

Suruhanjaya Komunikasi dan Multimedia Malaysia
Malaysian Communications and Multimedia Commission

PROTECTION OF CONSUMER RIGHTS AND CONVERGENCE: The Experience of Malaysia

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Establishment of MCMC

- A statutory corporation
 - Established by the Malaysian Communications and Multimedia Commission Act 1998 (MCMCA)
 - Effective from 1 November 1998
- Operational autonomy but subject to policy directives from Minister

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Scope of Responsibility

- To regulate according to the :
 - Communications and Multimedia Act 1998 (CMA)
 - Postal Services Act 1991 (PSA)
 - Digital Signature Act 1997 (DSA)
- Covers telecoms, broadcasters and ISPs; postal and courier services; and digital certification authorities

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Major Principles

- **National Interest** –promotion of national policy objectives. Maximum benefit to all stakeholders
- **Transparency** – fairness to all market participants and confidence in investment decision
- **Less rather than more regulation** –focus on development and promotion of the industry rather than control
- **Flexibility** – enables long lasting application in line with the rapid changes in the industry environment

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The 10 National Policy Objectives for C&M sets the direction and priorities of the Commission in the sector

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Pre-Communications and Multimedia Act

Previous Structure

- Technology and Service Based Sector
- Telecommunications Act 1950
 - Ministry of Energy, Communications and Multimedia
 - Regulatory Body - Jabatan Telekomunikasi Malaysia

Previous Structure

- Broadcasting and content based sector
- Broadcasting Act 1988
 - Ministry of Information
 - Regulatory Body - Licensing Division
- IT sector - not regulated

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Pre-Communications and Multimedia Act

- Segmented in terms of policy making and legislation
- No clear demarcation between policy making, regulatory and operational functions
- Licensing is technology or service specific

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The Forces of Convergence

Technology convergence
Evolution into common digital platforms for delivery of audio-visual content and applications

Converged market for communications and multimedia services
Convergence regulator needed to facilitate seamless evolution from separate markets to converged markets

Service convergence
Services delivered over non-traditional access equipment, e.g. radio over PC, e-mails over TV, video over hand phones

Video
Audio
Text
Graphics
Data

PC
Hand phone
TV
Digital radio

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Changes to facilitate convergence

1 Nov 98 1 Apr 99

Redefinition of the Ministry's functions and formation of MCMC

Ministry of Energy, Telecommunications & Post

Ministry of Energy, Communications & Multimedia

Malaysian Communications and Multimedia Commission formed

Replacement of sectoral Acts by a convergence Act

Telecommunications Act 1950

Broadcasting Act 1988

Malaysian Communications and Multimedia Act 1998

Replacement of sectoral regulators by a convergence regulator

JTM

MOI (Licensing Division)

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The technology-neutral licensing framework is a fundamental departure from traditional licensing

The old licenses that were issued based on specific technologies, and specific services

- Broadcasting license
- Telecommunication license
- VAN license
- ISP license

New technology-neutral and service-neutral licenses

- Content Services
- Applications Services
- Network Services
- Network Facilities

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Types of Licence

Two types of licence for each category.

Only activities with significant economic or social impact are individually licensed.

The long term objective is to move into less regulation.

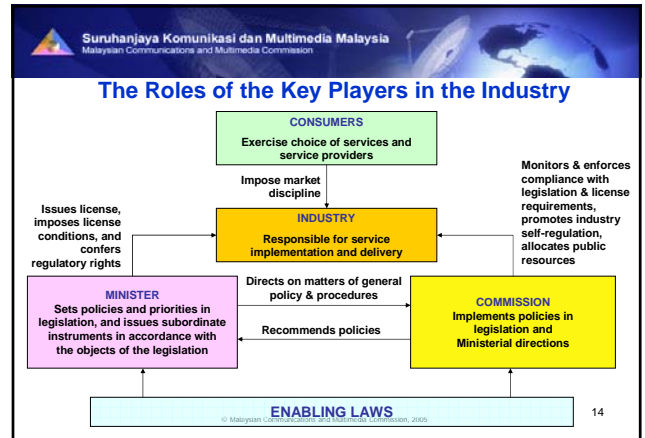
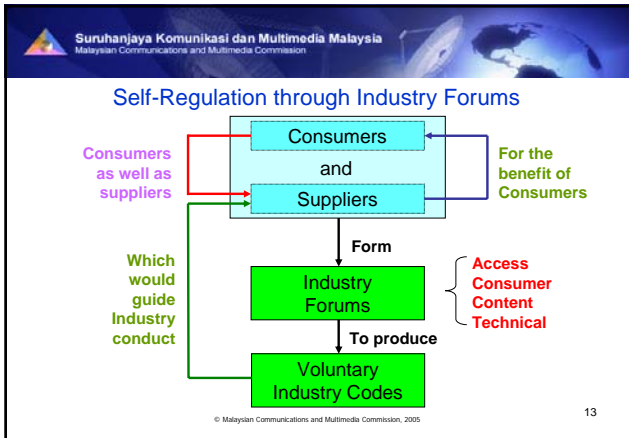
Less regulation →

