levies, or taxes will have a negative effect on the provision of OTT services as such fees, levies, and taxes will be diverted from OTT application and service providers' resources which are available to invest in both the innovation in services themselves, the means of delivery in which they already invest, and hiring new talent. Particularly, for small businesses, these fees, levies, and taxes can represent insurmountable barriers to market entry. In order for these OTT application and service providers to grow and create jobs, they must look to expand to new customers across the global digital economy.</li> <li>• Creating such a requirement would present barriers to the free flow of data and would create significant barriers to the international digital economy by presenting different legal liability not present in other jurisdictions, degrading the ability to more quickly reach a global scale. Further, such a requirement would</li> </ul>		<p>address the unique characteristics and contributions of both TSPs and OTTs, while fostering fair competition and consumer protection in the digital ecosystem.</p> <p>2. The Authority notes ACT's concerns on the impact of OTT regulatory intervention, such as fees and taxes, on the provision and growth of OTT services. The Authority notes these challenges and is committed to creating a regulatory environment that supports innovation, investment, and fair competition, and is in accordance with WTO requirements pertaining to telecommunications and broadcasting services.</p>

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				run afoul of the WTO commitment not to levy tariffs on e-commerce.		
71.	5	Recommendations on OTT Regulation: Strategy 1 – A Legislative Approach	Digicel	<p>Digicel notes the Authority's response to our recommendation and is compelled to reiterate its prior position. It should be noted that the Authority has failed to dispel our position that the characteristics of OTT voice and messaging services fall squarely within the definitions of telecommunications and public telecommunications service. That is, OTT voice and messaging services constitute a <i>"telecommunications service ... offered to members of the general public, whereby one user can communicate with any other user in real time, regardless of the technology used to provide such service"</i>.</p> <p>The consequence of this is that providers of such</p>	<p>Digicel recommends that the Authority make a determination on whether OTT voice and messaging services are covered by the definition of a public telecommunication service and Statement 5 in the Framework document should be amended to clearly state that:</p> <p>a. OTT voice and messaging services should be declared to be public telecommunications services under the Act; and</p> <p>b. OTT service providers that provide voice and messaging services to consumers in Trinidad &amp; Tobago should be required to hold a concession granted by the Minister in accordance with the requirements of section 21 of the Act.</p>	<p>The Authority acknowledges that some OTT services can be classified as telecommunications and broadcasting services. The Authority recognises that the wide array of online services offered today, with their varying features and functionalities, adds a layer of complexity that necessitates a careful and precise assessment, to determine which OTT services meet the criteria outlined in the Act. While the Framework presents the Authority's general approach to classifying OTT services, a detailed evaluation of individual OTT services, or classes of services, is best handled separately.</p> <p>For added clarity, the Framework has been amended to include a more detailed specification of the assessment process and the associated timelines.</p>

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				<p>services fall squarely within the ambit of section 21 of the Act which provides that <i>“No person shall ... provide a public telecommunications service ... without a concession granted by the Minister.”</i></p> <p>Rather, the Authority’s response focuses on its interim approach to the authorisation of OTTs, which entails an assessment of <i>“...whether an OTT service, or class of OTT services (that is, OTT services with similar service features and business models) can be classified as a telecommunications or broadcasting service”</i>.</p> <p>The Authority fails to address the substantive issue in its response which is whether OTT voice and</p>		

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				<p>messaging services are presently covered by the definitions of telecommunications services as articulated within the Act.</p> <p>The Authority in its response then goes ahead to indicate that it would do the very same thing highlighted by Digicel presently in the future absent indicative timelines as to commencement and end dates. As evinced by the following:</p> <p><i>“This assessment will be made based on the criteria contained in the Act’s definitions of the terms telecommunications services and broadcasting services, and on the applicability of the relevant provisions in the Act.”</i></p>		



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72.	5	Recommendation on OTT Regulation	TSTT	<p>TSTT is perplexed that after seven (7) years, TATT is still not able to make a definitive statement on whether services that facilitate the bypass of the telecommunications services are legitimate or not. TSTT recalls the timely intervention of TATT with respect to the provision of International Calling Centers (“ICCs”) which used the same underlying technology as the OTT voice service providers. The only difference was that ICCs were local entrepreneurs who paid taxes, whereas no OTT service provider is a registered business in Trinidad and Tobago. TSTT is further troubled that there is no timeline provided within which TATT’s proposed assessments are to be completed. This provides no regulatory certainty to concessionaires as our businesses continue to be eroded by the actions of unregulated parties which creates a fundamental imbalance in the marketplace.</p> <p>Similarly, TATT’s assertions that any other ICT regulatory framework would apply to these OTT operators that are not registered as legitimate businesses in Trinidad and Tobago is quizzical. The obligations of the Data Protection Act would not apply to extra-jurisdictional firms, neither would the obligations of the Interception of Communications Act and other statutory documents. Further, there</p>	<p>TATT to identify timelines for the completion of its assessments to determine which, if any, OTT service providers are to fall under the legislative remit of Sections 21 through 24 of the Act. TATT should ensure that the OTT voice, video, and messaging service providers are registered as businesses in Trinidad and Tobago.</p>	<p>The Authority notes TSTT’s concerns regarding the regularisation of OTT services, their impact on the market, and the historical context of international calling centres (ICCs). The Authority reiterates that efforts are being made to authorise services that fall under its legislative framework. The Authority’s strategy for the authorisation of OTT services is outlined in section 5.2 of the Framework. For added clarity, the Authority has amended section 5.2 to include details on the assessment process, including more definitive timelines.</p> <p>Regarding business registration, the Authority notes that the Companies Act of Trinidad and Tobago governs the registration, regulation, and dissolution of companies in Trinidad and Tobago. The Authority will continue to collaborate with the relevant authorities, as necessary, to ensure effective oversight and compliance.</p>

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				<p>would be no oversight by the Consumer Affairs Division. It is pellucid, that the only way forward to protect consumers and the public within the general rubric of laws of Trinidad and Tobago would be to require these providers to first register as businesses in Trinidad and Tobago, and second, for telecommunications and broadcasting substituting services to be subject to the same obligations in a Concession granted under Sections 21 through 24 of the Act.</p>		
73.	5.1 1 <sup>st</sup> round	Global Trends in Including OTTs in Legislative Frameworks	CCTL	<p>The consultation document provides an overview of legislative changes in various jurisdictions relating to OTT communication and media services.</p> <p>Other notable developments include the ruling by the 1court in South Korea, which allows internet service providers (ISPs) to negotiate and charge Netflix for bandwidth usage lees for streaming services. The government of Australia in 2021 implemented the 2Australian News Media and Digital Platforms Mandatory Bargaining Code (MNBC) to allow eligible news organizations to bargain with global social media platforms such as Google and Facebook, for payment for the inclusion of their news content posted on the platforms.</p>	CCTL recommends that collaborative regulatory approaches are used to find solutions to address the regulatory imbalance between TSPs and OTTs.	The Authority notes CCTL's recommendation for a collaborative regulatory approach to address OTTs. In keeping with international best practice, the Authority shall continue its efforts to undertake a collaborative approach with stakeholders to address this issue going forward.

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				<p>In the United States of America, the Federal Communications Commission (FCC), is reportedly looking to expand the universal service fund contribution base to include edge providers such as Netflix and Amazon, that benefit from broadband connectivity. The aim is to help to cover the cost of network investments in high cost rural areas.</p> <p>The above examples are some of the ways in which regulators around the world are seeking to address the regulatory imbalance and market dominance of global platform providers/ OTTs, and to provide a framework for them to contribute to the roll out and maintenance of the network infrastructure that their services ride, and from which they earn significant revenues.</p> <p>CCTL understands that the policy development and legislative process can take a long time. Given the need for urgent actions, collaborative approaches are needed to find solutions.</p>		
74.	5.1	Short-Term and Long-Term Strategies for OTT	ALAI	ALAI agrees that TATT needs to keep abreast of market changes and technological advancements. However, TATT should not 'regulate' for 'regulation's sake' but should have a clear	TATT should carefully consider whether it is in the consumers' best interests to pursue a legislative approach in what it perceives to be shortcomings under the current	To ensure a comprehensive impact assessment, the Authority has engaged in a proactive consultation process that provides opportunities for stakeholders, including consumers, to participate and contribute their

Item	Section	Section Title	Stakeholder	Comments	Recommendations	TATT's Decisions
		Regulation in Trinidad and Tobago		requirement of a proven failure in the market before any intervention by TATT – on an ‘ex post’ basis.	<p>Telecommunications Act to deal with (regulate) OTTs. Before proceeding with any regulation, TATT should undertake relevant studies and market impact assessments to first examine the possible effect of regulation of OTTs on consumer welfare, innovation and investments before contemplating any action concerning the regulation of OTTs. Ideally, the study should be conducted by a renowned academic/economist with international experience and no affiliation to any party.</p> <p>To the extent that new legislation or regulation for OTT communication services is considered necessary, we observe that telecommunications laws and regulations were designed for functionally different services and take into consideration TSPs’ control of network infrastructure (including access networks) and the potentially limited ability of consumers to switch between TSPs.</p>	<p>perspectives. This process includes hosting open forums on the issue and sensitizing stakeholder about the consultative Framework. This approach emphasises the need to be pre-emptive in managing the potential impacts of OTT regulation on consumer welfare, innovation, and investments.</p> <p>Furthermore, amendments to the regulatory frameworks, where applicable, for example, changes in the Authorisation Framework to include OTTs, shall include analyses of the effects on consumer welfare, innovation and investments. Proposed regulatory measures shall consider the distinctions between OTTs and traditional services and be customised accordingly.</p> <p>The Authority agrees with ALAI on the importance of collaborating with Caribbean counterparts. The Authority is currently participating in regional discussions and will continue to collaborate with regional stakeholders to address common challenges and share best practices. As such, the Authority’s work will continue to focus on its specific regulatory goals.</p>

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					<p>Likewise, for video, video regulations take into consideration broadcasters' use of spectrum - a limited resource - and the fact that a limited number of broadcast channels are available to consumers. By contrast, internet services typically do not control network infrastructure and consumers are able to easily switch between services or make use of multiple services. These differences should be considered in determining what regulation, if any, is appropriate for internet services. ALAI agrees that TATT should seek the views of its Caribbean counterparts before engaging in any action that may later prove to be unproductive and that could adversely impact consumer welfare. A solo approach by Trinidad and Tobago, will only disrupt the type of internet services its citizens receive and risks to place Trinidad and Tobago at a competitive disadvantage compared to its Caribbean counterparts.</p>	<p>Section 6 of the Framework underscores the importance of a regional harmonised approach to OTTs. The Authority will continue to collaborate with regional and international bodies to develop a unified and coordinated strategy for OTTs. This collaborative effort aims to ensure that regulatory decisions are informed by regional perspectives.</p>

