



## **FREQUENTLY ASKED QUESTIONS (FAQ) ON THE REGULATORY FRAMEWORK FOR INTERNET MESSAGING SERVICE AND SOCIAL MEDIA SERVICE PROVIDERS IN MALAYSIA**

### **1. What is the objective of the regulatory framework?**

The objective of the regulatory framework is to create a safer online environment for all Malaysians, especially children and those vulnerable to online harm.

Recent trends have shown a surge in online harm especially those affecting children. Based on the ECPAT<sup>1</sup> [report](#) in 2022, as many as 100,000 children in Malaysia are at risk of online sexual exploitation and manipulation.

Further, a UNODC<sup>2</sup> [report](#) titled Casinos, Money Laundering, Underground Banking, and Transnational Organized Crime in East and Southeast Asia: A Hidden and Accelerating Threat issued in 2024 reported that in Malaysia, online gambling related suspicious transactions reports (STRs) have nearly doubled between 2019 and 2022, totalling more than 42,000 reports. The value of related STRs also increased dramatically to more than RM26 billion or USD5.5 billion in transaction volume during the same period, representing a 273% increase.

Cyberbullying is also an issue as 28% of Malaysian children have been a victim of online violence or cyberbullying based on a 2019 [report](#) by UNICEF. Moreover, [MCMC](#) has received 9,483 reports of cyberbullying from January 2022 until July 2024.

In addition, online fraud cases in Malaysia have also doubled from 17,668 cases in 2019 to 34,495 cases in 2023 according to Bukit Aman's CCID<sup>3</sup>. The department also [reported](#) a staggering RM1.4 billion in losses in from January to July 2024 alone due to scams.

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<sup>1</sup> [ECPAT](#) is an international organisation with 124 partner members in over 100 countries collectively working to end the prostitution and trafficking of children

<sup>2</sup> United Nations Office on Drugs and Crime

<sup>3</sup> Commercial Crime Investigation Department

Given the rise of online harm in recent years, as supported by the data above, regulatory intervention has become essential. This regulatory framework will hold the Internet messaging service and social media service providers ("**Service Providers**") accountable in conducting their business operations in Malaysia including effectively managing illegal and harmful content, as well as strengthening their systems and processes to mitigate the prevalence of cybercrimes on their platforms.

## **2. What is the regulatory approach for Service Providers in Malaysia?**

The regulatory approach is to bring the relevant Service Providers within the ambit of the Communications and Multimedia Act 1998 ("**CMA 1998**") through a licensing requirement.

Prior to the introduction of the regulatory approach, the Service Providers were not required to be licensed. The Communications and Multimedia (Licensing) (Exemption) Order 2000 ("**EO 2000**") and the Communications and Multimedia (Licensing) Regulations 2000 ("**LR 2000**") have been amended to include the categories of Service Providers that must be licensed based on specific criteria as of 1<sup>st</sup> August 2024.

The amended EO 2000 and LR 2000 are available at:  
<https://www.mcmc.gov.my/en/home>.

## **3. Was a consultation undertaken in finalising the regulatory framework?**

Yes, a series of engagements were conducted with Service Providers, Civil Societies Organisations ("**CSO**"), Non-Governmental Organisations ("**NGO**"), Law Enforcement Agencies ("**LEA**"), and other relevant stakeholders from January to July 2024. MCMC will continue this collaborative and cooperative approach with all the relevant stakeholders.

## **4. Which Service Providers are required to be licensed under the CMA 1998?**

This regulatory framework is only applicable to:

- a) Internet messaging service providers; and
- b) social media service providers.

## 5. Does this mean that all Service Providers will be licensed in Malaysia?

No, only Service Providers with eight (8) million or more users in Malaysia are required to be licensed under the CMA 1998.

## 6. How will MCMC quantify the number of Malaysian users on the respective platforms operated by the Service Providers?

MCMC will primarily use the data from its official surveys including MCMC’s Internet User Survey to quantify the number of Malaysian users. MCMC will also factor in other publicly available and reliable data points.

## 7. When is the effective date of the licensing requirement?

The relevant Service Providers have a grace period of five (5) months from the date of Gazettement (**1<sup>st</sup> August 2024**) to apply for the Applications Service Provider Class (“**ASP (C)**”) licence and comply with the licensing requirements. The effective date of the licensing requirement is **1<sup>st</sup> January 2025**.

Note: However, during this grace period, the Service Providers are required to use their best efforts to combat online harm on their platforms such as cyberbullying, online scams and gambling, and child sexual abuse material.

