

CHAPTER FIVE

MALAYSIA: *VISION 2020*³²

Introduction

Malaysia is a good case study of a country seeking to facilitate information technology at many levels. The purpose of this chapter is to examine the proposed programs for the usage of information technologies for both electronic governance and the electronic delivery of services to the citizen.

According to an article in the COMNET-IT Forum Newsletter (Issue 1, 4th Quarter 1998), in the Malaysian context, Electronic Government refers to:

“A multimedia, networked, paperless administration linking government agencies within Putrajaya (the new administrative capital of Malaysia) with government centres around the country to facilitate a collaborative government environment and deliver efficient services to businesses and citizens.”

As with many other countries developing IT programs, the *main purpose is to facilitate transactions between citizens and the government*, to help business to develop eCommerce, to compete in the global information economy and thus facilitate growth in the Malaysian economy. Through the linking of government ministries via a common database, it is hoped this will improve the speed and quality of the decision making process within government.

As with many other countries, the IT programs spring from a broader strategy. This first section looks at the origins of the current developments.

Policy Framework for Malaysia's ICT Initiatives

Vision 2020: A National Development Agenda

Vision 2020 embodies a National Development Agenda with specific goals and objectives for long term development.

On 28 February 1991, at the inaugural meeting of the Malaysian Business Council (MBC), held in Kuala Lumpur, Prime Minister Mahathir, who is also the Chairman of the MBC, unveiled his 2020 Vision for Malaysia. Vision 2020, to all intents and purposes, is a master plan for transforming Malaysia into an industrialised country by the early twenty-first century.

Vision 2020 outlines nine challenges to be met in Malaysia:

1. Unity: Bangsa Malaysia (one people)
2. Self-confidence and self-respect
3. Mature consensual oriented democratic society
4. Moral and ethical society
5. Scientific and progressive, innovative and forward-looking
6. Mature and liberal society
7. Caring society, social priority over individual
8. Economically just
9. Prosperous: robust resilient and competitive economy

Vision 2020 is a consistent and logical continuation of older policy guidelines.

Vision 2020 has a 30 year time frame stretching through the period 1992 - 2020.

Vision 2020: Aims

- ☐ Making Malaysia a fully developed, industrialized and knowledge rich country by 2020;
- ☐ Balanced growth;
- ☐ National unity; and
- ☐ Malaysia as role model for socio-economic development.

Chosen Strategy to Achieve *Vision 2020*: Leapfrog into Information Age

Seventh Malaysian Plan, including the National IT Agenda (NITA) (1996-2000) promises to realise the following:

1. Ensure widespread diffusion and application of IT within and across sectors;

2. Develop a National IT Action Plan (involves development of MSC, smart cities, IT culture);
3. Expand IT Education and Training in line with the expected rise in demand;
4. Review laws hampering IT development;
5. Promote local IT development;
6. Develop MY into international IT hub; and
7. Enhance IT awareness among population.³³

Proposed Funding for *Vision 2020*

Proposed funding for *Vision 2020* is allocated to ministries and government agencies for investment in IT-related programmes and projects in the 7th Malaysian Plan. An estimate of RM 25.4 billion is being invested in the developing telecommunications infrastructure

Implementing *Vision 2020*: Multimedia Super Corridor (MSC) "Malaysia's Gift to the World"³⁴

Basics

Multimedia Super Corridor (MSC) was launched on August 1, 1996, at a time of immense optimism Asian growth miracle was in full swing.

Finance

The finance for realising the MSC has been estimated at RM 20 Billion (estimate by Businessweek); As of December 1999 RM \$4.7 Billion had been spent by the government.

Rationale

In the Malaysian the MSC is the core initiative to leapfrog Malaysia into the "Information Age."

Geography

The MSC covers a "corridor", stretching 15 kilometres wide by 50 kilometres long, extending from the Kuala Lumpur City Centre (KLCC, shopping-office-entertainment urban development project in the centre of KL, which houses the Petronas Towers, the world's tallest building) down south to the new international airport (KLIA).

Objective

The objective of the MSC is to build an integrated environment with all unique elements and attributes necessary for a perfect Multimedia Climate.

