



Public Policy Considerations for OTTs - ITU

"Considering the rapid development of information and communications technology (ICT) which led to the advent of Internet-based services commonly known as "over-the-top" (hereafter: OTT), all stakeholders are invited to submit their inputs on the following key aspects from policy perspective:

About CANTO

CANTO is a trade association representing Caribbean network operators, service providers and vendor partners in the region. CANTO's has over one hundred and twenty-three (123) members from thirty-two (32) countries spanning four (4) continents. CANTO partners with regional and international institutions such as ITU, CTU, ECTEL, Caricom, IDB, UWI, ECLAC and others to meet shared objectives.

1. What are the opportunities and implications associated with OTT?

1.1 As internet penetration, digitalization, convergence and the use of smartphones grow consumers benefit from services provided via the Internet by Over-the-Top-Providers (OTT). OTTs now provide voice and messaging services, TV content and other services. Consumers are accessing a wider array of convenient services provided by OTTs at cheaper rates than provided by established telecommunications and cable providers. This is definitely good for consumers. OTTs are also themselves expanding the portfolio of services they offer including online shopping, eBooks, devices, cloud hosting services, maps, driverless cars, smartphone operating systems and a myriad of other meshed services. The implications associated with OTTs are discussed below.

2. What are the policy and regulatory matters associated with OTT?

What are OTT Services?

2.1 Over-the-top (OTT) is a general term used for services that a customer may use which rides on top of a network to which the customer is connected. These services are referred to as "over-the-top" because they ride on top of the service that customers already have from their providers. Many of these OTT providers have not entered into any agreements with the customers' service provider to provide the services to the customer, notwithstanding that they must use a network that they did not build. Some of the best known OTTs are Facebook, Skype, Whatsapp and Netflix. These OTTs are massive enterprises. The market capitalisation of these companies is many multiples of the market capitalization of the telecommunication network and service providers in the Caribbean region.

2.2 Caribbean operators embrace OTT services, provided that they are not harmful to domestic networks and bear their fair share of costs. Operators are happy that customers are purchasing smartphones and using data services to play games, watch videos and relate on social networks, as well as to make calls and send text messages.

2.3 Caribbean operators call upon Ministers of Government and ICT regulators to find paths to balancing innovation, investment and competition. Each must bear its fair share of costs.

OTT Providers Subsidised by Caribbean Networks, Caribbean Governments and Caribbean Consumers

2.4 OTTs Do Not Invest in Local, Caribbean Infrastructure – Sustainability of Local Infrastructure at Risk

2.4.1 Throughout the Caribbean, operators are making huge investments in providing networks that will be data intensive. OTT services ride on these networks without making any contribution to the sustainability of the network operators have invested in and on the OTTs rely. They do not pay, for the most part, to terminate traffic on a mobile or fixed network, where the service is actually terminated on the local network of the fixed or mobile provider

2.4.2 In the Caribbean, voice and message apps usage is large. Rather than pay for an SMS message or a phone call, customers may use Skype, WhatsApp, Viber or some other OTT service to send messages and videos or make VoIP calls for nothing. A data charge may still be incurred but with Wi-Fi access even those charges may be avoided.

2.4.3 Ultimately Caribbean operators invest in networks that they will struggle to maintain and upgrade because significant portions of revenues are being siphoned off by OTT operators. This is an unsustainable position for any commercial operator. Caribbean operators reject any notion that they should exert no control over their networks, have no rights, no responsibilities and no claim on how their networks are used.

2.5 OTTs are Not Licensed to Provide Service in the Caribbean and Do Not Pay Taxes

2.5.1 OTTs are providing services in markets in which they are not licensed to provide the services.

2.5.2 OTTs do not pay taxes to any Caribbean governments or contribute to any Universal Service Funds, which funds are used to develop the ICT infrastructure in the countries.

To the contrary, Caribbean operators:

- i. are licensed to provide all the services that they provide;
- ii. pay taxes to the governments in the Caribbean;
- iii. pay regulatory fees;
- iv. contribute to Universal Service;
- v. invest in their networks;
- vi. pay for all the resources, including spectrum, that are required to make networks operational; and
- vii. provide services at increasingly competitive prices

2.5.3 The result is that there is a troubling disparity between the costs incurred by domestic, Caribbean network operators and those incurred by OTT providers. Much of these costs are

driven by regulatory rules which apply only to domestic telecommunications providers and cable providers. Caribbean domestic network operators incur all the costs imposed by regulations. OTTs incur none of these costs. Accordingly OTT services are cheaper because they are not subject to the regulatory costs which are being borne by the domestic operators and customers – resulting in domestic operators being less competitive than OTT providers.

