



## **MALAYSIAN COMMUNICATIONS AND MULTIMEDIA COMMISSION**

### **INFORMATION PAPER: LICENCE APPLICATION PROCEDURE AND LICENSING CRITERIA**

8 AUGUST 2003

**Notice:**

*The information in this document is intended as a guide only. For this reason it should not be relied on as legal advice or regarded as a substitute for legal advice in individual cases. Parties should still refer to the legislative provisions contained in the law.*

*MCMC reserves the right to change and/or amend this document without giving prior notice.*

**Malaysian Communications and Multimedia Commission**  
Level 11, Menara Dato' Onn, Putra World Trade Centre  
45, Jalan Tun Ismail, 50480 Kuala Lumpur

Tel : +6 03 40477000  
Fax : +6 03 26940943  
Website: [www.mcmc.gov.my](http://www.mcmc.gov.my)

**MALAYSIAN COMMUNICATIONS AND MULTIMEDIA COMMISSION**  
**LICENCE APPLICATION PROCEDURE AND LICENSING CRITERIA**

**TABLE OF CONTENTS**

<b>OBJECTIVE.....</b>	<b>1</b>
<b>INTRODUCTION – OVERVIEW OF LICENSING FRAMEWORK .....</b>	<b>1</b>
<b>ELIGIBILITY OF PERSONS APPLYING FOR LICENCE .....</b>	<b>4</b>
<b>APPLICATION PROCEDURE.....</b>	<b>5</b>
<b>INFORMATION REQUIRED FOR LICENCE APPLICATION .....</b>	<b>6</b>
<b>LICENSING CRITERIA (INDIVIDUAL LICENCE).....</b>	<b>12</b>
<b>CONTACTING MCMC .....</b>	<b>14</b>

Attachments: -

Annexure 1 - Form A – Application Form for Individual Licence

Annexure 2 - Checklist for Individual Licence Application

Annexure 3 - Form D - Registration Notice for Class Licence

Annexure 4 - Checklist for Class Licence Application

Annexure 5 - Ministerial Guidelines on NFP and NSP Class Licence

## Objective

- 1.1 The objective of this paper is to provide licensees and other interested parties with a guide to the type of information that is required in a licence application and the criteria applied by MCMC in evaluating an individual licence application.
- 1.2 This paper is meant to be a general guide only. For further details, interested parties are invited to contact the Regulatory Division of MCMC.

## Introduction – Overview of Licensing Framework

- 2.1 The Communications and Multimedia Act 1998 (CMA) establishes a framework for regulatory intervention to promote Malaysia's national policy objectives for the communications and multimedia industry and seeks to provide a generic set of regulatory provisions based on generic definitions of market and service activities and services.
- 2.2 The licensing provisions under the CMA are designed to allow flexibility with respect to licensing structures as the licensing requirements vary over time with the evolution of the communications and multimedia industry. As the industry evolves towards convergence, licences under the CMA are formulated to be both technology and service neutral. The licensing regime allows a licensee to undertake activities that are market specific. This creates opportunities for expansion into the industry and provides for a more effective utilization of network infrastructure.
- 2.3 Under the CMA, there are four categories of licensable activities:-
  - a) **Network Facilities Providers** - who are the owners of network facilities such as satellite earth stations, broadband fibre optic cables, telecommunications lines and exchanges, radio communications transmission equipment, mobile communications base stations and broadcasting transmission towers and equipment. They are the fundamental building block of the convergence model upon which network, applications and content services are provided.

- b) **Network Service Providers** – who provide the basic connectivity and bandwidth to support a variety of applications. Network services enable connectivity or transport between different networks. A network service provider is typically also the owner of the network facilities. However, a connectivity service may be provided by a person using network facilities owned by another.
- c) **Applications Service Providers** – who provide particular functions such as voice services, data services, content-based services and electronic commerce. Applications services are essentially the functions or capabilities, which are delivered to end-users.
- d) **Content Applications Service Providers** – who are special subset of applications service providers including traditional broadcast services and newer services such as online publishing and information services.

2.4 Within the activity categories, there are two key types of licences:–

- a) individual licences which allows close monitoring and control of activities; and
- b) class licence which is a “light-handed” form of regulation which is designed to promote industry growth and development by removing unnecessary regulatory barriers.

