

**TELECOMMUNICATIONS AUTHORITY
OF TRINIDAD AND TOBAGO**

DRAFT COMPETITION POLICY

14TH MARCH, 2019



Telecoms Act

- TATT is governed by the provisions of the Telecoms Act of Trinidad and Tobago
- Competition powers:
 - The Authority may establish price regulation regimes, which may include setting, reviewing and approving prices, in any case where—
 - (a) there is only one concessionaire operating a public telecommunications network or providing a public telecommunications service, or where one concessionaire has a dominant position in the relevant market;
 - (b) a concessionaire operating a public telecommunications network or providing a public telecommunications service cross-subsidises another telecommunications service provided by such concessionaire;
 - (c) the Authority detects anti-competitive pricing or acts of unfair competition.

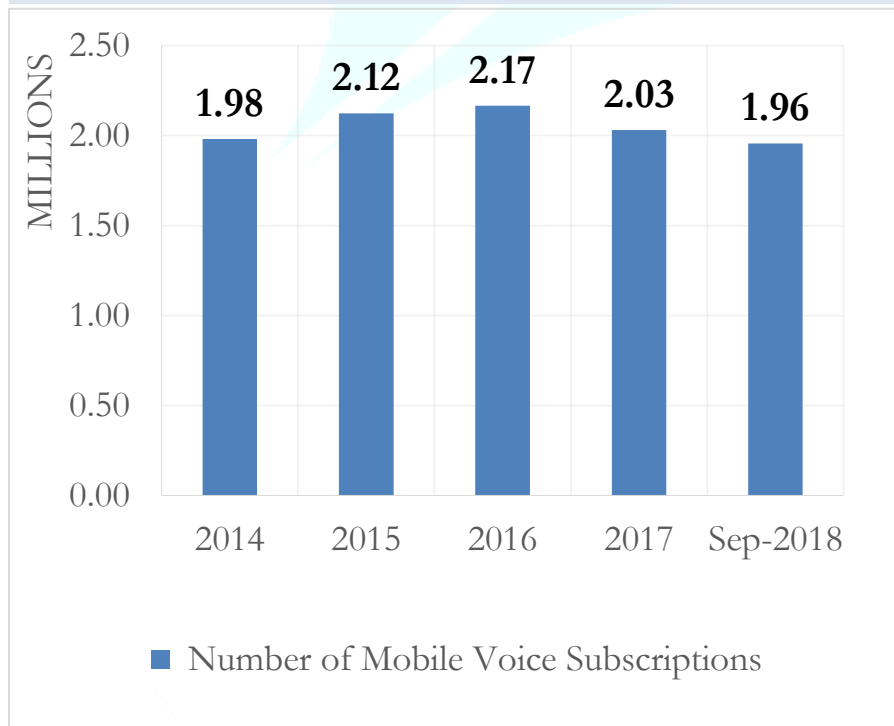
An Open Telecommunications Market

Market	Concessionaires in Operation
Fixed	Six (6)
Mobile	Two (2)
Fixed Internet	Eleven (11)
International	Seven (7)
Subscription TV	Thirteen (13)
Free-to-Air Radio	Thirty-Eight (38)
Free-to-Air Television	Six (6)
TV via Cable	Nine (9)

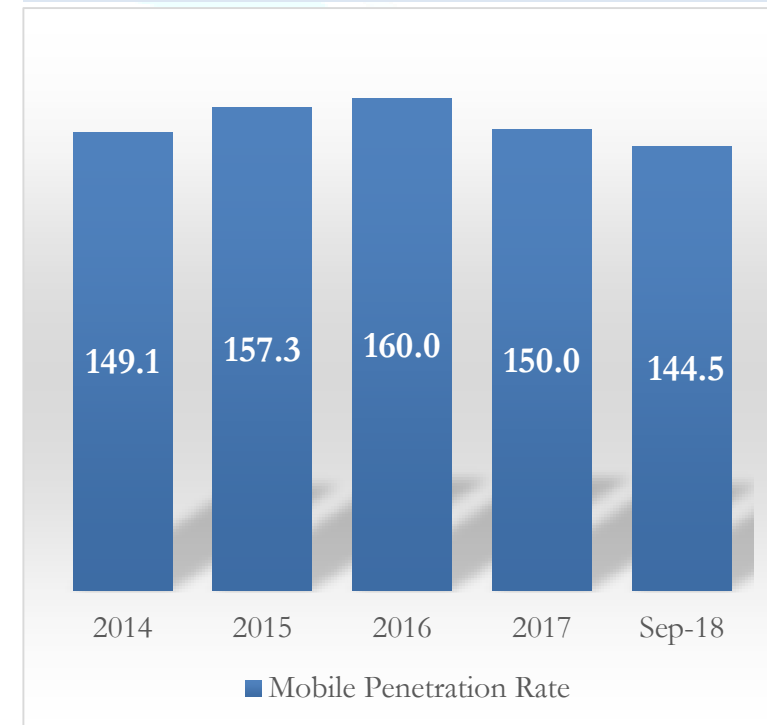
Increasing Access through Liberalisation

