



Suruhanjaya Komunikasi dan Multimedia Malaysia
Malaysian Communications and Multimedia Commission

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Asia Internet Coalition (AIC)

By Email

[secretariat@aicasia.org]

ASIA INTERNET COALITION (AIC) INDUSTRY CONCERNS ON UPCOMING LICENSING FOR SOCIAL MEDIA AND PRIVATE MESSAGING PLATFORMS

Reference to the above matter and to the letter dated 23rd August 2024 from Asia Internet Coalition (“**AIC**”) published on AIC’s website (“**AIC Letter**”) addressed to the Prime Minister of Malaysia and copied to the Minister of Communications and to the Chairman of the Malaysian Communications and Multimedia Commission (“**MCMC**”) wherein page 3 of the AIC Letter depicted numerous logos of coalition member companies as follows:

Asia Internet Coalition Member Companies



2. The use of these logos gives the impression that the AIC Letter has been authorized and agreed to by LINE, Grab, Yahoo, Rakuten, Zalora, Pinterest, Google, Spotify, X, Snap Inc. Shopify, Amazon, Apple Inc., Booking.com, Meta, LinkedIn and FedEx. However, soon after the AIC Letter was issued, Grab Malaysia issued a media statement on 26th August 2024 (“**Grab Media Statement**”) stating that Grab Malaysia was not consulted prior to the issuance of the AIC Letter. In view of the above, please provide MCMC with written authorization that authorizes AIC to write on behalf of all the aforesaid companies and the basis upon which AIC included Grab Malaysia since the said company has stated they were not consulted. Kindly provide MCMC with this authorisation on an immediate basis so that we may understand more fully subsequent developments that as of this letter we find difficult to comprehend.

3. After the media statement by Grab Malaysia, another version of the AIC Letter was uploaded on AIC’s website with the earlier version being removed. This new version was never received by MCMC and only displayed the logos of Meta, LinkedIn, Apple inc., Amazon, Google, and X as the coalition member companies (“**2nd version**”).

Industry representation



4. In this 2nd version, MCMC finds that AIC’s alleged coalition member companies reflected in the AIC Letter had been altered to remove LINE, Grab, Yahoo, Rakuten, Zalora, Pinterest, Spotify, Snap Inc. Shopify, Booking.com, and FedEx. MCMC further notes that this 2nd version removes all the Asian origin companies stated in the AIC Letter. Thus, note MCMC’s concern to seek proof as to the basis and AIC’s authority to write the AIC Letter and to make changes to the AIC Letter on AIC’s website.

5. Subsequent to the AIC Letter and the Grab Media Statement, AIC recalled the AIC Letter and the 2nd version and published a 3rd version of the letter now dated 26th August 2024 (“**3rd version**”) and removed the 2nd version from its website. AIC states that it is issuing the 3rd version with applicable representation of the coalition member companies and the 3rd version is issued without any logos or names of the companies that AIC is representing.

6. As if this was not confusing enough, it appears that AIC has now removed the AIC Letter and the 2nd version and MCMC places on record that at the time of issuance of this letter, MCMC has not officially received the AIC Letter or the 2nd and 3rd version published in AIC’s website (<https://aicasia.org/download/1126/>). Notwithstanding, MCMC shall respond to the various allegations raised in AIC’s Letter.

7. MCMC notes that despite there being no statement in the AIC Letter to suggest that it is an open letter, the same was released to the media. In this respect, MCMC is issuing this letter as a response to the AIC Letter.