Item	Section	Section Title	Stakeholder	Comments	Recommendations	TATT's Decisions
75.	5.1	Short Term and Long-Term Strategies for OTT Regulation in Trinidad and Tobago	CCTL	<p>The short- and long-term strategies for OTT regulations in Trinidad and Tobago are captured in the following statements.</p> <p><b>Statement 4.</b> <i>The Authority shall adopt both short-term- and long-term strategies for OTT regulation.</i></p> <p><b>Statement 5</b> <i>In the short-term, the Authority recommends an examination of specific OTT services or classes of OTT services against the existing legislative framework, to determine whether the OTT services in question legally fall within the scope of the Act.</i></p> <p><b>Statement 6</b> <i>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></p> <p><b>Statement 7</b></p>	<p>CCTL reiterates its recommendation in the previous round of consultation that some form of contribution approach where OTTs support network investments is considered. This should be done through the collaborative efforts of the various stakeholders.</p>	<p>The Authority acknowledges CCTL's recommendation regarding the implementation of a contribution approach where OTT providers support network investments. In section 7 of the Framework, the Authority outlines the need for regulatory strategies to attract alternative sources of investment, with a particular focus on OTT providers due to their significant broadband utilisation and impact on audiovisual media markets.</p> <p>Section 7 further elaborates on the Authority's intention to monitor global trends in OTT investment, with the aim of developing and implementing a strategy to capture OTT contributions to local telecommunications infrastructure.</p>

Item	Section	Section Title	Stakeholder	Comments	Recommendations	TATT's Decisions
				<p><i>The Authority recognising the importance of effective engagement, shall offer support where applicable in fostering a collaborative framework between OTT providers and TSPs.</i></p> <p><b>Statement 8</b></p> <p><i>The Authority recognises that there is a need to broaden our legislative frameworks to explicitly provide for the regulation of OTT services.</i></p> <p><b>Statement 9</b></p> <p><i>A short-term solution would be for the Authority to engage in regional initiatives that foster collaboration amongst stakeholders.</i></p> <p><i>The Authority recognises there may be pragmatic issues in the authorisation and regulation of OTTs. Long-term solutions, such as amendments to the legislative frameworks and regional collaborative initiatives, may be required.</i></p>		

Item	Section	Section Title	Stakeholder	Comments	Recommendations	TATT's Decisions
				From the range of options highlighted above, CCTL considers that some form of contribution approach where OTTs support network investments is the most pragmatic at this point.		
76.	5.1	Short and Long Term Strategies for OTT Regulation in Trinidad and Tobago	Digicel	<p>Digicel notes the Authority's response and its current engagement with regional stakeholders to address OTTs in the Caribbean. However, premised on the response provided by the Authority to Digicel's recommendation, we still hold the position that the short-term and long-term strategies proposed by the Authority do not go far enough in dealing with the immediate issues that are faced by existing concessionaires and consumers in Trinidad &amp; Tobago.</p> <p>Digicel still considers that, as part of this Framework, the Authority should make a declaration that OTT voice and messaging services should be declared to be public telecommunications services under the Act and that OTT service providers that provide voice and messaging services to consumers in Trinidad &amp; Tobago should be required to hold a concession granted by the Minister in accordance with the requirements of section 21 of the Act.</p>	While recognizing that pragmatic compliance and other challenges may indicate that legislative changes will be required, it is our view that such challenges should not prevent the Authority from taking action under the existing legislation. The Authority's continued failure to uphold the existing law should be remedied.	The Authority agrees that, under the current legislative framework, it has the power to classify telecommunications and broadcasting services, including OTTs. The Authority's current action plan for classifying these services is detailed in section 5 of the Framework. The Authority has amended section 5.2, including the previous policy statement 6, to clearly outline its process for classifying relevant OTTs as telecommunications or broadcasting services. This amendment includes the commencement of an assessment process, associated timeframes, and a plan to amend relevant areas of the Authority's regulatory framework to incorporate OTTs, such as its Authorisation Framework.



Item	Section	Section Title	Stakeholder	Comments	Recommendations	TATT's Decisions
				<p>Following such a declaration, we submit that the Authority should, in the short-term undertake an examination of how other OTT services may be regulated under the existing legislative framework.</p> <p>Digicel would also like to draw the Authority's attention to Statement 6 of the Framework document (See below):</p> <p><i>“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></p> <p>The statement makes mention of regulatory work, but the term is vague and provides no specificity as to the type, form and indicative timelines of regulatory work to be undertaken.</p>		
77.	5	Short and Long Term Strategies for OTT Regulation in Trinidad and Tobago	Meta	Meta agrees that TATT needs to keep abreast of market changes and technological advancements. However, TATT should not 'regulate' for 'regulation's sake' but should have a clear requirement of a proven failure in the market before any intervention by TATT – on an 'ex post' basis.	TATT should carefully consider whether it is in the consumers' best interests to pursue a legislative approach in what it perceives to be shortcomings under the current Telecommunications Act to deal with (regulate) OTTs. Before proceeding with any regulation,	To ensure a comprehensive impact assessment, the Authority has engaged in a proactive consultation process that provides opportunities for stakeholders, including consumers, to participate and contribute their perspectives. This includes hosting open forums on the issue and utilising this Framework. This approach emphasises the

Item	Section	Section Title	Stakeholder	Comments	Recommendations	TATT's Decisions
					<p>TATT should undertake relevant studies and market impact assessments to first examine the possible effect of regulation of OTTs on consumer welfare, innovation and investments before contemplating any action concerning the regulation of OTTs. Ideally, the study should be conducted by a renowned academic/economist with international experience and no affiliation to any party.</p> <p>To the extent that new legislation or regulation for OTT communication services is considered necessary, we observe that telecommunications laws and regulations were designed for functionally different services and take into consideration TSPs' control of network infrastructure (including access networks) and the potentially limited ability of consumers to switch between TSPs.</p>	<p>need to be pre-emptive in understanding the potential impacts of OTT regulation on consumer welfare, innovation, and investments.</p> <p>Furthermore, amendments to the regulatory frameworks, where applicable, for example, changes in the Authorisation Framework to include OTTs, shall include analyses on the effects on consumer welfare, innovation and investments. Proposed regulatory measures shall consider the distinctions between OTTs and traditional services and be customised accordingly.</p> <p>The Authority agrees with Meta on the importance of collaborating with Caribbean counterparts. The Authority is currently participating in regional discussion and will continue to collaborate with regional stakeholders to address common challenges and share best practices. Notwithstanding this, the Authority's work will continue to focus on its specific regulatory goals.</p> <p>Section 6 of the Framework underscores the importance of a regional harmonised approach</p>

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					<p>Likewise, for video, video regulations take into consideration broadcasters' use of spectrum - a limited resource - and the fact that a limited number of broadcast channels are available to consumers. By contrast, internet services typically do not control network infrastructure and consumers are able to easily switch between services or make use of multiple services. These differences should be considered in determining what regulation, if any, is appropriate for internet services.</p> <p>Meta agrees that TATT should seek the views of its Caribbean counterparts before engaging in any action that may later prove to be unproductive and that could adversely impact consumer welfare. A solo approach by Trinidad and Tobago, will only disrupt the type of internet services its citizens receive and risks to place Trinidad and Tobago at a competitive</p>	<p>to OTTs. The Authority will continue to collaborate with regional and international bodies to develop a unified and coordinated strategy for OTT regulation, while also advancing efforts tailored to the Trinidad and Tobago context.</p>

Item	Section	Section Title	Stakeholder	Comments	Recommendations	TATT's Decisions
					disadvantage compared to its Caribbean counterparts.	
78.	5.2 (1 <sup>st</sup> round)	Short Term and Long-Term Strategies for OTT Regulation in Trinidad and Tobago	CCTL	<p>The Authority provides the following statements with respect to its short- and long-term strategies for OTT regulations in Trinidad and Tobago.</p> <p>Statement 4. The Authority shall adopt both short-term- and long-term strategies for OTT regulation.</p> <p>Statement 5  In the short-term, the Authority recommends an examination of specific OTT services or classes of OTT services against the existing legislative framework, to determine whether the OTT services in question legally within the scope of the Act.</p> <p>Statement 6  The Authority recognises there may be pragmatic issues in the authorisation and regulation of OITs. Long-term solutions, such as amendments to the legislative frameworks and regional collaborative initiatives, may be required.</p>	CCTL recommends that some form of contribution approach where OTTs support network investments is considered. This should be done through the collaborative efforts of the various stakeholders.	The Authority notes CCTL's recommendation. The Authority is currently collaborating with stakeholders to address the issue of OTTs. Some of the areas under consideration are the contribution from OTT providers towards network investment; and the contribution to the USF. These areas are outlined in section 7 of the Framework.

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				<p>CCTL supports the view that the approach to addressing regulation of OTTs has to be pragmatic and collaborative, particularly in the short to medium term. Required changes to legislation and regulations will take time.</p> <p>The industry changes started in the early 2000s and exploded around 2010 timeframe. The Authority has undertaken several consultations on the issue since 2015.</p> <p>Failure to act would be in contravention of some of the main objects of the Telecommunications Act ("the Act"), namely - (i) ensuring conditions for fair competition, (ii) facilitating the orderly development of the telecommunications system, and (iii) promoting the telecommunications industry in Trinidad and Tobago by encouraging investment in telecommunications infrastructure.</p>		
79.	5.2	The Authority's Interim Approach to OTT Classification	ALAI	TATT should move cautiously on seeking to bring OTTs under the ambit of the Telecommunications Act and should continue to monitor developments both regionally and internationally in this regard. In particular, TATT should consider the views taken by		While the Authority acknowledges ALAI's call for caution, it notes that regulating OTTs that qualify as telecommunications or broadcasting services under the Act aligns with its objectives to ensure fair competition and protect consumer interests. The Authority agrees that monitoring regional and

Item	Section	Section Title	Stakeholder	Comments	Recommendations	TATT's Decisions
				<p>the regulators in the Bahamas<sup>57</sup>, ECTEL<sup>58</sup> concerning the regulation of OTTs, which looked at similar issues and have not proceeded/decided not to proceed. As discussed above, there are significant differences between broadcasting services and OTTs. Traditional audiovisual providers own and control the network infrastructure for content delivery, with high entry barriers that limit consumer choice and pluralism. On the contrary, on the Internet there is a virtually unlimited number of competing online video and content providers, and the low barriers to entry increase competition between OTTs (and different types, such as those based on a subscription model, those free for the user but funded with advertisements, or mixed models). Additionally, research in Latin America so far has shown that OTTs are complementary to traditional TV services. A study from the CRC in Colombia, for instance, concludes that there is “coexistence between pay TV services and the use of a paid audiovisual OTT platform”, meaning that “when analysing households where there is access to a paid audiovisual OTT platform, the proportion with pay TV grows</p>	<p>TATT should undertake relevant studies to first examine the possible effect of regulation of OTTs on consumer welfare before contemplating any action concerning the classification and regulation of OTTs.</p> <p>TATT should consider these differences in determining what regulation, if any, is necessary for OTT services.</p>	<p>international developments is prudent, as addressed in section 6 of the Framework. This section underscores the importance of a harmonised regional approach to OTTs. The Authority will continue to collaborate with regional and international bodies to develop a unified and coordinated strategy for OTT regulation, while also advancing efforts tailored to the Trinidad and Tobago context.</p> <p>The Authority recognises that differences between OTTs and TSPs may necessitate a distinct regulatory approach. It will consider these differences when amending any regulatory framework designed to accommodate online telecommunications and/or broadcasting services, such as the Authorisation Framework, where applicable.</p> <p>The Authority agrees that the potential impact of proposed policies on OTTs on consumers should be assessed. The consultation on this Framework forms part of this assessment,</p>