According to the Multimedia Development Corporation (MDC), which is implementing the MSC, this includes the following, more detailed, visions:³⁵

- ☐ Create a productive, intelligent environment for product developments for national and international markets;
- ☐ Attract world class technology-led companies to Malaysia and develop local multimedia industries;
- ☐ Create a testbed for invention, research , policy development spearheaded by seven multimedia applications; and
- ☐ Build a community that takes advantage of integrated multimedia technologies for smart homes, schools and cities.

Envisaged Development Process

Estimated total time frame for completion is 20 years.

The blueprint for the MSC stipulates three phases for building the MSC:

Phase 1: Laying the Foundations (ongoing)

- ☐ Establish sound and comprehensive regulatory framework; (Multimedia laws with intellectual property rights protection and integrated governance of multimedia sectors);
- ☐ Attract a core group of international companies;
- ☐ Launch seven flagship applications; and
- ☐ Establish two MSC cities: Cyberjaya and Putrajaya as intelligent units.

Phase 2: Reaching Out

- ☐ Link MSC up to other cybercities in Malaysia;
- ☐ Link MSC to other international cybercities;
- ☐ Establish a second cluster of international companies;
- ☐ Champion cyberlaws within the global society; and
- ☐ Work towards global standards in flagship applications.

Phase 3: Complete National Diffusion and Global Positioning

- ☐ Transform the entire nation into a knowledge-based society; and
- ☐ Become a testbed for global multimedia innovations.

Elements

A: Physical Infrastructure Level

The core physical infrastructure will be a high speed, fully digitalised network.

Features

- ☐ Fibre-optic backbone (2.5-10 GBps);
- ☐ High speed link to international nodes;
- ☐ Open standards and multiple protocol;
- ☐ High-speed switching;
- ☐ Regional satellite communication services (provided through Malaysia's MEASAT);
- ☐ Wireless communication; and
- ☐ Competitive telco tariffs including flat-rate for basic network services.

B: Legal Framework and other Regulatory Incentives

The legal framework for the MSC will be characterised by two elements, namely:

- Cyberlaws; and
- Bill of Guarantees

Digital Signatures Act 1997 (enforced October 1, 1998)

Available on-line: www.malaysia.net/dap/act.htm

Objective: facilitate e-commerce, ensure data integrity in government intranet through use of digital signature system framework for licensing and regulation of certification authorities.

Controller of Certification Authority was appointed October 1, 1998 Act provides mandatory licensing scheme for certification authorities. Documents signed with digital signature in accordance with this act are fully legally binding and considered a “written” and “original” document.

DIGICert became the first licensed digital signature authority.³⁶
Expected number of sales in first year estimated at 15,000

Copyright (Amendment) Act 1997 (enforced April 1, 1999)

Available On-line: www.malaysia.net/dap/act.htm

Objective: full copyright protection for multimedia work.

- ☐ Unauthorised transmission of copyright works over the Internet prohibited.
- ☐ Commitment to intellectual property protection also signalled through newspaper warnings and raids on pirated software, multimedia businesses (by Domestic Trade and Consumer Affairs Ministry).

Computer Crimes Act 1997 (still to be enforced)

Available on-line: www.malaysia.net/dap/act.htm

Objective: define criminal activities such as cyber fraud, unauthorised access and interception of information.

There are currently no special provisions for privacy rights, use of private information by public or private agencies are included.

The act “will provide special rights of interception for law enforcement agencies in the context of fulfilling their duties.”³⁷

Critique: possible infringement of privacy rights

Telemedicine Act 1997 (still to be enforced).

Available on-line: www.malaysia.net/dap/act.htm

Objective: Defines categories of people who are qualified to practice telemedicine, penalties for professional misconduct.

Critique: Little protection for patient's record.

The Communications and Multimedia Act 1998 (enforced April 1, 1999)

Provides the Regulatory framework for the convergence of telecommunications, broadcasting and computing-industries.

Oversight Body: Malaysian Commission for Communication and Multimedia, appointed November 1, 1998.

Self regulation is cornerstone in the project.

