LAMPIRAN I
AKTA KOMUNIKASI DAN MULTIMEDIA
1998

(Akta 588)

SUSUNAN SEKSYEN-SEKSYEN

BABAHGIAN I
PERMULAAN

Seksyen
1. Tajuk ringkas.
2. Mula berkuat kuasa.
3. Matlamat.
4. Pemakaian wilayah dan luar wilayah.
5. Kuasa Menteri untuk mengecualikan orang, kawasan geografi tertentu, dll.
6. Tafsiran.

BABAHGIAN II
KUASA DAN TATACARA MENTERI

Bab 1
Arahan Menteri

7. Arahan oleh Menteri.
8. Perubahan arahan.

Bab 2
Penentuan Menteri

11. Perubahan penentuan.
Bab 3

Perisytiaran Menteri

Seksyen

13. Perisytiaran oleh Menteri.
14. Pengubahsuaian, perubahan atau pembatalan perisytiaran.
15. Daftar perisytiaran.

Bab 4

Peraturan-Peraturan Oleh Menteri


Bahagian III

Tribunal Rayuan

17. Penubuhan Tribunal Rayuan.
18. Perkara yang boleh dikaji semula oleh Tribunal Rayuan.
20. Peletakan jawatan dan penamatkan lantikan.
22. Kuorum bagi Tribunal Rayuan.
23. Keputusan.
24. Tatacara Tribunal Rayuan.
25. Penggantungan anggota.

Bahagian IV

Lesen

Bab 1

Lesen Individu

27. Permohonan bagi mendapatkan lesen individu.
29. Syor oleh Suruhanjaya.
30. Pemberian lesen individu.
31. Sekatan ke atas pemberian lesen individu.
Seksyen

32. Pematuhan syarat-syarat lesen individu.
33. Pengubahsuaian, perubahan atau pembatalan syarat-syarat lesen individu.
34. Pembaharuan lesen individu.
35. Penyerahan lesen individu.
36. Pindah hak milik lesen individu atau penukaran pemunyan.
37. Syor bagi penggantungan atau pembatalan lesen individu.
38. Penggantungan atau pembatalan lesen individu oleh Menteri.
39. Tarikh kuat kuasa penggantungan atau pembatalan lesen individu.
40. Penyiaran mengenai penggantungan atau pembatalan lesen individu.
41. Kesan penggantungan, pembatalan, penyerahan atau habis tempoh lesen individu.
42. Daftar lesen individu.
43. Hak dan kewajipan yang disertakan dengan lesen individu.

Bab 2

Lesen Kelas

44. Menteri boleh memberikan lesen kelas.
45. Permohonan bagi pendaftaran.
46. Kehendak bagi pendaftaran.
47. Syor oleh Suruhanjaya.
49. Daftar lesen klas.
50. Daftar notis pendaftaran.

BAHAGIAN V

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DAN MULTIMEDIA MALAYSIA

Bab 1

Arahan

51. Arahan oleh Suruhanjaya.
52. Pengubahsuaian, perubahan atau pembatalan arahan oleh Suruhanjaya.
53. Kesalahan kerana tidak mematuhi arahan Suruhanjaya.
54. Daftar arahan.
Bab 2

Penentuan

Seksyen

55. Penentuan oleh Suruhanjaya.
56. Pengubahsuai, perubahan atau pembatalan penentuan oleh Suruhanjaya.
57. Daftar penentuan.

Bab 3

Siasatan

58. Siasatan oleh Suruhanjaya.
59. Menggabungkan dua siasatan atau lebih.
60. Penjalanan siasatan.
61. Siasatan hendaklah secara terbuka.
63. Bahan sulit tidak boleh didedahkan.
64. Arahan mengenai siasatan.
65. Laporan mengenai siasatan.
66. Pelindungan daripada tindakan sivil.
67. Daftar laporan.

Bab 4

Penyiasatan Bagi Maksud Pentadbiran, Siasatan, Dll.

68. Penyiasatan oleh Suruhanjaya.
69. Aduan kepada Suruhanjaya.
70. Penjalanan penyiasatan.
71. Laporan mengenai penyiasatan.
72. Penyiaran laporan.

Bab 5

Kuasa Untuk Mengumpul Maklumat

73. Pemberian maklumat.
74. Kesalahan kerana tidak patuh.
75. Kesalahan kerana memberikan maklumat, keterangan atau dokumen palsu atau mengelirukan, dll.
76. Bukti pematuan.
Seksiyen
77 Suruhanjaya boleh menyimpan dokumen.
78 Rekod tidak betul.
79 Rekod maklumat.
80 Penyiaran maklumat.

Bab 6

Daftar

81 Daftar semua perkara.

Bab 7

Pemberitahuan Dan Penyelesaian Pertikaian

82 Pertikaian.
83 Pemberitahuan mengenai pertikaian.
84 Suruhanjaya hendaklah bertindak hanya apabila diberitahu.
85 Suruhanjaya boleh menyiarkan garis panduan.
86 Suruhanjaya hendaklah membuat keputusan tentang pertikaian yang telah diberitahukan.
87 Keputusan hendaklah secara bertulis.
88 Daftar keputusan.
89 Penguatkuasaan.

Bab 8

Pendaftaran Perjanjian

90 Permohonan bagi pendaftaran perjanjian.
91 Bila Suruhanjaya hendaklah mendaftarkan perjanjian itu.
92 Kesat perdaftaran.
93 Kandungan daftar perjanjian.

Bab 9

Kod Industri Sukarela

94 Forum industri.
95 Kod oleh forum industri.
96 Suruhanjaya boleh menentukan kod industri sukarela.
Seksyen
97. Kod industri sukarela yang terpakai.
98. Pematuhan kod industri sukarela berdaftar suatu pembelaaan yang sah.
99. Arahan supaya kod industri sukarela berdaftar dipatuhi.
100. Penalti sivil bagi ketakpatuhan.
101. Pembatalan kod.
102. Pengemukaan kod industri sukarela baru oleh forum industri.
103. Daftar kod industri sukarela semasa.

Bab 10

Standard Mandatori

104. Penentuan standard mandatori.
105. Standard mandatori hendaklah selaras.
106. Pengubahsuaian, pengubahan atau pembatalan standard mandatori.
108. Pematuhan standard mandatori suatu pembelaaan yang sah.
109. Penalti sivil bagi ketakpatuhan.

Bab 11

Aku Janji

110. Aku janji oleh seseorang.
111. Pendaftaran aku janji.
112. Kaedah-kaedah berkenaan dengan aku janji.
113. Penarikan balik aku janji.
114. Penggantian aku janji.
115. Daftar aku janji.
116. Penguatkuasaan aku janji.

Bab 12

Peninggalan Pengawalseliaan

117. Peninggalan pengawalseliaan.
118. Penentuan oleh Menteri.
Bab 13

Kajian Semula Keputusan

Seksiyen
119. Kajian semula oleh Suruhanjaya.
120. Kajian semula oleh Tribunal Rayuan.
121. Kajian semula kehakiman.

Bab 14

Kajian Semula Peraturan

122. Kajian semula perundangan subsidiari oleh Suruhanjaya.

Bab 15

Pengawasan Dan Pelaporan

123. Laporan kepada Menteri mengenai prestasi industri.
124. Perkara untuk diawasi dan dilaporkan.
125. Laporan hendaklah disiarkan.

BAHAGIAN VI

PENGAWALSELIAAN EKONOMI

Bab 1

Pelesenan

126. Pelesenan kemudahan rangkaian, perkhidmatan rangkaian dan perkhidmatan aplikasi.
127. Pematuhan syarat-syarat lesen.
128. Takrif sempadan rangkaian.
129. Pengecualian bagi pemberi perkhidmatan aplikasi yang tidak tertakluk kepada lesen kelas.
130. Pemberi kemudahan yang dinamakan.
131. Pemberi di bawah lesen kelas hendaklah mendaftar.
132. Lesen berasingan.

Bab 2

Amalan Persaingan Am

133. Larangan terhadap tingkah laku anti-persaingan.
134. Suruhanjaya boleh menyiarkan garis panduan.
Seksiyen

135. Larangan terhadap pembuatan perjanjian pakatan sulit.
136. Larangan terhadap perkiraan kaitan atau pautan.
137. Penentuan pemegang lesen dominan.
138. Garis panduan mengenai maksud “kedudukan dominan”.
139. Suruhanjaya boleh mengarahkan pemegang lesen pada kedudukan dominan.
140. Pembenaran tingkah laku.
141. Daftar kebenaran.
142. Remedi bagi ketakpatuhan.
143. Penalti bagi kesalahan.
144. Menteri boleh membuat kaedah-kaedah.

Bab 3

Capaian Kepada Perkhidmatan

145. Kemudahan dan perkhidmatan yang boleh dimasukkan dalam senarai capaian.
146. Penentuan kemudahan dan perkhidmatan oleh Suruhanjaya.
147. Syor oleh forum capaian.
148. Daftar senarai capaian.
149. Kewajipan capaian standard bagi kemudahan dan perkhidmatan.
150. Pendaftaran perjanjian capaian.
151. Pemberitahuan pertikaian capaian.
152. Forum capaian.
153. Kod capaian.
154. Pendaftaran kod capaian.
155. Aku janji capaian industri.
156. Pendaftaran aku janji.

Bahagian VII

Pengawalseliaan Teknik

Bab 1

Pengurusan Spektrum

157. Larangan menggunakan spektrum tanpa pengurusan.
158. Kuasa Menteri untuk membuat peraturan-peraturan.
Seksiyen

159. Pengeluaran penguntukan spektrum.
160. Penguntukan spektrum hendaklah mematuhi rancangan spektrum.
161. Pengeluaran semula penguntukan spektrum.
162. Pindah hakmilik pihak ketiga.
163. Kaedah-kaedah pindah hakmilik.
164. Pengeluaran penguntukan radas.
165. Penguntukan radas hendaklah mematuhi rancangan spektrum.
166. Situasi apabila penguntukan radas tidak boleh dikeluarkan.
167. Pembenaran pihak ketiga.
168. Tempoh maksimum bagi penguntukan radas.
169. Penguntukan kelas.
170. Penguntukan kelas hendaklah mematuhi rancangan spektrum.
171. Situasi apabila penguntukan kelas tidaklah boleh dikeluarkan.
172. Rancangan spektrum.
173. Kandungan rancangan spektrum.
174. Hak keutamaan.
175. Pertikaian mengenai gangguan.
176. Menteri boleh menentukan spektrum bagi penguntukan spektrum.
177. Rancangan spektrum hendaklah termasuk tatacara bagi penguntukan spektrum dan penguntukan radas.
178. Pengambilan wajib penguntukan dalam spektrum yang ditentukan.

Bab 2

Penomboran Dan Pengalamatan Elektronik

179. Kawalan, perancangan dan pentadbiran penomboran dan pengalamatan elektronik.
180. Rancangan penomboran dan pengalamatan elektronik.
181. Pengurusan atau penyenggaraan pangkalan data nombor awam atau alamat elektronik bersepadu.
Bab 3

Standard Teknik

Seksyen
182. Menghalang kesalingbolehkendalian suatu kesalahan.
183. Menjejaskan keselamatan awam suatu kesalahan.
184. Forum standard teknik.
185. Perkara-perkara bagi kod teknik.
186. Agensi pemerakuan.