Standard licence conditions apply to both individual and class licence and these conditions are set out in the Schedule to the CMA.

2.5 Individual licence must be applied for and are granted by the Minister<sup>1</sup>. Special or additional licence conditions may be imposed and such licence conditions are declared by the Minister. The Minister also has the power to modify, vary, revoke or impose further special or additional conditions at any time. However, the affected licensees will be notified of the intention to do so to enable them to make the appropriate submissions.

---

<sup>1</sup> Minister of Energy, Communications and Multimedia

2.6 The Minister may grant a class licence in respect of any matter requiring a licence under the CMA. Unlike an individual licence, a class licence merely requires registration, which is an administrative process.

2.7 The following table provides a summary of licensable activities and the types of licence required for the relevant activity:-

Licensing Category	Individual Licence	Class Licence	Exempt/Unlicensed
Network Facility Provider	Earth Stations Fixed links and cables Public payphone facilities Radiocommunications transmitters and links Satellite hubs Satellite control station Space station Submarine cable landing centre Switching centre Towers, poles, ducts and pits used in conjunction with other network facilities	Niche or limited purpose network facilities  Examples: Radio communications transmitters for public mobile radio network services Radio communications transmitters for public radio paging network services Radio communications transmitters and links for broadband point to point and point to multipoint wireless internet network service Radio communications transmitters and links for public wireless video communications network Radio communications transmitters and links for public wireless data network services Network of broadband access switches or multiplexers and fixed links and cables offered For sole purpose of end users in buildings or a single clustered building complex	Broadcasting and production studios Incidental network facilities Private network facilities Internet cross-connect equipment
Network Service Provider	Bandwidth services Broadcasting distribution services Cellular mobile services Access applications service Space service	Niche customer access Niche connection services  Examples: Public mobile radio network service One or two way radio paging network services Broadband point to point and point to multipoint wireless internet network service for purposes of connecting end users to Internet Access Service Provider Wired/wireless video communications network for carrying video for purposes of monitoring, teaching, supervision, occasional events and surveillance information Terrestrial wireless fixed/mobile data network services for the specific purposes of messaging, surveillance, ticketing or inventory management Broadband network customer access services offered for the sole purpose of connecting end users in a building or a single clustered building complex to the Internet Access Service Provider	Incidental network services LAN services Private network services Router Internetworking

Licensing Category	Individual Licence	Class Licence	Exempt/ Unlicensed
Applications Service Provider	PSTN Public cellular services IP telephony Public payphone service Public switched data service	Audiotext hosting services provided on an opt-in basis Directory services Internet access services Messaging services	Electronic transaction service Interactive transaction service Networked advertising boards and Cineplex Web hosting or client server
Content Applications Service Provider	Satellite broadcasting Subscription Broadcasting Terrestrial free to air TV Terrestrial radio broadcasting	Presently not issued	Internet content applications services

## Eligibility of Persons Applying for Licence

### 3.1 Individual Licence

The following persons or classes of persons shall be ineligible to apply for an individual licence:-

- a) a foreign company as defined under the Companies Act 1965 [Act 125];
- b) an individual or a sole proprietorship;
- c) a partnership; and
- d) such other persons or classes of persons as may be decided by the Minister from time to time.

### 3.2 Class Licence

The following persons or classes of persons shall be ineligible to be registered as a class licensee:-

- a) a foreign individual who is not a permanent resident; and
- b) a foreign company as defined under the Companies Act 1965.

It should be noted that in the case of class licences, the Minister may, for good cause or as the public interest may require, permit either of the above to apply to be registered as a class licensee.

## **Application Procedure**

### **4.1 Individual Licence**

An applicant who wishes to provide facilities and/or services which require an individual licence will have to submit the following to MCMC:-

- a) A duly completed Form A (Annexure 1) together with an application fee of RM10,000.00;
- b) Details as per the checklist attached (**Annexure 2**); and
- c) Such additional information or document as may be requested by MCMC

MCMC shall complete processing the application and make a recommendation to the Minister within 60 days of receipt of all relevant information from the applicant. If the Minister agrees with the recommendation, the Minister will grant an individual licence to the applicant. MCMC will register the individual licence and inform the applicant.