Content Applications Service (CASP)	Yes	Yes
Applications Service (ASP)	Yes	Yes
Network Services (NSP)	Yes	Yes
Network Facilities (NFP)	Yes	Yes

Individual Class Exempt

Licensed Unlicensed₁₂

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Consumer Protection under the CMA

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- ## Consumer Protection under the CMA
- ### Part VII of the CMA Act
- Quality of Service
 - Required Applications Services
 - Resolution of Consumer Disputes
 - Rate Regulation
 - Universal Service Provision
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Quality of Service

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- ## Quality Assurance
- MCMC implements various ways to provide quality assurance to the consumers :
 - Sets Mandatory standards
 - Conducts Consumer Satisfaction Surveys
 - Propagates Active participation from Consumer and Content Forum
 - General Consumer Code and sub-codes
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Mandatory Standard of Service

- QoS Mandatory Standards - effective from 1 January 2003 onwards
- Performance - Service and Technical Indicators/Assessment
- Only core standards – but enough to lay foundation or seed for quality in the industry
- Improvements seen over the last 2 years reporting period
- Practice transparency – non-compliance published on the website
- Many licensees imposed with fines but no jail sentence as yet.

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Commission Determinations on QoS Mandatory Standards

Commission Determination on the Mandatory Standards	Licensees subject to Determination	Effective date
Public Switched Telephone Network Service <i>Determination 1 of 2002</i>	ASP	1 January 2003
Public Cellular Service <i>Determination 2 of 2002</i>	ASP	1 January 2003
Dial-Up Internet Access Service <i>Determination 3 of 2002</i>	ASP	1 January 2003
Content Applications Service <i>Determination 4 of 2002</i>	CASP	1 January 2003
Public Payphone Service <i>Determination 3 of 2003</i>	ASP	1 June 2004
Digital Leased Line Service <i>Determination 4 of 2003</i>	NSP	1 January 2004
Broadband Access Service <i>Determination 5 of 2003</i>	NSP	1 January 2004

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Monitoring QoS MS

```

    graph TD
      A[Reports submission are every 6 months (Not later than 6 weeks)] --> B[Reports recorded and analyzed]
      B --> C[Audit (Randomly selected)]
      C --> D[Non-compliance]
      D --> E[Enforcement Action and Remedies]
  
```

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Non-compliance- serious offence