MSC Status and Bill of Guarantees

MSC Status

Eligibility requirements for international companies for MSC status include the following:

- ☐ Provider or heavy user of multimedia products and services.
- ☐ Employer of a substantial number of knowledge workers.
- ☐ Convincing outline for knowledge or technology transfer or other contribution to the development of MSC and the Malaysian economy.

Envisaged Activities

- ☐ Form consortium to develop contractual flagship applications.
- ☐ Centring R&D activities in MSC.
- ☐ Locating manufacturing operations in MSC.
- ☐ Use MSC as regional marketing base.
- ☐ Provide value added telecommunication services.

Advantages of MSC Status

- ☐ Financial incentives (and/or no duties on multimedia equipment, right to tender for flagship application contracts, no income tax for up to ten years, 100 % investment tax allowance).
- ☐ Support from MSC client centre (visas, licenses, permits).
- ☐ Direct access for first mover to Malaysia's top leadership through seats on international advisory councils.

Bill of Guarantees

Companies having been awarded the MSC status enjoy the Bill of Guarantees, which includes:

- ☐ Provision of world-class physical infrastructure;
- ☐ Unrestricted employment of local and foreign knowledge workers;
- ☐ Freedom of ownership by exempting companies with MSC status from local ownership requirements;
- ☐ Freedom to source capital and borrow globally;
- ☐ Provision of competitive financial incentives;
- ☐ Adequate intellectual property protection;
- ☐ No Internet censorship; and
- ☐ Competitive telecom tariffs.

C: Environment

The MSC environment is aimed to realise an "International eco-friendly environment and lifestyles".³⁸ The objective is to create an attractive garden corridor with commercial, residential, civic, and recreational precincts.

D: Flagship Applications

The MSC currently comprises seven (7) applications in two categories, with implementations commenced since July 1997.

Category 1: Multimedia Development

1. eGovernment

2. Multi-purpose Smart Card;
3. Smart Schools;
4. Telemedicine;

Category 2: Multimedia Environment

5. Research and Development Cluster;
6. Worldwide Manufacturing Webs; and
7. Borderless Marketing.

National Multipurpose Card

Project delayed. Card would incorporate:

- ☐ National identification card;
- ☐ Drivers license;
- ☐ Immigration document;
- ☐ Health card;
- ☐ Electronic cash card;
- ☐ Debit card;
- ☐ Automated teller card; and
- ☐ Credit card.

Smart Schools

Smart schools have the objective to do the following:

- ☐ Harness IT for teaching, learning, staff training and management; and
- ☐ Develop curriculum to achieve IT literacy.

The plan to build 99 new smart schools by January 99 faltered. Only a small number of existing schools have been selected for the smart school project.

It has been observed that only a very few selected schools are currently profiting, as a significant number of schools in Malaysia are still without electricity. This is an example of how one sector of a society can benefit while a country attempts to bring others across the digital divide up to par.

Research and Development Clusters

Clusters have an objective to provide incentives for global player involvement to facilitate knowledge and skill transfer. The contributing agencies include:

- ❑ Multimedia University and other local universities; and
- ❑ Malaysian Institute of Microelectronics (MIMOS) [the organisation central to Malaysia's IT development: first ISP, IT R&D, network provider, IT policy developer].

Worldwide Manufacturing Webs

Worldwide Manufacturing Webs have the objective to promote MSC to multinational companies as a hub for supporting and controlling manufacturing activities in the region. In addition, they are envisaged to facilitate networking with a wide range of support services: R&D, design, engineering support, procurement and logistics, and distribution support.

Borderless Marketing Centres

Borderless Marketing Centres incorporate four areas:

- ❑ Telemarketing;
- ❑ On-line Information services;
- ❑ Electronic Commerce; and
- ❑ Digital Broadcasting.

E. Major Urban Infrastructure Development Projects

The major urban infrastructure development projects under the MSC are the following:

- ❑ Cyberjaya;
- ❑ Putrajaya; and
- ❑ Multimedia University.