BAHAGIAN VIII

PELINDUNGAN PENGGUNA

Bab 1

Mutu Perkhidmatan

187. Pengecualian daripada peruntukan kesalahan.
188. Pemberian perkhidmatan rangkaian atau perkhidmatan aplikasi.
189. Forum pengguna.
190. Perkara-perkara bagi kod pengguna.
191. Penyiaran kod pengguna.

Bab 2

Perkhidmatan Aplikasi Dikehendaki

192. Perkhidmatan aplikasi dikehendaki.
193. Arahan Menteri supaya perkhidmatan aplikasi dikehendaki disediakan.
194. Arahan boleh menyatakan perincian pengendalian.

Bab 3

Penyelesaian Pertikaian Pengguna

195. Pertikaian antara pengguna dengan pemegang lesen.
196. Tatacara bagi aduan pengguna.
Bab 4

Pengawalseliaan Kadar

Seksyen

197. Penetapan kadar oleh pemberi.
198. Prinsip mengenai penetapan kadar.
199. Penetapan kadar oleh Menteri.
200. Kuasa Menteri untuk menentukan orang atau kawasan bagi kadar khas.
201. Kaedah-kaedah mengenai kadar.

Bab 5

Pemberian Perkhidmatan Sejagat

203. Takrif "kawasan yang kurang liputan perkhidmatan" dan "kumpulan yang kurang diberi perkhidmatan dalam masyarakat", dll.
204. Kumpulan Wang Pemberian Perkhidmatan Sejagat.

BAHAGIAN IX

1. PENGAWALSELIAAN SOSIAL

Bab 1

Pelesenan

205. Larangan terhadap pemberian perkhidmatan aplikasi kandungan.
206. Pematuhan syarat-syarat lesen.
207. Perkhidmatan aplikasi kandungan tertutup.
208. Pengecualian bagi kandungan sampingan.
209. Perkhidmatan aplikasi kandungan terhad.
210. Pendapat mengenai kategori perkhidmatan.

Bab 2

\frac{1}{2} Kehendak Kandungan

211. Larangan terhadap pemberian kandungan jelik.
212. Forum kandungan.
213. Kod kandungan.
Bab 1

Pemasangan Kemudahan Rangkaian, Capaian
Kepada Kemudahan Rangkaian, dll.

Seksyen

214. Pemeriksaan tanah.
216. Kerosakan minimum.
217. Pemberi kemudahan rangkaian hendaklah membaik pulih tanah.
218. Pengurusan aktiviti.
219. Perjanjian dengan kemudahan awam.
220. Syarat-syarat yang kepanduan permit pemasangan kemudahan rangkaian tertakluk.
221. Notis kepada pemunya tanah.
222. Notis kepada pemunya tanah bagi pencantasan pokok, dll.
223. Notis kepada pihak berkuasa jalan raya, kemudahan awam, dll.
224. Jalan, dll. hendaklah terus dibuka bagi laluan.
225. Permit pemasangan kemudahan rangkaian.
226. Kriteria bagi pengeluaran permit pemasangan kemudahan rangkaian.
227. Permit pemasangan kemudahan rangkaian mempunyai kuat kuasa tertakluk kepada Akta ini dan undang-undang lain.
228. Akses kepada tiang, kemudahan rangkaian atau hak laluan.
229. Suruhanjaya hendaklah mengawal selia perkara mengenai akses kepada tiang, dll.
230. Menteri boleh membuat peraturan-peraturan.

Bab 2

Kesalahan Dan Penalti Tambah

231. Kesalahan jika menggunakan radas atau peranti tanpa kelulusan.
232. Penggunaan secara fraud kemudahan rangkaian, perkhidmatan rangkaian, dll.
233. Penggunaan tidak wajar kemudahan rangkaian atau perkhidmatan rangkaian, dll.
234. Pemintasan dan pendedahan komunikasi dilarang.
Seksiyen
235. Kerosakan kepada kemudahan rangkaian, dll.
236. Fraud dan aktiviti berkaitan berhubung dengan peranti capaian, dll.
237. Larangan terhadap perkhidmatan panggil balik.
238. Penolakan daripada kelengkapan atau peranti tidak standard.
239. Penggunaan, pemilik atau pembekalan tidak dibenarkan, kelengkapan atau peranti tidak standard.
240. Kesalahan mengagihkan atau mengiklankan apa-apa kelengkapan atau peranti komunikasi bagi pemintasan komunikasi.
241. Kesalahan kerana memberikan pernyataan palsu dan mengelirukan.
242. Kesalahan dan penalti am.
243. Pengkompakanan kesalahan.
244. Kesalahan oleh pertubuhan perbadanan.

Bab 3

Kuasa Untuk Masuk, Penyiasatan Kesalahan
Dan Pendakwaan

245. Pegawai diberi kuasa.
246. Kuasa untuk menyiasat.
247. Penggeledahan dengan waran.
248. Penggeledahan dan penyiasat tanpa waran.
249. Capaian kepada data berkomputer.
250. Senarai benda yang disita.
251. Pelepasan benda yang disita.
252. Kuasa untuk memintas komunikasi.
253. Galangan penggeledahan.
254. Kuasa tambahan.
255. Kuasa untuk menghendaki kehadiran orang yang tahu mengenai kes.
256. Pemeriksaan orang yang tahu mengenai kes.
257. Kebolehiterima pernyataan sebagai keterangan.
258. Pegawai diberi kuasa hendaklah menyempurnakan penyiasatan dan menyerahkannya kepada polis.
259. Pendakwaan.
260. Pelucutahan.
261. Bidang kuasa untuk membicarakan kesalahan.
262. Ganjaran.
Bab 4

Perkara Kepentingan Negara

Sekyren

263. Kewajiban am pemegang lesen.
264. Orang yang tidak boleh disabitkan bagi perbuatan yang dilakukan dengan suci hati.
265. Kemampuan pemintasan rangkaian.
266. Kuasa khas semasa darurat.
267. Rancangan bencana.

Bab 5

Pelbagai

268. Menteri boleh membuat kaedah-kaedah mengenai penyimpanan rekod.
269. Kerjasama dengan pihak berkuasa lain.
270. Surat cara yang diberikan di bawah Akta ini.
271. Akta ini mengatasi Akta lain.
272. Pelindungan pegawai dan orang lain.

BAHAGIAN XI

PERUNTUKAN PERALIHAN

Bab 1

Pemansuhan Dan Kecualian

273. Pemansuhan.
274. Pembubaran Kumpulan Wang Telekomunikasi.
275. Kecualian.

Bab 2

Peruntukan Peralihan Bagi Lesen

276. Lesen lama hendaklah berkuat kuasa.
277. Lesen kelas baru hendaklah menggantikan lesen lama.
278. Lesen lama hendaklah didaftarkan.
Sekyren

279. Lesen berdaftar tidak memberikan faedah baru.
280. Pernegang lesen lama hendaklah menyatakan hasrat.
281. Pernegang lesen berdaftar boleh memohon untuk mendapatkan lesen individu di bawah Akta ini.
282. Penentuan kemudahan dan perkhidmatan tersenarai.

JADUAL.
kurang diberi perkhidmatan dalam masyarakat”, Suruhanjaya boleh mengambil kira—

(a) adanya perkhidmatan kepada kumpulan sedemikian; dan/atau

(b) apa-apa rintangan bagi penggunaan perkhidmatan yang ada.

204. Kumpulan Wang Pemberian Perkhidmatan Sejagat.


(2) Menteri boleh membuat peraturan-peraturan berkenaan dengan caruman oleh pemegang lesen, di bawah Akta ini, kepada Kumpulan Wang PPS dan apa-apa perkara lain berhubung dengan atau bersampingan dengan penubuhan dan pengendalian Kumpulan Wang PPS.

BAHAGIAN IX

PENGAWALSELIAAN SOSIAL

Bab 1

Pelesenan

205. Larangan terhadap pemberian perkhidmatan aplikasi kandungan.

(1) Tertakluk kepada apa-apa pengecualian yang boleh ditentukan oleh Menteri melalui perintah yang disiarkan dalam Warta, tiada seorang pun boleh memberikan suatu perkhidmatan aplikasi kandungan melainkan jika—

(a) orang itu memegang lesen individu yang sah yang diberikan di bawah Bahagian ini untuk memberikan perkhidmatan aplikasi kandungan; atau
(2) Sesuatu lesen yang diperoleh di bawah seksyen ini tidak mengecualikan mana-mana orang daripada kewajipan untuk memperoleh lesen di bawah mana-mana seksyen yang berkaitan yang lain dalam Akta ini.

(3) Seseorang yang melanggar subseksyen (1) adalah melakukan suatu kesalahan dan apabila disabitkan boleh didenda tidak melebihi lima ratus ribu ringgit atau dipenjarakan selama tempoh tidak melebihi lima tahun atau kedua-duanya dan juga boleh didenda selanjutnya satu ribu ringgit bagi tiap-tiap hari atau sebahagian daripada sehari kesalahan itu diteruskan selepas pensabitan.

206. Pematuhan syarat-syarat lesen.

(1) Syarat-syarat standard yang berkaitan bagi tiap-tiap lesen, yang diberikan di bawah Bahagian ini, hendaklah mengikut Jadual.

(2) Apa-apa syarat khas atau tambahan sesuatu lesen boleh diisyiharkan oleh Menteri dan dimasukkan dalam lesen itu.

(3) Seseorang pemberi perkhidmatan aplikasi kandungan tidaklah boleh memberikan apa-apa perkhidmatan kecuali mengikut syarat-syarat lesen yang diberikan kepada pemegang lesen itu di bawah Bab ini atau syarat-syarat suatu lesen kelas yang kepadaanya pemberi perkhidmatan aplikasi kandungan sedemikian tertakluk.

207. Perkhidmatan aplikasi kandungan tertutup.

(1) Menteri boleh menentukan takrif bagi "perkhidmatan aplikasi kandungan tertutup" bagi maksud Akta ini.

(2) Jika tiada penentuan sedemikian, sesuatu
perkhidmatan aplikasi kandungan tertutup hendaklah merupakan—

(a) suatu perkhidmatan aplikasi kandungan yang terhad kepada suatu tempat tinggal tunggal; atau

(b) suatu perkhidmatan aplikasi kandungan yang hanya diberikan kepada pekerja atau pegawai suatu pertubuhan perbadanan tunggal.

(3) Pemberian mana-mana perkhidmatan aplikasi kandungan tertutup hendaklah dikehendaki daripada peruntukan Bahagian ini.

208. Pengecualian bagi kandungan sampingan.

(1) Seseorang pemberi perkhidmatan aplikasi adalah dikehendaki daripada peruntukan di bawah seksyen 205 setakat yang kandungan yang berkenaan merupakan kandungan yang bersampingan dengan perkhidmatan yang diberikan.

(2) Bagi maksud seksyen ini, Menteri boleh menentukan garis panduan untuk menjelaskan erti "kandungan yang bersampingan kepada perkhidmatan yang diberikan" ("kandungan sampingan") dan semua perkara yang berkaitan dengannya.