Mobile Market

Mobile Subscriptions
2014 – 2018



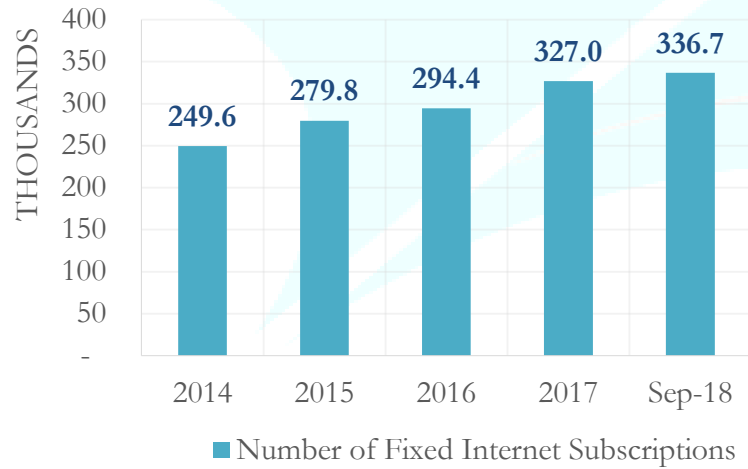
Mobile Penetration Rate
per 100 Inhabitants 2014-2018



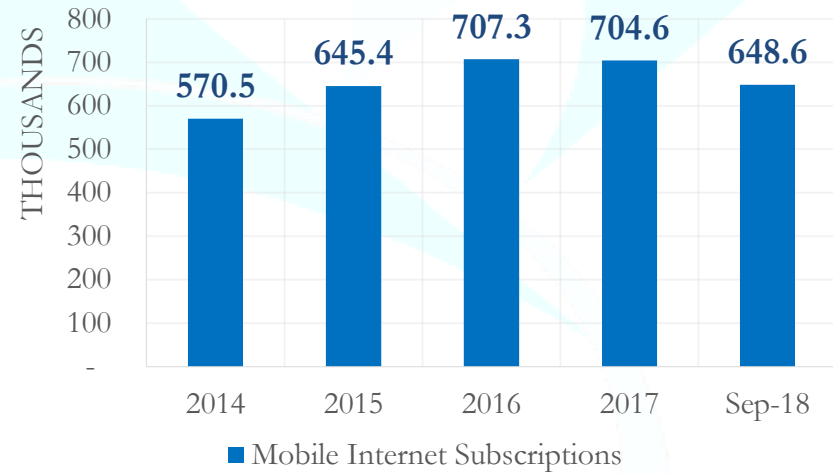
Increasing Access through Liberalisation

Internet

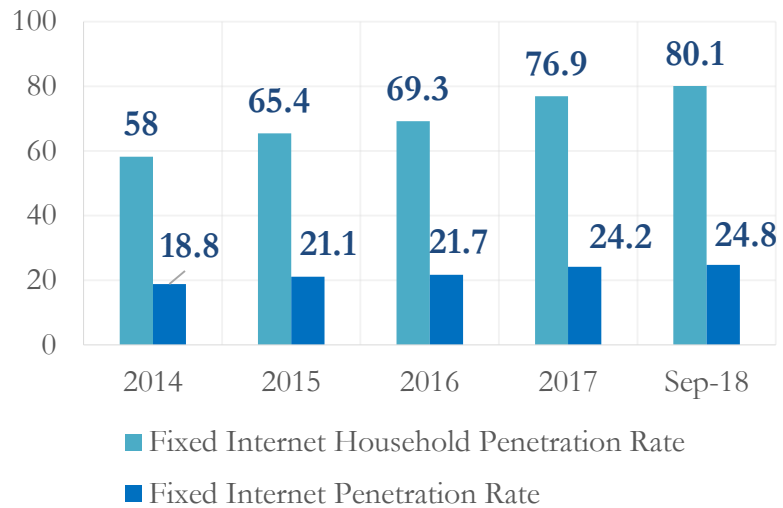
Fixed Internet Subscriptions – 2014 to 2018