<sup>57</sup> <https://thenassaeguardian.com/urca-abandons-review-of-over-the-top-services/>

<sup>58</sup> <https://www.commsupdate.com/articles/2016/11/10/ectel-to-push-through-net-neutrality/>

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				<p>compared to the total population". The same happens for the relationship between subscription to premium channels and the use of an audiovisual OTT platform with or without payment<sup>59</sup>.</p> <p>As above, there are fundamental differences between telecommunications and OTT communications services and between traditional video and OTT video services.</p>		<p>providing opportunities for stakeholders, including consumers, to participate and contribute their perspectives. This approach aims to gather diverse viewpoints on the potential impacts of OTT regulation on consumer welfare.</p>
80.	5.2	Authority's Interim Approach to OTT Classification	Digicel	<p>Consistent with our views above, Digicel notes the Authority's response but is still dissatisfied with the Authority's position that it is still only "<i>in the process of assessing the relevance of existing legislation to OTT providers.</i>" While we accept that the interpretation and application of the provisions of the Act to different services may be complex, we do not consider there can be any reasonable doubt as to whether OTT voice and messaging services are public telecommunications services for the purposes of the Act.</p> <p>Nevertheless, rather than deferring its consideration of which OTT services may be a telecommunications</p>	<p>Digicel submits that the Authority's "Statements on OTT Classifications" should be amended to include actual classifications rather than being an indication of future intent.</p>	<p>The Authority acknowledges that certain OTT services, particularly those that are voice- and messaging-based, align with the characteristics of telecommunications services. However, the Authority also recognises that not all OTT services will qualify based on the definitions provided in the Act. Due to the variability among OTT services, a one-size-fits-all classification is not feasible.</p> <p>Therefore, the Authority proposes a case-by-case examination of OTT services. This approach involves assessing the primary features of each service or class of service</p>

<sup>59</sup> [https://www.postdata.gov.co/sites/default/files/general/OTT\\_Hogares\\_2022-Informe\\_metodologico\\_y\\_validacion\\_de\\_hipotesis.pdf](https://www.postdata.gov.co/sites/default/files/general/OTT_Hogares_2022-Informe_metodologico_y_validacion_de_hipotesis.pdf).

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				<p>or broadcasting service until some future time, we submit that declarations should be made (or at least proposed) now as a part of the proposed Framework.</p> <p>Further, reference is made to the Authority's response: <i>"The Authority refers to its responses in comments 19 and 27 of this DoRs which outline the approaches for OTT classifications."</i></p> <p>There is clearly no acknowledgement from the Authority on whether OTTs are captured under the current definitions of telecommunication and public telecommunication services as encapsulated within the Act.</p> <p>Rather, we are continuously directed towards the criteria and approaches absent definitive timelines that signal the Authority's resolve to address regulatory/market imbalances brought about by OTTs participating in the same markets as domestic operators.</p> <p>The Authority is reminded that this does not bode well for the promotion of regulatory certainty in the domestic telecommunication markets of Trinidad and Tobago.</p>		<p>against the criteria outlined in the Act, to determine their appropriate classification. The Authority is actively working on this determination process and expects it to be completed within a year of the publication of this Framework.</p> <p>Section 5.2 of the Framework has been amended to reflect this approach and to provide clearer guidance on the timeline for these determinations.</p>



Item	Section	Section Title	Stakeholder	Comments	Recommendations	TATT's Decisions
81.	5.2	The Authority's Interim Approach to OTT Classification	Meta	TATT should move cautiously on seeking to bring OTTs under the ambit of the Telecommunications Act and should continue to monitor developments both regionally and internationally in this regard. In particular, TATT should consider the views taken by the regulators in the Bahamas <sup>60</sup> , ECTEL <sup>61</sup> concerning the regulation of OTTs, which looked at similar issues and have not proceeded/decided not to proceed. As discussed above, there are significant differences between broadcasting services and OTTs. Traditional audiovisual providers own and control the network infrastructure for content delivery, with high entry barriers that limit consumer choice and pluralism. On the contrary, on the Internet there is a virtually unlimited number of competing online video and content providers, and the low barriers to entry increase competition between OTTs (and different types, such as those based on a subscription model, those free for the user but funded with advertisements, or mixed models). Additionally, research in Latin America so far has shown that OTTs are complementary to traditional TV services. A study from the CRC in Colombia, for instance,	TATT should undertake relevant studies to first examine the possible effect of regulation of OTTs on consumer welfare before contemplating any action concerning the classification and regulation of OTTs.	While the Authority understands Meta's call for caution, it notes that regulating OTTs that qualify as telecommunications or broadcasting services under the Act aligns with its objectives to ensure fair competition and protect consumer interests. The Authority agrees that monitoring regional and international developments is prudent, as addressed in section 6 of the Framework. This section underscores the importance of a harmonised regional approach to OTTs. The Authority will continue to collaborate with regional and international bodies to develop a unified and coordinated strategy for OTT regulation.  The Authority recognises that differences between OTTs and TSPs may necessitate a distinct regulatory approach. It will consider these differences when amending any regulatory framework designed to accommodate online telecommunications

<sup>60</sup> <https://thenassaeguardian.com/urca-abandons-review-of-over-the-top-services/>

<sup>61</sup> <https://www.commsupdate.com/articles/2016/11/10/ectel-to-push-through-net-neutrality/>

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				<p>concludes that there is “coexistence between pay TV services and the use of a paid audiovisual OTT platform”, meaning that “when analysing households where there is access to a paid audiovisual OTT platform, the proportion with pay TV grows compared to the total population”. The same happens for the relationship between subscription to premium channels and the use of an audiovisual OTT platform with or without payment<sup>62</sup>.</p> <p>As above, there are fundamental differences between telecommunications and OTT communications services and between traditional video and OTT video services.</p>		<p>and/or broadcasting services, such as the Authorisation Framework, where applicable.</p> <p>The Authority agrees that the potential impact of proposed policies on OTTs on consumers should be assessed. The consultation of this Framework forms part of this assessment, providing opportunities for stakeholders, including consumers, to participate and contribute their perspectives. This approach aims to gather diverse viewpoints on the potential impacts of OTT regulation on consumer welfare.</p>
82.	5.2.1	Criteria for Determining an OTT Communication Service as a Telecommunications Service	CCTL	<p>The proposed criteria are informed by the relevant definitions in the existing Act, and are stated as follows:</p> <p>(i) The service must use telecommunications</p> <p>(ii) The mode of telecommunications used must allow users to communicate with any other user in real time</p>	Developments in other markets should be used to inform the definition and treatment of OTT communication services.	The Authority has considered the experiences and legislative changes undertaken in other jurisdictions. Those case studies have been instrumental in shaping the regulatory framework on OTTs for Trinidad and Tobago. The Authority will continue to monitor global developments in this area to ensure the information that guides its policies is current and relevant.

<sup>62</sup> [https://www.postdata.gov.co/sites/default/files/general/OTT\\_Hogares\\_2022-Informe\\_metodologico\\_y\\_validacion\\_de\\_hipotesis.pdf](https://www.postdata.gov.co/sites/default/files/general/OTT_Hogares_2022-Informe_metodologico_y_validacion_de_hipotesis.pdf).

Item	Section	Section Title	Stakeholder	Comments	Recommendations	TATT's Decisions
				<p>(iii) The service must be offered to members of the general public</p> <p>In addition to the above criteria The Authority adds that it will include in its assessment, the extent to which Section 22 of the Act, and conditions applicable to all concessionaires in the existing framework (e.g., price regulation, anti-competitive conduct; QoS and consumer rights) can reasonably apply to these services.</p> <p>CCTL has no issues with criteria (i) to (iii). However, the assessment of the applicability or relevance of conditions applicable to all concessionaires is very concerning. Assessment of applicability of conditions of an outdated legal and regulatory framework does not pass the test of objectivity and transparency, which are bedrock regulatory principles.</p> <p>In the context of the current market landscape, the objective must be to correct the regulatory imbalances between TSPs and OTTs. In light of the significant market changes, the steps taken in other jurisdictions to address this imbalance includes making the necessary legislative changes to bring about regulatory balance.</p>		<p>The Authority maintains the importance of assessing the relevance of various elements of the existing regulatory framework to ensure the implementation of sensible and appropriate regulations. This assessment is essential for understanding how those conditions may reasonably apply to OTT services, ensuring they are subject to appropriate oversight, while fostering a fair and competitive market environment.</p> <p>The Authority is committed to maintaining objectivity and transparency in its regulatory approach. To this end, the Authority shall amend, where applicable, its authorisation framework to incorporate classes of authorisation for OTT services and adopt appropriate forms of regulation where applicable.</p>

Item	Section	Section Title	Stakeholder	Comments	Recommendations	TATT's Decisions
83.	5.2.2	Criteria for Determining an OTT Service as a Broadcasting Service	ALAI	As commented above. We note that TATT's proposed definition is quite broad and would seem to sweep in a wide variety of different services. To the extent any regulation is deemed necessary, it may then be difficult to tailor such regulation to the service in question, resulting in overbroad and poor fitting regulation that imposes inappropriate requirements on services TATT did not intend to regulate.	As recommended under 5.2 above.	<p>The Authority notes ALAI's concerns regarding the broad nature of the proposed definition. It is important to note that the criteria mentioned are derived from the existing legislative framework, which provides a broad scope, to encompass various types of services that qualify as telecommunications and broadcasting services.</p> <p>The Authority is in the process of evaluating how the listed criteria apply to specific OTT services or classes of OTT services and shall, where required, apply appropriate regulatory measures in accordance with the Act.</p>
84.	5.2.2	Criteria for Determining an OTT Service as a Broadcasting Service	CCTL	<p>CCTL has no concerns with using criteria established in the Act:</p> <ol style="list-style-type: none"> <li>a. The service must offer the transmission of programmes;</li> <li>b. The service must be delivered by the use of telecommunications; and</li> <li>c. The service must be offered for reception by the general public to define OTT broadcasting services.</li> </ol>	Developments in other markets should be used to inform the definition and treatment of OTT broadcasting services.	<p>The Authority will continue to monitor global developments in OTT broadcasting services and other emerging services to ensure its policies remain current and relevant.</p> <p>With respect to additional criteria, section 5.2.2 of the Framework, as amended, states that the Authority shall assess the applicability of various provisions of the legislative framework to determine the appropriate classification of OTTs. This involves evaluating how the rights and obligations</p>