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    graph TD
      A[Non-compliance] --> B[Breach of section 105 (3) CMA]
      B --> C[Fine not exceeding RM100,000 or to imprisonment for a term not exceeding 2 years or both]
      C --> D[Breach : Inaccurate reporting, Late submission of reports, Below performance standards]
  
```

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Consumer Satisfaction Surveys

- Annual
- Consumer perception of services (Consumer Satisfaction Index)
- Gauges satisfaction levels
- Highlights areas of service improvements
- Nationwide independent survey
- Individual and commercial respondents

Surveys includes the telecommunications, broadcasting, postal services and courier.
Total : 14 sub-studies and 5,700 respondents / samples

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Consumer Satisfaction Survey

- CSS 2004 adopted a different approach
 - Computer Aided Telephone Interviews (CATI) as well as Face to Face (those without mobile/PSTN access)
- MCMC has set-up 20 CATI stations centre
- Practice transparency
 - survey findings available on MCMC website
 - available to the public and the media

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Comprehensive and Balanced view



- MCMC will streamline the reporting of the QoS and CSS
- Enables measurement of actual standards versus measurement of consumer perception
- Comprehensive and useful tool in measuring and analyzing the level of service quality in the industry

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Towards Self - Regulation

Establishment of Consumer Forum (www.cfm.org.my)

- Major milestone in Malaysia – industry self regulation working and empowerment for the consumers
- Participation from consumer bodies (demand side) and service providers (supply side)
- Undertakes codes drafting, complaints handling and consumer awareness programs among other things
- MCMC supports via yearly grant

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The GCC and Sub-codes

- The General Consumer Code of Practice -17 October 2003
 - Significant guiding principles for consumers
 - covers –provision of information and protection of personal information, complaints handling, code compliance etc
- Internet Access Service Provider (IASP) Sub-code -1 June 2005
 - Represents the General rule for the IASP to follow (anti-spam, protection of personal information etc)
- 2 more codes : Mobile Service Provider and Content Hosting Service Providers

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Compliance with General Consumer Code

- Compliance with GCC is mandatory
(this is a standard licence condition applicable to all licensees)
- Serious offence - failure to comply, Minister on the Commission's recommendation suspend or cancel the licence
- The Commission may also direct a person or class of persons to comply with a registered voluntary industry code.
- Non-compliance with a direction is an offence – fine of RM300,000 or jail term of 3 years or both

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Consumer Complaints Management

- Effective 1 January 2004, Consumer Forum handles complaints relating to matters :
 - covered by the GCC
 - Parties who are members of the CfM
- Later in the year - non-GCC code breaches and those against non-CfM members were handled by the CfM as well
- Complaints forms are available on the website, call MCMC toll free number. MCMC website linked to CfM
- Guidelines for Complaints Handling available on the website

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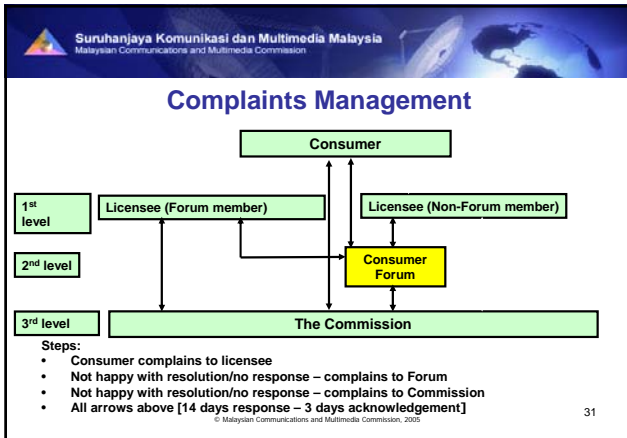
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Consumer Complaints Management

General rules for making complaints:

1. Service provider first
2. Consumer Forum - not satisfied with the resolution provided by the service provider.
3. Last resort - refer to MCMC if complainant still dissatisfied

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Resolution of Consumer Disputes

- The Commission may use its powers under the Act to resolve complaints received from consumers in relation to matters of :
 - customer service; and
 - consumer protection

including, but not limited to, the failure by a licensee to comply with a consumer code

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Required Applications Services

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Required Applications Service (RAS)

- List of services classified as "RAS", essential for consumers
 - emergency services
 - directory assistance services
 - operator assistance services
 - services for the disabled (KIV)
- Commission identifies licensees who are to provide the RAS and type of services
- Currently drafting the Operational Direction on the Implementation of RAS. Target completion end of 2005

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Rate Regulation

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Rate Regulation

- Covers the rules and compliance and principles in rate setting.
- Rates are either regulated or unregulated
- Communications and Multimedia (Rates) Rules 2002 regulates the rates for :
 - Local and National PSTN rates
 - Public Payphone
 - Dial-up Internet Access on 15xx
 - Audiotext Hosting Services (600 AB xxx) .

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Rate Regulation - unregulated

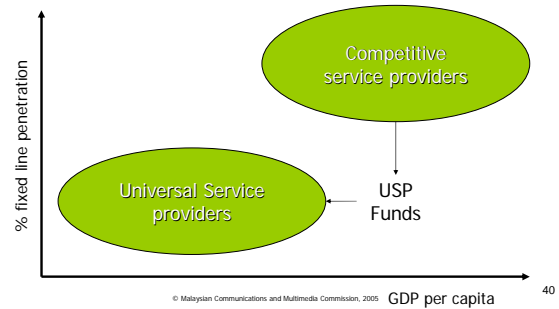
- Unregulated rates - left to market forces, competitiveness and players creativity
- Consumer have choices – mobile market, Internet, VoIP – as rates are not regulated.
- Many players and packages for customers to select.

Rate Regulation - compliance

- Rates/charges must be published as provided in the CMA
- Breach of Rate Rules 2002 – General offence – fine not exceeding RM100,000 or imprisonment for a term not exceeding two years or both

Universal Service Provision

The USP is a mechanism for reducing the digital divide



What is Universal Service Provision?

- Under the CMA, USP is defined as:
- A system to promote the widespread availability and use of network services and/or applications services throughout Malaysia.

Universal Service Targets


"Underserved area" is defined as an area where the penetration rate for PSTN subscribers in Malaysia is 20% below the national penetration rate.

"Underserved group" is defined as a group of people who have similar characteristics, within a served area, that do not have access to basic communication services

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Main Objective

- To provide basic communication services which focuses on access to:
 - public payphone
 - basic telephony
 - Internet access
- in underserved areas and for underserved groups within the community
- Priority - on collective rather than individual access



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USP Fund

- USP roll out is funded by the USP Fund
- Contributors
 - All licensees except for Content Applications Service Providers
 - Only when Annual Total Revenue derived from designated services exceeds 2 million (After 2000)
 - Contribution : 6% of the total weighted net revenue
 - Licensees who provide the USP service are compensated fully for all costs incurred. Principle of "No Gain-No loss"
 - Capital Expenditure (CAPEX)
 - Yearly Operational Expenses (OPEX)

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USP Implementation Process

- Identify & issue a notification on the list of universal service targets
- Issuance of invitation to Submit Bid/Tender
- Submission of USP draft plans
- Evaluation and recommendation to MCMC
- Appointment of designated service providers and approval of USP plans
- Implementation
- Submission of claims by designated USP service provider
- Disbursement of approved claims (USP Fund committee)

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Underserved Area

Implementation Approach - Total : 89 districts

- Year 2003
Pilot projects – 3 USP areas implemented.
Acts as test bed
- Year 2004 in Two phases and Two groups
 - Group one- 9 districts
 - Group Two – 77 districts
- Nationwide implementation

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Thank you

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