If the Minister rejects the application for an individual licence, the applicant will be informed of the rejection in writing and reasons for the rejection.

### **4.2 Class Licence**

An applicant who wishes to provide facilities and/or services which are subject to a class licence will have to submit the following to MCMC:-

- a) A duly completed Form D (registration notice) (Annexure 3) in duplicate copies;
- b) A registration fee of RM2,500.00;
- c) Details as per the checklist attached (**Annexure 4**); and
- d) Such additional information or document as may be requested by MCMC.

## **Information Required for Licence Application**

### **Individual Licence**

5.1 Regulation 6 (2) of the Communications and Multimedia (Licensing) Regulations 2000 (Licensing Regulations) states that any person applying for an individual licence for the provision of a particular facility or service shall submit, wherever applicable, the following details:-

- a) The information required under the CMA and regulation 7 of the Licensing Regulations; and
- b) Such other information or document as MCMC may require in writing or pursuant to any administrative guideline issued by MCMC.

5.2 Regulation 7 of the Licensing Regulations lists out the information that should be submitted (for the purpose of an individual licence) which is outlined below.

- a) Particulars of the applicant, which should include the following:-
  - i. name of the applicant, date and place of incorporation, business and registered address, contact telephone number, facsimile number, e-mail address and name and designation of a contact person within the applicant's organisation.
  - ii. detailed information on corporate and shareholding structure including relationship with holding or associated companies clearly indicating the ultimate ownership, both direct and indirect (2<sup>nd</sup> tier/3<sup>rd</sup> tier). If the holding company is a public entity, then details of the public listing should be provided.
  - iii. details of the composition of the Board of Directors and key management team should also be provided. Where possible, brief resumes of the key management team indicating relevant prior experience, qualifications and other source of expertise should be provided.



- iv. details of the applicant's current activities (where applicable).
- b) The anticipated operating and capital expenditure, proposed financing plan including the sources of financing, whether domestic or foreign. The financial plan/business plan for the proposed activity should include:-
- i. A breakdown of the proposed capital expenditure and working capital requirements for the first five years of operation;
  - ii. Projected profit and loss account including details of revenue (the method of calculation should be clearly outlined), balance sheet and budgeted cash flow statements, showing the amount of capital to be invested on an annual basis for five years. All assumptions used (asset depreciations policies, annual increase/decrease in operating expenditure) shall be clearly explained;
  - iii. Projected volume of business, indicative prices for the services and market share the first five years of operation;
  - iv. The forecast internal rate of return and payback period of the investment;
  - v. The segment of the market that the applicant will target (e.g. specific geographical area, activity, end-user or other service providers).
  - vi. Sufficient documentary evidence to prove that the applicant has the financial capability to meet the capital investment required in carrying out the activity proposed. In addition, details of proposed financing structure including proposed sources of funds (whether domestic or foreign) and credit facilities available should be included. This would include financing from venture capitalists or holding companies. The minimum requirement for paid-up capital is RM500,000.00. This

minimum requirement is based on previous approved applications as this is one criteria to indicate the financial capability of an applicant.

- c) The proposed operating procedures including a disaster recovery plan. This would include contingency measures, contact point in the event of emergency, details of measures undertaken to ensure network and data security.
- d) Any other licences held by the applicant under the CMA, its group of companies and any company which is deemed to be associated with a director of the applicant by virtue of Section 122A of the Companies Act 1965.
- e) Corporate information including the particulars of the companies referred to in the paragraph above and particulars disclosing the ultimate beneficial shareholders of the applicant and any company referred to in the paragraph above which hold a licence together with information detailing the direct and indirect shareholdings of all their shareholders.
- f) Memorandum and articles of association and certified true copies<sup>2</sup> of the Form 24, 44, 49 and annual return under the Companies Regulations 1966 [P.U. 173/1966] of the applicant which have been filed with the Companies Commission. The financial information of the applicant should include the following: -
  - i. The latest copies of detailed audited accounts (profit and loss accounts, balance sheets, cash flow statements and auditors' report) for the last three financial years, together with the most recently published interim results.
  - ii. If the applicant is a newly formed company, the applicant's shareholders' detailed audited accounts for the last three financial years, together with the most recently published interim results (if