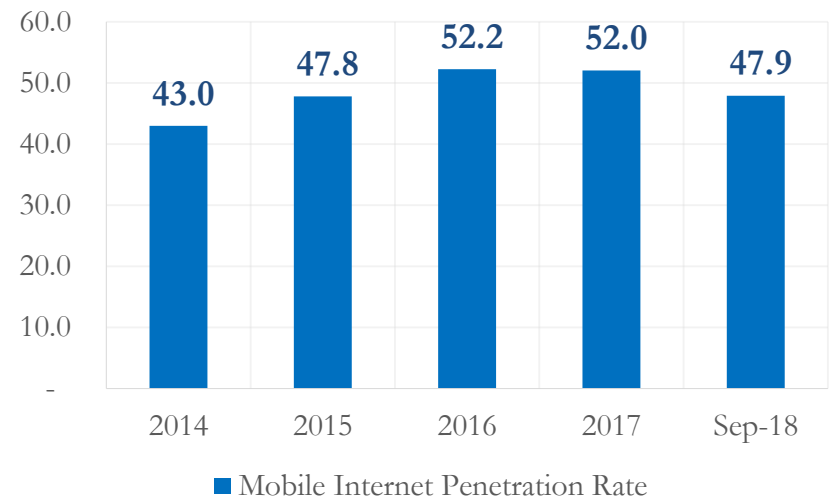
Mobile Internet Subscriptions – 2014 to 2018



