

Decisions on Recommendations (DORs) Matrix from the Second of Two Rounds of Public Consultation on the *Framework on Net Neutrality in Trinidad and Tobago*

The following summarises the comments and recommendations received from stakeholders during the second round of consultation on the *Framework on Net Neutrality in Trinidad and Tobago* (the Framework), held in August to September 2024, 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 comments:

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

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1.	General	Entire Document	Digicel	Digicel (Trinidad & Tobago) Limited ("Digicel") wishes to thank the Authority for the opportunity to provide its feedback on this document in this second round of consultation. The views expressed herein are not exhaustive. Failure to address any issue in this response does not in any way indicate acceptance, agreement or relinquishing of Digicel's rights.		The Authority thanks Digicel for its participation in the second round of consultation on the Framework on Net Neutrality in Trinidad and Tobago (the Framework).
2.	General	Entire Document	TSTT	Telecommunications Services of Trinidad and Tobago Limited ("TSTT") appreciates that the Telecommunications Authority of		The Authority thanks TSTT for its participation in the second round of consultation on the Framework.

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				<p>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>TSTT, along with other commenting ISPs, reiterates the robustly competitive nature of the telecommunications market in Trinidad and Tobago. This competitive market significantly reduces the risk of anti-competitive behavior, thus questioning the necessity for stringent net neutrality regulations. TATT is asked to acknowledge the potential adverse effects of such regulations, including decreased investment and stifled innovation, which could ultimately harm consumers and hinder the overall growth of the telecommunications sector in Trinidad and Tobago.</p> <p>While TATT’s proactive stance in preventing potential anti-competitive behavior is appreciated, their justification for net neutrality regulations, based on potential risks rather than concrete evidence, raises</p>	<p>TSTT strongly recommends that TATT substantiates the need for the proposed net neutrality rules with concrete evidence of potential harm or market failure. The current justification, based solely on potential anti-competitive behaviour, is insufficient in a demonstrably competitive market.</p> <p>To ensure a balanced and evidence-based approach, TSTT recommends that TATT conduct the necessary comprehensive analysis to evaluate the potential impact of net neutrality regulations on investment and innovation considering the actual market realities in Trinidad and Tobago. Further, TATT should explore alternative, less intrusive measures to address any potential net neutrality concerns including</p>	<p>The Authority notes TSTT's statements on the competitive nature of the broadband market in Trinidad and Tobago and its recommendation to explore self-regulation as an alternative approach to addressing net neutrality concerns.</p> <p>The Authority notes that certain market characteristics, such as network concentration, may limit effective competition and, in turn, reduce incentives for Internet service providers (ISPs) to implement fair practices regarding net neutrality. Even in regions where infrastructure competition exists, such as within the European Union (EU), regulatory oversight remains essential to ensure the open access and protection of consumer choice. In these cases, net neutrality fosters investment, improves access to high-capacity connectivity, and ensures competitive conditions. This is particularly relevant to Trinidad and Tobago, where market concentration could potentially affect consumers' ability to access a diverse range of services and pricing options.</p>

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				<p>concerns. Key industry stakeholders, including Digicel, CCTL, and TSTT, have highlighted the absence of market failure or anti-competitive practices, underscoring that such regulations may be unnecessary and potentially detrimental. The industry's position is that the competitive market dynamics will naturally self-regulate, making heavy-handed regulations counterproductive. TSTT, echoing the sentiments of CCTL and Digicel, maintains its stance that imposing regulations in a thriving competitive market could inadvertently stifle innovation and investment. This emphasises the need for a balanced regulatory approach that fosters growth while safeguarding consumer interests.</p>	<p>encouraging self-regulation within the industry.</p>	<p>The Authority acknowledges TSTT's concerns regarding the potential impact of net neutrality regulations on investment and innovation. In response, the Authority emphasises that the Framework strikes a balance, by allowing flexibility for providers to explore innovative business models within a transparent and fair regulatory environment. This approach aims to protect consumer interests while still encouraging investment in the sector. Specifically, the Framework permits commercial practices such as zero-rating and paid prioritisation, provided these practices meet specific conditions that ensure competition is preserved and consumer rights, including access to a good-quality, non-discriminatory Internet service, are upheld.</p> <p>The Authority emphasises that waiting for clear market failures before implementing safeguards may expose consumers to potential harm and lead to reactive, rather than preventive, regulation. Proactive measures are essential to addressing potential risks before they escalate,</p>

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						<p>safeguarding the integrity of the digital market, and ensuring fairness for consumers. Across various jurisdictions, proactive net neutrality measures have proven effective in curbing anti-competitive behaviour and promoting market growth.</p> <p>The Framework provides an evidence-based approach to assessing and addressing discriminatory practices by ISPs. It emphasises ex post measures that ensure consumer protection and fair competition while fostering investment and innovation in network practices.</p>
3.	1.1	Background	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>Upon examining Appendix I: Decisions on Recommendations (DoRs) on the consultative document "Framework on Net Neutrality in Trinidad and Tobago,"</p>	<p>CCTL recommends that TATT reassess the premise for the need for this framework of net neutrality rules based on a singular assessment of ISP transmission practices that have not been substantiated. CCTL also suggests that TATT puts more focus on a renewed legal and regulatory framework targeting enhanced market contestability, which, <i>inter alia</i>:</p>	<p>The Authority thanks CCTL for its participation in the second round of consultation on the Framework.</p> <p>The Authority notes CCTL's recommendation to focus on a renewed legal and regulatory framework for enhanced market contestability. The Authority advises that it is actively supporting the Ministry of Digital Transformation in the promulgation of</p>

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				<p>published alongside this consultation document, CCTL appreciates the Telecommunication Authority of Trinidad and Tobago's (TATT) clarification on its proceedings. However, CCTL maintains that the premise of introducing a Net Neutrality framework at this time is unfounded, as there is no demonstrated need, as determined by:</p> <ol style="list-style-type: none"> 1. data or cases addressing discriminatory, anti-competitive Internet traffic management practices; and/or 2. clear signs of market failure, competition distortion, or harms. <p>By its own admission, TATT's statement in the DOR that it "...has been unable to confirm that the market is sufficiently competitive to adequately protect against market failure or to forgo the safeguards. [sic] of net neutrality regulation", also highlights TATT's uncertainty concerning the market's capacity to act upon potential failures linked to ISP traffic management and commercial practices, and whether this is a current, legitimate risk.</p>	<ol style="list-style-type: none"> 1. fosters a level playing field for all players; 2. promotes market flexibility and innovation; and 3. drives local market growth through clear, fit-for-purpose competition rules 	<p>proposed amendments to the Telecommunications Act, Chap. 47:31 (the Act), which will address current market trends and sectoral changes, further promoting competition and market growth. Until such amendments are finalised, the Authority continues to operate under the existing legislative framework to fulfil the mandates of the Act, ensuring that competition remains fair and consumers are protected.</p> <p>The Authority notes CCTL's perspectives on introducing a net neutrality framework but underscores that proactive regulation is essential for preventing potential consumer harm and market imbalances. Self-regulation is only viable in markets with well-established competition that inherently discourages anti-competitive practices.</p> <p>As stated in the previous round of consultation, in formulating its policy on</p>

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				<p>There are three troubling matters with the foregoing approach, namely:</p> <ol style="list-style-type: none"> 1. an absence of a specifically identified regulatory problem based on observed current practices or instances of suspected infractions of concession conditions related to reasonable network management. As net neutrality rules can be logically deduced as a balancing act it is noteworthy that there is a dearth of clear representations from various stakeholder groups on this matter; 2. a lack of specific trends or evidence-based forecasts for the local digital industry as demonstrated through methodology such as foresighting, which could imply that anticipatory rule making is required at this time were smart industry targets for development to be set; and 3. an absence of a rationale for prioritising a strong regulatory tool in this local context for which the regulatory problem is not 		<p>net neutrality, the Authority has carefully examined the competitive dynamics in the telecommunications sector. It assessed the likelihood and risks of market failure and the potential repercussions on consumers and the broader public if net neutrality is compromised. The Authority's evaluations have included evidence gleaned from industry trends indicated in its annual and quarterly market reports; consumer experiences and expectations recorded in its complaints procedures and surveys; past ISP infringements of net neutrality; and competition metrics such as the Herfindahl-Hirschman Index (HHI) and price movements. Based on this analysis, the Authority concludes that regulatory safeguards for net neutrality are necessary.</p> <p>With respect to the promotion of broadband investment, the Authority underscores that the Framework is designed to foster a balanced environment where investment in broadband infrastructure can thrive. By adopting a primarily ex post approach to net neutrality, the Framework allows for flexible practices, such as zero-rating and</p>