(3) Garis panduan yang ditentukan oleh Menteri hendaklah disiarkan oleh Suruhanjaya, mengikut cara yang difikirkannya sesuai, dan hendaklah didaftarkan dalam daftar secepat yang dapat dilaksanakan.

209. Perkhidmatan aplikasi kandungan terhad.

(1) Seseorang yang memberikan suatu perkhidmatan aplikasi kandungan terhad tidak dikehendaki supaya memegang suatu lesen individu tetapi dia boleh tertakluk kepada suatu lesen kelas.

(2) Seseorang pemberi perkhidmatan aplikasi kandungan terhad yang tiada lesen kelas terpakai baginya hendaklah disifatkan dikehendaki daripada semua peruntukan di bawah Bahagian ini.
(3) Bagi maksud seksyen ini, Menteri boleh menentukan garis panduan yang menjelaskan atau menambah kriteria yang digunakan dalam mentakrifkan istilah “perkhidmatan aplikasi kandungan tertutup” dan segala perkara yang berkaitan dengannya.

(4) Garis panduan yang ditentukan oleh Menteri hendaklah distarkan oleh Suruhanjaya, mengikut cara yang difikirkannya sesuai, dan hendaklah didaftarkan dalam daftar secepat yang dapat dilaksanakan.

210. Pendapat mengenai kategori perkhidmatan.

(1) Seseorang boleh memohon kepada Suruhanjaya supaya diputuskan sama ada suatu perkhidmatan aplikasi kandungan dianggap sebagai suatu perkhidmatan aplikasi kandungan terhad atau sama ada kandungan itu ialah kandungan sampingan.

(2) Suruhanjaya hendaklah memberikan pendapatnya dalam masa tiga puluh hari dari tarikh penerimaan permohonan itu.

(3) Suruhanjaya hendaklah mengambil kira mana-mana garis panduan Menteri yang berkaitan dan mana-mana pendapat yang diberikan sebelumnya di bawah Bab ini sebelum memberikan pendapatnya.

(4) Pendapat itu hendaklah mengikat Suruhanjaya dan semua pihak yang terlibat selama tempoh tiga tahun dari tarikh pendapat itu diberikan di bawah subseksci (2).

(5) Walau apa pun subseksci (4), Suruhanjaya boleh menarik balik sesuatu pendapat jika Suruhanjaya berpuas hati bahawa jenis perkhidmatan itu telah berubah dengan banyaknya.

(6) Suruhanjaya hendaklah menyenggarakan suatu daftar pendapat mengikut Bab 6 Bahagian V.
Bab 2

Kehendak Kandungan,

211. Larangan terhadap pemberian kandungan jelik.

(1) Tiada pemberi perkhidmatan aplikasi kandungan, atau orang lain yang menggunakan perkhidmatan aplikasi kandungan, boleh memberikan kandungan yang sumbang, lucah, palsu, mengancam atau jelik sifatnya dengan niat untuk mengacau, mendera, menggugat atau mengganggu mana-mana orang.

(2) Seseorang yang melanggar subseksi (1) adalah melakukan suatu kesalahan dan apabila disabikan boleh didenda tidak melebihi lima puluh ribu ringgit atau dipenjarakan selama tempoh tidak melebihi satu tahun atau kedua-duanya dan juga boleh didenda selanjutnya satu ribu ringgit bagi setiap hari atau sebahagian daripada sehari kesalahan itu diteruskan selepas pensabitan.

212. Forum kandungan.

Suruhanjaya boleh menetapkan suatu badan industri menjadi suatu forum kandungan bagi maksud Bahagian ini.

213. Kod kandungan.

(1) Dalam sesuatu kod kandungan yang disediakan oleh forum kandungan atau Suruhanjaya hendaklah dimasukkan tatacara contoh bagi menangani kandungan jelik atau sumbang.

(2) Perkara-perkara yang boleh dikendalikan dalam kod itu termasuk, tetapi tidak terhad kepada—

(a) seketaran terhadap pemberian kandungan yang tidak sesuai;

(b) kaedah untuk mengkelaskan kandungan;

(c) tatacara bagi mengendalikan aduan orang ramai dan bagi melaporkan maklumat mengenai aduan kepada Suruhanjaya;

(d) gambaran budaya Malaysia dan identiti kebangsaan;
LAMPIRAN II
CONSTITUTION
OF
FORUM KANDUNGAN KOMUNIKASI DAN MULTIMEDIA MALAYSIA
(COMMUNICATIONS AND MULTIMEDIA FORUM OF MALAYSIA)

Article I : Name
The society shall be known as the Forum Kandungan Komunikasi dan Multimedia Malaysia (Communications and Multimedia Forum of Malaysia) (hereinafter referred to as the Society).

Article II : Place of Business
The address and place of business shall be at Unit 706, Block B, Pusat Dagangan Phileo Damansara 1, 9 Jalan 16/11, Off Jalan Damansara, 46350 Petaling Jaya or at such other places as the Council shall decide from time to time. The address and place of business shall not be changed without the prior approval of the Registrar of Societies.

Article III : Definition
In this Constitution :-

"The Act" means the Societies Act 1966 or any statutory modification or amendment thereof for the time being.

"Advertiser" means any person, partnership, company, corporation or society carrying on or directly involved in advertising as part of the whole of its business or activity and shall include an advertising agency.

"Audiotex Service Provider" means and includes a person who provides an application service which enables a caller by dialling a "600" short code or such other codes as may be decided by the Commission from time to time for the purpose of receiving a recorded message or interacting with a programme for the purposes of receiving information.

"Broadcaster" means a person who causes to be transmitted any sign or signal through a broadcasting station whether for aural or visual reception or both, and includes any music, theatrical or other entertainment, concert, lecture, speech, address, news and information of any kind so transmitted for reception by the
general public;

"Categories" means the grouping referred to in Article V Section 2 (a) to (f).

"Category Meeting" means a meeting open to and attended by members of the Categories.

"Content" means any sound, text, still picture, moving picture or other audio-visual representation, tactile representation or any combination of the preceding which is capable of being created, manipulated, stored, retrieved or communicated electronically;

"Civic Group" means any organisation whose objects are exclusively to promote the interests of community issues which shall include but not be limited to consumer interests, women’s issues, children’s issues, youth issues and religious harmony issues and which is registered as a society under the Societies Act 1966 or as a company limited by guarantee under the Companies Act 1965.

"Company" means a company under the Companies Act 1965 and any statutory modifications or amendments thereof from time to time.

"Complaints Bureau" means the bureau set up and established under Article XIII of this constitution.


"Content Creator/Distributor" means those who are involved in any one of the following activities:

(a) the creation of content (including but not limited to online content creators, aggregators, scriptwriters, production houses, post-production agencies but excluding Advertisers.

(b) the distribution of content (excluding those who make available and/or distribute such content directly to consumers of content via the medium of broadcasting, internet services, Audiotex).

"Council" means the Council hereby set up for the management of the affairs of the Forum.
“Council Member” means a member of the Council as stated in Article IX Section 3.

“Financial Year” means the period covering 1st January to 31st December of each year or such other period as the Council may adopt.

“Firm” means a sole proprietor or a partnership of two or more persons and registered under the Registration of Businesses Act 1956 in West Malaysia and under similar provisions in East Malaysia or any other relevant legislation.

“General Meeting” means annual general meeting or extraordinary general meeting of the Society as applicable.

“Internet Access” means those who are involved in providing access.

“Service Provider” means those who provide access to internet services and applications in conjunction with either a dial-up or direct connection.

“Licensee” means the holder of either a license or a registered licence under the Communications and Multimedia Act 1998.

“Malaysian Communications & Multimedia Commission” means the Commission established under the Malaysian Communications and Multimedia Commissions Act 1998 [Act 588].

“Member” means an ordinary member or associate member as the case may be.

“Ordinary Resolution” means a resolution that is passed by a simple majority of the ordinary members of the Society or the Council as the case may be who are Present and Voting.

“Present and Voting” means members who are present and who vote and excludes any abstentions.

“Society” means the Communications and Multimedia Society of Malaysia.

“Working Group” means the working group set up pursuant to Article X Section 7 and Article XII of this Constitution.
Unless the context otherwise requires, words or expressions contained in this Constitution shall bear the same meaning as in the Act or any statutory modification thereof in force at the date at which this Constitution becomes binding on the members.

**Article IV : Objectives and Purposes**

The objects and purposes for which the Society is established are:-

1. To promote the national policy objectives as enshrined in the Communications and Multimedia Act 1998.

2. To enable a balanced representation of the relevant sectors of the industry and society to ensure that the Content Code developed by the Society reflects the views of the community at large.

3. To develop, prepare, adopt and submit to the Malaysian Communication & Multimedia Commission for registration a Content Code pursuant to the provisions of the Communications and Multimedia Act 1998 to set out guidelines which may include model procedures for classifying and dealing with indecent or offensive content and from time to time amend, develop, modify, review and update the Content Code.

4. To engage in and undertake research on matters within the jurisdiction of the Society and to collect, prepare and distribute statistics as may be considered desirable or beneficial to all or any of the Society's objects and purposes.

5. To provide an avenue and channel for complaints in relation to content and for that purpose to provide for procedures for complaints and grievances and for the consideration, mediation, adjudication and disposal of such complaints and for that purpose to establish a complaints bureau.

6. To invite collect and collate public opinion and views on content and to provide avenues for dissemination of information to the public and education regarding content regulation and technologies for the end user control of content.

7. To administer sanctions for breaches of the Content Code.

8. To regularly update the Malaysian Communications & Multimedia Commission on the activities of the Society.

In furtherance of the above mentioned objects, the Society shall have the power to do the following:
(a) To receive any gift whether moveable or pecuniary and whether or not subject to any trust for anyone or more of the objects of the Society.

(b) To procure contributions to the funds of the Society in the form of donations, grants, loans legacy, subscriptions or otherwise.

(c) To purchase, take on lease or otherwise acquire for the purposes of the Society and to hold any lands, buildings, easements or other interests in movable or immovable property, which may be deemed necessary or convenient for any of the purposes of the Society.

(d) To construct, maintain and alter any houses, buildings or works necessary or convenient for the purposes of the Society.

(e) To let on lease or on hire the whole or any part of the moveable property of the Society on such tenure as the Council shall determine.

(f) To sell, dispose of, or transfer any property and undertaking of the Society or any part thereof, for any consideration, which the Society may see fit to accept.

(g) To draw, accept and make, and to endorse, discount and negotiate, bills of exchange, promissory notes, and other negotiable instruments.

(h) To engage and appoint any or pay such officers, clerks, agents, servants or persons to perform such duties or services for the proper administration and management of the Society and to remove and suspend the same.

(i) To pay all costs, charges and expenses incurred or sustained in or about the promotion and establishment, and administration and management of the Society and to remunerate any person or persons for services rendered thereof in cash or in any other manner allowed by law.

(j) To borrow and raise money in such manner as the Society may think fit. Provided that such borrowing is approved by a resolution of members in a General Meeting.

(k) To do all or any of the matters hereby authorised in any part of Malaysia either alone or in conjunction with, or as trustee or agents, for any firm company, association or person and by or through trustees or agents.