Fixed Internet Penetration - 2014 to 2018

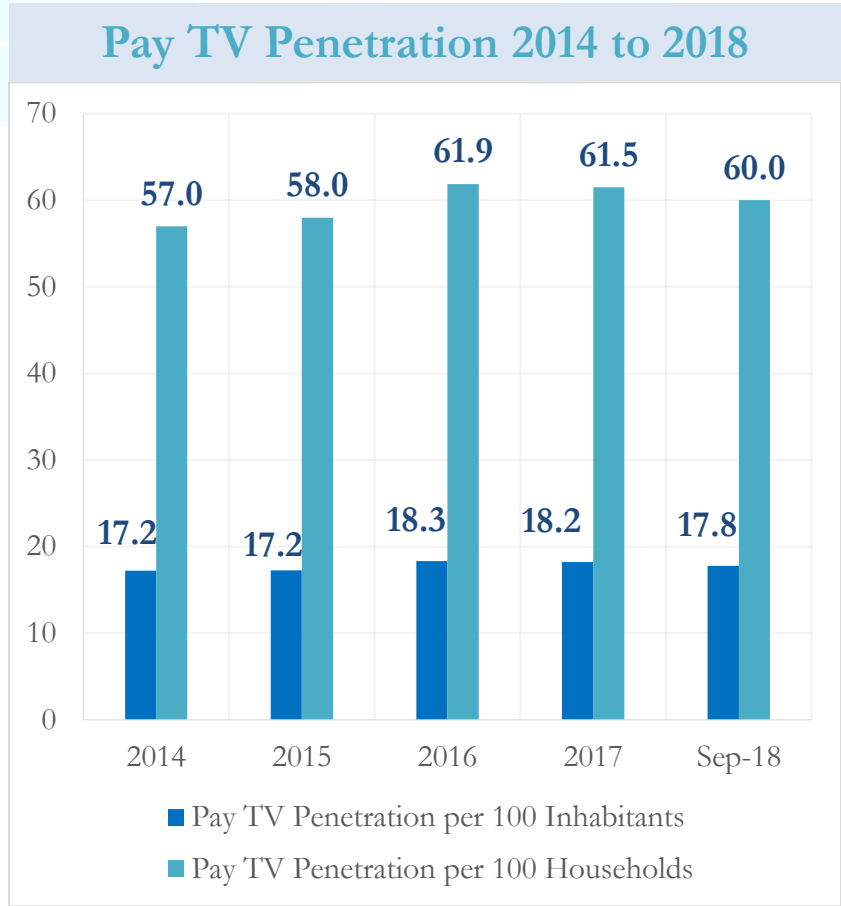
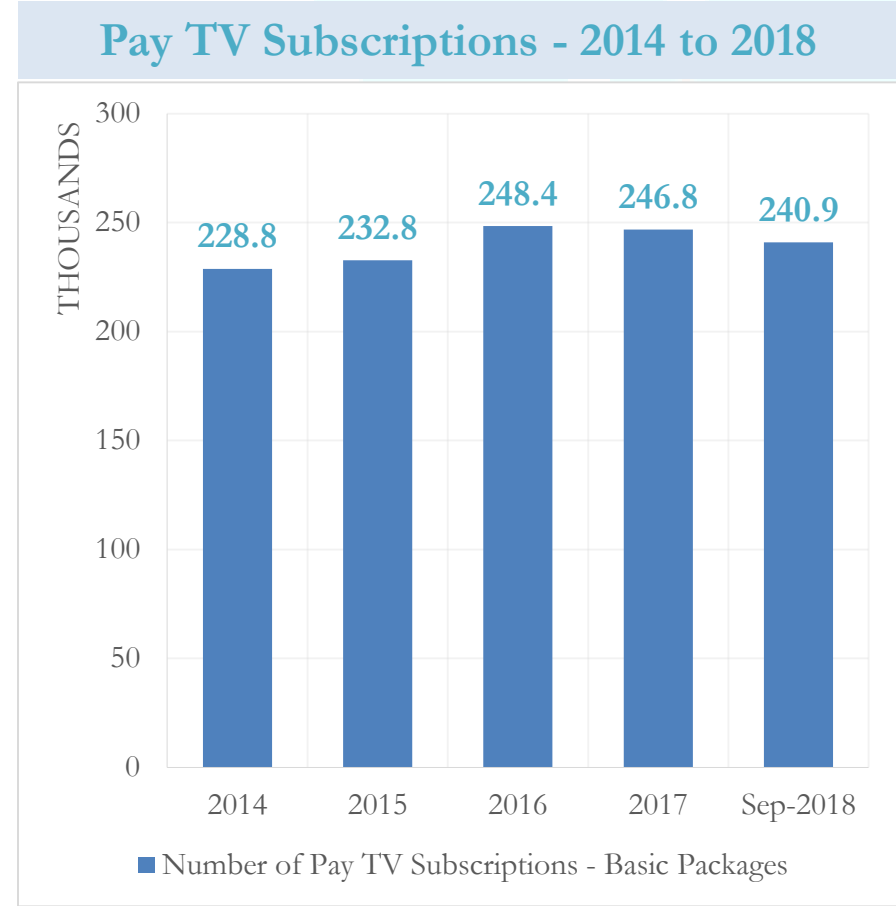