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				<p>apparent or insufficiently identified and/or defined.</p> <p>Despite the Framework's stated intentions, TATT is missing the mark in fostering investment in broadband infrastructure as this measure is ill-suited to current concerns ergo not fit-for-purpose. Furtherance of the proposed approach may lead to an unintended consequence of regulatory risk. It is important to highlight that between 2011 and 2015, when net neutrality rules were being debated in the US by the FCC, the mere prospect of these regulations led to a 20-30% reduction in ISP investment in network upgrades, equating to a \$150-\$200 billion decrease. Even after the rules were enacted from 2015 to 2017, US broadband investments declined for the first time during a non-recession period.</p> <p>In the local context, broadband access has not been recognised as a public utility or an essential service, a notable contrast to regulatory environments where net neutrality is being debated. If broadband were classified as such, it would warrant a comprehensive</p>		<p>conditional paid prioritisation, provided these practices are subject to safeguards that preserve competition and ensure consumer rights. These safeguards are critical for maintaining high quality of service (QoS) and quality of experience (QoE) for consumers.</p> <p>The Framework's flexible approach encourages investment by providing a regulatory environment that is not overly restrictive, allowing ISPs to innovate and offer differentiated services. At the same time, the Framework ensures that such practices do not undermine the objectives of the Act, which include promoting investment, consumer protection, and competition. By allowing for these practices within a regulated framework, the Authority is creating an environment where broadband infrastructure investment can be encouraged, ultimately leading to improved services for consumers, while ensuring fair competition and protecting consumers' rights.</p>

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				<p>regulatory approach aimed at incentivising growth and promoting competition in the industry, along with revised procedures for market notifications, authorisations, and compliance for all entities providing electronic communications networks and services to the public. This Framework does not make a logical association between the application of net neutrality rules on the one hand, and, inter alia, the stated aims for broadband development, local innovation, and fostering competition.</p>		
4.	1.1	Background	Digicel	<p>Reference is made to the Authority's inference in its framework document: <i>"Additionally, a net neutrality policy acts as a safeguard against market failure and anti-competitive practices, by promoting the equal treatment of traffic. This fosters a competitive environment where innovation can thrive, and consumers have access to a wide range of services and content."</i></p> <p>It is Digicel's position that the aforementioned assertion made by the Authority is incomplete and as a result further analysis needs to be undertaken to verify said</p>	<p>It would be prudent and necessary for the Authority to undertake a comprehensive review of the effectiveness of Net Neutrality as currently encapsulated within its draft framework as well as incorporate the findings of its regulatory analysis/examinations on OTT's as part of said regulatory review.</p>	<p>The Authority acknowledges the importance of ongoing assessment and adaptation of its regulatory frameworks. Similar to jurisdictions such as India, the Authority has engaged in a comprehensive consultation process on net neutrality since 2018. This process has been informed by stakeholder input and market developments over the years, culminating in the present Framework.</p> <p>As with the regulatory approaches adopted in the United Kingdom by Ofcom, the Authority is committed to conducting</p>

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				<p>statement. Considering the ongoing debate as to whether Net Neutrality as currently framed in the Authority's Net Neutrality framework is fit for purpose owing to the extant regulatory/market imbalances as pertains to the treatment of large traffic generators and the evolutionary trends (i.e., market dynamics, pricing and provisioning of internet protocol ("IP") services) in the domestic internet/broadband market.</p> <p>Digicel refers to the Authority's statement on its approach to treating with Net Neutrality and Over-the-Top services ("OTT's") as set out in its response to Digicel in the First of Two Rounds of Public Consultation on the Framework on Net Neutrality in Trinidad and Tobago (March 2022) Decision on Recommendations (DOR's) document, <i>"Notwithstanding, this, both topics (OTTs and net neutrality) are being considered by the Authority simultaneously"</i>.</p> <p>It is reasonable to expect that the findings of the Authority's OTT assessment would significantly inform its posture on Net Neutrality. Rather, we are currently enmeshed in a scenario where the supposed</p>		<p>periodic assessments to evaluate the effectiveness of its policies. These assessments will focus particularly on the evolving Internet ecosystem, technological advancements, market dynamics, and consumer expectations. The Authority will review the impact of the Framework on broadband quality, investment, and competition, to ensure that it remains relevant and aligned with current market conditions.</p> <p>With respect to the connection between the Framework and the Authority's framework on OTTs, the Authority notes that this Framework offers broad principles for how ISPs should treat traffic, allowing for commercial arrangements that align with fair competition principles, as outlined in the Act. This approach facilitates a competitive environment while safeguarding consumer interests. Furthermore, by establishing these principles, the Framework complements the OTT Framework by ensuring that the treatment of OTT services by ISPs adheres to principles of fairness and transparency.</p>

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				<p>findings of the Authority's OTT assessment would not be considered in the current iteration of its Net Neutrality framework. This approach does not bode well for ensuring regulatory certainty in the relevant market and suggests that the Authority may constantly be on the backfoot on the treatment of Net Neutrality.</p> <p>As articulated (see below) in the Authority's Consultative Document titled 'Framework on Over-The-Top Services (OTTs) in Trinidad and Tobago' there is a commitment by the Authority to engage in some form of regulatory analysis/assessment on OTT's:</p> <p><i>Policy Statement Five (5) of the Authority – “In the short-term, the Authority shall conduct an examination of specific OTT services or classes of OTT services against the existing legislative framework, to identify whether the OTT services in question legally fall within the scope of the Act”;</i></p> <p><i>Policy Statement Six (6) of the Authority - “The Authority shall continue its regulatory work to address market changes arising out of technological advancements, to ensure</i></p>		<p>Importantly, the Authority's focus on net neutrality does not preclude the Authority's work on OTTs. The Framework on OTT has been developed in accordance with ITU's recommendations on non-discrimination, which ensures that OTTs operate within a fair and competitive environment, in line with the overarching principles of net neutrality.</p> <p>This Framework is essential for guiding the interactions between OTTs and network providers, as it provides a foundation for ensuring that traffic is treated equally, fostering fair access to services. At the same time, it allows for collaboration between OTTs and network providers, by adopting a flexible ex post regulatory approach that encourages partnerships and innovation, such as zero-rating and conditional paid prioritisation.</p> <p>The OTT Framework, which was published in October 2024, includes timelines for the proposed regulatory assessments. These timelines outline the Authority's planned</p>

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				<p><i>that effective and fair competition is maintained”.</i></p> <p>It should be noted that Digicel’s assertion is premised on the Authority’s lack of clarity on clearly defined timelines regarding the start and end-dates of its supposed regulatory assessments and revisions as set out by the Authority in its framework document. In the absence of said clarification, it is prudent to ascertain how the Authority would channel the findings of its OTT assessment to its overall contemplation of Net Neutrality as fit for purpose as set out in its draft framework; especially where there is a clear nexus or correlation between both regulatory concerns.</p> <p>Further reference is made to the United Kingdom’s Telecommunication Regulator (referred to hereafter as ‘OfCom’) Net Neutrality Review.</p> <p>By way of background, net neutrality rules were introduced into European Union law in 2016. Upon the United Kingdom exiting the European Union (i.e., inclusive of the</p>		<p>approach to reviewing and assessing the regulatory landscape for OTTs in Trinidad and Tobago.</p>

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				<p>transition period), the aforementioned net neutrality rules, with minor amendments, became part of United Kingdom domestic law.</p> <p>The OfCom undertook a comprehensive assessment which commenced in September 2021 and ended in October 2023. This exercise was focused solely on assessing the effectiveness of its net neutrality framework.</p> <p>The OfCom indicated that its approach to engaging in such an exercise was driven by “...a significant evolution of the internet ecosystem” such as exponential increments in traffic volumes, large proportion of internet traffic driven by several large content providers (Amazon/Netflix), gatekeeping by other providers in the internet value chain (Apple/Google) and technological advancements that facilitate the opportunity to provision a plethora of new, diverse and innovative services on both fixed and 5G networks.</p>		

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				<p>According to OfCom (2023)¹, the aforesaid developments has led to “...<i>competing views on the effectiveness of the current net neutrality framework</i>”. Some of the viewpoints held by both Internet Service Providers and mobile network operators include the inability to innovate and recoup costs from content providers driving significant traffic on their networks and the point made by content providers that the rules are necessary to support innovative services. Digicel draws the attention of the Authority to one of OfCom’s findings as set out in the overview of its 2023 assessment, it reads as follows:</p> <p><i>“However, because the net neutrality rules constrain the activities of the ISPs, they may be restricting their ability to innovate, develop new services and manage their networks. This could lead to poor consumer outcomes, including higher costs, or consumers not benefiting from new services as quickly as they should, or at all. These potential downsides might become more</i></p>		

¹ OfCom (2023). Net Neutrality Review. 26th October 2023.