Cyberjaya

The *Cyberjaya* is a major urban infrastructure project located on 7000 hectares for 240,000 people (originally scheduled to be completed in 1999 but still ongoing), multimedia industries, R&D centres, Multimedia University, operational headquarters for multinationals, and a world class home, shopping, commercial and public precincts. The Cyberjaya was officially opened on July 8, 1999.

Putrajaya

The *Putrajaya* is another major urban infrastructure development project comprising the following:

- ☐ Smart city and garden city (335,000 residents, employment for 250,000);
- ☐ New seat of government and administration;
- ☐ Administrative capital of Malaysia; and
- ☐ Exploring and operating with concepts of eGovernment.

Petrajaya houses Office of Prime Minister (moved into new office in June, 1999).

Other concepts under Putrajaya include the following:

- ☐ smart home;
- ☐ public services: info available on public kiosk.

Work started in September 1996.

Plans for all but first phase shelved due to economic crises (*Economist* 1997).

Putrajaya was first open to public in July 1999. It is now the Federal Government Administrative Centre.

Multimedia University

The Multimedia University is the third major urban infrastructure development project of the MSC and comprises the following:

- ☐ Multimedia specific programs;
- ☐ Cater to skill requirements of MSC companies;
- ☐ First intake of 3000 students in May 1999.

Organisational Structure

National Information Technology Council (NITC)

History

The National Information Technology Council (NITC) was established in 1994, and is chaired by the Malaysian Prime Minister. The NITC is a national level Strategic planning body of *ICT governance and policy interventions*.

Membership

First term council (1994-1997) comprised public and private sector members. Second term council (1998-2001) comprises a tri-sectoral membership of public, private and community interest sector members.

Functions

- ☐ Formulate strategies for IT development;
- ☐ Support, promote and co-ordinate IT activities; and
- ☐ Monitor and evaluate implementation of IT programmes.

Website

www.nitc.org.my

Multimedia Development Corporation (MDC)

Multimedia Development Corporation (MDC) was established with the objective to promote the MDC, to serve clients in the MDC and to provide a “one-stop” shop to manage and market the MSC. The MDC, established with an initial capital RM 30 million, has to date set up a venture capital of US\$31.6 million.

By April 1999, MSC had a total of 225 MSC status companies, 27% of

which were foreign owned, 27% joint ventures, and 46% local companies.³⁹ In functional terms, MSC status company distributions were as follows:

software companies (37%), content (19%), systems integration (15%), telecommunications (10 %), post-production/animation and film (8%), training and education (3%), and heavy users of multi-media (3%).

As at July 1999, 21 companies had so far moved into the corridor out of 225 companies with MSC status.

Microsoft envisage transforming to turn MSC into its regional headquarters.

Some General Comments

Centralised vs. Broad Based Development Activities

With the MSC, Malaysia has chosen a centralised "growth centre" approach for ICT development. By focusing on one initial ICT innovation centre, Malaysia hopes to be able to engineer an all-integrated environment conducive to Multimedia development. Policy-makers and planners often refer to Silicon Valley as the premier role model for the MSC. Although Malaysian decision makers acknowledge the potential of the Internet to render geographical barriers less important for communication and co-ordination of technological development, they point at the success of the spatially highly integrated Silicon Valley. The MSC is an ambitious attempt to emulate this micro-climate and create synergies between research, business, finance and policy-making, that are rooted in a myriad of formal and informal institutional arrangements and face to face interaction nourished by spatial closeness.

On the one hand, this centralised approach does seem to be supported by socioeconomic analyses of the Silicon Valley success stories. On the other hand, studies on the macro level of country development emphasise the importance of balanced and broad based development, in order to embark on a sustainable long-term development trajectory. Many local and international observers have criticised this centralised approach and even MSC representatives acknowledge the trade-off between a highly focused, synergy-driven kick start and a more inclusive and distributed strategy for ICT development.

Addressing some of the critique, the MSC is complemented by a number of national IT related initiatives that are supposed to prepare the ground

for Phase Three of the MSC development phase at the diffusion of MSC dynamics to the rest of the country. These IT-related initiatives include:

- ❑ IT Awareness Campaign; and
- ❑ Electronic Government (eGovernment).