(l) To open accounts for the purpose of depositing funds with a licensed bank or financial institution.
(m) Generally to do all such other lawful things as are incidental or conducive to the attainment of the above objects and purposes and the exercise of the powers of the Society.

**Article V : Membership**

[1] There shall be two (2) classes of members. These shall be ordinary members and associate members.

[2] Ordinary membership shall be open to business industry and trade associations as well as to firms, companies and corporate bodies as well as organisations established, incorporated or registered under the laws of Malaysia and qualifying as:

(a) Advertisers;
(b) Audiotex Service Providers;
(c) Broadcasters;
(d) Civic Groups;
(e) Content Creators/ Distributors; and
(f) Internet Access Service Providers

each individually referred to as a category and collectively referred to as the Categories.

[3] Ordinary membership shall include the right to belong to and to be a member of one or more Categories.

[4] Associate membership shall be open to any individual, firm or body established, incorporated or registered under the laws of Malaysia and is a party interested in content provided by the communications and multimedia industry. Associate members shall enjoy all privileges of ordinary members except that they may not vote or stand for election for any position at any General Meeting or be eligible to be nominated to the Council.

[5] No person shall be admitted to membership unless he shall first have submitted to the Society an application form for membership accompanied by the current prescribed entrance fee and basic annual subscription. Every application for membership shall be in writing containing such particulars as the Council may from time to time prescribe including the Category or Categories under which such applicant elects to belong to. For the avoidance of doubt an applicant may only
elect a Category or Categories which relate to the applicant's core activities.

[6] Admission to membership of any person who makes application to the Society shall be at the sole discretion of the Council. The Council may reject any application for membership but must state the reason for the rejection and in such event the entrance fee and annual subscription shall be refunded. The Council shall have the sole discretion to decide the Category or Categories under which such applicant qualifies in the event of any doubt as to the same.

[7] It shall be a condition of membership that every member shall agree to be bound by and comply with the Content Code developed, prepared and adopted by the Society.

[8] The secretary shall cause to be entered the name and address of each Member and Category or Categories to which such Member has been accepted in the register of members upon admission to membership.

[9] Any Member may appoint and authorize, subject to this Constitution, such person as it deems fit to act as its authorised representative (hereinafter referred to as an "authorised representative") for receipt of notices and attendance at meetings of the Society for such period of time as may be specified. The person so appointed and authorised shall be entitled to exercise the same powers on behalf of such Member as such person would have as if such person was a Member of the Society. The representative shall be entitled to appoint an alternate to attend meetings and vote on behalf of the Member. A member may replace its authorised representative and/or its alternate from time to time.

[10] The secretary shall cause to be entered the name and address of such authorised representative and his alternate or any replacement thereof in the register of members upon being so notified by the Member and any notice of meeting sent to such authorised representative during the tenure of his appointment shall be deemed to be a notice sent to the Member.

[11] For the avoidance of doubt only appointed and authorised representatives may stand for election and be voted into the Council.

**Article VI: Entrance Fees, Subscription and Other Dues**

[1] The entrance fee and annual subscription for membership of the Society unless section 2 applies, shall be as follows:

<table>
<thead>
<tr>
<th>Category</th>
<th>Fee</th>
</tr>
</thead>
<tbody>
<tr>
<td>Ordinary Member</td>
<td>RM 1,000.00 (Malaysian Ringgit One Thousand Only).</td>
</tr>
<tr>
<td>Annual Subscription</td>
<td>RM 2,000.00 (Malaysian Ringgit Two Thousand Only).</td>
</tr>
</tbody>
</table>
Associate Member:

Entrance Fee : RM 1,000.00 (Malaysian Ringgit One Thousand Only).
Annual Subscription : RM 300.00 (Malaysian Ringgit Three Hundred Only).

[2] The entrance fee and the annual subscription for a Civic Group shall be twenty percent (20%) of the entrance fee and twenty percent (20%) of the basic annual subscription payable by the other ordinary members or associate members as the case may be.

[3] After the year in which a person is admitted as a Member the annual subscription shall be payable annually in advance within thirty (30) days of the beginning of each Financial Year.

[4] A person whose membership is approved in the second half of the Financial Year shall be permitted to pay half the annual subscription in the year in which such membership is granted.

[5] Any special subscription or levy may be imposed by the Council for any purpose in furtherance of the objects of the Society with the prior approval of the members obtained by Ordinary Resolution at a General Meeting. Any failure to pay such subscription or levy shall be regarded as arrears of annual subscription.

[6] The Council may with the approval of members in a General Meeting by Ordinary Resolution vary the entrance fee or annual subscription.

Article VII : Cessation of Membership and Expulsion

[1] A person shall cease to be a member of the Society and the name of such member shall be removed from the register of members in any one of the following events:—

(a) if an individual in the event of death; or
(b) if an individual he becomes of unsound mind; or
(c) if an individual he is charged and convicted of any criminal offence; or
(d) if an individual he is adjudged bankrupt or makes any composition or arrangement with his creditors; or
(e) if a corporate body it is dissolved or wound up; or
(f) if an unincorporated body, it is dissolved or deregistered; or
(g) if by notice in writing such member resigns; or

(h) if a member shall fail to pay the annual subscription.

[2] A person shall cease to be an ordinary member if the requirements of Article V Section 2 cannot be complied with. Such a person may apply to continue to be an associate member but in such event no further entrance fee shall be payable.

[3] The decision of the Council as to whether any member, has come within the provisions of this article shall be final and binding on any such member.

[4] Members present and voting at an annual general meeting or extraordinary general meeting may by resolution approved by two thirds of such members present and voting expel any member who has refused or neglected to comply with the provisions of this constitution or whose conduct in their opinion renders such person to be unfit to be a member of the Society.

[5] On receipt of notice of an intended resolution to remove a member the Society shall forthwith send a copy thereof to the member sought to be removed and such member shall be entitled to be heard on the tabling of the resolution at the meeting.

[6] Any such person shall as from the date of the resolution or such other date as is specified in the resolution cease to be a Member of the Society.

Article VIII: General Meetings

[1] The Society shall hold once every year an annual general meeting in addition to any other meetings in that year, and shall specify the meeting as such in the notice calling it, and not more than fifteen months shall elapse between the date of one annual general meeting and that of the next.

[2] The annual general meeting shall be held as soon as possible after the end of the Financial Year but not later than six (6) months after the end of the Financial Year. The annual general meeting shall be held at such time and place as the Council shall appoint.

[3] All General Meetings other than annual general meetings shall be called extraordinary general meetings.

[4] The Council may whenever it deems fit or upon receiving a written requisition convene an extraordinary general meeting. On a requisition by one tenth of the ordinary members the Council shall forthwith convene an extraordinary general meeting of the Society to be held as soon as practicable but in any case not later than one month after the receipt by the Council of the requisition.

[5] An annual general meeting and an extraordinary general meeting shall be
called by giving members at least twenty one (21) day’s notice in writing. The notice shall be exclusive of the day on which it is served or deemed to be served and of the day on which it is given and shall specify the place, the day and the hour of meeting.

[6] Provided that the notice has been served in accordance with sub-section 22, the non-receipt of such notice by any person entitled to receive notice thereof, shall not invalidate any resolution passed, or proceeding had, at any meeting.

[7] Subject to Section 8 the members shall, at each annual general meeting, by Ordinary Resolution deal with the following business:

(a) consider the accounts, balance sheet, and the report of the Council and auditors and
(b) appoint the auditors and fix their remuneration.

In addition to the foregoing the meeting may deal with such matters of which notice is given at least fourteen days prior to the meeting.

[8] Election to the Council in respect of the Chairman and members shall be held at the first annual general meeting and thereafter and at each alternate annual general meeting. Such election shall be carried out in accordance with the procedure set out in Article VIII Section 14.

[9] No business shall be transacted at any general meeting unless a quorum of members is present at the time when the meeting proceeds to business. Save as hereinafter provided one third of the ordinary members present shall be a quorum.

[10] If within half an hour from the time appointed for the meeting a quorum is not present, the meeting, if convened upon requisition of members, shall be dissolved; in any other case it shall stand adjourned to the same day in the next week, at the same time and place or as the Council may determine, and if at the adjourned meeting a quorum is not present within half an hour from the time appointed for holding the meeting the members present shall subject to the proviso herein be the quorum. Provided that no amendment to this constitution shall be considered or passed at such adjourned meeting if there shall be no quorum as required under Section 9.

[11] The chairman of the Council or in the event of his absence the vice chairman shall preside as chairman at every General Meeting of the Society, or if neither of them shall be present within fifteen minutes after the time appointed for the holding of the meeting or be unwilling to act, the members of the Society present shall elect a member of the Council to act as chairman and if no member of the Council is willing to act as chairman or if no member of the Council is present, the members shall elect one of their number to be chairman of the meeting.

[12] The chairman may, with the consent of any meeting at which a quorum is present (and shall if so directed by the meeting), adjourn the meeting from time to
time and from place to place, but no business shall be transacted at any adjourned meeting other than the business left unfinished at the meeting from which adjournment took place. Save as aforesaid it shall not be necessary to give notice of the adjournment or of the business to be transacted at an adjourned meeting.

[13] Subject to Section 14 a resolution put to the vote of the meeting at any General Meeting shall be decided on a show of hands unless a poll is (before or on the declaration of the result of the show of hands) demanded:

(a) by the chairman or

(b) by at least (3) three members present in person or by proxy;

Unless a poll be so demanded a declaration by the chairman that the resolution has on a show of hands been carried or lost and an entry to that effect in the book containing the minutes of the proceedings of the Society shall be conclusive evidence of the fact without proof of the number or proportion for or against such resolution.

[14] Voting for election of members of the Council including the Chairman shall on all occasions be by ballot. The Council shall decide whether such voting by ballot shall take place at the annual general meeting or by post or by electronic means.

[15] In the case of an equality of votes, whether on a show of hands or on a poll the chairman of the meeting at which the show of hands takes place or at which the poll is demanded, shall be entitled to a second or casting vote.

[16] Subject to the provisions of the Act a resolution in writing signed by all members for the time being entitled to receive notice of and to attend and vote at general meetings [or being a corporate body or unincorporated body by their duly authorised representative] shall be as valid and effective as if the same had been passed at a General Meeting of the Society duly convened and held.

[17] Every ordinary member shall have one vote. No ordinary member shall be entitled to vote at any General Meeting unless all subscriptions presently payable by the member to the Society have been paid.

[18] The instrument appointing a proxy shall be in writing under the hand of the appointor or his attorney duly authorised in writing. An instrument appointing a proxy shall be in the following form or as near thereto as circumstances admits:

Communications and Multimedia Forum

[If/We].......of.......being a member of the above named Society hereby appoint ...........of ................or failing him ...........of.........., as my [/our] proxy to vote for me [/us] on my [/our] behalf at annual/ extraordinary general meeting of the said Society to be held on the ...day of... 20...
and at any adjournment thereof.

[signatures]

[19] The instrument appointing the proxy shall be delivered and deposited at the address and place of business of the Society at least two clear working days before the date fixed for the meeting.

[20] A proxy must be an ordinary member and shall be eligible to be a proxy for only one ordinary member of the particular Category he represents.