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				<p><i>pronounced in the future, as people's use of online services expands, traffic increases, and more demands are placed on networks".</i></p> <p>The OfCom 2023 assessment also suggests in its overview of the internet value chain that <i>"...net neutrality rules limit the actions ISPs can take, but do not restrict other parties in the value chain. Since the rules were put in place, players with strong market positions have developed throughout the internet value chain and are not constrained in the same way as ISPs by the net neutrality rules".</i></p> <p>In light of the abovementioned, it would be prudent and necessary for the Authority to undertake a comprehensive review of the effectiveness of Net Neutrality as currently encapsulated within its draft framework as well as incorporate the findings of its regulatory analysis/examinations on OTT's as part of said regulatory review.</p> <p>The current form of the Net Neutrality Framework as presented by the Authority now, does not give consideration to the evolution and currently evolving internet ecosystem and the resulting regulatory</p>		

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				issues/concerns. Using this current Framework that lacks applicability to the current internet ecosystem is ill advised.		
5.	1.2	Purpose	Digicel	The Purpose of this document clearly indicates the promotion of fair competition but makes no reference to inherent regulatory imbalances as well as other competitive concerns in the domestic broadband/Internet market.	In the spirit of proactive regulatory action, a comprehensive assessment on the applicability of Net Neutrality as currently framed in the Authority's draft framework document to the internet market given the rapid evolutionary trends in the domestic internet market is prudent at this juncture.	<p>The Authority acknowledges the concern expressed regarding regulatory imbalances and the rapid evolutionary trends in the domestic Internet market. In its framework on OTTs, the Authority has outlined its approach to addressing these issues, particularly with respect to OTT competition and authorisation in Trinidad and Tobago.</p> <p>Regarding the need for a comprehensive review of the applicability of the Framework, the Authority reiterates that this has been achieved through the extensive consultation process that has, over the years, shaped the direction of the Authority's policy on net neutrality. This includes its adoption of a more ex post approach to net neutrality. Furthermore, the Framework has been amended to include details on the rationale for a net neutrality policy specific to Trinidad and Tobago.</p>

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						<p>In addition to these efforts, the Authority has conducted comprehensive assessments over the years to ensure that the Framework is fit for purpose. These assessments have examined market dynamics, technological advancements, and evolving consumer demands, providing a robust foundation for policy decisions that align with the needs of stakeholders and the broader telecommunications ecosystem.</p> <p>The Authority will continue to conduct periodic assessments and reviews of the Framework to ensure it remains relevant and effective in addressing emerging market conditions, fostering competition, and promoting investment in infrastructure.</p>
6.	1.3	Objectives	CCTL	<p>Further to its original objectives TATT has outlined that this Framework seeks to, inter alia:</p> <ol style="list-style-type: none"> 1. present the policy considerations for net neutrality which are aimed at promoting and protecting the interests of stakeholders 	<p>Priority and focus should be placed on legislative and regulatory changes needed to update the current telecommunications framework. TATT should embark on a more holistic assessment of the digital value chain to foster a level playing field for all players and ensure that market development is driven through clear, fit-for-purpose competition rules.</p>	<p>The Authority acknowledges the value of industry-led initiatives, such as the CANTO Code of Practice for Safeguarding the Open Internet (the Code). While the Code aligns with several principles of the Framework, it is essential to recognise that self-regulation, though beneficial, may not always provide the same level of enforceability and accountability as a formal regulatory</p>

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				<p>We believe the proposed Framework fails to adequately consider the interests of ISPs. In reviewing the DOR, CCTL notes that TATT has overlooked a significant industry-led initiative: the CANTO Code of Practice for Safeguarding the Open Internet (the Code). While TATT acknowledges that the Code aligns with the principles of the Framework, it has provided unsubstantiated claims about the Code's reach and effectiveness. The Code is not limited to CANTO members, and the potential of peer enforcement should not be underestimated. Although TATT expresses concerns about regulatory gaps in industry-led self-regulation, it illogically concludes that net neutrality should be enshrined in the regulatory framework to uphold competition and consumer protection. CCTL questions the true interests promoted by the Framework, especially given its previous submissions and alignment with other stakeholders' arguments, which have been consistently downplayed.</p>		<p>framework. The Authority believes that a clear and consistent regulatory approach is necessary to ensure that competition is maintained, and consumer protection is upheld in the face of market evolution.</p> <p>Notwithstanding this, the Authority reminds stakeholders of its willingness to align its monitoring and compliance processes with established methods used by ISPs, including their adherence to the CANTO Code. To this end, the Authority aims to reduce the additional burden of information submission by leveraging existing processes, ensuring a more efficient regulatory framework that minimises duplication and respects industry efforts while ensuring proper oversight.</p>

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7.	1.3	Objectives	TSTT	<p>This Framework:</p> <ol style="list-style-type: none"> <i>“presents the policy considerations for net neutrality which are aimed at promoting and protecting the interests of stakeholders.”</i> <p>TSTT acknowledges TATT’s stated goal of promoting stakeholder interests through the proposed net neutrality considerations. However, the strong objections raised by all ISPs during the first round of consultations indicate a clear disconnect.</p> <p>TSTT, and other ISPs believe that our interests are being overlooked, as the framework, while potentially benefiting Content Providers (“CPs”) and consumers, neglects key ISP concerns like financial sustainability, infrastructure investment, and innovation. TSTT argues that net neutrality, by limiting practices like paid prioritisation and zero-rating, impairs ISPs’ ability to generate revenue, potentially hindering network upgrades and innovation.</p>	<p>TATT’s net neutrality framework, while aiming to protect the open internet, neglects the legitimate concerns of ISPs regarding financial sustainability, infrastructure investment, and innovation. A more balanced approach that considers the interests of <u>all</u> stakeholders, including ISPs, is necessary to ensure a sustainable internet ecosystem marked by robust innovation. TATT should consider allowing for paid prioritisation and zero-rating, which can incentivise network investment and foster innovation, without necessarily harming the principles of net neutrality. Additionally, addressing the growing influence of powerful CPs and CDNs in the internet ecosystem is crucial to ensure a fair and competitive market for all players.</p>	<p>The Authority acknowledges TSTT’s concerns regarding financial sustainability and infrastructure investment. The Framework has been developed with careful consideration of all perspectives, aiming to establish a balanced policy that promotes competition and safeguards consumer interests, while fostering an environment conducive to innovation and investment.</p> <p>To address the specific needs of ISPs, the Authority has incorporated provisions that are more flexible than some international approaches, allowing practices such as zero-rating and paid prioritisation with minimal conditions attached to offering these services. Furthermore, the Framework has evolved to include a more ex post approach, adapting to feedback from ISPs and ensuring that regulatory interventions are responsive to market developments.</p> <p>The Authority also acknowledges the growing influence of content providers (CPs) and content delivery networks</p>

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				<p>Additionally, the burden of network maintenance and expansion falls on ISPs, despite big tech companies being a major strain. TSTT believes that net neutrality, by preventing ISPs from charging content providers for prioritised delivery, creates an unfair cost allocation. Finally, TSTT argues that the regulatory framework does not fully reflect evolving market dynamics, especially with the growth of powerful CPs and Content Delivery Networks (“CDNs”), which can create market imbalances</p>		<p>(CDNs), which introduces new dynamics in the Internet ecosystem. These emerging influences are comprehensively addressed in the OTT Framework which was published in October 2024. The OTT Framework specifically focuses on maintaining a fair and competitive market for all players.</p>
8.	1.4	Scope	Digicel	<p>Upon review of the text, it appears that the Authority's framework document is only focused on remedying supposed consumer rights infringements with no attention given to the issues faced by internet service providers (“ISPs”) as a result of the adoption of Net Neutrality (i.e., regulatory/market imbalances being faced by ISPs as a result of adhering to Net Neutrality as a whole). This uneven approach to analyzing net neutrality does not bode well for the Authority's standing as an unbiased arbiter in the contemplation of telecommunications matters in accordance with the Objects of the</p>	<p>The Authority should revise the scope of the Net Neutrality framework document to account for its treatment of matters arising from the evolution of the internet/broadband domestic market (i.e., regulatory/market imbalances, evolving market dynamics in the pricing and provisioning of broadband/internet services).</p>	<p>The scope of the Framework is to outline the Authority’s strategies for advancing the principle of net neutrality in Trinidad and Tobago. It provides guidance on assessing and addressing discriminatory practices by ISPs that may infringe on consumer rights and restrict competition. Complementing this Framework is the OTT Framework, published in October 2024, which addresses broader market dynamics and regulatory considerations associated with OTT platforms.</p>

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				<p>Telecommunications Act - Section 3(f) and functions and powers of the Authority as set out in Sections 18 (1) (d) and (p) of the Telecommunications Act. By virtue of these Sections, there is an obligation on the Authority to ensure sustainable growth and development of the telecommunications industry as well as create an environment to encourage investment, which is done via ISPs in order to foster proper development and advancements in the industry. Not taking into consideration the impact and effects experienced by the ISPs in the context of Net Neutrality is counter to the Authority's legislative obligations.</p>		<p>The Authority has carefully considered ISPs' perspectives and broader market dynamics in developing the Framework. As such, it has adopted a balanced and flexible approach, allowing practices like zero-rating and paid prioritisation under specific conditions to support ISP revenue generation and encourage investment in network infrastructure. This ensures that the Framework remains responsive to market realities while aligning with the principles of net neutrality.</p>
9.	1. 5	Relevant Legislation and Regulatory Instruments	Digicel	<p>As highlighted in Section 1.4, it comes across that the Authority's treatment of net neutrality and its attendant provisions is solely directed towards the treatment of consumer concerns. This is despite the reference that was made to Section 3 (f) of the Telecommunications Act which states as follows:</p> <p><i>"3. The objects of the Act are to establish conditions for – ...</i></p>	<p>Digicel recommends that the Authority consider examining whether Net Neutrality is fit for purpose in its current form given the evolution of the internet ecosystem as well as extant regulatory/operator issues/concerns over its application.</p>	<p>The purpose of the Framework is to outline the Authority's policy positions on net neutrality, setting the foundation for how ISPs' traffic management and commercial practices will be assessed. These positions guide the Authority in examining practices such as zero-rating and paid prioritisation, ensuring that consumer interests – specifically in relation to the quality of their broadband experience –are protected. Moreover, the policy aims to promote fair</p>