Item	Section	Section Title	Stakeholder	Comments	Recommendations	TATT's Decisions
				<p>The additional criteria requiring the Authority to assess the applicability or relevance of conditions (i) to (iii) to all OTT service providers, we view as lacking in objectivity and transparency.</p> <p>The landscape has changed significantly since the Act came into effect. Leveling the playfield will require new strategies and approaches. Developments in other markets provide models that could be used in the local market.</p>		<p>specified in the Act, as well as those detailed in sections A and D of the Concession, can be reasonably applied to OTT services or specific classes of OTTs. This assessment will enable the Authority to apply appropriate regulations, based on the current regulatory framework, and adapt the regulatory framework, for example, its Authorisation Framework, to better accommodate the unique aspects of emerging technologies such as OTT services.</p>
85.	5.2.2	5.2.2 Criteria for Determining an OTT Service as a Broadcasting Service	Meta	<p>As commented above. We note that TATT's proposed definition is quite broad, and would seem to sweep in a wide variety of different services. To the extent any regulation is deemed necessary, it may then be difficult to tailor such regulation to the service in question, resulting in overbroad and poor fitting regulation that imposes inappropriate requirements on services TATT did not intend to regulate.</p>	As recommended under 5.2 above.	<p>The Authority notes Meta's concerns regarding the broad nature of the proposed definition. It is important to note that the criteria mentioned are derived from the existing legislative framework, which provides a broad scope, to encompass various types of services that qualify as telecommunications and broadcasting services.</p> <p>The Authority is in the process of evaluating how the listed criteria apply to specific OTT services or classes of OTT services and shall, where required, apply appropriate regulatory measures in accordance with the Act.</p>

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86.	5.2.3	Authorisation of OTT Communications and Media Services	ALAI	Comment as provided under 5.2 above.	As recommended under 5.2. above.	The Authority notes this comment.
87.	5.2.3	Authorisation of OTT Communications and Media Services	CCTL	<p><b>Statement 10</b> - The Authority shall assess whether an OTT service (or class of OTTs, that is OTTs with similar features) meets the three criteria listed in the Act's definition of a telecommunications service and public telecommunications service:</p> <p>a. The service must offer the transmission of programmes</p> <p>b. The service must be delivered via the use of telecommunications.</p> <p>c. The service must be offered for reception by the general public.</p> <p><b>Statement 11</b>- <i>The Authority's assessment of OTT services will be made based on the criteria contained in the Act's definitions of the terms telecommunications and broadcasting services and the applicability of the relevant provisions contained in the Act.</i></p>	.	The Authority recognises that, based on its features, some OTT services may warrant different authorisation classifications compared to traditional telecommunications or broadcasting services. Policy statement 12, now 5 acknowledges this need and states that, where applicable, the Authority shall adapt its Authorisation Framework to incorporate new forms of classification. The purpose of such adaptation is to ensure that the regulatory framework remains relevant and effective in managing emerging services.

Item	Section	Section Title	Stakeholder	Comments	Recommendations	TATT's Decisions
				<p><b>Statement 12</b> - <i>The Authority shall adapt its Authorisation Framework to specify new classifications for OTT communications and media services, where applicable.</i></p> <p>In line with our comments in sections 5.2.1 and 5.2.2, CCTL has no issues with Statements 10 and 11. Statement 12 implies that not all services provided by OTT providers will be subject to consumer safeguard rules.</p> <p>In the online economy, strong consumer protection safeguard rules are needed.</p>		
88.	5.2.3	Authorisation of OTT Communications and Media Services	Meta	Comment as provided under 5.2 above.	As recommended under 5.2. above.	The Authority notes this comment.
89.	5.2.4	Consumer Privacy and Data Protection	ALAI	ALAI is in agreement with the points raised concerning consumers' privacy, safety and security	ALAI recommends that suitable policies and regulations already existing in Trinidad and Tobago aiming to protect consumers' privacy, safety and security should be observed by TATT These should	The Authority notes ALAI's recommendation regarding the observance of existing policies and regulations aimed at protecting consumers' privacy, safety, and security. The Authority acknowledges the importance of considering these existing frameworks to avoid

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					be taken into consideration before considering or issuing any specific regulation in order to avoid overlaps. ALAI is in agreement with this proposed approach by TATT.	overlaps in regulations, and is committed to collaborating and consulting with relevant authorities to achieve this.
90.	5.2.4	Consumer Privacy and Data Protection	CCTL	<p>The statements in this section are as follows:</p> <p>Statement 13.</p> <p><i>Pursuant to section 3(c) of the Act, the relevant policies and regulations will be applied in areas pertinent to OTTs to promote and protect the interests of consumers, where applicable.</i></p> <p>Statement 14.</p> <p><i>The Authority shall undertake consumer awareness campaigns to promote the safe and secure use of OTT services.</i></p> <p>Statement 13 implies that not all services provided by OTT providers will be subject to consumer safeguard rules. CCTL requests clarification on this point.</p>	Where necessary the legislative and regulatory framework should be expanded to cover all services provided by all OTTs.	<p>The Authority notes CCTL's recommendation to expand the legislative and regulatory framework to encompass all services provided by OTTs where necessary. In particular, section 5 of the Framework outlines the criteria identified in the Act that the Authority will use to classify OTT services identified as telecommunications and broadcasting services.</p> <p>The Authority acknowledges that the existing legislative framework addresses OTT services within telecommunications and broadcasting. However, as market conditions and technology continue to advance, there may be a need for additional legislative and regulatory adjustments. The Authority is committed to adapting these regulations as necessary to maintain their effectiveness and relevance.</p>



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91.	5.2.4	Consumer Privacy and Data Protection Statement on OTTs and Consumer Protection	Meta	<p>Meta is in agreement with the points raised concerning consumers' privacy, safety and security.</p> <p>Meta is in agreement with this initiative</p>	<p>Meta recommends that suitable policies and regulations already existing in Trinidad and Tobago aiming to protect consumers' privacy, safety and security should be observed by TATT. These should be taken into consideration before considering or issuing any specific regulation in order to avoid overlaps.</p> <p>Meta is in agreement with this initiative</p>	<p>The Authority notes Meta's recommendation regarding the observance of existing policies and regulations aimed at protecting consumers' privacy, safety, and security. The Authority acknowledges the importance of considering these existing frameworks to avoid overlaps in regulations and is committed to collaborating and consulting with relevant authorities to achieve this.</p>
92.	5.3 (1 <sup>st</sup> round)	OTT Classification under the Existing Telecommunications Act	CCTL	<p>Statement 7.</p> <p>in classifying OTT services with d//Jere11t integrated features, the Authority shall give considerations to the findings of the ECJ, including consideration of the nature and purpose of additional features of the service.</p> <p>The above statement is limited to the existing legislation and focusses on the technical features of OTT services. The findings of the European Court of Justice (ECJ) is based on a more technical rather than functional definition of OTT services.</p>	<p>Remedies to address the regulatory imbalance between TSP and OTT services should be based on collaborative regulatory mechanisms. They should also be pragmatic.</p> <p>Where necessary, appropriate legislative changes should be made to accommodate the required changes.</p>	<p>The Authority notes CCTL's recommendation for a collaborative regulatory approach to addressing OTTs. In keeping with international best practice, the Authority is currently collaborating with stakeholders on this issue. This collaboration includes TSPs, OTT providers and other key stakeholders, to determine the most appropriate regulatory mechanism for classifying OTTs going forward.</p>

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				<p>CCTL considers that while the ECJ findings can be instructive in the classification of OTT services, consideration should be given to the functional use of the service. Also as discussed elsewhere in our response, the remedies to address the regulatory imbalance between TSP and OTT services should be based on collaborative regulatory mechanisms. They should also be pragmatic. Where necessary, appropriate legislative changes should be made to accommodate the required changes.</p>		
93.	5.3	Amendments to the Legislative Framework to Incorporate OTTs	ALAI	<p>ALAI notes this longer-term objective of TATT for the amendment of the Telecommunications Act (chap 47:31).</p>	<p>Prior to undertaking any amendments to the Telecommunications Act, ALAI recommends that TATT conduct suitable studies and customer surveys to assess the potential impact to customers, innovation and investment over the sector at large, of any proposed regulation of OTTs. Evidence-based policy is required before issuing original regulations not yet proven elsewhere.</p>	<p>The Authority notes ALAI's recommendation that the Authority should garner more evidence prior to implementing legislative changes. The Authority agrees on the importance of evidence-based policies and will continue to undertake detailed market studies, extensive customer surveys, and stakeholder consultations, to secure diverse perspectives and gather data. This, along with impact assessments on consumers, investment, and competition, will continue to be the approach taken to inform policies on OTT regulation.</p>

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94.	5.3	Amendments to the Legislative Framework to Incorporate OTTs	CCTL	<p>After noting the context of technological and market evolution necessitating major reforms in the legislative framework governing the traditional telecommunication and broadcasting sectors, The Authority posits as follows:</p> <p>Statement 15</p> <p><i>To effectively cover the full range of communications and audio-visual media services, the Authority's legislative framework will be broadened to explicitly provide for OTTs, where applicable.</i></p> <p>In broad terms CCTL supports the statement but is concerned with the conditional phrase “where applicable.” As explained in earlier sections (5.2.1 to 5.2.4), the concern relates to The Authority, within the confines of an outdated legal and regulatory framework, making judgements about conditions that should be applicable to TSPs vs. OTTs.</p> <p>The goal must be to address the regulatory imbalance between functionally equivalent services provided by TSPs and OTTs.</p>	<p>Remedies to address the regulatory imbalance between TSP and OTT services should be based on collaborative regulatory mechanisms. They should also be pragmatic. Where necessary, appropriate legislative changes should be made to accommodate the required changes.</p>	<p>The Authority acknowledges the need to address the regulatory imbalance between TSPs and OTTs through collaborative and pragmatic regulatory mechanisms. The Authority agrees that any remedies should be practical and based on cooperation with all stakeholders. This approach is reflected in the policy statements outlined in sections 6 and 7 of the Framework.</p> <p>Regarding legislative changes, the Authority notes that the existing Framework currently covers OTT services that fall under telecommunications and broadcasting. In particular, section 5 of the Framework outlines the criteria identified in the Act that the Authority shall use to classify OTT services. As the market and technology evolve, the Authority remains committed to amending these regulations as required, to ensure they remain effective and relevant to changes.</p>