[21] The instrument appointing a proxy shall be deemed to confer authority to speak, vote and to demand or join in demanding a poll.

[22] A vote given in accordance with the terms of an instrument of proxy shall be valid notwithstanding the previous death of the principal or revocation of the proxy or of the authority under which the proxy was executed, provided that no intimation in writing of such death or revocation aforesaid shall have been received by the Society before the commencement of the meeting or adjourned meeting at which the proxy is used.

[23] Any notice may be given by the Society to any member in the following manner:
   
   (e) by hand delivery; or
   (f) by registered post; or
   (g) by e mail to be followed by a facsimile;
   (h) by facsimile;

   according to the details as supplied by him to the Society for the giving of notice to him.

   Where a notice is sent by post, service of the notice shall be deemed to be effected by properly addressing, prepaying and posting a letter containing the notice in the ordinary course of post.

[24] The Council or the Council Members representing a category may whenever deemed fit or shall upon receiving a requisition from one tenth of the ordinary members of the category, convene a Category Meeting. Such meeting shall be held as soon as practicable but in any case not later than fourteen (14) days after the receipt by the Council of the requisition.

Article IX : The Council

[1] The management of the Society shall, subject to the powers of the ordinary members in a General Meeting be vested in a Council.
[2] It is intended that the Council reflect the various sectors of the industry and society generally and that there be an equality of representation between persons involved in the production, distribution, broadcast, access to content on the one hand and members of the viewing public on the other ("balanced representation"). It is however acknowledged that this may not be achievable at the time of inception of the Society and both the Society and the Council shall use their best endeavours to achieve this balanced representation as soon as possible. Notwithstanding this, and subject to all other provisions contained herein, the Council membership shall at all times include not less than 20% members representing the Civic Group.

[3] The Council shall be made up of a chairman and 18 members from the following Categories in the numbers as stated:

(a) Advertisers - 3
(b) Audiotex Service Providers - 3
(c) Broadcasters - 3
(d) Civic Groups - 3
(e) Content Creators/ Distributors - 3
(f) Internet Access Service Providers - 3

[4] The chairman shall be elected by a majority of the votes of the ordinary members in accordance with the procedure set out in section 10 of this article. Unless voting is in accordance with section 11, the election shall take place at the annual general meeting. The Council shall elect from amongst its members a vice chairman, secretary and treasurer.

[5] The Council Members (not including the Chairman) shall be elected by a majority of votes of the ordinary members belonging to the respective category in accordance with the procedure set out in section 10. Unless voting is in accordance with section 11, the election shall take place at the annual general meeting.

a) Provided that where a Member belongs to more than one (1) Category and offers himself for election as a member of Council in each category of which he is a member, such Member shall if elected in more than one (1) Category, only be entitled to hold office as representing one (1) Category.

b) If such a Member is elected in more than one (1) Category as stated in the preceding paragraph, such Member shall only represent the Category in which such Member has received the highest percentage of votes.

c) Where the members belonging to a particular Category are related companies and stand for election and are elected as members of Council, only the member with the highest percentage of votes amongst the related companies shall be deemed to be elected in that particular Category.

d) For the purpose of this article and section, related company shall mean related with another in accordance with Section 6 of the Companies Act 1965.
In the event that no or insufficient nominations are received, the incoming chairman shall in consultation with the incoming Council appoint members of the Council from amongst ordinary members of the Society to represent the respective Categories. Such appointees who have been so appointed shall be entitled to speak and vote at the meetings of the Council.

In making the appointment under section 6 the chairman and the Council shall exercise their powers to ensure compliance with section 3 herein.

The Council shall by Ordinary Resolution set up a permanent secretariat to assist in the running of the Society and shall for this purpose have the power to appoint such persons as the Council deems fit to hold various positions within the permanent secretariat.

The chairman in consultation with the Council shall have power to grant observer status, for such period as is deemed fit, to persons who are able to contribute to the better and more effective functioning of the Council. Such persons shall be entitled to speak but shall not have the right to vote at Council meetings.

Nominations for the Council by the ordinary members shall be invited at least forty two [42] days before the date of the annual general meeting and shall be submitted to reach the secretary no later than twenty eight [28] days before the annual general meeting and the names of the nominees shall be sent to the ordinary members twenty one (21) days before the annual general meeting.

Where the voting by ordinary members is by postal ballot or by electronic communication the ballot containing the vote must reach the secretariat no later than seven (7) days before the annual general meeting.

The auditors of the Society shall act as scrutineers for the nomination and election of the Council Member.

All members of the Council shall be the duly authorised representatives of ordinary members. All officers of the Society or persons performing executive functions shall be Malaysian citizens. However, non-citizens may hold positions with the prior written approval from the Registrar of Societies.

The Society may from time to time by a resolution passed by a three quarter majority of ordinary members present at the meeting increase or reduce the number of members of the Council.

When the office of chairman or vice chairman or secretary or treasurer becomes vacant, it shall be filled within [30] days. The Council may, at its discretion, appoint an elected Council Member to fill the office so vacated until the term of office of the Council expires, or fill the office of such Council Member by a person elected by a majority vote of the ordinary members at an extraordinary general meeting.
[16] When the office of a member of the Council of a particular category becomes vacant, it shall be filled within [30] thirty days. The Council may, at its discretion, appoint an authorised representative or officer of an ordinary member of the particular category, to fill the office vacated until the next annual general meeting or fill the office vacated by a person elected by a majority vote of the ordinary members of such category at a Category Meeting.

[17] Notwithstanding the foregoing where the vacancy is in respect of a Council Member who is the authorised representative of a member, the member shall have the power to fill the vacancy with that of another of its authorised representative where it is the authorised representative who is personally disqualified.

[18] The Society may by Ordinary Resolution of its ordinary members at a General Meeting, of which notice has been given remove, the chairman, vice chairman, secretary or treasurer before the expiration of their term of office. Such Council Member shall be given an opportunity to make representations before the resolution is voted on.

[19] Members of a particular category may by Ordinary Resolution passed at a Category Meeting, of which notice has been given, remove a Council Member who has been elected as one of the representatives of such category to the Council. Such Category Meetings shall be convened on the requisition of any two ordinary members of that category. Such Council Member shall be given the opportunity to make representations before a resolution is passed.

[20] The Council Members may be paid travelling, hotel and other reasonable expenses properly incurred by them in attending and returning from meetings of the Council or any Working Groups of the Council but shall not otherwise be entitled to any fees or remuneration.

[21] The Council may by Ordinary Resolution exercise all the powers of the Society to borrow money, and to mortgage or charge its undertaking and property or any part thereof Provided that before exercising such powers the Council shall obtain the approval of the members in a General Meeting.

[22] The Council shall at all times act consistently with the decisions of a General Meeting.

[23] The business of the Society shall be managed by the Council, which may pay all the expenses incurred in promoting and registering the Society, and may exercise all such powers of the Society as are not, by the Act or these articles, required to be exercised by the Society in General Meeting. No resolution passed by the Society in General Meeting shall invalidate any prior act of the Council, which would have been valid if that resolution had not been made. All decisions of the Council shall be by Ordinary Resolution.

[24] The Council shall consider and implement steps and measures to publicise and widely disseminate the contents of the Content Code to bring about adequate
and sufficient awareness amongst the community.

[25] The Council by Ordinary Resolution:

a) may propose the reclassification of Content and set up a Working Group for this purpose and thereafter

b) propose the amendment of this Constitution to conform to the reclassification of Content and the appropriate Categories in accordance with the procedure set out herein.

[26] All cheques, promissory notes, drafts, bills of exchange and other negotiable instruments, and all receipts for moneys paid to the Society shall be signed, drawn, accepted, endorsed, or otherwise executed, as the case may be, by any two authorised signatories in such manner as the Council shall from time to time by resolution determine.

[27] The Council shall cause minutes to be made in books provided for the purpose:

(a) of all appointments of officers made by the Council;

(b) the names of all the members of the Council present at each meeting of the Council and of any committee or Working Group of the Council;

(c) of all resolutions and proceedings at all meetings of the Society, and of the Council and of any committee or Working Group of the Council and every member of the Council present at any meeting of the Council or committee of Council shall sign his name in a book to be kept for that purpose.

[28] The office of a Council Member shall be vacated:

(a) if he or the Member he represents, has been convicted of any offence against this Act; or

(b) if he has been convicted of any offence under any other law and sentenced to a fine of not less than two thousand ringgit or to imprisonment for a term of not less than one year; or

(c) if there is in force against him any order of detention, restriction, supervision, restricted residence, banishment or deportation under any law relating to the security of, or public order in, Malaysia or any part thereof, or to prevention of crime; or

(d) if he, without the consent of the Society in General Meeting holds any office of profit under the Society; or
(e) if he is absent for three consecutive meetings of the Council; or
(f) if he becomes a bankrupt; or
(g) if he or the Member he represents ceases to be a member of the Society pursuant to Article VII herein; or
(h) if he becomes of unsound mind; or
(i) if he resigns his office by notice in writing to the Council; or
(j) if he is no longer in the employment of the member; or
(k) if he is removed from office pursuant to Section 18 of Article IX herein; or
(l) if he or the Member he represents is directly or indirectly interested in any contract with the Society and fails to declare the nature of the interest.

[29] A Council Member shall not vote in respect of any contract in which he or the Member he represents is interested or any matter arising therefrom, and if he does so vote his vote shall not be counted.

[30] Where the Council deems fit it may obtain approval of the ordinary members by way of a circular resolution which has received the affirmative vote of a majority of the members Provided that prior to the vote being taken the following procedures are adopted:

(a) The proposed resolution with an explanatory note is circulated to the members twenty eight (28) days before a stipulated deadline.

(b) Members are required to state their views for or against the resolution proposed and send it in to the Council by e-mail, post or by hand, no later than fourteen (14) days before the stipulated deadline.

(c) The Council will not later than seven (7) days before the stipulated dateline, send out ballot papers to all the voting members together with materials setting out the principal comments and views expressed and submitted by the members.

(d) Voting members are thereafter required to complete the ballot papers and post or hand deliver them in sealed envelopes to the Council within the stipulated deadline.

(e) Such resolution will be deemed passed where at least a majority of such members voting cast their vote in favour of the resolution and the same shall be valid and effectual as if it had been passed at a general meeting duly convened.
[31] The members of the Council shall not hold the positions on the Council for more than three (3) consecutive terms. Unless otherwise stated, the duration of one (1) term shall be two (2) years.

[32] The chairman, vice chairman, secretary and treasurer shall not receive any salary and remuneration. No elected office bearers shall hold office for more than two (2) consecutive terms of two years each.

Article X: Proceedings of The Council

[1] The Council shall meet together at least once every quarter, for the dispatch of business, adjourn, and otherwise regulate its meetings, as they think fit. Any question arising at any meeting shall be decided by a majority of votes. In the case of an equality of votes the chairman shall have a second or casting vote. A member of the Council may, and the secretary on the requisition of a member of the Council shall, at any time summon a meeting of the Council.

[2] The quorum necessary for the transaction of the business of the Council may be fixed by the Council, and unless so fixed shall be at least fifty (50%) percent of the total number of Council Members.