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				<p><i>(f) promoting the telecommunications industry in Trinidad and Tobago by encouraging investment in, and the use of, infrastructure to provide telecommunications services;”</i></p> <p>The Authority is reminded that Net Neutrality sets out the ‘must carry’ obligation for all traffic passed by content service providers on broadband providers’ networks. In the European Union (“EU”) and in countries that have enacted Net Neutrality provisions, ineffectual price signaling is worsened by the manner in which Net Neutrality is being interpreted and applied. The primary aim of Net Neutrality rules in the European Union, is to protect end-users access to Internet content. Net Neutrality was not conceptualized to lock-in a particular commercial model in the internet/broadband market.</p> <p>The Authority is also aware that there have been concerns raised by ISPs/Regulatory bodies over the current application of Net Neutrality by Large Traffic</p>		<p>competition within the telecommunications sector, creating an environment that upholds consumer rights while fostering a level playing field for all service providers.</p> <p>The Framework also seeks to encourage collaborative relationships between OTT providers and traditional telecommunications service providers (TSPs), aligning with section 3(f) of the Act, which mandates support for industry growth through infrastructure use and investment. By providing structured guidance on net neutrality, the Framework facilitates OTT-TSP partnerships that can enhance service delivery and drive infrastructure investment, benefiting consumers and service providers alike. This collaborative approach promotes a sustainable ecosystem that balances consumer access rights with the operational flexibility TSPs need to maintain efficient networks.</p> <p>In this evolving digital landscape, the Framework thus supports both innovation and accountability, ensuring that ISPs’</p>

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				<p>Generators/Content Service Providers <i>et al.</i> Some of these concerns include:</p> <ol style="list-style-type: none"> 1. Broadband providers must abide by “must carry” rules without commensurate fair usage expectations on the side of Large Traffic Generators/Content Service Providers. Hence, they know that operators cannot refuse to carry their traffic, and thus, “overuse” networks, whether by accident or on purpose. 2. The United Kingdom Office of Communications (Ofcom)², in their consultation on Net Neutrality, opined that, <i>“In principle, we accept that the current net neutrality framework could potentially undermine our objective to safeguard well-run, efficient and robust networks, if it encouraged CAPs to use ISPs’ networks inefficiently”</i>. 3. The Body of European Regulators for Electronic Communications 		<p>traffic management practices remain fair, transparent, and consumer focused. It encourages models of collaboration that respect net neutrality principles while offering flexibility to meet growing consumer demand. By addressing discriminatory practices that might harm competition or limit consumer access, the Framework provides a pathway to sustainable telecommunications growth, ensuring that the interests of consumers and the competitive integrity of the sector are upheld.</p>

² OfCom, Consultation on Net Neutrality Review, October 2022 – January 2023. Available at: https://www.ofcom.org.uk/data/assets/pdf_file/0028/245926/net-neutrality-review.pdf

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				<p>(BEREC)³ in its 2022 report on the Internet Ecosystem posited that, “...a small number of digital platforms have reached a position allowing them to shape and restrict both the competition dynamics on different elements of the internet ecosystem and the relative openness under which content, services and information can be accessed and shared”.</p> <p>Hence, it would be reasonable given the clear correlation between the application of Net Neutrality provisions and the Authority’s mandate to meet Section 3 (f) of the Telecommunications Act to equitably contemplate the concerns of both ISPs and consumers in its framing and/or conceptualization of Net Neutrality in its framework document. This equity could be introduced into the discussion of Net Neutrality by examining whether it is fit for purpose in its current form given the evolution of the internet ecosystem as well as</p>		

³ https://berec.europa.eu/eng/document_register/subject_matter/berec/public_consultations/10270-draft-berec-report-on-the-internet-ecosystem

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				<p>extant regulatory/operator issues/concerns over its application.</p> <p>Lastly, to buttress the aforementioned position, further reference is made to the Authority's response to stakeholder comments on Page 40 of its Net Neutrality DORs⁴ which states as follows:</p> <p><i>“The Authority notes that the Act is a framework legislation that was drafted to adapt to evolving conditions. The drafters used the principles-based approach, as opposed to a highly prescriptive rules-based approach. The principles-based approach has the advantage of being more adaptable to changes in technology, therefore allowing for expeditious resolutions to the ever-evolving challenges within the sectors”.</i></p> <p>Hence, there is a regulatory obligation as mandated by the Telecommunications Act for the Authority to account for the evolution of the domestic internet ecosystem as well as extant regulatory/operator issues/concerns</p>		

⁴ Decisions on Recommendations (DORs) Matrix from the First of Two Rounds of Public Consultation on the Framework on Net Neutrality in Trinidad and Tobago (March 2022)

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				over the application of Net Neutrality as currently framed by the Authority in its framework document.		
10.	1.7	Review Cycle	Digicel	Digicel acknowledges the timelines set out for reviewing the proposed Net Neutrality framework document. Notwithstanding, it would be remiss in and of itself not to refer to the fact that Net Neutrality as currently framed in this document is lacking as a result of the non-consideration of whether it is fit for purpose given the evolution of the internet ecosystem as well as extant regulatory/operator issues/concerns over its application.	Digicel requests that a fulsome analysis of Net Neutrality and its applicability in the domestic broadband/internet market of Trinidad and Tobago be undertaken. This is to pre-empt a scenario where a flawed position on Net Neutrality is taken by the Authority now and we have to wait five (5) years to correct this pressing concern.	The Authority underscores the importance of fostering net neutrality in Trinidad and Tobago to protect competition and preserve consumer rights, which aligns with the objects of the Act, and the Authority's role and functions. The Authority has undertaken extensive consultations and comprehensive assessments of market dynamics, technological advancements, and consumer demands to ensure the Framework on net neutrality is fit for purpose. These efforts have shaped the policy's direction, including the adoption of a more ex post approach, and ensured alignment with stakeholder needs and the evolving telecommunications landscape. The Authority remains committed to conducting periodic reviews to keep the Framework fit for purpose, fostering competition, and promoting infrastructure investment.

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						<p>Furthermore, the Authority emphasises that the Framework is designed to remain dynamic and adaptable. It will be revised periodically to address evolving market conditions and unforeseen circumstances. The Authority will continually monitor the market to evaluate the Framework's effectiveness and ensure timely updates, well within the five-year review cycle if necessary. Any modifications will be made in consultation with stakeholders to ensure alignment with industry needs and national objectives.</p>
11.	2.	Overview of Net Neutrality	Digicel	<p>Digicel notes the Authority's conceptualization of Net Neutrality as well as its reference to potential anti-competitive traffic management practices/mechanisms by ISPs and attendant impacts on consumer rights as the justification for its policy intervention. However, Digicel holds the position that the Authority's viewpoint as currently set out in its overview is incomplete.</p> <p>Reference is made to the Authority's response to stakeholder comments on Pages</p>	<p>Digicel recommends that the Authority consider a comprehensive examination on whether Net Neutrality is fit for purpose as currently framed given the evolution of the internet ecosystem as well as extant regulatory/operator issues/concerns over its application.</p>	<p>The Authority acknowledges Digicel's recommendation to conduct a comprehensive review of the Framework's applicability and reaffirms its commitment to ensuring that the Framework remains fit for purpose. Since 2018, the Framework has been shaped through an extensive consultation process, incorporating market developments, comprehensive assessments, and stakeholder feedback to align with the specific needs of Trinidad and Tobago. The Authority continuously evaluates market dynamics using quantitative data from</p>

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				<p>57 to 58 of its Net Neutrality DORs⁵ which states as follows:</p> <p><i>“The Framework presents recommendations on net neutrality that have been carefully tailored for Trinidad and Tobago and designed as pre-emptive measures against any practice that may harm consumers or restrict competition within the industry/industries”.</i></p> <p>When considering the above referenced statement by the Authority and reviewing the academic precedents as articulated in its overview of Net Neutrality, it comes across clearly that there exists some dissonance between the academic theory as encapsulated in the overview and current market realities in the domestic Broadband/Internet market of Trinidad and Tobago.</p> <p>Firstly, there is a case for self-regulation which already exists via Digicel’s voluntary participation in the CANTO Code of Conduct as well as the obvious fact that competition</p>		<p>annual and quarterly market reports, consumer surveys, complaints data, and competition metrics such as the Herfindahl-Hirschman Index (HHI), alongside historical analysis of ISP behaviour. These ongoing assessments support the Authority’s position that a prescriptive approach to net neutrality is necessary to uphold competition and protect consumer rights. The Authority has amended the Framework to include details on the rationale for a net neutrality policy specific to Trinidad and Tobago.</p> <p>With respect to the Authority's consideration of existing market realities, the Authority emphasises that the Framework adopts a balanced approach, focusing on protecting consumer access and ensuring fair competition, while allowing for commercial practices such as zero-rating and paid prioritisation. This approach aims to promote innovation and collaboration between OTT providers and</p>

⁵ Decisions on Recommendations (DORs) Matrix from the First of Two Rounds of Public Consultation on the Framework on Net Neutrality in Trinidad and Tobago (March 2022)

