

Malaysian Communications and Multimedia Commission

FREQUENTLY ASKED QUESTIONS ("FAQ")

Clarification on the transitional measures pursuant to the amendments of Section 150 of the Communications and Multimedia Act 1998

The Communications and Multimedia Act 1998 [Act 588] ("**CMA 1998**") has been duly amended through the Communications and Multimedia (Amendment) Act 2025 ("**Amendment Act**"), including section 150.

The amendments to section 150 of the CMA 1998 have come into force on **11 February 2025** ("**Effective Date**") and this FAQ is issued to address various scenarios in dealing with the submission and lodgment of the access agreements following the amendments made.

Prior to the amendments to the CMA 1998, section 150 reads as follows:

"150. Registration of access agreements

(1) A written access agreement for the provision of listed network facilities or network services shall be registered with the Commission in accordance with section 91.

(2) No written access agreement for the provision of listed network facilities or network services shall be enforceable unless it has been registered."

Following the amendments, section 150 now reads as follows:

"Lodgment of access agreements

150. A written access agreement for the provision of listed network facilities or network services, and all amendments to it shall be lodged with the Commission within thirty days from the date of execution or amendment of the access agreement, as the case may be."

The amendments made to section 150 of the CMA 1998 changes the requirement to register a written access agreement with the requirement to lodge such agreement. With this amendment, the onus will be on the parties to the agreement to ensure that the access agreement is compliant with the CMA 1998, the subsidiary legislations made under the CMA 1998 and the instruments issued pursuant to the CMA 1998.

Consequentially, sections 90, 91, 92 and 93 of the CMA 1998 have been deleted as the registration of access agreements is no longer required.

Kindly note that for purposes of this FAQ, section 150 of the CMA 1998 which has been amended would be referred to as the "**amended section 150 of the CMA 1998**" and section 150 of the CMA 1998 prior to the amendments would be referred to as the "**initial section 150 of the CMA 1998**".

- 1. If an access agreement and/or supplemental agreement has already been registered by the Commission prior to the Effective Date, are the parties to the agreement required to submit the same access agreement and/or supplemental agreement to the Commission for lodgment to fulfil the requirement under the amended section 150 of the CMA 1998?**

The access provider and the access seeker (collectively referred to as "**Parties**") are not required to submit the same access agreement and/or supplemental agreement that has been registered by the Commission before the Effective Date.

Pursuant to subsection 121(4) of the Amendment Act (which addresses the saving and transitional provisions), any access agreement and/or supplemental agreement registered before the Effective Date continues to be governed in the manner as if the CMA 1998 has not been amended. For ease of reference, the said provision is provided below:

"Saving and transitional

121.

...

(4) Any access agreement registered under section 150 of the principal Act before the date of coming into operation of this Act shall, after the date of coming into operation of this Act, be dealt with as if the principal Act has not be amended by this Act."

Thus, the new lodgment requirement under the amended section 150 of the CMA 1998 does not apply to previously registered access agreements and/or supplemental agreements under the initial section 150 of the CMA 1998.

However, in the event that the parties make amendments to the registered access agreement and/or supplemental agreement after the Effective Date (e.g. amendments due to issuance of new instruments by the Commission), the Parties shall lodge the amendments made with the Commission within 30 days from the date of the said amendments, in accordance with the amended section 150 of the CMA 1998.

- 2. The Parties have submitted an access agreement and/or supplemental agreement (addressing amendments to the access agreement and/or supplemental agreement) to the Commission for registration prior to the Effective Date and the said access agreement and/or supplemental agreement has yet to be registered. Are the Parties required to submit the same access agreement and/or supplemental agreement to the Commission to fulfil the requirement under the amended section 150 of the CMA 1998?**

Scenario 1:

The submitted access agreement and/or supplemental agreement has been reviewed by the Commission, but the written clarification sought by the Commission and/or amendments proposed by the Parties, in respect of the said agreement, has yet to be accepted by the Commission prior to the Effective Date.

Under the 'registration' regime implemented prior to the Effective Date, the Commission would be undertaking a review of the access agreement and/or supplemental agreement submitted, and this may result in:

- (a) further written clarification being sought by the Commission in respect of the same; and
- (b) further amendments being proposed by the Parties, in addressing the clarification sought by the Commission.