[3] The continuing members of the Council may act notwithstanding any vacancy in their body, but, if and so long as their number is reduced below the number fixed by or pursuant to the Constitution of the Society as the necessary quorum of the Council, the continuing members or member of the Council may act for the purpose of increasing the number of members to that number, or of summoning a general meeting of the Society, but for no other purpose.

[4] The chairman shall chair the Council meetings but if at any meeting the chairman is not present within fifteen minutes after the time appointed for holding the same, the members of the Council present may choose one of their number to be chairman of the meeting.

[5] The Council meetings may take place by telephone, audiovisual link up or other instantaneous communication medium, if the meeting is so conducted so that each Council Member is able to hear the other Council Member attending the meeting. Such a meeting is deemed to be held at such place as is agreed by the Council Member provided that the following conditions are satisfied.

(a) each Council Member must acknowledge his presence at the commencement of the meeting to all other Council Members taking part, and

(b) a Council Member may not leave the meeting so conducted by disconnecting his telephone or other means of communication unless he has previously obtained the express consent of the Chairman so to do.
[6] The Council may from time to time delegate any of their powers to a committee or committees as they think fit and with such powers as the Council may prescribe, provided that such powers shall not exceed those vested in or exercisable by the Council under these articles.

[7] The Council shall set up working groups corresponding to the following Categories: Advertisers, Audiotex Service Providers, Broadcasters, Internet Access Service Providers and the Content Creators/Distributors. The Working Group shall continuously examine and review the part of the Content Code that is relevant to each Working Group. Where the issues are relevant to two or more Categories, the Council may set up a Working Group comprising two or more such Categories. Provided always that so far as is practicable each Working Group shall have at least one (1) representative from the Civic Groups.

[8] All acts done by any meeting of the Council or of a committee of the Council, or by any person acting as a member of the Council, shall notwithstanding that it be afterwards discovered that there was some defect in the appointment of any such member of the Council or person acting as aforesaid, or that they or any of them were disqualified, be as valid as if every such person had been duly appointed and was qualified to be a member of the Council.

[9] With the exception of Article XXII, a circular resolution, signed by a majority of the Council Members (save and except those who are outside the country and/or incapacitated) for the time being entitled to receive notice of a meeting of the Council, shall be valid and effectual as if it had been passed at a meeting of the Council duly convened and held.

Article XI: Duties of Office Bearers

[1] The duties of the office bearers shall be as follows:

a) The chairman shall act as chairman at all General and Council meetings and shall at all times:

(i) act impartially;
(ii) ensure all members have the opportunity to put the views of their organization;
(iii) work towards achieving consensus decisions on the Content Code;
(iv) ensure that the Society's constitution is observed; and
(v) act as the Society spokesperson and liaise with the Commission.

(b) He shall also represent the Society in its dealings with outside persons.
(c) The vice chairman shall deputise for the Chairman in the latter's absence.

(d) The secretary shall keep all records, except financial records of the Society and shall be responsible for their correctness, and shall keep minutes of all general, extraordinary and council meetings.

(e) The treasurer shall keep all funds and collect and disburse all money on behalf of the Society and shall keep an account of all money transactions and shall be responsible for their correctness. He shall be authorised to keep and expend such sum per month for petty expenses on behalf of the Society as the Council may determine from time to time and any money in excess of this shall be deposited in a bank to be named by the Council.

Article XII : Working Groups

[1] Each Working Group shall be made up of such number of members from one or more of the categories stated in Article V Section 2 and as is provided for in the by-laws.

[2] The Council shall state the terms of reference for the Working Group and shall appoint a Council member or such other person as is suitable to be the chairperson of the Working Group. The chairman may appoint a member of the Working Group to be his deputy.

[3] Each working group shall regulate its own procedure where it is not provided for in the by-laws.

[4] Attendance at meetings of the Working Group shall be open to relevant parties in all Categories, associate members and any other person or persons invited to attend by the Working Group but all such persons aforesaid shall not have any voting rights at such meetings.

Article XIII : Complaints Bureau

[1] There shall be established a Complaints Bureau to consider and deal with complaints relating to Content as provided for in the Content Code.

[2] The Council shall by Ordinary Resolution appoint the members of the Complaints Bureau referred to herein.

[3] The Council shall empower the Complaints Bureau to impose sanction(s) on any member who is found to have breached the Content Code. The manner in which the sanctions will be carried out shall be in accordance with the Content Code.
The rules and procedures of the Complaints Bureau shall be in accordance with the by-laws established in accordance with Article XVII.

**Article XIV : Accounts and Financial Management**

1. The Council shall cause proper books of accounts to be kept with respect to:-
   
   (a) all sums of money received and expended by the Society and the matters in respect of which the receipt and expenditure takes place;
   
   (b) all sales and purchases of goods by the Society; and
   
   (c) the assets and liabilities of the Society.

Proper books shall not be deemed to be kept if there are not kept such books of accounts as are necessary to give a true and fair view of the state of the Society affairs and to explain its transactions.

2. The books of accounts shall be kept at the registered office of the Society, or at such other place or places as the Council think fit and shall always be open to the inspection of any of the Council Members.

3. The Council shall from time to time determine to what extent and at what times and places and under what conditions or regulations the current statement of accounts and books of the Society or any of them shall be open to the inspection of members not being Council Members.

4. The Council shall before the end of each Financial Year cause to be prepared and approved a Budget for the next ensuing Financial Year.

5. The Council shall from time to time in accordance with the requirement of this Constitution cause to be prepared and to be laid before the Society in general meeting such profit and loss accounts, balance sheets and any reports as are required.

6. A copy of every balance sheet and a profit and loss account which is to be laid before the Society in general meeting, together with a copy of the auditor’s report, shall not less than twenty-one days before the date of the meeting be sent to every Member of the Society.

7. All decisions of the Council with regards to management of the accounts and financial aspects of the Society shall be made by Ordinary Resolution.
Article XV : Audit

[1] A person who is a qualified accountant or a firm of qualified accountants shall be appointed as auditor at every annual general meeting to hold office until the next annual general meeting.

[2] The auditors shall examine the correctness of the accounts and prepare a report for the annual general meeting. They shall also at the request of the chairman at anytime audit the accounts during the year and submit a report to the Council.

Article XVI : Trustees

[1] There shall be elected by an annual general meeting up to three [3] trustees who shall serve for such term as is determined by the Society. All fixed property shall be vested in the trustees who shall be required to execute a deed of trust.

[2] The trustees shall not be entitled to sell or transfer any such property belonging to the Society without the prior approval given at an annual general meeting.

[3] A trustee may be removed from office at an annual general meeting on account of ill health, unsound mind, not being in the country or any other reason which prevents him from performing his duties satisfactorily. If any trustee shall die or resign or be removed the vacancy may be filled by the appointment of a trustee at an annual general meeting.

Article XVII : By – Laws

[1] The Council shall be empowered by Ordinary Resolution to enact, alter and repeal by-laws as it may deem expedient for the proper conduct and management of the Society provided that such by-laws are for the purpose of furthering the objects and not contrary to the provisions expressed herein. The by-laws may include (but are not limited to)

a) the establishment and regulation of the Complaints Bureau including but not limited to appointment of mediators, their qualifications and scope of their functions.

b) the establishment and regulation of the Working Groups to include eligibility and decision making procedures.

[2] Any adoption, alteration and repeal of by-laws shall be brought to the attention of the Members by being published in a regular publication of the Society or at the Society's website and shall take effect two (2) months from the date of notification by the Council or such other later date as the Council may decide. Any
by-law may be set aside with a resolution passed by a two-thirds majority of ordinary members present at a General Meeting of the Society.

Article XVIII : Interpretation

[1] In the event of any question or matter arising out of any point which is not expressly provided for in this Constitution, the Council shall have power to use its discretion and make its decision which shall be final.

Article XIX : Adviser/ Patron

[1] The Council may if it deems fit invite a distinguished personality to be a patron of the Society and elect him as the patron provided that his prior consent in writing is obtained.

Article XX : Prohibitions

[1] The funds of the Society shall not be used to pay fines of members who have been convicted in Court.


[3] The Society shall not indulge in any political activity or allow its funds and/ or premises to be used for political purposes.

Article XXI : Amendments

[1] No alterations or additions to this Constitution shall be made except by a resolution passed by a three-quarters majority of those Present and Voting at any General Meeting and such additions or alterations shall not come into force without the prior sanction of the Registrar of Societies.

[2] Where the Society has been designated by the Communications and Multimedia Commission, any proposed amendments to the Constitution shall be notified to the Malaysian Communications and Multimedia Commission at least fourteen (14) days prior to the General Meeting.

Article XXII : Development, Amendment and Review of Content Code

[1] Any proposal for development, addition to, amendment of, or review of the Content Code required or necessary shall be referred to a Working Group
comprising the relevant parties in accordance with Article X Section 7.

[2] Any such proposal for development, addition to, amendment of, or review of the Content Code shall be considered and formulated by the members of the Working Group and shall if approved by a resolution of a simple majority of the members of the Working Group (whereupon it shall be referred to as the Recommendation) be made available to members of the Society for their input.

[3] The Working Group shall consider and deliberate on the input received from members and decide the extent to which the Recommendation is to be revised. If two thirds of the members are agreed on the Recommendation whether in its original form or as revised, the Recommendation shall be submitted to the Council.

[4] So long as the Council by simple majority of its members Present and Voting approves the Recommendation the Council shall make available such Recommendations for public comment for a reasonable period.

[5] The Working Group shall thereafter consider the input in the form of public comment that has been received and shall upon approval in its original or amended form by a simple majority forward its Recommendation to the Council.

[6] Upon receipt of such Recommendation in relation to Content Code as so approved, the Council shall forward the same to the Communications and Multimedia Commission for registration.

[7] In the event that the Council does not by a simple majority approve the Recommendation received from the Working Group pursuant to Section 3 above, the Council shall forward its comments and suggestions to the Working Group for its consideration and reconsideration.

[8] The Working Group shall consider the comments and suggestion of the Council and if the comments and suggestions are acceptable, it shall incorporate such comments and suggestions as are acceptable into it. Recommendation and indicate such acceptance by a simple majority approval and forward the same to the Council to be dealt with as set out in Sections 4, 5 and 6 above.

[9] In the event that the Working Group is not able to accept the comments and suggestions of the Council the matter shall not be proceeded with.

**Article XXIII : Indemnity**

[1] Subject to the provision of and so far as may be permitted by the Act, every member of the Council, auditor or other officer of the Society shall be entitled to indemnified by the Society against all costs, charges, losses, expenses and liabilities incurred by him in the execution and discharge of his duties or in relation thereto including any liability incurred by him in defending any proceedings civil or criminal which relate to anything done or omitted or alleged to have been done or omitted
him as an officer or employee of the Society and in which judgement is given in his
favour (or the proceedings are otherwise disposed of without any findings or
admissions of any material breach of duty on his part) or in which he is acquitted or
in connection with any application under any statute for relief from liability in respect
of any such act or omission in which relief is granted to him by the court.

Article XXIV : Dissolution

[1] The Society shall not be dissolved, except with the consent of not less than
three-quarters of the ordinary members of the Society Present and Voting at an
extraordinary general meeting to be convened for the purpose.