## 8. Which Service Providers will be licensed under the regulatory framework?

In general, major Service Providers including but not limited to Facebook, Facebook Messenger, Instagram, TikTok, WhatsApp, Telegram, WeChat, X, and YouTube would fall under the purview of the regulatory framework, subject to such Service Providers having eight (8) million or more users in Malaysia.

| <b>Types of Service Providers</b>   | <b>Class Licence Category</b>                         |
|---|---|
| <b>Internet messaging</b><br>Internet messaging service providers such as Telegram and WhatsApp.  | Applications Service Provider Class [ASP (C)] Licence |
| <b>Social Media</b><br>Provider of content-sharing media platforms by users including social media such as Facebook, Instagram, and TikTok. |   |

## **9. What are the requirements to apply for an ASP (C) licence?**

The requirements to apply for an ASP (C) licence are as follows:

- Registration fees
- Application by a locally incorporated company
- Submission of the documents required as per class licence application checklist (i.e. application form, company profile, information of the service and others)

More detailed information is available in our [Licensing Guidebook](#).

## **10. Is the local incorporation of the Service Providers a mandatory licensing requirement?**

The establishment of a locally incorporated entity is a prequalifying criterion for licensing. However, under sub-regulation 23(2) of the LR 2000, the Minister has the discretion to allow a foreign company to be registered as a class licensee on a case-to-case basis.

## **11. Will there be any restriction on foreign shareholding under the class licence?**

No, there is no restriction on foreign shareholding under the class licence.

## **12. What is the validity period of the licence?**

The validity period for the class licence is one (1) year from the registration date and the Service Providers need to re-apply every year provided they meet the threshold of having eight (8) million or more users in Malaysia.

**13. What are the pertinent obligations that will be applicable to the Service Providers once they are licensed by MCMC?**

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| <p><b>Compliance with the CMA 1998</b></p>  | <p>Among others, Service Providers must comply with MCMC directions issued pursuant to section 51 in relation to compliance with the CMA 1998, its subsidiary legislations, or any licence condition.</p> <p>Service Providers are also required to adhere to the general duties of licensees pursuant to section 263:</p> <ul style="list-style-type: none"> <li>• to use its best endeavour to prevent the applications services it provides from being used in, or in relation to, the commission of an offence under any law of Malaysia; and</li> <li>• to provide assistance to MCMC or any other authority in preventing the commission or attempted commission of an offence under any written laws of Malaysia.</li> </ul> |
| <p><b>Compliance with Standard Licence Conditions for All ASP (C) Licensees<sup>4</sup></b></p> | <p>The conditions include:</p> <ul style="list-style-type: none"> <li>• <b>Compliance with The Law</b> <ul style="list-style-type: none"> <li>(a) The licensee shall comply with the provisions of the CMA 1998.</li> <li>(b) The licensee shall comply with the provisions of any subsidiary legislation made, or other instruments, guidelines or regulatory policies issued under the CMA 1998.</li> </ul> </li> <li>• <b>Compliance with Consumer Codes</b> <p>The licensee shall comply with any consumer codes registered under the CMA 1998 which are relevant to the activities of the licensee.</p> </li> </ul>  |

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<sup>4</sup> This Standard Licence Conditions are applicable to all existing licensees under the ASP (C) category which includes cloud service providers, Internet access service providers, and public cellular services.

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|  | <ul style="list-style-type: none"> <li>• <b>Indemnity</b><br/><br/>The licensee shall indemnify the Minister and MCMC against any claims or proceedings arising from any breaches or failings on the part of the licensee.</li> <li>• <b>Other Standard Conditions</b><br/><br/>Other standard conditions and matters as declared by the Minister or provided in any subsidiary legislation under the CMA 1998.</li> </ul> |
| <b>Compliance with Subsidiary Legislation</b>            | <ul style="list-style-type: none"> <li>• Communications and Multimedia (Licensing) Regulations 2000</li> <li>• Communications and Multimedia (Licensing) (Exemption) Order 2000</li> <li>• Communications and Multimedia (Universal Service Provision) Regulations 2002</li> </ul>   |
| <b>Compliance with Personal Data Protection Act 2010</b> |  |

#### **14. What are the conduct requirements that will be imposed on the Service Providers?**

During the grace period, MCMC will develop comprehensive outcome-based guidelines detailing the conduct requirements and duties that the Service Providers must proactively observe when operating in Malaysia.