Mobile Internet Penetration - 2014 to 2018



Increasing Access through Liberalisation

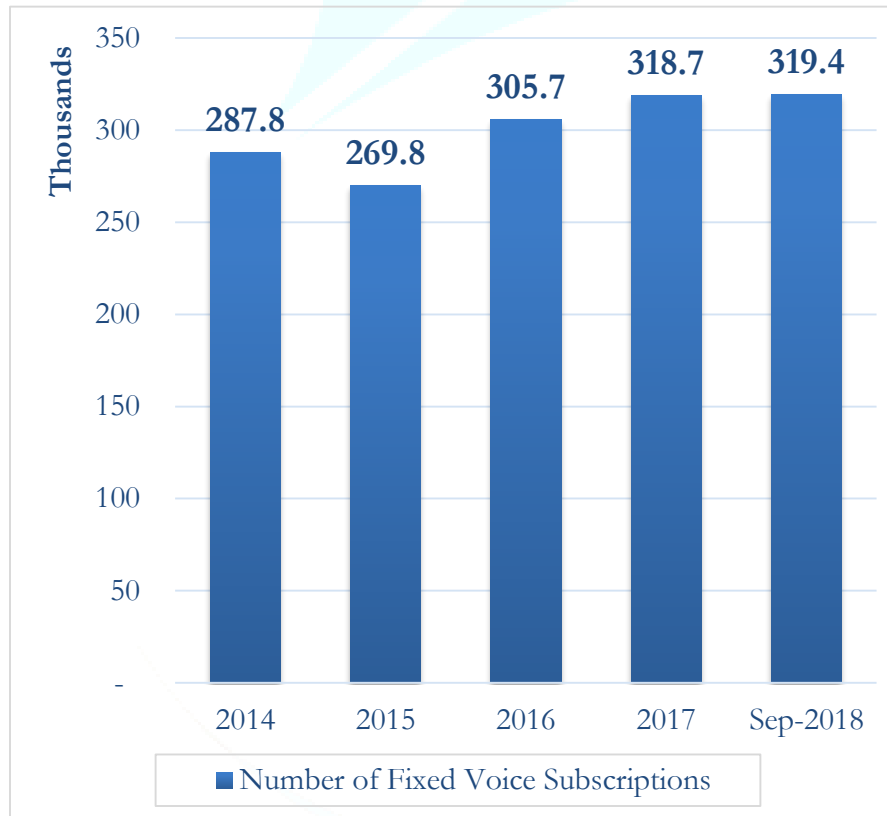
Subscription TV Market



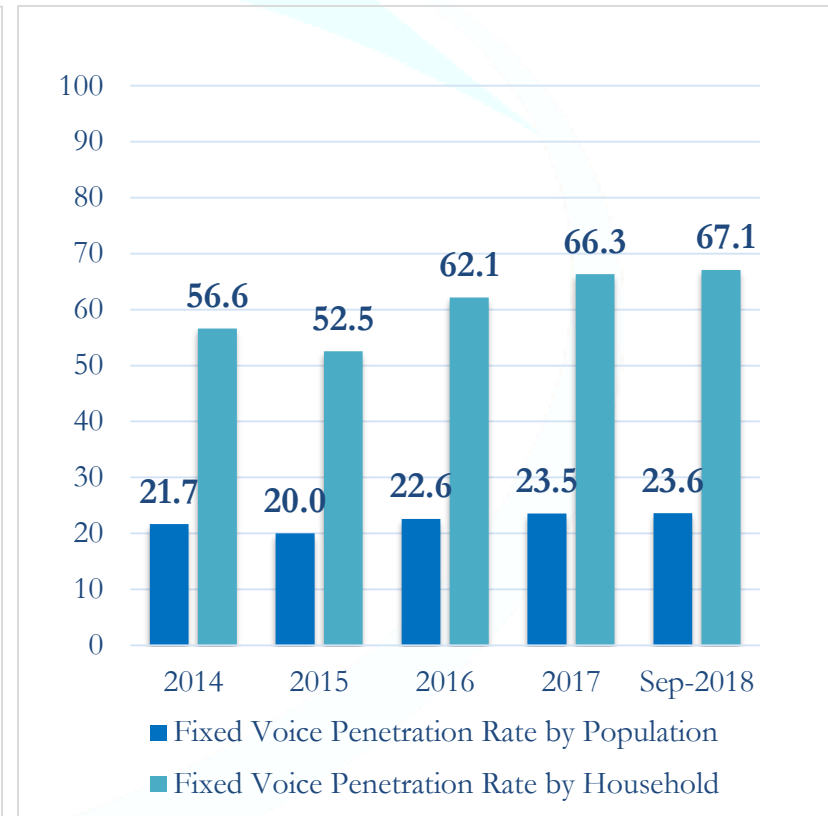
Increasing Access through Liberalisation