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				<p>between ISPs in the domestic Broadband/Internet market is effectively regulating firm conduct. As such, there is simply no basis for the Authority's regulatory inclination to intervene in the domestic Broadband/Internet market solely on the basis of broad interpretations of the Telecommunications Act/Operator Concessions with no observed instance of anti-competitive behaviour by ISPs to prompt the market intervention in the first place.</p> <p>Secondly, the observations in the overview are not aligned with the current market realities with particular emphasis on the ongoing debate regarding the application of net neutrality as currently framed by the Authority. There is no contemplation of the recent regulatory positions on Net Neutrality owing to the observed evolution of the internet ecosystem as well as extant regulatory/operator issues/concerns over its application.</p> <p>Ofcom (2022)⁶ recognizing the need for flexibility in the regulatory approach to net</p>		<p>TSPs, fostering infrastructure investment and enhancing QoS for consumers.</p> <p>The Authority values industry-led initiatives like the CANTO Code, acknowledging their alignment with several principles within the Framework. While self-regulation brings valuable benefits, the Authority believes a clear regulatory framework is also essential for consistent enforceability, accountability, and consumer protection, and would apply to all ISPs operational in Trinidad and Tobago.</p> <p>The Authority also reiterates its commitment to harmonising, where practical, its monitoring and compliance process with established ISP processes, including adherence to the CANTO Code, to streamline regulatory obligations, reduce redundancy, and respect industry efforts. This integrated approach seeks to create an efficient, transparent Framework that minimises additional burdens on service providers while ensuring adequate</p>

⁶ Ofcom, Consultation on Net Neutrality Review, October 2022 – January 2023. Available at: https://www.ofcom.org.uk/data/assets/pdf_file/0028/245926/net-neutrality-review.pdf

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				<p>neutrality undertook a consultation process. According to Ofcom, “...net neutrality rules constrain the activities of the ISPs, they may be seen as restricting their ability to innovate, develop new services and manage their networks. This could lead to poor consumer outcomes, including consumers not benefiting from new services as quickly as they should, or at all. These potential downsides might become more pronounced in the future, as people’s use of online services expands, traffic increases, and more demands are placed on networks”.</p> <p>Lastly, the Authority is also reminded that the primary objective of Net Neutrality provisions is to protect end-users access to content via the Internet. The intention has never been to entrench a particular commercial model of the Internet. There is no analysis of the attendant impacts of Net Neutrality as set out by the Authority on ISPs from a competitive standpoint.</p>		oversight, and safeguarding consumer interests.

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12.	3.1	Promoting Broadband Development and Local Innovation	CCTL	<p>In relation to broadband development and local innovation, TATT states that “<i>This object aligns with a key strategic thrust identified in the ICT Blueprint, which is to improve connectivity. This involves initiatives for enhancing ICT infrastructure, specifically through the ubiquitous deployment of next-generation networks (NGNs).</i>”</p> <p>Whereas the Framework has identified government policy as an anchor, it is yet to clearly demonstrate where the application of net neutrality considerations may lead to measurable contributions to industry innovation and development. The value proposition of this position is questionable as net neutrality enforcement is anticipated to function under TATT’s concessionary system while the unrestricted activities of other, foreign-based players, and in particular two- and/or multi-sided market players, are inadequately addressed, nor can they be adequately addressed under the existing Telecommunications framework.</p>	<p>CCTL welcomes TATT’s assessments on access gaps as regards the National Digital Inclusion Survey (DIS 2021) but registers a <i>non sequitur</i> between the DIS 2021’s recommendations and the hard application of net neutrality rules through the concessionary system.</p> <p>CCTL recommends that TATT conducts a holistic review of legal and regulatory framework to reflect current market realities, including the strengthening of competition-based regulations and the elimination of regulations that are not fit-for-purpose.</p>	<p>The Framework promotes investment and innovation by fostering a collaborative environment between OTT providers and TSPs. By adopting a permissive, ex post approach to practices such as zero-rating and paid prioritisation, the Framework provides structured policy guidelines that uphold consumer rights to high-quality service and maintain fair competition. These net neutrality guidelines are essential in navigating collaborations, as they ensure that commercial practices do not disadvantage consumers or distort the competitive landscape.</p> <p>Additionally, the Authority highlights its OTT Framework, published in October 2024, which outlines the strategies and recommendations for regulating OTT access in Trinidad and Tobago. This framework ensures that OTT services are integrated into the market in a manner that fosters competition, protects consumer rights, and supports industry growth.</p> <p>Furthermore, the Authority is collaborating with the Ministry of Digital Transformation</p>

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						on proposed amendments to the Act. These amendments are designed to address evolving market trends and sectoral changes, ensuring that the regulatory framework remains adaptive and responsive to the dynamic telecommunications landscape.
13.	3.1	Promoting Broadband Development and Local Innovation	Digicel	See our comments in Section 1.5.		The Authority notes this comment.
14.	3.2	Fostering Effective Competition	CCTL	TATT states, <i>“One of the objectives of section 3 of the Act, which guides this Framework, is the establishing of conditions for “an open market for telecommunications services, including conditions for fair competition, at the national and international levels”. This Framework is also guided by section 22 (1) (b) of the Act and concession conditions A21 and A22, which address anti-competitive pricing and other related practices and anti-competitive conduct.”</i>	Priority and focus should be placed on legislative and regulatory changes needed to update the current telecommunications framework. TATT should embark on a more holistic assessment of the digital value chain, focusing on enhancing market contestability. In this way, we can expect a renewed framework that can, <i>inter alia</i> , foster a level playing field for all players and ensure that market development is driven through clear, fit-for-purpose competition rules.	The Authority notes CCTL's recommendation to focus on a renewed regulatory framework for enhanced market contestability, and advises that it is actively supporting the Ministry of Digital Transformation in the promulgation of proposed amendments to the Act. These amendments are designed to address current market trends and sectoral changes, further promoting competition and market growth. Until such amendments are finalised, the Authority continues to operate under the existing legislative framework to

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				<p>The ICT Blueprint's strategic thrust to improve connectivity also speaks to improved competition as an outcome of modernised legal and regulatory framework, which is indeed critical to meeting national infrastructure targets. TATT's statement, however, demonstrates limitations in addressing competition in the absence of a comprehensive study to understand the new characteristics and dynamics of players that deliver services to the Trinidad and Tobago public. Such players are outside of the purview of the telecommunications framework despite their current operations.</p> <p>For example, multi-sided market players are presumed to earn a competitive advantage from an un- or under-regulated market, which they exploit in another such as the provision of interpersonal communications. If the current situation persists, it is likely to produce greater challenges for fostering broadband development and local innovation through fair competition.</p> <p>TATT is not currently empowered to address the conundrum of two-sided or multi-sided</p>		<p>fulfil the mandates of the Act, ensuring that competition remains fair, and consumers are protected.</p> <p>Furthermore, the Authority reiterates that the purpose of the Framework is to ensure fair competition and consumer protection, particularly in the context of traffic management and the prevention of discriminatory practices.</p> <p>The Authority acknowledges the complexities of two-sided and multi-sided market players, referred to as OTT players in its regulatory context, who may gain competitive advantages from regulatory gaps. To address these challenges, the Authority has introduced its OTT Framework, which evaluates the dynamics between TSPs and OTT players, aiming to create a balanced regulatory approach. This ensures fair competition and supports broadband development and innovation in Trinidad and Tobago.</p>

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				market players despite the distortion and possible harms that these players may present.		
15.	3.2	Fostering Effective Competition	Digicel	<p>Reference is made to the Authority's statement on competition which states that, <i>"The motivation behind the proposed net neutrality intervention in Trinidad and Tobago primarily aims to prevent anti-competitive behaviour in network operations and related commercial practices, thus ensuring a level playing field for all participants in the telecommunications market"</i>.</p> <p>It is Digicel's respectful view that the abovementioned statement is not being applied comprehensively. The Authority in Section 3.2 narrowly focuses its treatment of competition under the auspices of Net Neutrality to potential discriminatory actions/activities (throttling/blocking access to websites) by ISPs. It is prudent to note that if the current rate of traffic passed through ISP networks continue unabated, minimum quality of service and experience</p>	Digicel recommends that the Authority consider a comprehensive examination of whether Net Neutrality is fit for purpose in its current form given the evolution of the internet ecosystem as well as extant regulatory/operator issues/concerns over its application.	<p>With respect to Digicel's recommendation for a comprehensive assessment, the Authority highlights that it has actively engaged in a comprehensive consultation process since 2018, incorporating input from stakeholders and responding to evolving market developments. Furthermore, the Framework has been amended to include details on the rationale for a net neutrality policy specific to Trinidad and Tobago.</p> <p>The Authority recognises the importance of assessing the broader implications of net neutrality and, as such, it is committed to continuously monitoring market dynamics and adapting the Framework as necessary, but no later than five years. Section 1.7 of the Framework has been amended to reflect this.</p> <p>The Authority notes Digicel's concerns regarding the application of net neutrality,</p>