---

<sup>2</sup> All photocopies must be certified by the Director or the Company Secretary

available). Bankers' confirmation of deposits and/or available credit facilities should also be included. For individual shareholders, documentary evidence of the shareholder's creditworthiness should be given. This may be in the form of bankers' confirmation of deposits or letter of support from an established financial institution.

iii. Authorised and paid up capital and relevant certificates confirming the same.

g) The proposed technical and service roll out for the next five years. This would include a description of the activities that will take place in a given timeframe such as commencement of service, equipment requisition and proposed marketing activity.

h) A description of the nature of the facilities, service, application or content and area of coverage and the types of technology to be used. Detailed information on network diagram, interconnection interface requirements and range of application services should be provided.

5.3 The applicant should identify the range of services to be provided and the components of the services. For example, those applying for network facilities provider would have to indicate the network facility for which the licence is being applied (e.g. earth station, fixed links etc). On the other hand, those applying for an applications service provider individual licence should set out in their application information of the services to be provided as well as details of the network service and/or network facilities provider that will be used (inclusive of commercial terms, where relevant). In addition, the applicant should also notify MCMC if the services provided are in collaboration with foreign network facilities and/or service providers.

5.4 A description of the resources required for the provision of the services should be outlined. This would include identifying the relevant bands in the spectrum plan or type of numbering or electronic addresses required (where applicable).

5.5 In addition to the information required pursuant to Regulation 7 of the Licensing Regulations, the applicant shall also submit an impact analysis report together with its application containing the following: -

- a) how the applicant's operations will benefit/impact the country and the communications and multimedia industry and contribute towards making Malaysia a communications and multimedia global hub;
- b) strategies that will be employed to compete effectively in the communications and multimedia market;
- c) an economic and market study on the potential demand for the activity being proposed/the projected market share that the applicant will be able to acquire in the next five years;
- d) details of technological innovations to be utilized in the provision of service or carrying out of activity;
- e) details of any initiatives undertaken towards sharing of infrastructure; and
- f) any other relevant information.

5.6 The applicant may submit any other information not specified above which may be considered helpful to the application.

5.7 MCMC reserves the right to request for clarification or any further information from the applicant regarding its application.

5.8 MCMC reserves all rights not to accept application proposals which are incomplete in this respect.

### **Class Licence**

5.9 Regulation 25 (2) states a registration notice submitted to operate under a class licence shall be accompanied by:-

- a) the particulars of the applicant -

- i. certified copies of relevant documents in support of the legal status of applicant (company/partnership/individual/society/others). As an example, applicants which are locally incorporated companies would be required to furnish the relevant Forms 9, 24 and 49 together with the memorandum and articles of association;
- ii. organization profile (for companies/partnership/society)
- b) a description of the facilities, services or application which is operated by the applicant in the following form:-
  - i. Introduction – brief description of network/service/facility
  - ii. Operating procedures including a network topology

For applications to register as a network facilities and/or network service class licensee, the applicant would also be required to provide the following:-

- 1. a description of the network (inclusive of network topology and configuration of the network);
  - 2. a description of the equipment to be used (inclusive of technical specification, capability, location and coverage);
  - 3. channeling plan of the frequency (where appropriate);
  - 4. details of proposed customers and scope of the activities or services to be provided (inclusive of duration, whether meant for purposes of meeting special requirements such as coverage of specific events, etc).
- c) such other information or document MCMC may require.

5.10 Any party that is keen to register itself as a Network Facilities Provider/Network Service Provider class licensee are advised to first read the Ministerial Guidelines on Class Licences that was issued in September 2002 and ensure that the scope of the facilities and/or services to be provided fall within the ambit of the said guidelines. (The Ministerial Guidelines is annexed as **Annexure 5**).

## Licensing Criteria (Individual Licence)

6.1 MCMC will consider an application together with the accompanying information on its merits. However, the merits of each application will be evaluated against a set of criteria which may include, but is not limited to the following:-

a) Financial/Business plan

In examining the financial plan, MCMC will consider whether the applicant possesses the financial capability to carry out the activity in question. Any information on the financial standing of the applicant will be considered, including (where applicable) ratings given by rating agencies.