Fixed Voice

Fixed Voice Subscriptions 2011-2015

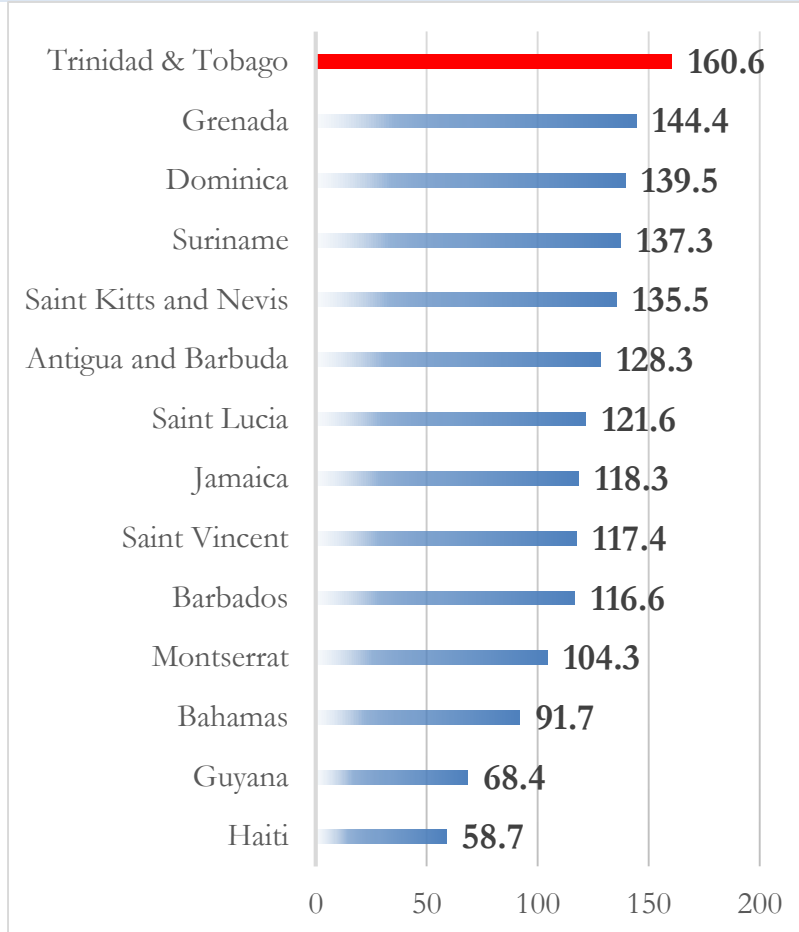


Fixed Voice Penetration 2014-2018



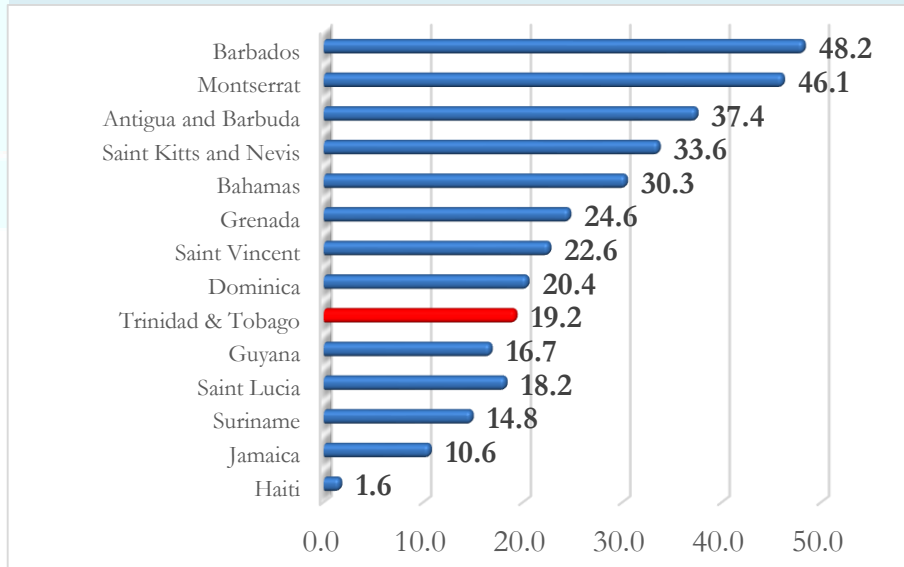
Comparison with other Caribbean Countries (2014 Data)