The proposed key requirements will include Service Providers having robust:

- policies and measures for the protection of user data
- child safety measures including age assurances to restrict users under the age of 13 from accessing the platforms operated by the Service Providers
- policies and measures to address online harm including cyberbullying, online scams, and sexual grooming activities
- content moderation policies and measures in place
- transparency in advertising and restriction of advertisement promoting scams
- measures to safeguard minors from harmful content and misleading advertisements

- measures to simplify complaint procedures for users and response time
- measures to manage deepfakes and harmful Artificial Intelligence (AI) generated content
- regular reporting measures on Service Providers' compliance with Malaysian laws and the conduct requirements

**15. Will MCMC conduct a public consultation in developing the guidelines on conduct requirements for the Service Providers?**

Yes. MCMC will conduct a public consultation in developing the guidelines. All members of the public including Service Providers, CSO, NGO, LEA, academicians, and experts, as well as interested individuals, are invited to provide feedback on the guidelines once the process commences.

**16. What if the services are being provided by the Service Providers without the required licence beginning 1<sup>st</sup> January 2025?**

If any Service Provider operates without a licence beginning 1<sup>st</sup> January 2025, actions can be taken under section 126 of the CMA 1998. If convicted, the Service Provider shall be liable to a fine not exceeding RM500,000 or five (5) years imprisonment, or both, and shall also be liable to a further fine of RM1,000 for every day or a part of a day during which the offence is continued after conviction.

**17. What actions can be taken by MCMC against a licensed Service Provider for any breach of licence conditions and/or the conduct requirements?**

MCMC will assess the nature of the breach including its severity, impact, and frequency as well as the compliance record of said Service Provider in deciding the appropriate action to be taken against them.

In such circumstances, MCMC can initiate actions ranging from administrative warning, issuance of compliance direction to rectify the breach, impose civil penalty or compound offences to proportionately deal with the breach.

In the most severe and grave nature of breach, MCMC can suspend access to said Service Provider's platform; de-register of the ASP (C) licence; or commence prosecution.

### **18. Once the Service Providers are licensed, can they challenge MCMC's decisions or directions?**

Yes. MCMC's decisions or directions will be subject to all the relevant processes and procedures provided for under the CMA 1998. Under the CMA 1998, there are strong safeguards to balance the need for regulation, due process and the protection of freedom of speech and expression.

For instance, section 51 of the CMA 1998 allows MCMC to issue direction to any person to ensure compliance with licence conditions, provision of the CMA 1998 and any of its subsidiary legislation. However, the issuance of such direction cannot be done arbitrarily and must adhere to due process. The person will be granted the opportunity to be heard before a direction is issued.

Further, if any Service Provider is aggrieved or whose interest is adversely affected by the decision or direction of MCMC, it can avail itself to the Appeal Tribunal established under the CMA 1998 and thereafter to judicial review.

### **19. Have any parties challenged MCMC's decisions or directions at the Appeal Tribunal?**

Yes, a number of licensees under the CMA 1998 have submitted appeals to the Appeal Tribunal on various issues since 2020. For more information about the Appeal Tribunal, please refer to [Tribunal Rayuan Komunikasi dan Multimedia](#).

### **20. What does the regulatory framework mean for Malaysia?**

The licensing requirement aims to foster a trusted and safe online environment. This can be achieved through proactive measures implemented by Service Providers to safeguard users by improving moderation practices, complying with conduct requirements, and adhering to Malaysian laws.

End users can expect a safer online environment, better protection against harmful content, and clearer avenues for addressing complaints and concerns.

End users of the Service Providers will not be affected by the regulatory framework, as only the Service Providers are required to obtain the relevant licence from MCMC.



## **21. How do other jurisdictions regulate online services?**

This framework has been benchmarked against and aligns with global best practices and developments seen in Singapore, Indonesia, India, Australia, the United Kingdom (UK), Ireland, Germany, and the European Union (EU) which have introduced domestic regulatory oversight on online services including Internet messaging and social media services.

Despite the diverse approaches to regulating online services across jurisdictions, there are key similarities in their implementation. Among others, there is a consensus on prohibiting illegal and harmful content online and ensuring online services have clear duties to protect their users.

In addition, other areas addressed in the benchmarked jurisdictions above include protection of user data, child safety measures, combatting online harassment and bullying, ethical use of user data for advertising, and user empowerment and control.

For further enquiries, contact: [policy.review@mcmc.gov.my](mailto:policy.review@mcmc.gov.my)

**1<sup>st</sup> August 2024**