MCMC will also look into the feasibility of the business plan vis-à-vis the assumptions provided by the applicant and evaluate this against the current market environment.

b) Applicant's Background

The applicant's chain of ownership (extending to even 2<sup>nd</sup> or 3<sup>rd</sup> tier) will be considered. If the applicant is an established company, the revenue earnings and the business segment in which the applicant is involved in would also be taken into account.

c) Newly incorporated companies

A new company with no revenue track record will be considered based on other criteria such as funding from venture capitalists or holding companies, innovative services to be provided and relevant expertise.

d) Shareholdings/Equity Participation

- i. In looking at the shareholding structure of any one applicant, MCMC will take into account the need to encourage more local SMIs (i.e. locally incorporated companies and where the majority of shares are held by Malaysians) to participate in the local ICT industry, particularly the applications market.

ii. MCMC will also take into account any specific policy determined by the Minister in relation to shareholdings in companies applying for CASP licence.

e) Major projects undertaken and proven managerial and technical expertise

Any applicant who possesses relevant managerial and technical expertise (from not only a local perspective but where possible a global one) to carry out the proposed activity may have an advantage. MCMC will also consider any previous major projects undertaken by the applicant relating to ICT and whether the applicant has any relevant experience in the communications and multimedia industry. Initiatives undertaken, particularly in the area of research and development, by the applicant and/or its holding or associated companies (where applicable) will also be considered.

f) Benefits/Impact Analysis

MCMC will also consider the benefits that will be brought by the applicant to the overall communications and multimedia industry.

g) Technological and Service Innovations

MCMC will consider what technological and/or service innovations the applicant proposes to provide.

h) Target Market

MCMC will consider what the target market of the proposed activity is and would look upon favourably on proposals that cover not only urban but rural areas as well.

i) Other Policies

In evaluating the licence application, regard will be made to any general policy decisions made by the Minister on the licensing framework.

- 6.2 MCMC may, as it deems fit, request that an undertaking pursuant to Section 43 of the Communications and Multimedia Act 1998 be given with regard to any representation made by the applicant in its application.
- 6.3 The criteria set out in this document may be changed from time to time or added at the discretion of MCMC. The decision on whether the application meets the criteria set above rests solely with MCMC. The final decision in approving a licence shall rest with the Minister.

### **Contacting MCMC**

More information on the above may be obtained by writing to the following address:-

The General Manager  
Regulatory Division  
Malaysian Communications and Multimedia Commission  
Level 12, Menara Dato' Onn, PWTC  
45, Jalan Tun Ismail  
50480 Kuala Lumpur

Tel No : 03-2694 2121



## **ANNEXURE 1**

[http://www.mcmc.gov.my/mcmc/what\\_we\\_do/licensing/cma/forms/borang\\_a.pdf](http://www.mcmc.gov.my/mcmc/what_we_do/licensing/cma/forms/borang_a.pdf)

## **ANNEXURE 2**

[http://www.mcmc.gov.my/mcmc/what\\_we\\_do/licensing/cma/forms/checkindi.pdf](http://www.mcmc.gov.my/mcmc/what_we_do/licensing/cma/forms/checkindi.pdf)

**ANNEXURE 3**

[http://www.mcmc.gov.my/mcmc/what\\_we\\_do/licensing/cma/forms/borang\\_d.pdf](http://www.mcmc.gov.my/mcmc/what_we_do/licensing/cma/forms/borang_d.pdf)

## **ANNEXURE 4**

[http://www.mcmc.gov.my/mcmc/what\\_we\\_do/licensing/cma/forms/checkclass.pdf](http://www.mcmc.gov.my/mcmc/what_we_do/licensing/cma/forms/checkclass.pdf)

**ANNEXURE 5**

[http://www.mcmc.gov.my/mcmc/registers/cma/class/MG\\_NFP\\_CL.pdf](http://www.mcmc.gov.my/mcmc/registers/cma/class/MG_NFP_CL.pdf)

[http://www.mcmc.gov.my/mcmc/registers/cma/class/MG\\_NSP\\_CL.pdf](http://www.mcmc.gov.my/mcmc/registers/cma/class/MG_NSP_CL.pdf)