Mobile Penetration Rate Comparison 2017

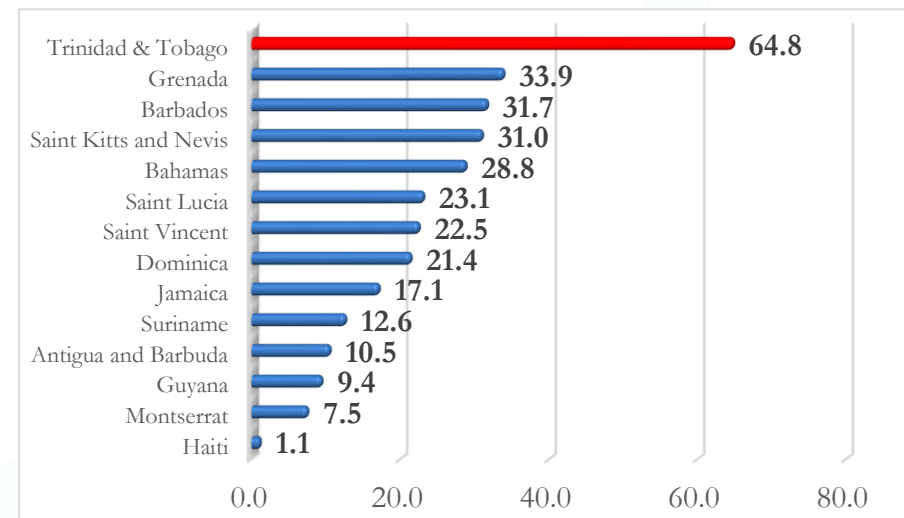


Source: Business Monitor International, TATT

Fixed Line Penetration - 2017



Internet users per 100 inhabitants - 2017



Amendments to Telecoms Act

- Under the amended Act, the Authority focuses on prevalent matters of competition not previously addressed under the old legislation.
- In particular, **Section 44 of the amended Act**, grants the Authority the statutory power to intervene in matters concerning:
 - The determination and investigation abuse of dominance;
 - The existence of anti-competitive agreements; and
 - Mergers and acquisitions that may adversely affect competition.
- An optimal mix of ex-post and ex-ante competition regulation is increasingly being introduced to sanction and deter actual **anti-competitive behaviour and practices**.

Competition Policy: First Step in Competition Regulation - Market Definition

- The core principles of competition regulation lie in determining whether any form of anti-competitive conduct exists or is likely to occur **within a specified market**.
- Prior to any investigations on the effects of such behaviour, it is important that the peripherals of the markets in which the concern for competition exists are effectively defined.
- The Authority empowered and guided by **Section 44H (5) of the amended Act**, may adopt procedures as it “*considers necessary and appropriate for such determination of markets.*”

Market Definition – Basic Principles

- Generally, market definitions are usually based on two principle dimensions:
 - **The product or service market**
 - **The geographic market**
- In defining the relevant market the Authority must assess whether there exist sufficient similar competitive constraints within both spheres of the market.
- The concepts of **Demand-Side Substitution** and **Supply-Side Substitution** become extremely important in making this assessment.

Market Definition - Standard Tools to be Used

- The 'SSNIP' or 'Hypothetical Monopolist' Test
- Own-price or price elasticity of demand (PED)
- Cross price elasticity of demand (XED)
- Price-correlation analysis
- Consumers' switching patterns
- Suppliers' switching patterns

Market Definition – Sources of Evidence

- Market and costing data
- Historical observations of consumers' and suppliers behaviour
- Consumer surveys
- Observed geographic pattern of purchases and trade
- Interviews with other key market players

Dominance Assessment and Unfair Competition Practices

What is Dominance?

- An authorised provider may be determined to be dominant where:

“...individually or jointly with another, it enjoys a position of economic strength affording it the power to behave to an appreciable extent independently of competitors, potential competitors, customers and ultimately consumers”

Presumption of Dominance

- The following presumptions may be applied in declaring a provider dominant:
 - An authorised provider who has, for a continuous period of **six (6) months or more, maintained a market share of 40%** or more of gross revenues in one or more markets is dominant in those markets.
 - An authorised provider having control of an essential facility is dominant in markets for which that essential facility is required.
- An authorised provider may rebut his dominance status based on dominance criteria set out in the Pricing Regulations.

Abuse of Dominance

- The regulatory issue lies not in the status of dominance but whether there is **incidence of an abuse** of this status.
- Section 44K (1) of the amended Act states that an authorised provider exercises abuse of dominance where he/she has:

“impeded the maintenance or development of effective competition in any market”

Abuse of Dominance

The Authority shall generally regard the following as abuse of dominance/anti-competitive conducts:

1. Creation of barriers to entry and expansion through refusal to supply

Classical examples include the refusal of the dominant provider to interconnect networks and the refusal to provide access to essential facilities.

2. Anti-competitive preferences and discriminatory behaviour

Involves the prevention or the deterring of another economic agent from behaving competitively through the use of anti-competitive preferences practices.

3. Practice of unfair pricing strategies

Includes cases of predatory pricing, price gouging (excessive pricing), Price or Margin Squeezes and cross-subsidization.

4. Other unfair methods of competition

Includes the practice of tying and bundling and engaging in exclusive dealing and market restrictions.

Thank You