IT Awareness Campaign

Tax deductions for first time computer buyers (the new budget, which was presented in the last week of October 1999 introduces a number of additional project funds and tax incentives to stimulate both the demand and supply side of the IT applications and services market) is the hallmark of IT Awareness Campaign.

The MSC however, remains the major focus of the National IT Initiative.

Electronic Government (eGovernment)

Electronic Government (eGovernment) is one of the Multimedia flagship programmes. Following are some of the proposed characteristics and applications of the flagship programme.

Objectives

Summary of speech by the Malaysian Minister of Energy, Communications and Multimedia Datuk Leo Moggie on their proposed objectives of eGovernment:⁴⁰

- ❑ Introducing greater customer orientation in the delivery of services (greater availability of information through information kiosk, phone services etc.);
- ❑ Effecting change in the structure of public organisations towards greater efficiency, better responsiveness to clients and more effective decision-making (improved intra-organisational information flows, better analytical tools);
- ❑ Enhancing accountability and discipline; and
- ❑ Acculturation of values of excellence in the civil service;
- ❑ Encouraging private sector to make greater use of IT for business transactions by establishing eProcurement.

Public Sector Reform Initiatives Undertaken To Date

- ☐ Establishment of Client's Charter;
- ☐ Review of the system of licensing and permits;
- ☐ Office automation programmes and re-engineering;
- ☐ Computerised text processing, information storage and retrieval; and
- ☐ Adoption of ISO 9000 standards in public agencies.

Elements of eGovernment Flagship Programme

Initial five pilot applications within the eGovernment flagship programme have the following attributes and include the following:

Guiding principle for implementation of pilot applications: smart private-public partnerships (smart PPP).

- ☐ **Electronic Delivery of Driver and Vehicle Registration, Licensing and Summons Services, Utility Payments and Ministry of Health On-Line Information.**

Proposed access is through kiosks in shopping malls and home PC's, project delayed.

- ☐ **Electronic Procurement (eProcurement)**

Electronic Procurement (eProcurement) has the prime objective to improve government to business ("G2B") and business to government ("B2G") transactions.

- ☐ **Generic Office Environment**

Generic office environment is a pilot project to facilitate access to Prime Minister's office for civil servants. It comprises an automated office system, and a customised desktop environment designed by Microsoft. It incorporates intelligent agent for employees, integrated within MS Office.

Executing company for the Generic Office Environment is the Sapura Advanced Systems (RM35million awarded May 1999).

F: Relevant Legislation

F1 Legislative Principles

Ten (10) *National Policy Objectives* for the Communications and Multimedia Sector, as enshrined in Section 3(2) of the Multimedia Act, form the basis of the legislative principles:

- ☐ To establish Malaysia as a major global centre and hub for communications and multimedia information and content services;
- ☐ To promote a civil society where information based services will provide the basis of continuing enhancements to quality of work and life;
- ☐ To grow and nurture local information resources and cultural representation that facilitate the national identity and global diversity;
- ☐ To regulate for the long-term benefit of the end user;
- ☐ To promote a high level of consumer confidence in service delivery from the industry;
- ☐ To ensure an equitable provision of affordable services over ubiquitous national infrastructure;
- ☐ To create a robust applications environment for end users;
- ☐ To facilitate the efficient allocation of resources such as skilled labour, capital, knowledge and national assets;
- ☐ To promote the development of capabilities and skills within Malaysia's convergence industries; and
- ☐ To ensure information security and network reliability and integrity.

F2 Malaysian Communications & Multimedia Act 1998

Source: <http://ktkm.gov.my/rang/eng/multimedia.htm>

Explanatory statement: <http://ktkm.gov.my/rang/eng/TRANSIT3.HTM>

Overview

Emphasis on self-regulation: The Commission has powers to "designate" or to appoint industry forums which will be responsible for the formulation of voluntary industry codes regarding a matter dealt with by that code, particularly an offence provision. For example, compliance with a

registered content code will provide a legal defence against any prosecution regarding the provision of offensive or indecent content.