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				<p>requirements would be hard to meet as the commercial incentive to invest in network upgrades and rollout diminish owing to the extant regulatory/market imbalances in the internet market exacerbated by the adoption of Net Neutrality in its current form. This notion is contrary to the aforementioned Section 3 (f) of the Act.</p> <p>The Authority has not highlighted any analysis it is currently undertaking and/or plans to undertake on the attendant impacts of Net Neutrality as currently defined by the Authority in its framework document on ISPs from a competitive standpoint. The engagement in such an assessment by the Authority would be in alignment with Section 3(f) and 18(3) of the Telecommunications Act.</p> <p>Digicel holds the position that a holistic review of net neutrality as currently framed by the Authority needs to be undertaken to ensure that regulatory/market imbalances and evolutionary trends in the market dynamics of how internet services are currently provisioned in the domestic</p>		<p>the extent of traffic data, and its potential impact on investment. It is important to highlight that, in addition to allowing reasonable traffic management, the Framework is also balanced and permissive, allowing for innovative business models while safeguarding consumer rights to QoS and ensuring fair competition. This approach, which includes allowing practices like zero-rating and paid prioritisation, is intended to foster increased investment in infrastructure, by enabling flexibility for service providers to experiment with new models that can drive business growth and market expansion.</p> <p>The Authority reminds Digicel that the core purpose of any policy on net neutrality is to maintain an open, competitive, and accessible Internet, while preventing anti-competitive practices that could undermine consumer rights or distort market competition. The Framework aims to ensure that ISPs have the flexibility to manage traffic in ways that support network efficiency and sustainability without compromising the consumer experience.</p>

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				Broadband/Internet market are taken into consideration.		Additionally, issues relating to competition among OTT providers, regulatory imbalances, and the incentives for investment are more comprehensively addressed in the OTT Framework.
16.	4.	Policy Provisions on Reasonable Traffic Management	CCTL	<p>As regards the DOR and this Section of the Framework, TATT's recognition of stakeholders' comments and recommendations for the adoption of a more flexible approach to regulating net neutrality violations in Trinidad and Tobago is noted.</p> <p>However, we do not believe that: i. the stated principles are absolute and constitute reasonable traffic management practices and measures in this fast-paced industry; and ii. there is a need to prescribe any ISPs traffic management practices.</p> <p>TATT proposal of a restrictive, binary test of adherence or non-adherence to the principles of fair competition, proportionality and transiency is counterintuitive to the notion of</p>	TATT should refrain from prescribing traffic management practices, and eliminate tests to determine same as they are antithetical to TATT's stated aims of promoting local innovation	<p>The Authority acknowledges CCTL's perspective on the heterogeneity of user demands and its impact on ISPs' networks. However, the Authority maintains that the principles of proportionality, transiency, and fair competition provide a non-exhaustive yet flexible framework to guide reasonable traffic management practices.</p> <p>These principles are not intended to impose rigid or absolute standards but rather to establish a baseline to ensure practices are non-discriminatory, transparent, and aligned with the broader goal of preserving an open and competitive Internet. This approach allows ISPs the flexibility to adapt to the evolving industry landscape while safeguarding consumer interests and promoting fair network practices.</p>

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				<p>promoting innovation. As submitted before, there is a growing heterogeneity of the demands that end users are placing on ISPs networks that is enabling ISPs to create consumer value in ways that are difficult to predict. Clear solutions, however, to ensure reasonable traffic management must be based on competition.</p>		<p>The Authority firmly believes that the proposed Framework promotes innovation by allowing ISPs to develop commercial practices such as zero-rating and conditional paid prioritisation while observing the principles of net neutrality.</p> <p>The Authority agrees that competition remains a fundamental driver of innovation and consumer value. As such, our approach emphasises the adoption of an ex post regulatory framework, which evaluates potential violations on a case-by-case basis.</p>
17.	5.	Policy Provisions for Non-Discrimination in Network Practices	TSTT	<p>TSTT acknowledges TATT's proposed two-step approach to assessing traffic practices for unreasonable discrimination on a case-by-case basis. However, TSTT is concerned that the framework lacks a clear methodology and guiding criteria for these steps, as well as the triggers for TATT's intervention. This lack of specificity creates ambiguity and uncertainty for ISPs, making it challenging to predict how their network management practices will be evaluated.</p>	<p>TSTT recommends that TATT explicitly define the guiding criteria and methodology for TATT's two-step approach to assessing traffic practices for unreasonable discrimination. TSTT also recommends that TATT clarify how TATT intends to measure the impact on competition and consumer protection in these circumstances. Specifically, TSTT recommends that to ensure transparency, predictability and legal certainty, TATT:</p>	<p>The Authority acknowledges TSTT's concerns regarding the need for greater clarity on the triggers for intervention and the methodology for assessing traffic practices for unreasonable discrimination. The Framework has been amended to include more detailed information on the specific criteria that may trigger an investigation. These criteria are designed to be objective, measurable, and aligned with the principles of transparency and fairness.</p>

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				<p>Additionally, the absence of clear guidelines raises concerns about potential inconsistencies in TATT's enforcement actions, which could lead to unfair treatment of different ISPs. The lack of transparency in the assessment process also undermines legal certainty for ISPs, potentially discouraging investment and innovation in network infrastructure and services.</p>	<ol style="list-style-type: none"> 1. Define and make publicly available the specific criteria that will trigger its intervention in cases of potential unreasonable discrimination. 2. Ensures that the criteria identified above are objective and measurable. 3. Clearly define and make publicly available the detailed methodology for assessing traffic practices for unreasonable discrimination. This methodology should show the detailed steps involved and all necessary supporting definitions and explanations to allow ISPs and other stakeholders to understand the assessment process. 	<p>Additionally, the Framework now reflects the Authority's intention to publish a comprehensive methodology for assessing traffic practices for unreasonable discrimination. This methodology will outline the steps involved in the assessment process, including guiding criteria, necessary definitions, and considerations for evaluating the impact on competition and consumer protection.</p>
18.	6.1	Zero-Rating	CCTL	<p>CCTL has noted that TATT acknowledges that there are potential benefits of zero-rating to consumers and competition and recommends a case-by-case approach to the commercial practice. It is unclear what is meant by a "case-by-case basis" statement that TATT states in its DOR response. CCTL</p>	<p>CCTL reiterates its recommendation that TATT refrain from implementing unnecessary rules that are much more likely to discourage ISPs from experimenting with or even attempt such innovative product offerings, to the detriment of consumers and the economy as a whole.</p>	<p>The Authority clarifies in section 7 that the case-by-case approach is triggered when a zero-rating practice involves anti-competitive behaviour or infringements on consumer rights. Specific triggers include whether the practice substantially restricts competition, favours an ISP's affiliates, creates exclusionary arrangements, or</p>

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				requests further elaboration or clarity on this comment.		employs discriminatory pricing models. Additionally, the Authority examines the competitive environment, the transparency of terms and conditions, and the impact on consumer choice and control, ensuring that assessments are targeted, evidence-based, and aligned with the principles of fair competition and consumer protection.
19.	6.2	Conditional Paid Prioritisation	CCTL	CCTL looks forward to further engagement in this process.	CCTL recommends that TATT withdraws the proposed rules set out in this document.	The Authority appreciates CCTL's continued engagement in this process. The Authority maintains that a case-by-case arrangement for paid prioritisation is important to ensure a balanced, fair, and competitive market. Such an approach allows the Authority to evaluate whether specific instances of paid prioritisation distort competition. By intervening only when necessary, this approach safeguards innovation while preventing practices that could harm competition or undermine consumer rights.
20.	6.2	Conditional Paid Prioritisation	TSTT	TATT's policy approach to conditional paid prioritisation, while recognising its potential benefits for specialised services and user experience, lacks clear methodological	TATT should prioritise transparency and predictability in its regulatory approach to conditional paid prioritisation. It is recommended that TATT explicitly define	The Authority acknowledges the concerns regarding the clarity and transparency of its policy approach to conditional paid prioritisation, particularly in relation to

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				<p>guidelines and specific criteria for assessing potential competition distortion and its impact on fairness and transparency. This lack of clarity creates uncertainty for ISPs, hindering their ability to predict how this commercial practice will be evaluated thereby potentially discouraging investment and innovation in new services and infrastructure. The absence of transparent assessment criteria also raises concerns about potential inconsistencies in TATT's enforcement actions, which could lead to unfair treatment of different ISPs.</p>	<p>the guiding criteria and methodology for its approach to assessing these practices for competition distortion and how this will be measured in these circumstances. To ensure transparency, predictability, and legal certainty, TATT should:</p> <ol style="list-style-type: none"> a. Clearly articulate the specific criteria that will trigger TATT's intervention in cases of competition distortion related to conditional paid prioritisation practices. b. Guarantee that the identified criteria are objective and measurable, enabling consistent and fair evaluation of paid prioritisation offers across different ISPs. c. Provide a publicly available, comprehensive methodology for assessing conditional paid prioritisation practices for competition distortion. This methodology should outline the detailed steps involved, along with necessary definitions and explanations, to facilitate 	<p>assessing potential competition distortion and its impact on fairness and transparency. The Framework has been amended to include detailed information on the specific criteria that will trigger intervention in cases where conditional paid-prioritisation practices may lead to competition distortion. These criteria have been designed to be objective, measurable, and consistent with the principles of fairness and transparency.</p> <p>Furthermore, the Framework now reflects the Authority's intention to publish a comprehensive methodology for assessing conditional paid-prioritisation practices. This methodology will outline the steps involved in the assessment process, provide clear guiding criteria, and include necessary definitions and explanations to ensure ISPs and stakeholders understand how these practices will be evaluated.</p>

