



Suruhanjaya Komunikasi dan Multimedia Malaysia
Malaysian Communications and Multimedia Commission

INFORMATION PAPER

**Regulatory Framework for
Internet Messaging Service and Social Media Service Providers**

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1.0 DEFINITIONS

AI	Artificial Intelligence
ASP	Applications Service Provider
CCID	Commercial Crime Investigation Department
CMA 1998	Communications and Multimedia Act 1998 [Act 588]
CSO	Civil Societies Organisations
EO 2000	Communications and Multimedia (Licensing) (Exemption) Order 2000
EU	European Union
Government	The government of Malaysia
IMDA	Infocomm Media Development Authority (Singapore)
LEA	Law Enforcement Agencies
LR 2000	Communications and Multimedia (Licensing) Regulations 2000
MCMC	Malaysian Communications and Multimedia Commission
MCMCA 1998	Malaysian Communications and Multimedia Commission Act 1998 [Act 589]
NGO	Non-Governmental Organisations
OFCOM	Office of Communications (UK)
PDPA 2010	Personal Data Protection Act 2010 [Act 709]
Service Providers	Internet messaging service and social media service providers
STRs	Suspicious Transactions Reports
UK	United Kingdom
UNODC	United Nations Office on Drugs and Crime
USP	Universal Service Provision
VLOP	Very Large Online Platforms
VLOSE	Very Large Online Search Engines
VOD	Video-on-Demand

2.0 BACKGROUND

- 2.1 Under the Malaysian Communications and Multimedia Commission Act 1998 (“**MCMCA 1998**”) and the Communications Multimedia Act 1998 (“**CMA 1998**”), the Malaysian Communications and Multimedia Commission (“**MCMC**”) is responsible for overseeing and regulating activities and services related to telecommunications, traditional broadcasting services, and online services among others.
- 2.2 The proliferation of online harm, encompassing graphic violence, child exploitation, online scams and gambling, bullying and harassment has transformed online platforms into potential breeding grounds for such material. This harm, disseminated in various forms can have severe repercussions for individuals and society at large. MCMC remains steadfast in its commitment to address these challenges and foster a safer online environment for all Malaysians.
- 2.3 Recent trends have shown a surge in online harm especially those affecting children. Based on the ECPAT¹ [report](#) in 2022, as many as 100,000 children in Malaysia are at risk of online sexual exploitation and manipulation.
- 2.4 Further, a UNODC [report](#) titled Casinos, Money Laundering, Underground Banking, and Transnational Organized Crime in East and Southeast Asia: A Hidden and Accelerating Threat issued in 2024 stated 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.
- 2.5 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 extreme cases, cyberbullying has also led to deaths as in the cases of [A. Rajeswary Appahu](#) (after online threats through TikTok) in 2024, [an unnamed mother of three](#) (believed to have committed suicide after being cyber-bullied in TikTok) in 2022, and [a 16-year-old teenager](#) (after she conducted an online poll to decide whether she should kill herself or not) in 2019.

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

- 2.6 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. The department also [reported](#) a staggering RM1.4 billion in losses due to scams.
- 2.7 These issues are not exclusive to Malaysia. The rise of online harm globally has led various other countries to implement approaches to regulate online services, enhance user safety, particularly for children and curb unlawful content. This has prompted many jurisdictions to impose legislation and regulations to address these concerns.

3.0 GLOBAL REGULATORY DEVELOPMENTS

- 3.1 In the United Kingdom ("**UK**"), online safety laws have been enacted in the form of the Online Safety Act 2023. This act empowers the Office of Communications ("**OFCOM**") to regulate specified online services, particularly social media, online messaging, and search engines, to ensure the safe use of online services for users in the UK. Additionally, OFCOM is also preparing related industry codes, which will include protections for children and other users.
- 3.2 The European Union ("**EU**") regulates online services and imposes a higher regulatory standard on online service providers with over 45 million monthly users under the Digital Services Act 2023. It designates online service providers as Very Large Online Platforms ("**VLOP**") and Very Large Online Search Engines ("**VLOSE**").
- 3.3 In Singapore, laws on online safety are enforceable through several laws including the Broadcasting Act 1994 (which was amended through the Online Safety (Miscellaneous Amendments) Act 2022), Protection from Online Falsehoods and Manipulation Act 2019 and the Online Criminal Harms Act 2023.
- 3.4 India regulates social media services through the Information Technology (Intermediary Guidelines and Digital Media Ethics Code) Rules 2021. The objectives of the rules are to ensure an open, safe, trusted, and accountable Internet for all Indian Internet users.
- 3.5 Based on the above approaches in regulating online services across jurisdictions, there are key similarities in their implementation. Among others, there is a consensus that online service providers have a duty to prohibit illegal and harmful content online, to ensure that they have robust content moderation policies in place, to enhance transparency in advertising, and to safeguard minors from harmful content and misleading advertisements.

4.0 REGULATORY FRAMEWORK

- 4.1 Under this regulatory framework, all Internet messaging service and social media service providers ("**Service Providers**") with eight (8) million or more users in Malaysia must apply for Applications Service Provider Class Licence ("**ASP (C)**") under the CMA 1998.
- 4.2 In finalising this regulatory framework, MCMC has conducted a series of engagements 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.
- 4.3 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.
- 4.4 This is in line with the Malaysian Cabinet's decision that online service providers must comply with Malaysian laws to combat the rise in cybercrime offences including online scams and gambling, cyberbullying, and sexual crimes against children.
- 4.5 The implementation of this regulatory framework is effected by way of amendments to the Communications and Multimedia (Licensing) (Exemption) Order 2000 ("**EO 2000**") and the Communications and Multimedia (Licensing) Regulations 2000 ("**LR 2000**").
- 4.6 The recent amendments to the EO 2000 and LR 2000 list the categories of online services that are required to be licensed under the CMA 1998, which are the Service Providers.
- 4.7 The amended EO 2000 and LR 2000 define Internet messaging service and social media service as follows:
 - a. "**Internet messaging service**" means an applications service which utilises Internet access service that enables a user to communicate any form of messages with another user.
 - b. "**social media service**" means an applications service which utilises Internet access service that enables two or more users to create, upload, share, disseminate or modify content.