Some Important Excerpts: Content regulation through licensing: But exceptions for “limited content application services”

Section 129: The objective of these provisions is to ensure that content applications services which do not require extensive social regulation under this part, because they are provided only to limited sectors of the population, are not subject to unnecessary regulation. A high level of regulation of these services is likely to impede the development of local content providers and therefore be inconsistent with the objects of the Act.

F3 Consumer Protection - Quality Of Service

Section 189: The Commission may designate an industry body to be a consumer forum for the purposes of this chapter.

Section 190: (1) A consumer code prepared by a consumer forum or the Commission shall include model procedures for -

- (a) reasonably meeting consumer requirements;
- (b) the handling of customer complaints and disputes including an inexpensive arbitration process other than a court, and procedures for the compensation of customers in case of a breach of a consumer code; and/or
- (c) the protection of consumer information.

(2) The matters which the consumer code may address may include, but are not limited to -

- (a) the provision of information to customers regarding services, rates and performance;

F4 Licensing

Section 205: (1) Subject to such exemptions as may be determined by the Minister by order published in the Gazette, no person may provide a content applications service unless -

- (a) the person holds a valid individual license granted under this part to provide the content applications service; or

(b) the content applications service is subject to a valid class license under this part.

(2) A license obtained under this section does not exempt any person from the obligation to obtain a license under any other relevant section of this Act.

(3) A person who contravenes subsection (1) commits an offence and shall, on conviction, be liable to a fine not exceeding five hundred thousand ringgit or to imprisonment for a term not exceeding five years or to both and shall also be liable to a further fine of one thousand ringgit for every day or part of a day during which the offence is continued after conviction.

Section 206: (1) The relevant standard conditions of every license, granted under this part, shall be in accordance with the schedule.

(2) Any special or additional conditions of a license may be declared by the Minister and included in the license.

(3) A content applications service provider shall not provide any service except in accordance with the conditions of the license granted to that licensee under this chapter or the conditions of a class license to which such content applications service provider is subject.

Section 207: (1) The Minister may determine the definition of a "closed content applications service" for the purposes of this Act.

(2) In the absence of such determination, a closed content applications service shall be -

(a) a content applications service confined to a single dwelling; or

(b) a content applications service provided only to the employees or officers of a single body corporate.

(3) The provision of any closed content applications service shall be exempt from the provisions of this part.

Section 208: (1) An applications service provider is exempted from the provisions under section 205 to the extent that the content in question is content incidental to the service provided.

(2) For the purposes of this section, the Minister may determine guidelines to clarify the meaning of "content incidental to the service provided" and all matters related to it.

(3) The guidelines determined by the Minister shall be published by the Commission, in the manner it deems appropriate, and shall be registered in the register as soon as practicable.

Section 209: (1) A person providing a limited content applications service is not required to hold an individual license but he may be subject to a class license.

(2) A limited content applications service provider to which no class license applies shall be deemed to be exempted from all the provisions under this part.

(3) For the purposes of this section, the Minister may determine guidelines which clarify or add to the criteria used in defining the term "limited content applications service" and all matters related to it.

(4) The guidelines determined by the Minister shall be published by the Commission, in the manner it deems appropriate, and shall be registered in the register as soon as practicable.

Section 210: (1) A person may apply to the Commission to decide whether a content applications service is considered a limited content applications service or whether the content is content incidental to the service provided.

F5 Content Regulation

Section 211: (1) No content applications service provider, or other person using a content applications service, shall provide content which is indecent, obscene, false, menacing, or offensive in character with intent to annoy, abuse, threaten or harass any person.

(2) A person who contravenes subsection (1) commits an offence and shall, on conviction, be liable to a fine not exceeding fifty thousand ringgit or to imprisonment for a term not exceeding one year or to both and shall also be liable to a further fine of one thousand ringgit for every day or part of a day during which the offence is continued after conviction.

Section 211: The Commission may designate an industry body to be a content forum for the purposes of this Part.

Section 212: (1) A content code prepared by the content forum or the Commission shall include model procedures for dealing with offensive or indecent content.

(2) The matters which the code may address may include, but are not limited to -

- (a) the restrictions on the provision of unsuitable content;
- (b) the methods of classifying content;
- (c) the procedures for handling public complaints and for reporting information about complaints to the Commission;
- (d) the representation of Malaysian culture and national identity;
- (e) public information and education regarding content regulation and technologies for the end user control of content; and
- (f) other matters of concern to the community.