[2] In the event of the Society being dissolved all debts and liabilities legally
incurred on behalf of the Society shall be fully discharged, and the remaining funds
will either be divided proportionately amongst the Members or donated to any
charitable institution or an organisation pursuing similar objectives as the Members
in general meeting may decide.

[3] Where the Society has been designated, any proposal to dissolve the Society
shall be notified to the Malaysian Communications and Multimedia Commission at
least fourteen (14) days prior to the intended dissolution.

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LAMPIRAN III
PROCESS FOR ASSESSING ALLEGATIONS OF ANTI-COMPETITIVE CONDUCT:
AN INFORMATION PAPER

IP/Competition/1/00(1)
Process For Assessing Allegations of Anti-Competitive Conduct:

An Information Paper

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PROCESS FOR ASSESSING ALLEGATIONS OF ANTI-COMPETITIVE CONDUCT: AN INFORMATION PAPER

1. Purpose

This Information Paper explains the process which the Commission shall adopt in determining whether a licensee is engaging in anti-competitive conduct in contravention of Chapter 2, Part VI of the Communications and Multimedia Act 1998 ("the Act").

2. Introduction

2.1 Consistent with the provisions in Chapter 2, Part VI, the Commission’s objectives are:

- First, to secure compliance with the provisions of Chapter 2; and
- Second, to prevent or deter anti-competitive conduct in communications markets.

2.2 Chapter 2, Part VI of the Act also contains a number of prohibitions against anti-competitive conduct. In summary, they include the following provisions:

- Section 133 prohibits a licensee from engaging in any conduct which has the purpose of substantially lessening competition in a communications market. The meaning of ‘substantial lessening of competition’ is clarified in the Commission’s Guideline on Substantially Lessening of Competition - RG/SLC/1/00(1).
- Section 135 prohibits understandings, agreements or arrangements which provide for rate fixing, market sharing, and certain boycotts.
- Section 136 prohibits tying or linking arrangements. Specifically, section 136 prohibits a licensee from making it a condition for the provision or supply of a product or service in a communications market that the person acquiring such product or service in the communications market is also required to acquire or not to acquire any other product or service either from the licensee or another person.

2.3 Section 143 provides that a person who contravenes any prohibition under Chapter 2 commits an offence. Furthermore, the Commission may seek an
interim or interlocutory injunction against any conduct prohibited in Chapter 2 under section 142(1).

2.4 The Commission may determine that a licensee is in a dominant position in a communications market\(^1\) and as provided by section 139(1), direct a licensee to cease a conduct in that communications market which has, or may have, the effect of substantially lessening competition in any communications market. The meaning of 'dominant position' is clarified in the Commission's Guideline on Dominant Position in a Communications Market – RG/DP/1/00(1).

3. Process for assessing alleged anti-competitive conduct

The process which the Commission will go through when assessing allegations of anti-competitive conduct can be divided into three phases:

3.1 First, a preliminary phase in which information provided (or readily available) to the Commission is assessed with a view to determining whether on the information available, there is, prima facie, anti-competitive conduct in a communications market.

- The preliminary phase may commence with an allegation or complaint made to the Commission, or information may be provided to the Commission which suggests possible anti-competitive conduct. It may also commence in response to information obtained by the Commission in the process of administering information gathering provisions, or information obtained via media reports suggesting that a licensee is acting in an anti-competitive manner.

- A preliminary assessment of the information received from the complainant will be made. Where the information received is incomplete, the Commission may seek clarification or further information from the complainant. In many instances, no further action will be taken by the Commission particularly where the information provided does not suggest possible anti-competitive conduct.

\(^1\) Section 137
In making its assessment, the Commission may seek response or comments from the person alleged to have purportedly engaged in anti-competitive conduct. This may be conducted for the purpose of deciding whether the Commission has power to investigate the matter to which the complaint relates or whether the Commission should, in its discretion investigate the matter further:

During the preliminary phase, the Commission will seek to establish whether or not there are grounds to believe that a civil or criminal offence under the relevant section or its subsidiary legislation was, is or will be committed. If so, the Commission must commence an investigation into the relevant matter(s).

If the Commission decides not to take any further action, the Commission will notify the complainant and the respondent.

Second, an investigative phase in which the Commission will launch an investigation of the matter with a view to determining whether, on the evidence available, there is anti-competitive conduct in a communications market. Depending on the matter being investigated, the Commission may also seek to establish whether a licensee is in a dominant position in a communications market.

The Commission will observe principles of natural justice in carrying out its investigations. At the commencement of a formal investigation of a matter, the Commission will inform the relevant licensee (the respondent) that the matter is to be investigated. While the Act states that it is not necessary for the respondent to be given an opportunity to appear before the Commission, section 70(5) provides that the Commission shall not, as a result of the investigation, make a finding that is adverse to a complainant or a respondent unless it has given the relevant party an opportunity to make submissions about the matter to which the investigation relates within a time period of at least 30 days. Following section 70(6), the Commission will consider the submissions made before making its decisions.
During the course of its investigation, the Commission may exercise its information-gathering powers. It must be noted that as per Section 73(1), the power may be exercised in respect of any person who has any information or any document that is relevant to the performance of the Commission's powers and functions, or who is capable of giving any evidence which the Commission has reason to believe is relevant to the performance of the Commission's powers and functions. As an example, the matter being investigated may require the Commission to undertake market inquiries. In doing so, the Commission may make inquiries with competitors, suppliers and customers to ascertain the scope of the relevant market, to assess the level of competition in that market, and to determine whether a licensee is in a dominant position in that market.

In exercising its powers, the Commission may issue written notices requiring any such information, documents (or copies thereof) or evidence to be submitted to the Commission. Reasonable time will be given to comply with any directions made. Section 73(4) further states that the person providing information to the Commission is responsible for ensuring that the information provided is true, accurate and complete.

The Commission may conduct a public inquiry in the assessment of dominant position, either in response to a written request from a person or on its own initiative. However, the Commission shall only conduct an inquiry if it is satisfied that the matter is of significant interest to either the public or to current or prospective licensees under the Act.

In carrying out its investigations, the Commission will generally, in the first instance, seek information from the relevant sources on a voluntary basis. The Commission's expectation is that information provided on a voluntary basis will generally be sufficient for the Commission's purposes and it will usually not be necessary for the Commission to exercise its information-gathering powers under Chapter 5, Part V.

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7 Chapter 5, Part V
8 Section 73(2)
9 Section 73(3)
However, it is to be noted that should the Commission decide to exercise its information gathering powers under Chapter 5, Part V, the Commission is required by section 79 to maintain a record of all information, evidence or documents received pursuant to the directions given under section 73(2) and the record shall be made available to the public.

In addition, the Commission reserves the right to publish information received in the course of exercising its powers and functions under this Chapter if it is satisfied that the publication is consistent with the objects of this Act\textsuperscript{10}. However, section 80(2) provides that the Commission shall consider the commercial interest of the parties to whom the information relates before publishing the information.

After concluding an investigation, the Commission may prepare and give to the Minister a report which covers the conduct of the investigation, any findings made, and the evidence and other material on which those findings were based\textsuperscript{11}.

At the end of its investigations, the Commission will seek to form a view on:

- whether there is conduct which substantially lessens competition in a communications market;
- whether there is a contravention of the Act; and
- where appropriate, whether a licensee is in a dominant position in a communications market.

3.3 Third, a decision making phase in which the Commission will seek to determine what courses of action, if any, the Commission should take in light of the findings made during the investigative phase. Possible courses of action open to the Commission include:

- Instruct the respondent to cease the relevant conduct or, where appropriate, to implement remedial measures;

\textsuperscript{10} Section 80(1)
\textsuperscript{11} Section 71
• Where the relevant licensee is found by the Commission to be in a dominant position in a communications market, the Commission may so determine and issue a direction to that licensee under section 139(1);

• Taking enforcement action for a contravention of a prohibition under Chapter 2, Part VI. This may involve the Commission seeking an interim or interlocutory injunction against any conduct prohibited in that Chapter, or obtaining the permission of the Public Prosecutor to commence prosecution proceedings for offences under the Act. The Sessions Court has jurisdiction to try any offence under the Act.\textsuperscript{12}

4. **Indicative timeframes**

The following diagram briefly sets out indicative timeframes which the Commission expects will apply to the process set out above. This is further elaborated in the Attachment to this document. The Commission will review these timeframes at an appropriate time in light of the Commission's experience in applying the processes set out in this paper.

<table>
<thead>
<tr>
<th>Phase</th>
<th>Duration</th>
</tr>
</thead>
<tbody>
<tr>
<td>Preliminary Phase</td>
<td>(up to 30 days)</td>
</tr>
<tr>
<td>Investigative Phase</td>
<td>(up to 90 days, a further 90 days if assessment of dominant position is involved)</td>
</tr>
<tr>
<td>Decision Making Phase</td>
<td>(up to 30 days)</td>
</tr>
</tbody>
</table>

5. **Information requirements**

5.1 The Commission considers that complainants and/or informants who allege anti-competitive conduct have an important role to play in providing information and assistance. While acknowledging that the Commission is

\textsuperscript{12} Section 261
obliged to and shall investigate potentially anti-competitive conduct without assistance if necessary, the Commission will expect complainants or informants to provide all possible assistance to ensure a rapid response.

3.2 Therefore, when assessing complaints or allegations of anti-competitive conduct, the Commission will generally expect the complainant or informant to substantiate any allegations made, and demonstrate why the complainant or informant believes that a licensee has engaged in anti-competitive conduct.

3.3 The conduct alleged to have taken place should be clearly defined. The complainant should be specific, providing relevant details including dates, identities and location of the parties involved. As far as possible, the allegation should be substantiated by appropriate evidence, including copies of relevant documents.

3.4 Apart from the above, the Commission suggests that the complainant or informant address the following when formulating the complaint or allegation, providing information which the Commission might require to undertake a preliminary assessment of the complaint or allegation:

- Who are the respondent’s competitors;
- Who are the respondent’s customers and suppliers?
- Market share information either of the respondents or respondent’s main competitors;
- Has the complainant taken any measures to address the matter?

6. Contact with the Commission

6.1 Complaints of anti-competitive conduct may be brought to the attention of the Commission by a letter in writing addressed to:
The Chairman
Suruhanjaya Komunikasi dan Multimedia Malaysia
Level 11, Menara Dato' Onn
Putra World Trade Centre
45 Jalan Tun Ismail
50480 Kuala Lumpur

3.2 The Commission aims to give a written acknowledgement of any written complaints received by the Commission within two (2) weeks of receipt of the complaint.

9 February 2000
ATTACHMENT: PROCESS FLOW AND INDICATIVE TIMEFRAMES

Substantial Lessening of Competition

1. COMPLAINT
   - Preliminary Assessment
     - Grounds to believe contravention
       - No
       - Inform Complainant & Respondent

   - Investigation Phase
     - 90 days with a further 90 days assessment of Dominant Position
     - Yes
       - Formal Investigation
         - Inform Complainant & Respondent

     - Making Phase
       - Days
         - Submissions by Complainant and/or Respondents

   - Decision and Action
     - Determination

Dominant Position

1. Initial Assessment of Dominant Position
   - Yes
     - Assessment of Dominant Position
       - Is the matter of significant interest to public or current/prospective licensees?
         - No
         - Public Inquiry
         - Yes
           - DETERMINATION
LAMPIRAN IV
MENYEDIA DAN MENGEDIT MEL


2. Tulislah mel seperti anda menulis secara biasa dengan gabungan teks dalam huruf kecil dan huruf besar di tempat-tempat yang sesuai. Menulis kandungan mel dalam huruf besar akan dianggap berteriak.