8. MCMC categorically denies all of AIC's allegations levelled against the licensing framework for online service providers ("OSPs") under the Communications and Multimedia Act 1998 ("CMA 1998") in the AIC Letter and wish to respond to the same as follows:-

- (a) MCMC's records indicate that AIC has been duly engaged and consulted in relation to the licensing framework for OSPs under the CMA 1998. This is evident by the fact that:-
 - (i) Prior to the AIC Letter, AIC on 9th of May 2024 wrote a letter to MCMC indicating their interest to engage with MCMC regarding concerns on online harms and the upcoming social media regulation framework that is currently being finalized by MCMC.
 - (ii) The engagement session with AIC was conducted on 28th May 2024 to discuss the regulatory landscape in respect of the licensing framework for OSPs under the CMA 1998. The engagement session was attended in-person by AIC Secretariat representatives, Sarthak Luthra and Edika Amin. Subsequently, AIC provided their written input on 26th June 2024 to MCMC which MCMC has duly taken into consideration.



(MCMC and AIC engagement session on 28th May 2024)



Sarthak Luthra
Secretariat

- (iii) During the engagement session, MCMC had presented the overview of the licensing framework for the OSPs under the CMA 1998 and took note of the key concerns highlighted by AIC. MCMC had indicated its willingness to work closely and collaborate with AIC and this has been communicated during and after the engagement session.
- (iv) MCMC has been engaging the relevant OSPs individually and the engagement will be a continuous process until the enforcement of the licensing framework on 1st January 2025. Among the OSPs that had participated in a one-to-one meeting with MCMC regarding the licensing framework under the CMA 1998 are Meta (Facebook/Instagram/WhatsApp) on 25th April 2024 and X

Corporation or Twitter on 25th April 2024 and Google or YouTube on 29th April 2024 and 28th June 2024.

- (v) In addition to the formal consultations, the Minister of Communications, YB Fahmi Fadzil during his visit to Singapore on 29th July 2024 had also personally met with several OSPs (X, Meta, Google, Tencent, ByteDance) to discuss and explain the rationale and the need for the implementation of the licensing framework. At this material time, despite seeking clarification on some concerns, the OSPs were receptive of the reform initiatives in relation to the licensing framework. During this meeting, the said OSPs did not highlight that they have conveyed any dissatisfaction to AIC in respect of the licensing framework.
- (vi) Thus, MCMC strongly refutes the statement in paragraph 4 of the AIC Letter that ‘there have been no formal public consultation’ and states that the same is factually incorrect, baseless, and without merit. Contrary to AIC’s allegation, MCMC has taken all reasonable steps to engage, facilitate and assist the OSPs in their compliance journey prior to the enforcement date on 1st January 2025. Public consultations are being planned as part of the process to refine and finalize the guidelines, ensuring that all concerns are addressed fairly and transparently. The regulatory framework is the result of extensive dialogue and careful consideration of inputs from all relevant parties.
- (b) In relation to AIC’s dispute on the Implementation Timeline (**Issue 5 in Appendix 1 of the AIC Letter**), MCMC states that the five-month grace period provided before the enforcement of the new licensing requirements is both reasonable and aligned with international best practices. This timeline was established to balance the urgent need to address cyber threats with the practical requirements for compliance by the OSPs. Extending the grace period further would compromise the objective of enhancing user safety and mitigating the rapidly growing risks in the digital space.
- (c) On the issue of purported impact on digital economy (**Issue 2 in Appendix 1 of the AIC Letter**), MCMC wishes to highlight that contrary to AIC’s claims, the licensing framework is designed to bolster Malaysia’s digital economy by creating a safer and more secure online environment. By holding OSPs accountable, the framework will increase investor confidence, knowing that Malaysia prioritizes a stable and legally compliant digital ecosystem. This initiative is a necessary step to ensure sustainable economic growth and maintain Malaysia’s competitive edge in the region. It appears that AIC has **not fully appreciated** the fact that the licensing framework is only applicable to OSPs that provide Internet messaging and/or social media services with eight (8) million users or more in Malaysia, and other OSPs are not required to be licensed under

the CMA 1998. This has been clarified in question no.5 of MCMC's Frequently-Asked-Questions (FAQ) published on MCMC's website ([Malaysian Communications And Multimedia Commission \(MCMC\)](#)).