Section 233: (1) A person who -

(a) by means of any network facilities or network service or applications service knowingly -

- (i) makes, creates or solicits; and
- (ii) initiates the transmission of any comment, request, suggestion or other communication which is obscene, indecent, false, menacing or offensive in character with intent to annoy, abuse, threaten or harass another person; or
- (b) initiates a communication using any applications service, whether continuously, repeatedly or otherwise, during which communication may or may not ensue, with or without disclosing his identity and with intent to annoy, abuse, threaten or harass any person at any number or electronic address, commits an offence.

2) A person who knowingly -

(a) by means of a network service or applications service provides any obscene communication for commercial purposes to any person; or

(b) permits a network service or applications service under the person's control to be used for an activity described in paragraph (a), commits an offence.

(3) A person who commits an offence under this section shall, on conviction, be liable to a fine not exceeding fifty thousand ringgit or to imprisonment for a term not exceeding one year or to both and shall also be liable to a further fine of one thousand ringgit for every day during which the offence is continued after conviction.

F6 Law Enforcement, Induced Interception & Assistance of ISP

Data Protection – Intercepting Communication

Section 234: (1) A person who, without lawful authority under this Act or any other written law -

(a) intercepts, attempts to intercept, or procures any other person to intercept or attempt to intercept, any communications;

(b) discloses, or attempts to disclose, to any other person the contents of any communications, knowing or having reason to believe that the information was obtained through the interception of any communications in contravention of this section; or

(c) uses, or attempts to use, the contents of any communications, knowing or having reason to believe that the information was obtained through the interception of any communications in contravention of this section, commits an offence.

(2) A person authorised under this Act who intentionally discloses, or attempts to disclose, to any other person the contents of any communications, intercepted by means authorised by this Act -

(a) knowing or having reason to believe that the information was obtained through the interception of such communications in connection with a criminal investigation;

(b) having obtained or received the information in connection with a criminal investigation; or

(c) to improperly obstruct, impede, or interfere with a duly authorised criminal investigation, commits an offence.

(3) A person who commits an offence under subsection (1) or (2) shall, on conviction, be liable to a fine not exceeding fifty thousand ringgit or to imprisonment for a term not exceeding one year or to both.

Powers of Entry, Investigation Into Offences And Prosecution

Section 245: (1) The Minister may in writing authorise any public officer or officer of the Commission to exercise the powers of enforcement under this Act.

(2) Any such officer shall be deemed to be a public servant within the meaning of the Penal Code.

(3) In exercising any of the powers of enforcement under this Act, an authorised officer shall on demand produce to the person against whom he is acting the authority issued to him by the Minister.

(4) For the purposes of subsection (1), the Commission may issue directions to a licensee or other person to secure compliance with this Act or its subsidiary legislation.

Section 246: (1) The Commission may investigate the activities of a licensee or other person material to his compliance with this Act or its subsidiary legislation.

(2) In any case relating to the commission of an offence under this Act or its subsidiary legislation, any authorised officer carrying out an investigation may exercise all or any of the special powers in relation to police investigation in seizable cases given by the Criminal Procedure Code.

Section 247: (1) If it appears to a Magistrate, upon written information on oath and after such inquiry as he considers necessary, that there is reasonable cause to believe that an offence under this Act or its subsidiary legislation is being or has been committed on any premises, or that any evidence or thing which is necessary to the conduct of an investigation into an offence may be found in any premises, the Magistrate may issue a warrant authorising any police officer not below the rank of Inspector, or any authorised officer named in it, to enter the premises at any reasonable time by day or by night, with or without assistance and if need be by force, and there to search for and seize any such evidence or thing.

(2) Without affecting the generality of subsection (1), the warrant issued by the Magistrate may authorise the search and seizure of -

(a) copies of any books, accounts or other documents, including computerised data, which contain or are reasonably suspected to contain information as to any offence so suspected to have been committed;

(b) any signboard, card, letter, pamphlet, leaflet or notice representing or implying that the person has a license granted or assignment issued under this Act; or

(c) any other document, facility, apparatus, equipment, device or matter that is reasonably believed to furnish evidence of the commission of the offence.