Item	Section	Section Title	Stakeholder	Comments	Recommendations	TATT's Decisions
95.	5.3	Amendment to the Legislative Framework to Incorporate OTTs	Digicel	<p>Digicel notes the Authority's response. Premised on said response Digicel finds it reasonable to reiterate its prior position.</p> <p>While Digicel agrees that future amendments may be required to either fine tune existing legislation or enact new legislation, we do not believe that should be taken to mean that nothing can be done under the existing legislative framework.</p> <p>On the contrary, we submit that the existing legislative framework is relevant and applicable to OTT services and so should be applied by the Authority to the extent it is possible to do so.</p>	<p>The Authority must act now and uphold the existing law by virtue of which:</p> <p>(i) OTT voice and messaging services should be declared to be public telecommunications services under the Act; and</p> <p>(ii) OTT service providers that provide voice and messaging services to consumers in Trinidad &amp; Tobago should be required to hold a concession granted by the Minister in accordance with the requirements of section 21 of the Act.</p> <p>As stated above, the Authority's continued reluctance to uphold the existing law is unacceptable. The Authority by its inaction is allowing OTT's to gain an unfair advantage over concessionaires who abide by the law, pay exorbitant regulatory fees and contribute to the economic development of Trinidad and Tobago.</p>	<p>The Authority recognises that the current legislative framework is relevant and has provisions that could be applied to OTT services. The Framework outlines the Authority's strategy for addressing OTTs within its legislative and regulatory framework. The Authority is proposing a case-by-case examination of OTT services, assessing their primary features against the criteria outlined in the Act, to determine their classification accurately. The Authority is actively working on the determination process and anticipates its completion within a year of the publication of this Framework. Following that, the Authority shall implement measures in accordance with the Act to regularise OTTs.</p>

Item	Section	Section Title	Stakeholder	Comments	Recommendations	TATT's Decisions
96.	5.3	Amendments to the Legislative Framework to Incorporate OTTs	Meta	Meta notes this longer-term objective of TATT for the amendment of the Telecommunications Act (chap 47:31).	Prior to undertaking any amendments to the Telecommunications Act, Meta recommends that TATT conduct suitable studies and customer surveys to assess the potential impact to customers, innovation and investment over the sector at large, of any proposed regulation of OTTs. Evidence-based policy is required before issuing original regulations not yet proven elsewhere.	The Authority notes ALAI's recommendation to undertake an evidence-based approach prior to implementing legislative changes. The Authority agrees on the importance of evidence-based policies and will continue to undertake detailed market studies, extensive customer surveys, and stakeholder consultations to gather diverse perspectives and data. This, along with impact assessments on consumers, investment, and competition, has and will continue to inform policies on OTT regulation.
97.	5.4.3 (1 <sup>st</sup> round)	Authorization of OTT Communications and Media Services	CCTL	<p>Based on definitions in the Act, the Authority proposes that an OTT communication service should meet the following criteria;</p> <ol style="list-style-type: none"> <li>1. "The service must use telecommunications"</li> <li>2. "The mode of telecommunications used must allow users to communicate with any other user in real time"</li> <li>3. "The service must be offered to members of the general public."</li> </ol> <p>The proposed criteria for OTT broadcasting services are:</p>	CCTL recommends that the Authority clarifies how it would treat with OTT services that are assessed to fall outside the existing definitions of telecommunications and broadcasting services in the current Act.	<p>In its assessment, the Authority shall consider the differentiating factors identified by CCTL, such as ownership and control of the underlying infrastructure, the extent and nature of competition within the relevant market, and the level of substitutability between telecommunications and broadcasting services and OTTs. These factors shall aid the Authority's interpretation and application of its legislative framework to the different types of OTT services.</p> <p>Section 5.2 has been amended to identify more clearly the factors for consideration in the</p>

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				<p>1. "The service must offer transmission of programmes;"</p> <p>2. "The service must be delivered by use of telecommunications;"</p> <p>3. "The service must be offered for reception by the general public."</p> <p>The Authority then proposes the following statements.</p> <p><b>Statement 8</b> The Authority shall assess, on a case-by-case basis, whether an OTT service, or class of OTT services, can be classified as a telecommunications or broadcasting service.</p> <p><b>Statement 9</b> The Authority's assessment of OTT services will be made based on the criteria contained in the Act's definitions of the terms telecommunications and broadcasting services and the applicability of the relevant provisions contained in the Act</p> <p><b>Statement 10</b> The Authority may consider adapting its Authorisation Framework to specify new</p>		<p>Authority's determination of OTTs as a telecommunications and broadcasting service.</p>

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				<p>classifications for OTT communications and media services.</p> <p>CCTL has no issues with the above criteria and statements as a starting point for the assessment, with a view to make the necessary changes. However, the overall objective is to ensure regulatory symmetry, i.e. like services are given the same regulatory treatment.</p> <p>From the above statements the Authority intends to use definitions of "broadcasting" and "telecommunications services" in the existing Act, to assess whether OTT services fall within these definitions. However, it is not clear what the course of action would be where like services are provided by TSPs and OTTs are assessed to fall outside of existing definitions, CCTL is requesting clarification on how the Authority proposes to treat with these services.</p>		
98.	5.4	OTT Media Content Regulation	ALAI	As above, we observe that traditional video regulations were designed for fundamentally different services, and are a poor fit for internet services.		The Authority emphasises that its legislative framework applies to OTT broadcasting services once they meet the criteria identified in the Act. The Authority reiterates its commitment to applying a regulatory framework that is both relevant and

Item	Section	Section Title	Stakeholder	Comments	Recommendations	TATT's Decisions
						<p>appropriate to the specific characteristics of OTT services.</p> <p>The Authority is therefore preparing an appropriate regulatory framework to address the unique aspects of OTT services, which includes this Framework.</p>
99.	5.4	OTT Media Content Regulation	CCTL	<p><b>Statement 16</b></p> <p><i>To ensure audiences remain adequately protected regardless of the platforms on which they consume content, the Authority will ensure compliance with the relevant sections of the Constitution and the National Broadcast Policy.</i></p> <p><b>Statement 17.</b></p> <p><i>Based on the continued growth and development of OTT media, the Authority may recommend that the scope of the Code include OTT media services.</i></p> <p>CCTL has no issues with the above statements.</p>		The Authority notes this comment.
100.	5.4	OTT Media Content Regulation	Digicel	<p>Digicel notes the Authority's response and intent to consider the 'Christchurch Call Initiative' in its deliberations on future revisions to the Framework.</p>		The Authority has considered the principles of the Christchurch Call Initiative and notes the relevance of specific areas such as content



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						moderation and the prevention of harmful online content. The Christchurch Call emphasises the importance of collaborative efforts among governments, technology companies, and other stakeholders to address online harms, which aligns with the Authority's approach in the Framework.
101.	5.4	OTT Media Content Regulation	Meta	As above, we observe that traditional video regulations were designed for fundamentally different services and are a poor fit for internet services.		<p>The Authority emphasises that its legislative framework applies to OTT broadcasting services, once they meet the criteria identified in the Act. The Authority reiterates its commitment to applying a regulatory framework that is both relevant and appropriate to the specific characteristics of OTT services.</p> <p>The Authority is therefore preparing an appropriate regulatory framework to address the unique aspects of OTT services, which includes this Framework.</p>
102.	5.5 (1 <sup>st</sup> round)	Amendments to the Legislative Framework to	CCTL	<p>Statement 11</p> <p>To effectively cover the full spectrum of communications and audio-visual media services, the Authority recommends that the legislative</p>		The Authority thanks CCTL for this comment and acknowledges the importance of legislative reform to address the evolving landscape of digital services. While the current legislative framework already encompasses

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		Incorporate OTTs		<p>framework be broadened to explicitly provide/or OITs.</p> <p>CCTL agrees that legislative changes are needed to cover the various OTT services.</p>		OTT telecommunications and broadcasting services, the Authority remains committed to adapting the Framework to meet the ongoing evolution of the market and ensure comprehensive coverage of all relevant services.
103.	5.6 (1 <sup>st</sup> round)	OTT Media Content Regulation	CCTL	<p>Statement I2</p> <p>To ensure audiences remain adequately protected regardless of the platforms 011 which they consume content, the Authority will ensure compliance with the relevant sections of the Constitution and the National Broadcast Policy.</p> <p>Statement 13.</p> <p>Based on the continued growth and development of OTT media, the Authority may recommend that the scope of the Code include OTT media services.</p> <p>CCTL has no issues with the above statements.</p>		The Authority thanks CCTL for this comment and welcomes CCTL's support in this area.
104.	6. (1 <sup>st</sup> round)	Recommendations on Jurisdictional Challenges	CCTL	<p>Statement 14.</p> <p>Recognizing the jurisdictional challenges posed by OTTs, the Authority will undertake a collaborative</p>		The Authority notes CCTL's recommendation for a collaborative regulatory approach to address OTTs. In keeping with international best practice, the Authority is currently

Item	Section	Section Title	Stakeholder	Comments	Recommendations	TATT's Decisions
				<p>approach with regional and international bodies to develop a harmonised and coordinated strategy to ensure fair and equitable arrangements for the relevant players in the online space.</p> <p>CCTL supports collaboration, particularly with regional agencies such as the Caribbean Telecommunications Union (CTU), to find solutions to the OTT issue.</p>		collaborating with stakeholders such as the CTU and other regional partners to address this issue.
105.	6	Recommendations on Jurisdictional Challenges: Strategy 2 – Regional Harmonisation	ALAI	<p>Noted. It should be stressed that at the international level there are ongoing discussions on the digital economy. For example, 138 members of the OECD/G20 Inclusive Framework on Base Erosion and Profit Shifting (BEPS) - representing over 90% of global GDP have agreed to refrain from imposing newly enacted digital services taxes or relevant similar measures on any company before 31 December 2024, waiting for the Multilateral Convention (MLC) to entry into force<sup>63</sup>.</p>	<p>ALAI agrees that TATT should continue to collaborate with regional and international stakeholders on the issue of treatment of OTTs. ALAI does not recommend any ad hoc and uninformed interim arrangements being implemented by TATT without the benefit of regional and international experts on the matter and involving other areas of government as this can affect its international affairs and treaties.</p>	<p>The Authority acknowledges ALAI's reference to the ongoing international discussions on the digital economy, including the OECD/G20 Inclusive Framework on Base Erosion and Profit Shifting (BEPS).</p> <p>The Authority shall continue to monitor these international developments closely, to ensure that its regulatory approach to OTT services is well-considered and responsive to the evolving international landscape.</p> <p>The Authority acknowledges ALAI's support for international collaboration. However, while global cooperation is valuable, it is also</p>

<sup>63</sup> <https://www.oecd.org/newsroom/138-countries-and-jurisdictions-agree-historic-milestone-to-implement-global-tax-deal.htm>

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						crucial for Trinidad and Tobago to develop its own position on OTT regulation to address local needs effectively. This will ensure that our regulatory measures are both informed by international experience and tailored to our specific context.
106.	6	Recommendations on Jurisdictional Challenges: Strategy 2 – Regional Harmonisation	CCTL	<p><b>Statement 18.</b></p> <p><i>Recognising the jurisdictional challenges posed by OTTs, the Authority will continue to collaborate with regional and international bodies to develop a harmonised and coordinated strategy with the most suitable arrangements for the relevant players in the online space.</i></p> <p>CCTL supports collaboration, particularly with regional agencies such as the Caribbean Telecommunications Union (CTU), to find solutions to the OTT issue.</p>		The Authority thanks CCTL for its support and collaboration regarding finding solutions to the OTT issue. This collaborative effort is crucial for developing effective strategies and regulatory frameworks that address the complexities of OTT services and their impact on the regional telecommunications landscape.
107.	6	Recommendations on Jurisdictional Challenges: Strategy 2 –	Digicel	Digicel notes the response of the Authority. However, we still do not consider that the desirability for harmonisation should prevent or delay actions by the Authority within the context of the existing legislative framework.	The Authority must act now and uphold the existing law by virtue of which: (i) OTT voice and messaging services should be declared to	The Authority advises that its efforts to promote regional harmonisation are being pursued concurrently with its work on making a determination on OTTs within the existing legislative framework. Section 5.2 of the