As this 'process' is an on-going process, the clarification provided and/or amendments proposed by the Parties in furtherance of the clarification sought, may not have been accepted by the Commission prior to the Effective Date (i.e. being an incomplete process).

Once the clarification sought has been accepted by the Commission and no further amendments are required to be made to the said access agreement and/or supplemental agreement, the Parties may proceed to lodge the same with the Commission accordingly.

If the accepted clarification results in further amendments being required to be made to the said access agreement and/or supplemental agreement, the Parties shall amend the same. Once the proposed amendments are accepted, the Parties may proceed to lodge the said access agreement and/or supplemental agreement with the Commission accordingly.

The Parties shall ensure that the said access agreement and/or supplemental agreement is compliant with the CMA 1998, the subsidiary legislations made under the CMA 1998 and the instruments issued pursuant to the CMA 1998 and the same shall be lodged with the Commission within 30 days from the date of its execution, in accordance with the amended section 150 of the CMA 1998.

Scenario 2:

The submitted access agreement and/or supplemental agreement has been reviewed by the Commission and the clarification sought and/or proposed amendments by the Parties have been accepted by the Commission prior to the Effective Date.

If the accepted clarification does not result in further amendments being required to be made to the said access agreement and/or supplemental agreement, the Parties may proceed to lodge the same with the Commission accordingly.

If the accepted clarification results in further amendments being required to be made to the said access agreement and/or supplemental agreement, the Parties shall amend the same and once the proposed amendments are accepted, the Parties may proceed to lodge the said access agreement and/or supplemental agreement with the Commission accordingly.

The Parties shall ensure the said access agreement and/or supplemental agreement is compliant with the CMA 1998, the subsidiary legislations made under the CMA 1998 and the instruments issued pursuant to the CMA 1998 and the same shall be lodged with the Commission within 30 days from the date of the said amendments, in accordance with the amended section 150 of the CMA 1998.

Scenario 3:

The submitted access agreement and/or supplemental agreement (addressing the amendments made to the access agreement) has yet to be reviewed by the Commission prior to the Effective Date.

The Parties shall lodge the previously submitted access agreement and/or supplemental agreement with the Commission within the timeline to be specified by the Commission in writing. For this purpose, the Commission will notify the respective Parties accordingly.

- 3. If the access agreement and/or supplemental agreement (addressing the amendments made to the access agreement) has been executed and stamped by the Parties prior to the Effective Date but yet to be submitted to the Commission for registration, can the Parties submit the access agreement and/or supplemental agreement to the Commission through the lodgment process after the Effective Date?**

As the executed and stamped access agreement and/or supplemental agreement was not submitted to the Commission for registration prior to the Effective Date, the same shall be submitted to the Commission through the lodgment process.

The Parties shall lodge the access agreement and/or supplemental agreement with the Commission within the timeline to be specified by the Commission in writing. For this purpose, please contact the Commission accordingly.

- 4. If the Parties have entered into the process of negotiations of the access agreement and/or supplemental agreement (to address amendments to the access agreement) prior to the Effective Date but have yet to conclude the negotiations after the Effective Date, are the Parties required to submit the access agreement and/or supplemental agreement to the Commission for registration pursuant to the initial section 150 of the CMA 1998?**

If the parties were negotiating an access agreement and/or supplemental agreement before the Effective Date but have not finalized the agreement after the Effective Date, the initial section 150 of the CMA 1998 would not be applicable.

Hence, once the negotiations are concluded and the said access agreement and/or supplemental agreement has been executed, the Parties shall lodge the said access agreement and/or supplemental agreement with the Commission, within 30 days from the date of its execution, in accordance with the amended section 150 of the CMA 1998.

The Commission would like to emphasize that with the amended section 150 of the CMA 1998, **the onus will be on the Parties** to ensure that the access agreement and/or supplemental agreement (addressing the amendments made to the access agreement) is **compliant with the CMA 1998, the subsidiary legislations made under the CMA 1998 and the instruments issued pursuant to the CMA 1998.**