2.6 OTT Services Degrade the Quality of Service Provided by Local, Licensed Providers

2.6.1 OTT services deplete the Quality of Service on both mobile and fixed networks because such services use increasing amounts of network capacity and bandwidth and in particular for mobile wireless networks data radio uplink network resources;

2.6.2 OTT video service providers spec their traffic so that most video traffic adapts to network congestion by shifting to lower bitrates and quality, which impacts the subscriber experience on broadband. When capacity is increased, adaptive video simply upshifts to a higher fidelity and fills the new capacity. Therefore no network operators will ever be able to build enough capacity to satisfy bandwidth hungry video. The alternative is to force network operators to augment their networks to keep-up with the growth in video traffic on which they earn very little. This is unsustainable.

2.7 OTT Providers Shift Cost to Caribbean Operators, Caribbean Governments and Caribbean Customers

2.7.1 OTT services are embraced because they are perceived as innovative and cheap. However this perception is not reality as the cost of the service has been shifted to Caribbean network operators, Caribbean governments and Caribbean customers who are subsidizing OTT providers through higher prices for data service. Just as OTTs avoid bearing their fair share of legitimate costs for using domestic networks so it is they avoid paying taxes to Caribbean governments and hurt the ability of the poorest citizens' access to technology because they also avoid contributing to Universal Service Funds.

2.8 Commercial Response Ineffective. Regulatory / Policy Response Required

2.8.1 Caribbean operators have been told that they must become more competitive and offer OTT type services. Yet Caribbean operators do offer OTT type services, however even on these OTT type services Caribbean Operators have to pay licence fees, taxes and Universal Service Contribution. This commercial approach to what is a fundamental issue of discriminatory application of regulations is not effective. As long as the same rules do not apply to OTT operators as to Caribbean operators or in the alternative as long Caribbean operators are not governed by the same rules as OTT providers, Caribbean operators will not be able to effectively compete with OTTs. Nor will Universal Service Funds (USF) generate the amounts of revenue that they could, as there will be less and less tax funding from local telecommunications revenue as larger and larger portions of these revenues migrate to OTTs who make no investment in Caribbean economies.

3. How do the OTT players and other stakeholders offering app services contribute in aspects related to security, safety and privacy of the consumer?

We believe that this is best addressed by OTT providers.

4. What approaches might be considered regarding OTT to help the creation of environment in which all stakeholders are able to prosper and thrive?

4.1 The Caribbean telecommunications industry simply ask that policymakers apply regulations equally to OTT providers and require OTT providers to embrace the legitimate costs of operating in Caribbean markets including requiring such providers to enter into commercial interconnection agreements, where their services terminate on a telephone number on a domestic network.

5. How can OTT players and operators best cooperate at local and international level? Are there model partnership agreements that could be developed?"

5.1 Caribbean operators are not asking for concessions. All we ask is that OTTs pay for the use of network facilities and that regulations apply to all players in the same market or not at all. The telecommunications industry has well developed model agreements such as peering and interconnection that allows operators to mediate the cost of using each other's infrastructure and which are more or less, market neutral. Moreover, notwithstanding the untenable situation,

there is nothing preventing OTTs and traditional cable and telecommunications operators from partnering with each other as such partnership advance their commercial interest. Even so regulations must apply to all players in the same market or not at all.

Summary of Response

CANTO, the leading trade association for telecoms providers in the Caribbean region responds to the ITU. CANTO takes the view that regulations are to be applied to all the players in the same markets or not at all. Caribbean operators bear the costs of regulation while OTTs in the same Caribbean markets are not similarly regulated resulting in the services of telecom operators being uncompetitive. Moreover OTTs must pay their fair share of cost for using local networks in the Caribbean. They are not doing so but rather are being subsidized by Caribbean telecoms operators, Caribbean governments and Caribbean consumers.

END