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		Regional Harmonisation			<p>be public telecommunications services under the Act; and</p> <p>(ii) OTT service providers that provide voice and messaging services to consumers in Trinidad &amp; Tobago should be required to hold a concession granted by the Minister in accordance with the requirements of section 21 of the Act.</p>	Framework, as amended, details the Authority's process for the determination, as well as associated timeframes.
108.	6	Recommendations on Jurisdictional Challenges: Strategy 2 – Regional Harmonisation Statement on Jurisdictional Challenges	Meta	Noted. It should be stressed that at the international level there are ongoing discussions on the digital economy. For example, 138 members of the OECD/G20 Inclusive Framework on Base Erosion and Profit Shifting (BEPS) - representing over 90% of global GDP- have agreed to refrain from imposing newly enacted digital services taxes or relevant similar measures on any company before 31 December 2024, waiting for the Multilateral Convention (MLC) to entry into force <sup>64</sup> .	Meta agrees that TATT should continue to collaborate with regional and international stakeholders on the issue of treatment of OTTs. Meta does not recommend any ad hoc and uninformed interim arrangements being implemented by TATT without the benefit of regional and international experts on the matter and involving other areas of	<p>The Authority acknowledges ALAI's reference to the ongoing international discussions on the digital economy, including the OECD/G20 Inclusive Framework on BEPS.</p> <p>The Authority shall continue to monitor these international developments closely, to ensure that its regulatory approach for OTT services is well-considered and responsive to the evolving international landscape.</p>

<sup>64</sup> <https://www.oecd.org/newsroom/138-countries-and-jurisdictions-agree-historic-milestone-to-implement-global-tax-deal.htm>

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					government as this can affect its international affairs and treaties.	The Authority acknowledges Meta's support for international collaboration. While global cooperation is valuable, it is crucial for Trinidad and Tobago to develop its own position on OTT regulation to address local needs effectively. This ensures that our regulatory measures are both informed by international experience and tailored to our specific context.
109.	7	Recommendations on OTT Contributions: Strategy 3 – Fostering OTT Investment Towards the Development of Digital Infrastructure	ALAI	This statement indicates that TATT has already decided on the issue of OTT contributions towards local telecommunications infrastructure. ALAI refers to the several studies <sup>65 6667</sup> undertaken over the past few years which point to the negative effects that imposition of any direct payments to network operators will have on the Internet ecosystem. Network fees are dangerous and unjustified. Allowing some TSPs to charge twice for the same infrastructure will harm net neutrality and consumers	We would appreciate TATT taking a balanced approach on its research into the issue of OTT contributions towards telecommunications infrastructure development, looking at all aspects that determine citizen's connectivity. It is strongly recommended that TATT continues its research into this issue and reviews the concerns we have	The Authority notes ALAI's concerns and research regarding network fees. The Authority is committed to thoroughly researching the implications of network fees and their potential impact on all stakeholders, including consumers, small and medium-sized enterprises (SMEs), and TSPs. As stated in section 7 of the Framework, the Authority will evaluate the feasibility of appropriate models for OTT contributions to telecommunications

<sup>65</sup> [https://www.berec.europa.eu/system/files/2022-10/BEREC%20BoR%20%2822%29%20137%20BEREC\\_preliminary-assessment-payments-CAPs-toISPs\\_0.pdf](https://www.berec.europa.eu/system/files/2022-10/BEREC%20BoR%20%2822%29%20137%20BEREC_preliminary-assessment-payments-CAPs-toISPs_0.pdf)

<sup>66</sup> <https://www.analysismason.com/contentassets/25c2739a356a4740ab0ce2ba2308f9bd/ip-interconnection-on-the-internet---a-european-perspective-for-2022---2022-09-22.pdf>

<sup>67</sup> [https://openfuture.eu/wp-content/uploads/2023/04/230410\\_the-limits-of-the-fair-share-debate.pdf](https://openfuture.eu/wp-content/uploads/2023/04/230410_the-limits-of-the-fair-share-debate.pdf)

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		in Trinidad and Tobago		<p>without any guarantee of more investment in networks. In particular, network fees may require OTTs to reduce investment in their services or raise prices, which would be detrimental to consumers. Network fees would also incentivize telcos to reduce network investment, creating a capacity constraint that would allow them to demand more and more network fees, which would again harm consumers. Additionally, there is no evidence of a funding or capacity problem that would justify network fees. And contrary to TSP claims, CAPs - including ALAI - invest and create value, as described above. Concern about network fee proposals is growing globally. In Europe, a “majority” of EU countries are reportedly “against [a] network fee levy” on internet services.<sup>68</sup> A wide range of stakeholders in the European Commission’s exploratory consultation expressed significant concern including that network fees would violate net neutrality and hinder Europe’s digital goals. <sup>69</sup> In South Korea, hearings on new network fee proposals were met with a public outcry including a petition by “tens of thousands of</p>	<p>highlighted here and the numerous studies that show the harms of the large TSPs’ network fee proposal, that has yet no precedent in any other country in the world and/or assessed the possible impact and effect on players’ incentives.</p>	<p>infrastructure. In this evaluation, the Authority will continue engaging with all relevant parties, conducting thorough analyses and monitoring global trends to inform its strategy on this issue.</p>

<sup>68</sup> <https://www.reuters.com/business/media-telecom/majority-eu-countries-against-network-fee-levy-big-tech-sources-say-2023-06-02/>

<sup>69</sup> <https://ccianet.org/library/key-takeaways-from-eu-consultation-on-network-usage-fees/>

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				domestic users [who] believe that telecommunications companies are harming the rule of network neutrality by demanding CPs pay network fees.” <sup>70</sup> And new net neutrality regulations in Saudi Arabia expressly prohibit TSPs from charging network fees, observing that “end users already pay” for internet usage.		
110.	7	Recommendations on OTT Contributions: Strategy 3 – Fostering OTT Investment Towards the Development of Digital Infrastructure in Trinidad and Tobago	Digicel  Digicel	<p>Digicel notes the Authority’s response and provides its comments below.</p> <p>Firstly, Digicel supports any initiatives to encourage fair contributions and investment by OTTs in Trinidad and Tobago. This is particularly important as OTTs gain a substantial competitive advantage as they do not pay licence or concession fees, contribute to the Universal Service Fund or pay corporation tax or VAT on the services they provide in Trinidad and Tobago.</p> <p>Secondly, considering the Authority’s response where it was stated that, “<i>Similar to other jurisdictions such as the EU and the US, the Authority believes that a consultative study, engaging both digital players and local network</i></p>	The Authority must act now and uphold the existing law by virtue of which: (i) OTT voice and messaging services should be declared to be public telecommunications services under the Act; and (ii) OTT service providers that provide voice and messaging services to consumers in Trinidad & Tobago should be required to hold a concession granted by the Minister in accordance with the requirements of section 21 of the Act.	<p>The Authority welcomes Digicel’s support for initiatives that encourage fair contributions and investment by OTTs in Trinidad and Tobago.</p> <p>Regarding the operationalisation of the consultative study, the Authority intends to engage a wide range of stakeholders, including both digital players and local network operators. The consultative study will be designed to encourage participation from OTT providers, emphasising the mutual benefits of their involvement in developing a fair and sustainable telecommunications infrastructure. The Authority will also focus its efforts on engaging with international OTT providers in this study, to ensure a comprehensive and inclusive approach.</p>

<sup>70</sup> <https://koreajoongangdaily.joins.com/2022/11/01/business/tech/Korea-network-usage-fee-Google/20221101172720310.html>



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				<p><i>operators, is the most effective starting place towards a regulatory solution on this issue.”</i></p> <p>Digicel seeks clarification on how the Authority intends to operationalize this consultative study considering that OTT providers in the first instance are not licenced concessionaires as guided by the Act and are not under any statutory obligation to participate in said consultative study.</p> <p>The Authority is also advised to urgently undertake a domestic feasibility study of various initiatives on the fair contribution of digital players to domestic investment in telecommunication network infrastructure in Trinidad and Tobago as articulated in Section 7.1 Statement 20 (see below):</p> <p><i>The Authority will evaluate the feasibility of the appropriate models, possibly a fair share arrangement, that quantifies OTTs' contribution to infrastructure investment.”</i></p> <p>with clearly defined timelines to ensure regulatory certainty in the domestic telecommunications market.</p>		<p>The Authority acknowledges the importance of conducting a domestic feasibility study on the fair contribution of digital players to telecommunications network infrastructure in Trinidad and Tobago. As articulated in section 7.1, statement 12 of the Framework, the Authority is committed to exploring models such as fair share arrangements, universal service funding contributions, or other innovative approaches that could be applicable to the Trinidad and Tobago context. The Framework has been amended to include a projected completion timeframe for this study, namely, within the 2025/26 financial year.</p> <p>The Authority also notes the potential economic benefits of OTT contributions highlighted by Axon (2022), such as GDP growth, increased employment, and reduced energy consumption and carbon footprint. While monitoring global trends is crucial, the Authority acknowledges that proactive steps are also necessary for addressing OTTs under the existing legislative framework. The Authority is actively working on this issue. Section 5.2 of the Framework as amended</p>

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				<p>According to Axon<sup>71</sup> (2022), contributions by OTT's to support the cost of networks in the Caribbean would bring a number of benefits such as a 0.9% rise in GDP, increase in employment, and reduction in energy consumption and carbon footprint generated by the Telecommunications sector.</p> <p>However, we do submit that the Authority needs to go further than “monitoring trends” or “proposing a study” to address this competitive imbalance.</p> <p>The Authority is reminded that the existing legislative framework is relevant and applicable to OTT services and so should be applied by the Authority. Hence, it is critical that OTTs are brought into the regulatory framework as a matter of urgency so that OTT service providers are required to at least become concessionaires and to commence contributing to the industry sector that provides the platform for their very substantial revenues and profits.</p>		<p>details the Authority's process for determination as well as associated timeframes.</p>
111.	7	Recommendations on OTT Contributions: Strategy 3 –	Meta	<p>This statement indicates that TATT has already decided on the issue of OTT contributions towards</p>	<p>We would appreciate TATT taking a balanced approach on its research into the issue of OTT contributions towards telecommunications</p>	<p>The Authority notes Meta's concerns and research regarding network fees. The Authority is committed to thoroughly researching the implications of network fees</p>

<sup>71</sup> Axon Partners, September 2022. Impact of OTTs on Caribbean networks and implications of their fair share contribution to countries' development

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		Fostering OTT Investment Towards the Development of Digital Infrastructure in Trinidad and Tobago		local telecommunications infrastructure. Meta refers to the several studies <sup>727374</sup> undertaken over the past few years which point to the negative effects that imposition of any direct payments to network operators will have on the Internet ecosystem. Network fees are dangerous and unjustified. Allowing some TSPs to charge twice for the same infrastructure will harm net neutrality and consumers without any guarantee of more investment in networks. In particular, network fees may require OTTs to reduce investment in their services or raise prices, which would be detrimental to consumers. Network fees would also incentivize telcos to reduce network investment, creating a capacity constraint that would allow them to demand more and more network fees, which would again harm consumers. Additionally, there is no evidence of a funding or capacity problem that would justify network fees. And contrary to TSP claims, CAPs - including Meta - invest and create value, as described above.	infrastructure development, looking at all aspects that determine citizen's connectivity. It is strongly recommended that TATT continues its research into this issue and reviews the concerns we have highlighted here and the numerous studies that show the harms of the large TSPs' network fee proposal, that has yet no precedent in any other country in the world and/or assessed the possible impact and effect on players' incentives.	and their potential impact on all stakeholders, including consumers, SMEs and TSPs. As stated in section 7 of the Framework, the Authority will evaluate the feasibility of appropriate models for OTT contributions to telecommunications infrastructure. In this evaluation, the Authority will continue engaging with all relevant parties, conducting thorough analyses and monitoring global trends to inform its strategy on this issue.