(3) A police officer or an authorised officer conducting a search under subsection (1) may, for the purpose of investigating into the offence, search any person who is in or on the premises.

Assistance by Service Providers

Section 254: An authorised officer shall, for the purposes of the execution of this Act or its subsidiary legislation, have power to do all or any of the following:

(a) to require the production of records, accounts, computerised data and documents kept by a licensee or other person and to inspect, examine and to download from them, make copies of them or take extracts from them;

(b) to require the production of any identification document from any person in relation to any case or offence under this Act or its subsidiary legislation; and

(c) to make such inquiry as may be necessary to ascertain whether the provisions of this Act or its subsidiary legislation have been complied with.

Section 263: (1) A licensee shall use his best endeavour to prevent the network facilities that he owns or provides or the network service, applications service or content applications service that he provides from being used in, or in relation to, the commission of any offence under any law of Malaysia.

(2) A licensee shall, upon written request by the Commission or any other authority, assist the Commission or other authority as far as reasonably necessary in preventing the commission or attempted commission of an offence under any written law of Malaysia or otherwise in enforcing the laws of Malaysia, including, but not limited to, the protection of the public revenue and preservation of national security.

Section 264: Any network facilities provider, network service provider, applications service provider or content applications service provider or any of his employees, shall not be liable in any criminal proceedings of any nature for any damage (including punitive damages), loss, cost, or expenditure suffered or to be suffered (whether directly or indirectly) for any act or omission done in good faith in the performance of the duty imposed under section 263.

Section 265: (1) The Minister may determine that a licensee or class of licensees shall implement the capability to allow authorised interception of communications.

(2) A determination, under subsection (1), may specify the technical requirements for authorised interception capability.

Section 266: (1) On the occurrence of any public emergency or in the interest of public safety, the Yang di-Pertuan Agong or the Minister authorised by him in that behalf may -

(a) suspend the license of any licensee, take temporary control of any network facilities, network service, applications service and/or content applications service owned or provided by a licensee in any manner as he deems fit;

(b) withdraw either totally or partially the use of any network facilities, network service, applications service and/or content applications service from any licensee, person or the general public;

(c) order that any communication or class of communications to or from any licensee, person or the general public relating to any specified subject shall not be communicated or shall be intercepted or detained, or that any such communication or its records shall be disclosed to an authorised officer mentioned in the order.

F7 Access to Encrypted Material

Section 249: (1) A police officer conducting a search under section 247 or 248 or an authorised officer conducting a search under section 247 shall be given access to computerised data whether stored in a computer or otherwise.

(2) For the purposes of this section, "access" includes -

(a) being provided with the necessary password, encryption code, decryption code, software or hardware and any other means required to enable comprehension of computerised data; and

(b) the meaning assigned to it by subsections 2(2) and (5) of the Computer Crimes Act 1997.

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Summary of most important on-line information sources

HYPERLINK "<http://www.mdc.com.my/msc.index>" Multimedia Development Corporation (MDC): Homepage of the body overseeing the MSC development, overview of MSC project.

HYPERLINK "<http://www.malaysia.net/dap/act.htm>" Collection of Malaysian Laws on-line (including all the cyberlaws) peculiarly provided by the opposition party DAP.

HYPERLINK "http://www.businessweek.com/1999/99_12/b3621031.htm" Three detailed articles by Businessweek on the problems of the Super Corridor (March 1999, also mentioned in text).

HYPERLINK "<http://www.unrisd.org/infotech/conferen/msc1.htm>" Critical article about MSC (paper presented at UNRISD Conference on Information Technologies and Social Development, 1998).

Relevant entities

The Communications and Multimedia Commission

HYPERLINK "<http://www.cmc.gov.my> www.cmc.gov.my"

The Ministry of Energy, Communications and Multimedia

HYPERLINK “<http://ktkm.gov.my> <http://ktkm.gov.my> (official site for the Multimedia Act).