- (d) On AIC's dispute pertaining to the localization requirements (**Issue 3 in Appendix 1 of the AIC Letter**), it is to be noted that the requirement for local incorporation is a standard regulatory measure to ensure that the OSPs are fully accountable under Malaysian law. This requirement is crucial for effective enforcement and does not inhibit foreign investment. On the contrary, it ensures that companies operating in Malaysia are committed to adhering to local laws, thereby enhancing the overall business environment.
- (e) In relation to AIC's disagreement on the Licensing Regime (**Issue 3 in Appendix 1 of the AIC Letter**), MCMC states that the same is untenable. The licensing regime is a critical tool to ensure that the OSPs operate within a framework that protects users from harmful content and cyber threats. Recent statistics clearly demonstrate a worrying trend of increasing online harms over the years. For example, content removal requests related to online gambling surged dramatically from 20,175 cases in 2023 to 75,120 cases by July 2024, representing a 270% increase in just half a year. Similarly, requests related to fraud skyrocketed from 245 cases in 2022 to 32,955 cases up to July 2024, reflecting a staggering growth in online scams. Harassment-related removals also saw a notable rise from 290 cases in 2022 to 6,353 cases up to July 2024. These escalating figures underscore the urgent need for a comprehensive regulatory framework. Hence, this regulation is not an impediment to innovation but a necessary safeguard to ensure that the digital ecosystem remains open, secure, and trustworthy. The OSPs must be accountable and transparent with their security measures. The framework has been carefully designed to balance regulatory requirements with the need for continued innovation and flexibility. Further, the practice of regulating OSPs is not novel to Malaysia and has been introduced in many other jurisdictions such as United Kingdom ("UK"), Australia, Singapore, Indonesia, India, EU among others. There were no strenuous objections and/or rejections when these jurisdictions passed their online safety legislations in line with their domestic legal framework.
- (f) In respect of the concern on Criminal Liability for OSP (**Issue 3 in Appendix 1 of the AIC Letter**), MCMC wishes to impress upon AIC that imposing criminal liability on irresponsible, reckless and unsafe OSPs is essential in ensuring that the OSPs take their responsibilities seriously, especially in preventing the spread of illegal content. This measure is in line with international practices and is designed to protect the public without stifling the operation of legitimate businesses.
- (g) In this context, MCMC wishes to cite a few recent enforcement actions that has taken place in other countries. In Leeds, northern England, UK a

28-year-old man was jailed for 20 months, for posting in Facebook, inciting people to attack asylum seekers and refugees, in Northampton, central England (UK), a 26-year-old was jailed for 38 months after he called on social media for hotels housing asylum seekers to be set on fire.

(<https://www.malaymail.com/news/world/2024/08/10/uk-issue-first-jail-sentences-for-provocative-online-posts-while-on-high-alert-for-more-racial-riots/146569>)

Further, in France, the CEO of Telegram, Pavel Durov has been detained over Telegram's alleged failure to adequately moderate illegal content on Telegram.

(<https://www.scoop.my/news/224795/telegram-ceo-pavel-durov-arrested-in-paris-on-charges-linked-to-app-misuse/>)