<sup>72</sup> [https://www.berec.europa.eu/system/files/2022-10/BEREC%20BoR%20%2822%29%20137%20BEREC\\_preliminary-assessment-payments-CAPs-to-ISPs\\_0.pdf](https://www.berec.europa.eu/system/files/2022-10/BEREC%20BoR%20%2822%29%20137%20BEREC_preliminary-assessment-payments-CAPs-to-ISPs_0.pdf)

<sup>73</sup> <https://www.analysismason.com/contentassets/25c2739a356a4740ab0ce2ba2308f9bd/ip-interconnection-on-the-internet---a-european-perspective-for-2022---20-22-09-22.pdf>

<sup>74</sup> [https://openfuture.eu/wp-content/uploads/2023/04/230410\\_the-limits-of-the-fair-share-debate.pdf](https://openfuture.eu/wp-content/uploads/2023/04/230410_the-limits-of-the-fair-share-debate.pdf)

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				Concern about network fee proposals is growing globally. In Europe, a “majority” of EU countries are reportedly “against [a] network fee levy” on internet services. <sup>75</sup> A wide range of stakeholders in the European Commission’s exploratory consultation expressed significant concern including that network fees would violate net neutrality and hinder Europe’s digital goals. <sup>76</sup> In South Korea, hearings on new network fee proposals were met with a public outcry including a petition by “tens of thousands of domestic users [who] believe that telecommunications companies are harming the rule of network neutrality by demanding CPs pay network fees.” <sup>77</sup> And new net neutrality regulations in Saudi Arabia expressly prohibit TSPs from charging network fees, observing that “end users already pay” for internet usage.		
<b>112.</b>	7	Recommendations on OTT Contributions: Strategy 3 –	TSTT	TSTT notes TATT’s statement that “In pursuance of section 3 (f) of the Act, the Authority recognises the need for regulatory strategies to attract alternative sources of investment in the region. Emphasis will	Considering Section 21 of the Act, in relation to the requirements for the provision of public telecommunications services and	The Authority notes TSTT’s statements regarding the significant impact of OTT providers on broadband use and the telecommunications market in Trinidad and

<sup>75</sup> <https://www.reuters.com/business/media-telecom/majority-eu-countries-against-network-fee-levy-big-tech-sources-say-2023-06-02/>

<sup>76</sup> <https://ccianet.org/library/key-takeaways-from-eu-consultation-on-network-usage-fees/>

<sup>77</sup> <https://koreajoongangdaily.joins.com/2022/11/01/business/tech/Korea-network-usage-fee-Google/20221101172720310.html>

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		Fostering OTT Investment Towards the Development of Digital Infrastructure in Trinidad and Tobago		therefore be placed on OTT providers that are responsible for a vast majority of broadband utilisation and who greatly impact audio-visual media markets in Trinidad and Tobago.” As TATT is aware, based on TSTT’s comprehensive submission in round one (1) of this consultation, per the CANTO Report produced by AXON, four (4) OTT providers account for over 60% of Caribbean Internet usage and have had a significant impact on domestic and international fixed and mobile switched voice calling, with evidence of this being pellucid in TATT’s Market Reports, as previously identified by TSTT. As a result of the above and considering Section 3(f) of the Act, TATT should put strategies in place to secure investment from the OTT providers responsible for the majority of broadband utilisation in Trinidad and Tobago, impacting either the audiovisual media or telecommunications markets or both. TSTT sees no reason for TATT not to place emphasis on OTT providers of telecommunications-type services.	broadcasting services, TATT to place emphasis on OTT providers responsible for the majority of broadband utilisation in Trinidad and Tobago, impacting either the audiovisual media or telecommunications markets or both, such as those specifically named in the CANTO Report. TATT’s approach should ensure that these OTT service providers are required to invest in infrastructure and connectivity projects to support the availability of high-speed broadband, at a minimum.	Tobago. Section 7 of the Framework has been amended to include OTT providers that impact both the broadcasting and telecommunications markets.  The Authority remains committed to implementing regulatory strategies that focus on securing investment for infrastructure and connectivity projects. The Framework facilitates increased investment by encouraging stakeholders, including OTT providers, to contribute to advancing telecommunications infrastructure in Trinidad and Tobago.
113.	7.1	Recommendations on OTT Investments in Infrastructure	CCTL	Following sections 7.1 and 7.2 which review global trends in OTT investment in infrastructure, the document sets out the following statements on OTT investment in infrastructure in Trinidad and Tobago	CCTL reiterates its recommendation that developments in other markets are assessed with a view to adopt in the local market where appropriate. We recommend pragmatic solutions	The Authority notes CCTL’s recommendation on assessing developments in other markets, and its commitment to analysing global best practices that can be tailored to Trinidad and

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		in Trinidad and Tobago		<p><b>Statement 19</b>  <i>The Authority will continue to monitor global trends in OTT investment, with the aim of developing a strategy to capture OTT contributions to local telecommunications infrastructure.</i></p> <p><b>Statement 20</b>  <i>The Authority will evaluate the feasibility of appropriate models, possibly a fair share arrangement that quantifies OTT's contribution to infrastructure investment.</i></p> <p>CCTL welcomes the Authority's statements on OTTs supporting network infrastructure development. We would point out however that the Authority has consulted on the treatment of OTTs since 2015. Given that the local industry is faced with declining revenues, and the need for increased investment in networks, CCTL consider the if no actions are taken now, investments needed to maintain and expand the network infrastructure will become unsustainable and could put the government's digital transformation at risk.</p>	such as a direct compensation mechanism where OTT providers contribute to the development and maintenance of the network by making payments to network operators based on commercial agreements.	<p>Tobago's unique telecommunications landscape.</p> <p>The Authority acknowledges that its focus on OTTs began in 2015 and has involved multiple consultations culminating in this Framework. The Framework reflects the ongoing global discussion on OTT investment in telecommunications infrastructure – a topic that many countries, including Trinidad and Tobago, are actively addressing. Similar to what obtains in other jurisdictions, the Authority is also committed to evaluating appropriate models that foster OTT investment in telecommunications infrastructure, and it has amended section 7.2 of the Framework to provide more details on the timelines associated with this evaluation. The Framework now includes a projected completion timeframe for the feasibility study, namely, within the 2025/26 financial year, and outlines the next steps in this ongoing process.</p>
114.	7.2 (1 <sup>st</sup> Round)	Recommendations on OTT Investment in	CCTL	Following sections 7.1 and 7.2 which review global trends in OTT investment in infrastructure, the	CCTL reiterates its recommendation that developments in other markets	The Authority notes CCTL's statements on network infrastructure development.

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		Infrastructure in Trinidad and Tobago		<p>document sets out the following statements on OTT investment in infrastructure in Trinidad and Tobago</p> <p>Statement 15 <i>The Authority will continue to monitor global trends in OTT investment, with the aim of developing a strategy to capture OTT contributions to local telecommunications infrastructure.</i></p> <p>Statement 16 <i>The Authority proposes a study on OTTs that explores models for their contribution to infrastructure investment.</i></p> <p>CCTL welcomes the Authority's statements on OTT is supporting network infrastructure development. We would point out however that the Authority has consulted on the treatment of OTTs since 2015. Given that the local industry is faced with declining revenues, and the need for increased investment in networks, CCTL consider the if no actions are taken now, investments needed to maintain and expand the network infrastructure will become unsustainable and could put the government's digital transformation at risk.</p>	are assessed with a view to adopt in the local market where appropriate.	<p>The Authority emphasises the importance of broadband investment by key beneficiaries of the infrastructure.</p> <p>The Authority believes that a consultative study, similar to those undertaken in other countries like the EU and the US, which engages both digital players and local network operators, is an effective starting place towards a regulatory solution to this issue. Such a study shall take into account the arguments presented by CCTL, including the direct and indirect contributions by OTT providers towards broadband infrastructure and the closing of the connectivity gap.</p>

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115.	7.2	Recommendations on Local Content Development Statements on Local Content Development	ALAI	Noted.	ALAI agrees that TATT should continue to monitor developments in this area prior to making a determination on the issue. TATT should avail itself of various international studies and experiences prior to making a determination on the issue that in hindsight, prove to be premature and injurious to the sector. Risks and impact assessments should be conducted as well.	The Authority has conducted risk and impact assessments and engaged in consultative dialogue to ensure that its decisions are well-founded and beneficial to the telecommunications and broadcasting sector. The goal is to adopt best practices while considering the unique context of Trinidad and Tobago, which we have done in the past and are committed to continuing.
116.	7.2	Recommendations on Local Content Development	CCTL	<p>The statements related to local content development are as follows:</p> <p><b>Statement 21</b> <i>The Authority will continue to monitor global trends in OTT contribution to local content and development.</i></p> <p><b>Statement 22</b> <i>The Authority will examine one or more mix of various policy models for promoting local content, inclusive of:</i></p> <p><i>(a) conducting a feasibility study in the first instance</i></p>	The approaches used in markets such as Canada and Australia should be used to inform approaches to be used in Trinidad and Tobago.	The Authority notes CCTL's comments and recommendations and will consider the regulatory frameworks and strategies employed in Australia and Canada, as case studies in its approach to local content development.