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					understanding among ISPs and stakeholders.	
21.	7.	Transparency	CCTL	<p>CCTL is still in the camp that it supports the principle of transparency and notes TATT's comments as it relates to CCTL's terms and conditions and that the need to go further in the protection of consumers which is also within the intentions of CCTL.</p> <p>CCTL also notes TATT's recommendations on the treatment of Over-the-Top players (OTTs) in its Framework on OTTs in Trinidad and Tobago. After considering the comments by TATT, CCTL still believes that in the current situation, local ISPs face unfair competition from OTT services and application providers. Any regulation or framework to be developed should attempt to provide a level playing field. CCTL has discerned from TATT's responses that TATT appears to be less concerned about market impacts and the imbalances stemming from large OTT players in the market, and more concerned about requiring local ISPs to provide excessive, non-pertinent</p>	CCTL recommends that TATT reassess its framework and priorities in this proceeding away from a singular assessment of ISP's transmission practices and towards a more holistic assessment of the Internet OTT-universe as a whole. Learning from other countries' strategies in managing OTT and ISP competition can provide valuable insights for local contexts.	<p>The Authority notes CCTL's support for the principle of transparency in the protection of consumers. The Authority also notes CCTL's concerns regarding perceived market imbalances stemming from competition between local ISPs and OTT providers.</p> <p>The Authority reiterates that the primary purpose of this Framework is to address matters specifically related to net neutrality, ensuring that network practices are conducted in a manner that promotes competition and consumer rights. Broader market imbalances arising from OTT providers are more appropriately addressed within the scope of the OTT Framework, which was published in October 2024. That framework examines the interplay between OTT providers and local ISPs, proposing measures to foster more equitable competition and local investment in infrastructure.</p>

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				information, which ironically deepens the aforementioned imbalances.		
22.	7.	Transparency	Digicel	<p>Digicel notes the Authority's position as set out in Policy Statement 11 which states as follows: <i>"11. Internet service providers (ISPs) shall publicly disclose on their websites network and service-related information, including, but not limited to, general information (e.g., pricing, fees, service offerings, and availability), traffic management policies, performance characteristics, and commercial terms and conditions"</i>.</p> <p>The Authority is reminded that Digicel's service offerings and their associated terms and conditions are set out in clear and concise terms on the Digicel website. The Authority's intent to increase the quantum and detail of reporting requirements under the guise of Net Neutrality with no consideration to costs of meeting said requirements by ISPs is met with utter dismay. There is no guidance as to whether these onerous and costly reporting requirements are to be implemented immediately or in a phased manner. Then</p>	Digicel recommends that the Authority consider a comprehensive examination of whether Net Neutrality is fit for purpose in its current form given the evolution of the internet ecosystem as well as extant regulatory/operator issues/concerns over its application.	<p>The Authority acknowledges Digicel's concerns and appreciates its detailed feedback regarding the reporting requirements outlined in Policy Statement 11. The intent of these requirements is to enhance transparency in the telecommunications market, ensuring that consumers, stakeholders, and edge providers have access to clear and relevant information about ISP practices. The reporting requirements are not burdensome or excessive. They are carefully designed to provide meaningful insights into traffic management policies, performance characteristics, and commercial terms that can directly affect consumer choice and competition.</p> <p>Comparatively, other jurisdictions, such as the EU and the US, have reporting requirements that are more detailed. Furthermore, the Framework's requirements are consistent with the information consumers need to make</p>

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				<p>again, ISPs may try to recover these high costs via upwardly revised tariffs on end-users of internet/broadband telecommunication services.</p> <p>A question could be raised as to whether any analysis was undertaken by the Authority on the attendant impacts of the imposition of these reporting requirements on ISPs as well as analysing whether the existing reporting requirements were actually utilized by edge providers in the first instance. The Authority's position comes across again as being informed by academic presuppositions and not grounded on market realities. If edge providers actually utilized this Quality of Service ("QoS") data, then there would not be such fierce debate over fair share contributions by OTTs in the internet ecosystem.</p>		<p>informed choices about their broadband service. The Authority believes that the transparency requirements strike an appropriate balance between providing sufficient information for consumers and minimising regulatory burdens on ISPs.</p>
23.	7.	Transparency	TSTT	<p>In the Framework document, TATT calls for "<i>public disclosure of relevant information on traffic management policies, performance characteristics, and some commercial practices.</i>" in two formats: high-level and detailed. TATT noted that it is</p>	<p>TATT to clarify how sections 3(c) and 24(1) of the Act and Concession Condition A53 apply to its request for such public disclosures.</p>	<p>Section 3(c) of the Act requires the Authority to promote and protect public interests by ensuring consumer protection and advancing the interests of customers, purchasers, and users concerning the quality and variety of telecommunications</p>

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				<p><i>“guided by section 3 (c), and in accordance with section 24 (1), of the Act and concession condition A53, proposes transparency requirements for ISPs to disclose network and service- related practices to consumers.”.</i> TSTT acknowledges its obligation to share certain information with TATT and the public. However, TSTT disagrees with the proposed public disclosure of traffic management policies and performance characteristics in the manner outlined. We request that TATT clarify how the sections of the Act and Concession apply to its request for such public disclosures.</p> <p>TSTT reiterates its concern raised in the first round of consultation that <i>“[it] is unclear how details regarding technical policies can serve any useful purpose to consumers, TSTT also seeks clarification on how TATT seeks to mitigate the other commercial and operational risks that will emerge from this ill-conceived approach particularly in these times of hyper cyber-criminal activity”.</i></p>	<p>TATT to provide clarification on how it intends to mitigate the operational risks that may emerge from this approach, particularly in these times of hyper-criminal activity.</p> <p>TATT to provide detailed responses to TSTT’s questions.</p>	<p>services. This provides the broad context for the need for net neutrality, particularly where consumer rights may be compromised, advocating for consumers to have access to pertinent information to make informed choices. This is supported by Concession Condition A53, which mandates ISPs to publish and provide any information deemed necessary by the Authority to inform the public about the operation of their networks and services, including terms, conditions, and quality standards.</p> <p>Section 24(1) of the Act requires concessionaires to submit to the Authority plans regarding network development, QoS, and other related matters. This provision supports transparency by ensuring that the Authority has access to essential operational information to effectively monitor compliance with QoS standards obligations. The Framework has been amended to include this elaboration on the application of the referenced provisions.</p>

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				<p>The publication of such detailed information may pose a security risk to TSTT. TSTT notes TATT's comments that "<i>the requirements for transparency do not include the disclosure of commercially sensitive information</i>, however, it has not addressed our security concerns. While transparency is essential, TSTT believes that a careful balance must be struck to protect both its operational integrity and the public interest.</p> <p>TATT did not adequately respond to TSTT's recommendations (Item 33, first round consultation), which now relate to Section 7 in the Framework, concerning clarifications on:</p> <ol style="list-style-type: none"> 1. the details of what it considers would be relevant and useful to customers 2. the measures it intends to implement to mitigate the risk of such publication to the commercial and technical operations of ISPs 		<p>The Authority reiterates that the transparency requirements outlined in the Framework are aligned with global best practices observed in jurisdictions such as the EU⁷, and are, in some respects, less stringent. These requirements do not extend to the disclosure of commercially sensitive information. Instead, they focus on providing general information on traffic management policies, performance characteristics, and commercial practices, enabling consumers to make informed decisions. As such, the perceived risks of malfeasance or cybersecurity breaches are unfounded, as the disclosed information will remain general in nature, and such disclosure is consistent with global best practices.</p> <p>The Authority acknowledges TSTT's concern regarding the potential for performance characteristics data to be transient and influenced by various factors, such as network conditions at specific times and locations. However, it is important to</p>

⁷ See: Regulation (EU) 2015/2120

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				<p>3. the measures it intends to implement to compensate operators where malfeasance (particularly from cyber criminals) occurs due to the publications proposed by the Net Neutrality Framework</p> <p>TATT to provide detailed responses to TSTT's questions.</p> <p>In the Framework document, TATT notes that "performance characteristics includes data caps, actual upload and download speeds, latency, jitter, packet loss, DNS resolution times, and other relevant QoS parameters as identified in the concession or superseding regulations." However, TSTT expresses concern that detailed public disclosure of this data may not be beneficial. The results can be transient and dependent on various factors, such as network conditions at specific times and locations. This variability might create unrealistic expectations for customers and stakeholders, potentially leading to increased complaints filed with TATT.</p>		<p>note that the intention behind public disclosure of such data is to provide consumers with a general understanding of the QoS they can expect. While individual performance metrics may vary, the aim is to present an overall picture of the service's quality and performance trends, rather than to offer guarantees on specific conditions at any given moment. Furthermore, the Authority's proposed disclosure aligns with best practices aimed at enhancing transparency and empowering consumers to make informed choices.</p>