- (h) Notwithstanding, Malaysia's licensing framework includes provisions to protect the OSP acting in good faith and in compliance with the law. Further, any aggrieved parties can seek the necessary remedy via Appeal Tribunal established under the CMA 1998 and thereafter in the court of law.
- (i) In relation to AIC's averments on Universal Service Provision ("**USP**") Fund Contribution (Issue 4 in Appendix 1 of the AIC Letter), MCMC wishes to point out that not all OSPs are subjected to USP contribution automatically. The extension of the USP Fund contributions to the OSP is only intended for OSPs that meet the annual minimum revenue threshold of RM2 million and above. This provision is in place to ensure that all service providers including OSPs, contribute to ongoing efforts to bridge the communications and digital divide in Malaysia. This requirement is fair and necessary to maintain the sustainability of universal service obligations, which are vital for the broader goal of inclusive digital access across Malaysia.
- (j) On AIC's criticism on the threshold for Licensing Requirement (**Issue 3 in Appendix 1 of AIC Letter**), MCMC wishes to highlight that the eight (8) million user threshold was decided based on the need to regulate OSPs with significant impact on the Malaysian digital ecosystem. The threshold is formulated for the OSPs to apply for the application service provider class [**ASP(C)**] licence and no **licence** registration is required on the part of the end users. This threshold is consistent with practices in other jurisdictions and is necessary to ensure that the most influential OSPs are held to a high standard of accountability. In example, India sets the threshold at 5 million users and UK at 7 million users. The threshold has been set after careful analysis to balance regulatory oversight with the practical realities of the OSPs' operation.

- (k) On the proposal for Collaboration with Industry (**Issue 1 in Appendix 1 of the AIC Letter**), MCMC places on record that MCMC remains committed to ongoing collaboration with industry stakeholders. MCMC will be undertaking a public inquiry (PI) exercise to solicit feedback from all relevant parties to ensure that the final framework is fair, effective, and reflective of the needs of both the industry and the public. This process is a testament of MCMC's commitment in maintaining a transparent and cooperative relationship with the industry and relevant stakeholders to address any emerging concerns. Be that as it may, collaboration without regulation is **an ineffective** exercise. It is unreasonable and illogical for technology companies or social media platforms to demand or suggest that a Country places total reliance on collaboration methodology and ignore any form of regulatory mechanisms for online activities. The present statistics on online harms in Malaysia is self-evident that regulatory framework is highly needed for the OSPs.
- (l) In respect of the issue of excessive regulatory requirements (**Issue 2, Appendix 1 of the AIC Letter**), MCMC states that the same is unfounded and misplaced. The licensing framework has been carefully structured to avoid stifling innovation while ensuring robust protections against online harms. In Singapore, the Government has introduced laws such as Protection from Online Falsehood and Manipulation Act 2019 (POFMA), Online Criminal Harms Act 2023 (OCHA), revision to the Broadcasting Act 1994 (BA) with the aim of regulating digital space in Singapore. MCMC's approach is proportionate, targeting only those irresponsible OSPs that meet specific criteria, thereby minimizing any undue regulatory burden on smaller or less impactful services. This balanced approach is designed to protect freedom of expression while ensuring a safe digital environment for all users.
- (m) MCMC wishes to impress upon AIC that Malaysia's effort in introducing the licensing framework is not much different than the efforts made by the OSPs to enforce community guidelines on users. If the OSPs' unilateral initiative to impose community guidelines can be welcomed as a reasonable safety measure, there is no reason why a regulatory framework grounded on safety, security, transparency and accountability features cannot be accepted and adhered to. MCMC has also tabled the licensing framework at international level and this has been extensively covered in the media and international forum.

9. In conclusion, MCMC reiterates that the prime responsibility of the Government is to protect its people against threats both foreign and domestic. This includes threats and harms in the digital space. In the case of MCMC, this includes any online threat or harms and cyber security threat to its people utilising network facility and service. This responsibility transcends any other consideration.

10. The OSPs have a legal responsibility to protect its users and ensure its users comply with Malaysian law when operating in the Malaysian sovereign digital space. There is no inconsistency with the requirement of licensing regulation and the operation of any business and no reason why both cannot coexist to benefit the people and the OSPs. The practice worldwide in view of the gross misuse of these services to commit criminal activity is to regulate the same through Government actions and increase accountability for OSPs. A secure and safe online space with clear responsibilities is a pre-condition to sustainable digitalisation.

Yours faithfully,



DATUK TS. DR. MOHAMED SULAIMAN SULTAN SUHAIBUDDEEN
Chief Network Security Officer

On behalf of Chairman