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				<p><i>(b) utilising a partnership approach with OTT service providers to stimulate digital content development and investment.</i></p> <p><b>Statement 23</b></p> <p><i>Where applicable, the Authority shall collaborate with the relevant agencies responsible for the oversight of local content creation and promotion in Trinidad and Tobago.</i></p> <p>The statements basically set out a work plan, as such CCTL has no issues with these statements. The approaches used in markets such as Canada and Australia are models that should be used to inform approaches to be used in Trinidad and Tobago.</p>		
117.	7.2	Recommendations on Local Content Development	Digicel	Digicel notes the Authority's response to its recommendation.		Noted.
118.	7.2	Recommendations on Local Content Development	Meta	Noted	Meta agrees that TATT should continue to monitor developments in this area prior to making a determination on the issue. TATT should avail itself of various	The Authority has conducted risk and impact assessments and engaged in consultative dialogue, to ensure that our decisions are well-founded and beneficial to the telecommunications and broadcasting sectors.

Item	Section	Section Title	Stakeholder	Comments	Recommendations	TATT's Decisions
					international studies and experiences prior to making a determination on the issue that in hindsight, prove to be premature and injurious to the sector. Risks and impact assessments should be conducted as well.	The goal is to adopt best practices while also considering the unique context of Trinidad and Tobago, which the Authority has done in the past and remains committed to continuing.
<b>119.</b>	7.3 (1 <sup>st</sup> round)	Global Trends in OTT Contribution to Local content Investment	CCTL	<p>CCTL takes note of the various case studies mentioned in this section that outline regulatory approaches aimed at preserving and promoting local content development, including regulations on OTTs to promote local programming.</p> <p>This underscores CCTL's position that given the global nature of the issues, and developments in different markets aimed at addressing the regulatory imbalance between TSPs and OTIS, collaborative approaches, drawing on the experiences in other markets should be used.</p>	CCTL reiterates its recommendation that developments in other markets are assessed with a view to adopt in the local market where appropriate.	The Authority thanks CCTL for this comment. The Authority believes that a consultative study, engaging both digital players and local network operators, is an effective starting place towards a regulatory solution to this issue. Such a study will be based on international best practice and shall take into account the arguments presented by CCTL, including any regulatory imbalance between OTT providers and TSPs.
<b>120.</b>	7.3	Collaborative Framework for OTTs and TSPs	ALAI		ALAI again strongly recommends that TATT conducts studies that assess the impact of any proposed initiative or changes to the regulatory environment that could have adverse effects on competition, consumer welfare and democracy,	The Authority acknowledges the importance of thoroughly assessing the impact of any proposed initiatives or regulatory changes. Considering the recommendations from ALAI, the Authority has conducted comprehensive studies to evaluate potential effects on competition, consumer welfare, democracy,

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					innovation and investment before making any such changes.	innovation, and investment, and will continue to do so. This includes extensive consultation on the topic through forums and this consultative document.
121.	7.3	Collaborative Framework for OTTs and TSPs	CCTL	<p>The statements on a collaborative framework for OTTs and TSPs are as follows:</p> <p><b>Statement 24</b></p> <p><i>The Authority shall adopt measures to promote an enabling environment for fair commercial interactions between OTTs and TSPs.</i></p> <p><b>Statement 25</b></p> <p><i>The Authority notes the importance of adopting a fair, consistent and non-discriminatory regulatory approach on OTTs, regardless of the residence or current authorisation status of the OTT provider.</i></p> <p><b>Statement 26</b></p> <p><i>The Authority shall continue to support present and future collaborative initiatives between TSP and OTT providers. Such interactions shall be guided by the principle of net neutrality. The Authority's policy</i></p>	Consistent with our recommendation in the consultation on “Framework on Net Neutrality in Trinidad and Tobago”, CCTL reiterates here that the proposed rules should be withdrawn. These rules are unnecessary and should not be considered in the context of collaborative initiatives between TSPs and OTTs.	<p>The Authority acknowledges CCTL's feedback on statement 26 regarding the recommendations on net neutrality.</p> <p>The Authority confirms that its Framework on Net Neutrality is still under development and consultation. Consequently, policy statement 21, now 18 of the Framework, has been amended to refer to ITU's recommendations on OTT-TSP collaboration, including the promotion including the promotion of transparency and non-discriminatory conditions.</p>

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				<p><i>recommendations on net neutrality are contained in its Framework on Net Neutrality in Trinidad and Tobago</i></p> <p>CCTL has no issues with Statement 24 and 25, and in fact welcomes the information that the Authority will be supportive of collaborative initiatives between TSPs and OTTs. With respect to Statement 26, CCTL strongly rejects the position that interactions between TSPs and OTTS should be guided by recommendations on net neutrality as set out the <u>Framework on Net Neutrality in Trinidad and Tobago</u>.</p> <p>We refer the Authority to our response to this consultation in which we discussed at length that such rules are not necessary in the context of a competitive ISP access market. The Internet remains open, there is no evidence of ISPs blocking traffic.</p> <p>Net neutrality rules are likely to have the effect of discouraging ISPs from innovating and evolving business models in line with market trends.</p>		

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				<p>Our strong recommendation is that the net neutrality rules proposed in the framework document be withdrawn.</p> <p>Further, procedurally, CCTL believes it is unreasonable to use draft guidelines proposed in a consultation process that is not finalized, as guidelines in a separate process.</p>		
122.	7.3	Collaborative Framework for OTTs and TSPs	Digicel	<p>Digicel notes the Authority's response and highlights its inaction with regard to the incorporation of the principle (See below) in the Statement on Collaborative Framework for OTTs and TSPs in Section 7.5 of the Framework document as indicated in its response:</p> <p><i>"...policies and regulations on OTTs, where applicable, shall ... permit telecommunications network operators to offer their own OTT applications without subjecting them to legacy telecommunications regulations..."</i></p> <p>First and foremost, there is no section 7.5 in the framework document dated August 2023. Secondly, the statement (see below) to be included has not been introduced upon review of statements 24, 25 and 26:</p>	<p>Digicel submits that such an important principle (See below) be reflected in the Statement on Collaborative Framework for OTTs and TSPs: "...policies and regulations on OTTs, where applicable, shall ... permit telecommunications network operators to offer their own OTT applications without subjecting them to legacy telecommunications regulations..."</p>	<p>The Authority acknowledges Digicel's comments regarding the incorporation of the principle into a policy statement. The Authority recognises the importance of the principle highlighted and agrees that it should be considered in the context of the collaborative Framework for OTTs and TSPs. To this end, the Framework has been amended to include a policy statement reflecting its intention to align its policies and regulations on OTTs with ITU's recommendations, including statement 4 identified by Digicel.</p>

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				<i>"...policies and regulations on OTTs, where applicable, shall ... permit telecommunications network operators to offer their own OTT applications without subjecting them to legacy telecommunications regulations..."</i>		
<b>123.</b>	7.3	Collaborative Framework for OTTs and TSPs	Meta		Meta again strongly recommends that TATT conducts studies that assess the impact of any proposed initiative or changes to the regulatory environment that could have adverse effects on competition, consumer welfare and democracy, innovation and investment before making any such changes.	The Authority acknowledges the importance of thoroughly assessing the impact of any proposed initiatives or regulatory changes. In line with the recommendations from ALAI, the Authority has conducted comprehensive studies to evaluate the potential effects on competition, consumer welfare, democracy, innovation, and investment, and will continue to do so. This includes extensive consultation on the topic through forums and this document.
<b>124.</b>	7.4 (1 <sup>st</sup> round)	Recommendations on Local Content Development	CCTL	<p>We note the statements on local content development.</p> <p>Statement The Authority will continue to monitor global trends in OTT contribution to local content and development.</p> <p>Statement</p>	CCTL reiterates its recommendation that the Authority employs a collaborative approach to develop a specific and actionable plan with a defined timeframe within which to make appropriate policy and regulatory changes to ensure fair competition between traditional telecommunications service providers (TSPs) and OTTs.	The Authority notes CCTL's recommendation for a collaborative regulatory approach to address OTTs. In keeping with international best practice, the Authority is currently collaborating with stakeholders to address this issue.

Item	Section	Section Title	Stakeholder	Comments	Recommendations	TATT's Decisions
				<p>The Authority may conduct a study Oil the feasibility of one, or a mix of various policy models for promoting local content</p> <p>Statement Where applicable, the Authority shall collaborate with the relevant agencies responsible for the oversight of local content creation and promotion ill Trinidad and Tobago.</p> <p>Monitoring trends and doing feasibility studies on policy options have a place in the formulation of policies and regulations. However, given the long-standing nature of these market developments, and the urgent need for decisive actions on how OTTs contribute to investments in building and maintaining networks, collaborative regulatory approaches, drawing on models that have been implemented and is working in other markets, should be used to inform approaches to be used in Trinidad and Tobago.</p>		
125.	7.5 (1 <sup>st</sup> round)	Collaborative Framework for OTTs and TSPs	CCTL	<p>The statements on a collaborative framework for OTTs and TSPs are as follows:</p> <p>Statement 20</p>	Consistent with our recommendation in the consultation on Framework on Net Neutrality in Trinidad and Tobago, CCTL reiterates here that the proposed rules are withdrawn.	The Authority views discussions on both net neutrality and OTTs as important, which is why consultations on each topic have been undertaken. The Authority acknowledges that the Framework on Net Neutrality is still under

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				<p>The Authority shall adopt a regulatory framework that ensures an enabling environment for fair commercial interactions between OTTs and TSPs.</p> <p>Statement 21 The Authority shall continue to support present and future collaborative initiatives between TSP and OTT providers.</p> <p>Statement 22</p> <p>Such interactions shall be guided by the principle of net neutrality. The Authority's policy recommendations on net neutrality are contained in its Framework 011 Net Neutrality in Trinidad and Tobago.</p> <p>CCTL has no issues with Statement 21 and 22, and in fact welcomes the information that the Authority will be supportive of collaborative initiatives between TSPs and OTTs. With respect to Statement 22, CCTL strongly rejects the position that interactions between TSPs and OTTS should be guided by recommendations on net neutrality as set out the Framework on Net Neutrality in Trinidad and Tobago.</p>	<p>These rules are unnecessary and should not be considered in the context of collaborative initiatives between TSPs and OTTs.</p>	<p>consultation and has amended this document to refer to the ITU's recommendations on OTT-TSP collaboration. These recommendations emphasize transparency, non-discriminatory conditions, and fair OTT provider/TSP arrangements.</p>



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				<p>We refer the Authority to our response to this consultation in which we discussed at length that such rules are not necessary in the context of a competitive ISP access market. Such rules are likely to have the effect of discouraging ISPs from innovating and evolving business models in line with market trends. The fact that the issue of net neutrality was raised in the context of collaborative initiatives between TSPs and OTTs, underscores the fact that such rules are not required.</p> <p>Our strong recommendation is that the net neutrality rules proposed in the framework document be withdrawn.</p> <p>Further, procedurally, CCTL believes it is unreasonable to use draft guidelines proposed in a consultation process that is not finalized as guidelines in a separate process.</p>		
126.	Closing Comments		CCTL	CCTL looks forward to further engagement in this process.		The Authority notes CCTL's comment and welcomes its continued engagement in this process.