3. Tulislah kandungan mel sependik atau seringkas yang mungkin. Jika anda terpaksa menghantarnya juga, tulislah amaran di sudut atas mel dengan "AMARAN - MESEJ PANJANG".


5. Gunakan tandatangan (signature) bagi membolehkan penerima mendapat maklumat asas mengenai diri anda. Tanda tangan hendaklah ringkas dan mengandungi nama, jawatan atau alamat anda. Tanda tangan yang baik adalah yang tidak melebihi 4 baris.

6. Jika anda ingin menekankan kepada sesuatu perkataan atau isi, gunakan tanda * (asterisk) di permulaan dan di penghujung perkataan atau isi tersebut.

7. Gunakan tanda bawah bagi menunjukkan tajuk buku. Misalnya «Mengguna Internet»

8. Gunakan tarikh seperti yang diamalkan dalam norma antarabangsa internet iaitu MM DD YYYY iaitu susunan bagi bulan, hari dan tahun.

9. Nyatakan dengan jelas sebarang rujukan atau punca jika ia melibatkan aspek hakcipta dan lesen.

**LAMPIRAN 1**

**CONTOH-CONTOH EMOTIKON DAN AKRONIM YANG SERING DIGUNAKAN**

<table>
<thead>
<tr>
<th>EMOTIKON</th>
<th>AKRONIM</th>
</tr>
</thead>
<tbody>
<tr>
<td>:-D Ketawa</td>
<td>BTW By The Way</td>
</tr>
<tr>
<td>:-* Wow</td>
<td>FYI Untuk Makluman Tuan</td>
</tr>
<tr>
<td>:-p Menjelir lidah</td>
<td>ASAP Secepat Mungkin</td>
</tr>
<tr>
<td>:-&amp; Kelu seri bahasa</td>
<td>B4N Pergi Dulu ...</td>
</tr>
<tr>
<td>L-:* Senyum left-handed</td>
<td>CUL Lumpa Lagi Nanti</td>
</tr>
<tr>
<td>:-( Sedih</td>
<td>FISH Yang Pertama, Masih Di sini...</td>
</tr>
<tr>
<td>[ ] Tidur</td>
<td></td>
</tr>
<tr>
<td>*:) Saya memakai cermin mata</td>
<td>FITS Isikan Tempat Kosong</td>
</tr>
<tr>
<td>;) Wink</td>
<td>FOAF Kawan Kepada Kawan</td>
</tr>
<tr>
<td>,) Wink selebah mata</td>
<td>FOS Kebebasan Bersuara</td>
</tr>
<tr>
<td>,:C Menangis</td>
<td>FTTT Dart Masa Ke Masa</td>
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<tr>
<td>?( Terperanjat</td>
<td>IMO Pada Pandangan Saya</td>
</tr>
<tr>
<td>;:- enari</td>
<td>IMHO Pada Pandangan Saya</td>
</tr>
<tr>
<td>;:* Ciuman</td>
<td>Yang Ini</td>
</tr>
<tr>
<td>%-) Sepanjang malam</td>
<td>OTOH Di sebaliknya</td>
</tr>
<tr>
<td>[ ] Bungkus</td>
<td>POV Buah Fikiran</td>
</tr>
<tr>
<td></td>
<td>RE Berkenaan</td>
</tr>
<tr>
<td></td>
<td>SIG Kumpulan Peminat Khas</td>
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<td></td>
<td>SMOP Perkara Kecil</td>
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<td></td>
<td>Pengaturcaraan</td>
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<td></td>
<td>TAFN Itu Saja Dulu</td>
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<td></td>
<td>TAFT Itu Agak Menakutkan</td>
</tr>
<tr>
<td></td>
<td>TIA Terima Kasih Daun Keladi</td>
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<tr>
<td></td>
<td>SYSOP System operators</td>
</tr>
<tr>
<td></td>
<td>FAQ Soalan Lazim</td>
</tr>
<tr>
<td></td>
<td>AFAIK Setakat Yang Saya Tahu</td>
</tr>
<tr>
<td></td>
<td>CU Jumpa Tuan</td>
</tr>
<tr>
<td></td>
<td>EOT Terakhir (jangan balas lagi)</td>
</tr>
</tbody>
</table>

**Contoh penggunaan:**

Menunjukkan kamu gembira
(Kamu) *Terima kasih daun keladi*

10. Akronim boleh digunakan untuk menyatakan sesuatu secara ringkas. Terlampau banyak menggunakan akronim akan menjadi mesej anda keliru atau menjadi tidak jelas kepada tanggapan pembaca. Contoh akronim adalah seperti di Lampiran 1.
11. Editlah mel yang diterima seringkas-ringkas yang mungkin dan harus mengandungi perkara-perkara yang perlu dirujuk sahaja ketika menjawab (reply). Tidak ada orang yang ingin melihat mel yang dijawab yang mengandungi kandungan mel yang sama dan jawapan anda yang pendik "Saya juga bersetuju".

. MENGGUNAKAN KEMUDAHAN TELNET DAN FILE TRANSFER

PROTOCOL (FTP)

1. Telnet dan File Transfer Protocol (FTP) merupakan kemudahan akses secara online kepada sesuatu server. Setiap pembekal perkhidmatan yang menawarkan sambungan online ini mempunyai peraturan atau syarat-syarat tertentu. Baca dan fahami akan syarat-syarat tersebut sebelum anda memulakan aktiviti FTP.

2. Hadkan masa capaian atau pemindahan dan tamatkan segera sambungan apabila sesi anda selesai untuk membuka peluang kepada pengguna yang lain.

3. Jika pembekal meminta supaya anda membekalkan maklumat anda sebelum aktiviti dapat disempurnakan, berilah maklumat yang betul supaya pembekal tersebut mendapat gambaran yang jelas akan maklumat pengguna yang menggunakan perkhidmatannya.

4. Pindahlah fail (downloading) jika anda fikir ia sangat perlu dan penting. Waspalalah kemungkinan fail yang dipindahkan mengandungi virus.

6. Pastikan anda mempunyai ruang storan yang mencukupi sebelum melakukan aktiviti pemindahan data.

7. Adalah menjadi tanggungjawab pengguna untuk menyemak keperluan hakcipta dan mematuhi segala peraturan mengenainya.

F. MELAYARI WORLD WIDE WEB (WWW)

1. *Browse* atau carilah maklumat menerusi WWW yang berkaitan dengan tugas anda sebagai penjawat awam dan maklumat yang tidak menyalahi undang-undang Malaysia.

2. Pilihlah masa lawatan yang sesuai dan seelok-eloknya di luar waktu beban puncak bagi mempastikan anda mendapat maklumat dengan cepat dan mengelakkan membazir waktu dan kos semasa akses.


4. Amalkan membuat "*bookmark*" pada site yang baik untuk rujukan kemudian hari.

5. Cetaklah dokumen yang difikirkan akan digunakan kemudian atau untuk tujuan rujukan. Elakkan dari membazirkan kertas dan masa dengan mencetak dokumen yang tidak diperlukan.


5. Ingatlah akan undang-undang yang berkuatkuasa di Malaysia yang boleh dikaitkan dengan penyalahgunaan rangkaian internet. Elakukan dari melibatkan diri dari menggunakan kemudahan ini untuk tujuan menghasut, menfitnah, menghantar berita palsu atau aktiviti-aktiviti lain yang ditegah oleh pembekal sistem rangkaian.

6. Salinan kepada (cc) boleh digunakan apabila mel tersebut perlu dimaklumkan kepada penerima lain. Elakukan dari menggunakan BCC (Blank CC) kerana seolah-olah anda ingin menyembunyikan sesuatu atau anda mempunyai agenda tertentu. BCC adalah mel yang dimaklumkan kepada orang lain tanpa disedari oleh penerima yang disenaraikan dalam "kepada" atau "cc".

7. Jangan melibatkan diri anda dalam aktiviti penghantaran mel sampah (flaming) atau bom mel (mail bombing). Mel sampah adalah mel yang tidak berkaitan yang dihantar kepada seseorang dan bom mel adalah penghantaran mel secara bertalu-talu yang memungkinkan si penerima mengalami masalah. Anda mungkin boleh disabotkan jika melakukan kesalahan ini.

8. Jika anda bercuti untuk jangkamasa panjang, maklumkan kepada penjaga sistem (postmaster) di mana anda melanggani e-mel peribadi atau kumpulan tersebut.
B. MENYELENGGARA KOTAKMEL (MAIL BOX)

1. Kandungan dan penyelenggaraan kotakmel adalah menjadi tanggungjawab pengguna berkenaan.

2. Semaklah senarai e-mel setiap hari atau mengikut jangkamas tertentu.

3. Penggunaan e-mel yang aktif akan mengakibatkan kapasiti kotakmel anda akan berkurangan dari masa ke semasa. Anda mungkin ingin menghadkan jumlah mel yang harus disimpan dalam kotakmel. Hapuslah mel yang difikirkan tidak perlu disimpan.


5. E-mel juga terdedah kepada pencerobohan atau diakses oleh penceroboh atau hackers. Waspadalah ketika menghantar atau menyimpan mel dalam kotakmel. Seboleh-bolehnya e-mel tidak mengandungi bahan rahsia, bahan yang boleh merosakkan anda, keluarga anda, organisasi anda atau negara anda.
C. MENJADI AHLI DALAM SENARAI MEL (MAILING LIST) ATAU KUMPULAN PERBINCANGAN (DISCUSSION GROUP)

1. Pilihlah rangkaian atau kumpulan yang sesuai untuk berkomunikasi. Misalnya rangkaian profesional digunakan untuk tujuan perbincangan profesional dan bukannya untuk tujuan menjual perkhidmatan atau menjual barangan.


3. Ingat bahawa tidak semua ahli dalam kumpulan mempunyai kepakaran atau berfikiran yang sama. Oleh hal yang demikian, gunakan rujukan untuk menerangkan sesuatu yang pada pendapat anda tidak dapat difahami oleh ahli yang lain.

4. Apabila seseorang menawarkan sesuatu perkhidmatan atau memohon nasihat, jawablah dengan sopan, tertib dan jujur. Jika anda berpendapat bahawa jawapan itu tidak harus dimaklumkan kepada semua ahli dalam kumpulan, jawablah kepada penghantar asal sahaja.

5. Buatlah pertanyaan atau komen yang bersangkutan dengan kumpulan itu sahaja. Jika ada ahli yang menimbulkannya iaitu menghantar maklumat yang tidak wajar, jawablah dengan tertib dan elakkan dari "berkelahi".

6. Mel peribadi hendaklah dihantar kepada penerima sahaja dan tidak harus dihantar atau disalin kepada senarai mel atau kumpulan perbincangan.