- 4.8 The rationale for this focused regulatory approach on licensing Internet messaging service and social media service is to ensure that the Government is taking proportionate steps based on the risk assessments in addressing online harm issues especially online scams and gambling, sexual grooming involving minors and cyberbullying.
- 4.9 This is in contrast with enforcing regulation across all categories of online services such as video on demand (“**VOD**”), search engines, application stores, and e-commerce platforms which have been adopted in some jurisdictions such as the EU and Indonesia.
- 4.10 This regulatory approach does not make Malaysia an outlier as the other jurisdictions highlighted above have implemented domestic regulatory oversight over these online service providers. This new regulatory framework only applies to Service Providers that meet the licensing eligibility criteria and does not involve end users.

Type of Licence

- 4.11 There are two (2) key types of licences under the CMA 1998 which are Individual Licence and Class Licence.
- i. **Individual Licence** requires a high degree of regulatory control for a specified person to conduct a specified activity and may include special licence conditions.
 - ii. **Class Licence** is a ‘light-handed’ form of regulation which is designed to promote industry growth and development with easy market access with yearly registration.
- 4.12 Both types of licence are further categorised below in Table 1.

Table 1: Licences under the CMA 1998

Licence	Type of licence
Individual	<ul style="list-style-type: none"> • Network Facilities Provider (NFP) • Network Service Provider (NSP) • Content Applications Service Provider (CASP)
Class	<ul style="list-style-type: none"> • Network Facilities Provider (NFP) • Network Service Provider (NSP) • Content Applications Service Provider (CASP) • Applications Service Provider (ASP)

4.13 Licensing the Service Providers as an ASP under a class licence allows for a light-touch regulatory approach to these services. By regulating through a class licence, MCMC can implement an effective regulatory tool without stifling innovation. The same approach was taken by MCMC for the licensing of cloud service providers in 2021.

4.14 The requirements to apply for an ASP (C) licence include registration fees, application by a locally incorporated company, and 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 on the licensing process can be referred to in the [MCMC Licensing Guidebook](#).

4.15 As licensees, the Service Providers are obligated to comply with the CMA 1998 and its subsidiary legislations.

4.16 Among others, Service Providers must comply with MCMC directions issued pursuant to section 51 in relation to compliance with the CMA 1998, subsidiary legislation, or any licence condition.

4.17 Service Providers are also required to adhere to the general duties of licensees pursuant to section 263 i.e. to use their 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 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.

4.18 Licensees must also adhere to the standard licence conditions for [Applications Service Provider Class Licence](#). Further, licensees are required to comply with the Personal Data Protection Act 2010 ("**PDPA 2010**").

4.19 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.

4.20 There will be no restriction on foreign shareholding under the class licence. The ASP (C) licence was fully liberalised in 2012, providing locally incorporated foreign-owned companies with the ability to enter the Malaysian market to provide services to end users in Malaysia.

- 4.21 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.
- 4.22 Service Providers operating without a licence from 1st January 2025 onwards will be subject to actions under section 126 of the CMA 1998. If convicted, the Service Providers 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.

5.0 IMPLEMENTATION OF THE REGULATORY FRAMEWORK

- 5.1 Service Providers have a grace period of five (5) months from the date of Gazettement (1st August 2024) to apply for the ASP (C) licence and comply with the licensing requirements.
- 5.2 The effective date of the licensing requirement is 1st January 2025. The requirement for licensing under ASP (C) will therefore be in force beginning 1st January 2025.
- 5.3 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.
- 5.4 Comprehensive outcome-based guidelines detailing the conduct requirements and key obligations for the Service Providers will be developed by MCMC through a public consultation within the grace period.
- 5.5 In line with best practices in jurisdictions such as Australia, the EU, Singapore and the UK, 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

5.6 All members of the public including Service Providers, CSO, NGO, LEA, academicians, and experts, as well as interested individuals, will be invited to provide feedback on the guidelines once the process commences.

6.0 BENEFIT FOR MALAYSIANS

6.1 Malaysian end users will not be affected by the regulatory framework, as only the Service Providers are required to obtain the ASP (C) licence from MCMC.

6.2 Instead, Malaysian end users will benefit from the enhanced safety and better user experience, as the Service Providers will be held accountable for their operations in Malaysia, in particular:

- i. The provision of safer and better online services as the Service Providers are expressly required to observe the conduct requirements when operating in Malaysia.
- ii. Reducing the risk of Malaysians being exposed to cybercrime and online harm when Service Providers are mandated to have robust moderation mechanisms.
- iii. Clear channels of complaint and legal action against the Service Providers as they are required to have a local presence in Malaysia.
- iv. The existence of a safer online environment for all Malaysians, especially children and those vulnerable to online harm.

7.0 MCMC’S ACCOUNTABILITY

7.1 As a regulator, MCMC is accountable under the CMA 1998 for ensuring a safe online environment. The licensing framework is aimed at creating a safer online ecosystem for Malaysian end users, especially for children and families. 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.

- 7.2 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 made.
- 7.3 If any Service Providers are aggrieved or whose interest is adversely affected by the decision or direction of MCMC, they can avail themselves to the Appeal Tribunal established under the CMA 1998. If the Service Providers are not satisfied with the Appeal Tribunal's decision, they can further seek a judicial review as part of the redress mechanism.

1st August 2024