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24.	8.	Monitoring Strategies and Guidelines	Digicel	Digicel strongly recommends for the Authority to undertake an assessment of whether Net Neutrality as currently framed in its framework document is fit-for purpose in the current Internet ecosystem, considering the evolution of the underlying market dynamics and the IP based services on offer. Clarity is also being sought on how the Authority would undertake these independent market surveys and interviews when it has no regulatory remit over edge-providers/OTT providers/LTG's.	Digicel recommends that the Authority consider a comprehensive examination of whether Net Neutrality is fit for purpose in its current form given the evolution of the internet ecosystem as well as extant regulatory/operator issues/concerns over its application.	<p>The Framework is designed to address a rapidly changing market. In section 1.7, the Authority recognises the importance of continuously reviewing the Framework's relevance in light of these changes and commits to updating it as necessary, but no later than five years.</p> <p>The Authority recognises the importance of considering the broader impact of edge providers, OTTs, and other key stakeholders in shaping regulatory policies. The Authority shall continue to collaborate with these parties to ensure that policies are responsive to evolving market conditions, promoting fair competition, fostering innovation, and protecting consumers' rights.</p>
25.	8.	Monitoring Strategies and Guidelines	TSTT	TATT states that it "may also, on its own initiative, undertake independent assessments using information from the following sources: ... Independent technical network monitoring, entailing quantifiable metrics collected independently by the Authority using probes to assess network performance and QoS	Could TATT provide more details and references regarding the "probes" and "tools" to be used in these monitoring efforts, including the extent of any intrusions into company infrastructure?	The Authority clarifies that it will adopt an approach to independent network monitoring that aligns with internationally recognised frameworks, such as those proposed by the Body of European Regulators for Electronic Communications (BEREC). This includes the use of public probes and tools to collect network

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				<p>parameters, such as broadband speeds, streaming and web browsing performance.”</p> <p>In the related Item 40, (first round of consultation, TATT’s Decisions), TATT also mentions technical monitoring “includes the use of tools that enable end users and national regulatory authorities (NRAs) to test the speed and quality of the Internet access service offered.”</p>		<p>performance data and QoS metrics. These probes are placed at designated points at consenting customers’ premises to measure broadband speeds, streaming quality, and web-browsing performance. Such external performance data supports objective and non-intrusive monitoring. This approach may evolve and the Authority will consult with operators on any changes in the process that may be required.</p>
26.	9.	Compliance and Enforcement	Digicel	<p>Digicel posits that any action to forge ahead with formalizing procedures by the Authority without any comprehensive assessment on the applicability of Net Neutrality as currently conceptualized in this draft framework document is deemed to be flawed. The aforementioned position is held owing to the evolution in the market dynamics of the internet market. Hence, in its current form, the Authority's conceptualization and proposed application of Net Neutrality in the domestic internet market of Trinidad and Tobago is not fit for purpose.</p>	<p>Digicel recommends that the Authority consider a comprehensive examination of whether Net Neutrality is fit for purpose in its current form given the evolution of the internet ecosystem as well as extant regulatory/operator issues/concerns over its application.</p>	<p>The Authority appreciates Digicel's feedback and acknowledges the evolving nature of the Internet ecosystem. It is important to highlight that the current Framework has been developed over several years, with extensive consultation beginning in 2018. This consultation process has included input from a wide range of stakeholders, including ISPs, OTT providers, and other industry participants, which has ensured that the Framework reflects current market realities and the interests of all parties involved.</p> <p>Furthermore, the Authority has amended the Framework to include details on the</p>

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						<p>rationale for a net neutrality policy specific to Trinidad and Tobago.</p> <p>The Authority remains committed to continuous assessment and review of the Framework to ensure its relevance and effectiveness in light of ongoing market changes, as stated in section 1.7 of the Framework as amended. The Authority will continue to engage with stakeholders and monitor developments within the Internet ecosystem, including the roles of OTTs and edge providers. This ongoing evaluation will ensure that the Framework evolves in a way that supports fair competition, consumer protection and innovation, while being adaptable to the dynamic nature of the telecommunications and digital markets.</p>
27.	General Comment	Entire Document	TSTT	TSTT acknowledges TATT's position that quantifying the precise effects of net neutrality on factors like competition, innovation, and consumer choice is challenging. However, TSTT believes that labeling these crucial aspects as "unmeasurable" is a dismissive stance that	TATT should embrace a data-driven approach that leverages both quantitative and qualitative methods to gain a more comprehensive understanding of the potential consequences of net neutrality regulations.	The Authority notes TSTT's recommendations for a data-driven approach and the conduct of a cost-benefit analysis to evaluate net neutrality regulation. The Authority has drawn on quantitative evidence from its annual and quarterly market reports, consumer

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				<p>undermines the potential negative consequences of net neutrality regulations. While acknowledging the difficulty in achieving perfect quantification, TSTT emphasises that these factors can be effectively assessed using established methodologies and indicators.</p> <p>Furthermore, TSTT echoes CANTO's call for a comprehensive cost-benefit analysis to be conducted before implementing any net neutrality regulations. This analysis should not only consider the potential benefits of net neutrality, such as promoting an open internet and preventing discriminatory practices, but also the potential costs, such as reduced investment in network infrastructure and stifled innovation.</p> <p>TATT's own comments in the DoRs provide evidence that these factors are being measured and considered, albeit imperfectly. TATT mentions using tools like market reports, competition analysis, and consumer surveys to inform its policy decisions. These tools, while not providing absolute measurements, offer valuable insights into</p>	<p>In line with CANTO's suggestion, TSTT strongly advocates for a thorough cost-benefit analysis to be conducted before implementing any net neutrality regulations. This analysis should not only consider the potential benefits of net neutrality, such as promoting an open internet and preventing discriminatory practices, but also the potential costs, such as reduced investment in network infrastructure and stifled innovation.</p> <p>Specifically, TSTT suggests that TATT:</p> <ol style="list-style-type: none"> a. Develops a clear methodology for assessing the impact of net neutrality on competition, innovation, and consumer choice. This methodology should include a combination of quantitative indicators (e.g. market share, number of new services introduced, consumer satisfaction surveys) and qualitative assessments (e.g. expert interviews, case studies). b. Utilises economic modeling and forecasting to estimate the potential impact of net neutrality on ISP revenues 	<p>surveys, complaints data, and competition metrics like the HHI, while also reviewing historical instances of ISP behaviour. The Authority also notes that since 2018, the Authority has engaged extensively with stakeholders through consultations, capturing diverse perspectives and aligning with international best practices.</p> <p>The Authority has carefully weighed the benefits and drawbacks of implementing its policy on net neutrality, including their effects on competition, innovation, and consumer protection and choice. The Framework has been amended to include details on the Authority's rationale for implementing a policy on net neutrality in Trinidad and Tobago. The Authority will continue to monitor all factors considered as the Framework is implemented.</p> <p>Furthermore, the Authority reiterates its commitment to collaborating with stakeholders to align its monitoring and compliance processes with established methods used by ISPs, including adherence to the CANTO Code. By leveraging</p>

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				<p>the state of competition, innovation, and consumer choice in the market.</p> <p>Therefore, while measuring the precise impact of net neutrality on these factors remains a challenge, it is not impossible. A combination of qualitative and quantitative approaches can provide a reasonable assessment of its effects, enabling more informed policy decisions.</p> <p>TATT repeatedly refers to the “immense impact” of violations of net neutrality. However, TSTT questions the evidentiary basis for TATT’s statements in this regard given that TATT is seeking to introduce legally binding net neutrality rules based largely on this asserted impact.</p> <p>TSTT notes TATT’s repeated assertion that “Based on its observations, the Authority has not been able to ascertain, at this point, whether the market is sufficiently competitive to rely solely on self-regulation, to guard against market failure, or to dispense with the protection from net neutrality regulation.” However, TSTT emphasises that</p>	<p>and investment incentives, in the short-term and long-term.</p> <p>By adopting a more robust and evidence-based approach, which includes a comprehensive cost -benefit analysis, TATT can ensure that its net neutrality policies are fact and data-based and do not inadvertently stifle the growth and innovation of the telecommunications sector.</p> <p>TSTT recommends that TATT provide the industry with concrete evidence substantiating the stated “immense impact” of net neutrality violations. This transparency is crucial for stakeholders to understand the basis for the proposed regulations and engage in meaningful</p>	<p>existing industry processes, the Authority aims to minimise the additional cost of information submission.</p> <p>With respect to the state of competition, the Authority notes that the current analysis, including the use of tools like the HHI and price trends, does not provide conclusive evidence that the market is sufficiently competitive to rely solely on self-regulation. As such, the Authority believes that regulatory safeguards remain necessary to prevent anti-competitive practices, protect consumers, and foster innovation. The Authority acknowledges the value of providing evidence regarding the “immense impact” of net neutrality violations and has amended the Framework to include more detailed information on these impacts, as well as findings on the competitive landscape of the broadband market.</p>

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				<p>the logical corollary to this is that TATT has also not ascertained that the market is not sufficiently competitive for self-regulation to be employed. This lack of a definitive conclusion on the state of competition underscores the need for a cautious and evidence-based approach to net neutrality regulation.</p>	<p>discussions about their necessity and potential consequences.</p> <p>TATT must employ a data-driven approach to the issue of net neutrality, so as to ensure that it fulfills its obligations pursuant to Section 18(5) of the Act while promoting competition, protecting consumer interests, and fostering innovation in the sector.</p> <p>Specifically, TSTT recommends that TATT conduct a comprehensive and transparent assessment of the competitive landscape of broadband. The findings of this assessment should be made publicly available and, the decision on whether to rely solely on self-regulation or implement additional net neutrality measures should be explicitly justified based on the evidence gathered with a final decision made pursuant to Section 18(4).</p>	