



# **MALAYSIAN COMMUNICATIONS AND MULTIMEDIA COMMISSION**

## **DISCUSSION PAPER**

### **REVIEW OF THE AUDIOTEXT HOSTING SERVICES REGULATORY FRAMEWORK; AND APPLYING UNIFORM GUIDELINES TO CONTENT THAT IS DELIVERED VIA THE PUBLIC SWITCHED TELEPHONE NETWORK AND THE CELLULAR MOBILE PLATFORMS**

**FEBRUARY 27, 2004**

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## INTRODUCTION

1. The Malaysian Communications and Multimedia Commission is proposing to introduce amendments to the regulatory framework that currently governs audiotext hosting services (hereinafter referred to as AHS) in Malaysia. **Audiotext hosting service** means an applications service that enables a caller who dials such codes or numbers with the prefix 600 (or as may be decided by the Commission), to receive a recorded message, or to interact with a programme for the purposes of receiving information **under** the Communications and Multimedia Licensing Regulations 2000 as amended by the Communications and Multimedia Licensing Regulations 2001.
2. **These proposed amendments are meant to improve the scope of business for the AHS industry in Malaysia while striking a new balance on regulating both this service; and services of a similar nature<sup>1</sup>.**
3. The changes proposed are aimed at improving the existing regulatory framework so that it contributes to the positive development of these services and to ensure that we do not over regulate industry, stifling innovation, growth and revenue to the service providers as a consequence.
4. The review of the regulatory framework takes cognizance of Malaysia's Vision 2020 and the Commission's Framework of Industry Development, both of which are aimed at making Malaysia an aggressive and comprehensive information and communication technologies and services player at the global level.
5. The changes proposed concern the following issues:
  - (a) Substituting the term "audiotext hosting services" with the term "**content hosting services**";
  - (b) Defining the term "content hosting services" to encompass a broader scope of services than the current AHS framework allows;
  - (c) Permitting a broader range of services like e-payment, live chat services and game shows and quizzes, competition and contests where a prize or incentive in any form is given with improved rules and control as appended in Annexure A for these services; and
  - (d) Permitting the selective implementation and use of the opt-in policy that is currently in place for all AHS services
6. The overall objective of this exercise is to rationalize and streamline the manner and form in which content hosting services is provided to the public. It is intended to strike a balance between the rights and expectations of stakeholders in particular the consumer and the audio text hosting services industry as a

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<sup>1</sup> For example, content that is disseminated in a short message service format via a mobile phone

whole. It reflects in our opinion, the Commission's approach in exercising its powers and responsibilities to regulate effectively and efficiently.

7. This discussion paper seeks to invite submissions from interested parties on the issues raised here, or on any other matter that is relevant to the subject. Responses from this Discussion Paper may be used toward formulating policy directions in implementing the changes proposed. Written submissions, be it in electronic form or hard copy, should reach the Commission not later than 12.00 noon on March 24, 2004. Submissions should be addressed to:

Attention:

**The AHS Review Team  
Malaysian Communications and Multimedia Commission  
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The Commission extends its appreciation to interested parties for the participation in this consultative process.

### **“AUDIOTEXT HOSTING SERVICE”- Definition**

1. **Audiotext hosting service** means an applications service that enables a caller who dials such codes or numbers with the prefix 600 (or as may be decided by the Commission), to receive a recorded message, or to interact with a programme for the purposes of receiving information **under** the Communications and Multimedia Licensing Regulations 2000 as amended by the Communications and Multimedia Licensing Regulations 2001.

### **BACKGROUND**

2. There have been many complaints on the services offered by the AHS service providers in the past. Most complaints concern issues pertaining to high phone bills, unauthorized use of the service, issues of children using the service without parental permission, services offered that are perceived as not being fair value for money, and the poor quality of the content disseminated.
3. As such, regulatory controls on AHS services were tightened in 2002. Since these measures were taken, there have been virtually no consumer complaints on the services offered. The AHS service providers however, have voiced their concerns on the effect of these controls. They claim that these measures have severely restricted the scope of their services and consequently affected their revenue base.

### **SHOULD WE REGULATE AUDIOTEXT HOSTING SERVICES?**

4. It must also be noted at this juncture, that no form of regulatory control whatsoever is exercised over similar content hosting services that host competitions and contests where prizes are offered as an incentive via the **cellular mobile platform**. Neither is there any regulation of any other content that is disseminated via this platform. Such practices are pervasive amongst

- content hosting providers on the mobile phone service and will be more pervasive as one is able to offer rich content on mobile broadband with the onset of 3G services. This has resulted in a regulatory discrepancy that is unfair, and needs to be addressed.
5. This regulatory discrepancy is not intentional and is more a product of circumstance, rather than any conscious policy initiative. The aim of regulating the AHS service was due to the fact that it was offered via the Public Switched Telephone Network (PSTN) platform. The medium via which the service is provided is thus not personal. Mobile phones were deemed to be personal devices; and primarily used for communication (voice) services when these regulatory controls were put in place for the AHS service. Neither these devices, nor the use of SMS was pervasive. Today the landscape has changed where mobile phones and the use of SMS and similar data services is pervasive. The users of mobile phones today include children who are given these devices by their parents to primarily facilitate communication as they become very affordable. Thus, there is a need to consider regulating content that is delivered via this platform. It should also be noted that the AHS service can be accessed via a cellular mobile phone, and is thus no longer a service that is strictly targeted at PSTN users.
  6. **Web hosting and client server services** which is an applications service similar to AHS, but reliant on the Internet as a delivery platform is exempted from licensing, in line with the Government's policy objective of having identified multimedia as a strategic sector to develop to achieve Vision 2020. Even TV content that is disseminated over a personal computer is exempt from licensing.
  7. Internet content is not subject to any form of censorship under the Bill of Guarantees endorsed by the Malaysian government to support investment. S 3 (3) CMA 98 explicitly states that nothing in the CMA shall be construed as permitting the censorship of the Internet. However content that is broadcast over the TV proper, is regulated by various bodies for instance the Film Censorship Board, Ministry of Health (if relevant), Ministry of Education, FINAS, and the

Commission amongst others. This gives rise to regulatory inefficiencies and double standards; and impacts negatively on the content development industry. Nevertheless, there are legitimate concerns that necessitate regulating content that is broadcast over TV, which is arguably the most pervasive and popular medium amongst the Malaysian public, given the socio-political implications that this may have.

8. In **Digital Terrestrial Television Broadcasting**, the delivery platform utilized is the television. This delivery platform i.e. television is licensed as a CASP (I) licence. Content here is “broadcast” and thus the information is not just disseminated to one person. Controls here may be necessary, as explained in the preceding paragraph.

#### **HOW DOES THE AUDIOTEXT HOSTING SERVICES DIFFER?**

9. The AHS service that utilizes the public switched telephone network (PSTN), as its delivery platform however is quite distinct from content that is broadcast via television. It is more similar to content that is disseminated via a cellular phone, as the content is “narrowcast” or delivered to a specific individual, ordinarily upon demand or request by that individual.
10. We also need to be cognizant of the fact that there are differences in the accessibility to the applications devices. Mobile phone devices unlike telephones are looked upon as personal gadgets for which the user seldom requires third party permission to utilize. This perception may however be not very accurate today as mobile phones become very affordable and more pervasive. Further, the user profile has changed as children are increasingly given these gadgets for use by their parents, who pay for the service charges of these devices.
11. Low market entry barriers have propelled this industry. It is therefore easy for new players to enter the market. The focus is on being able to provide content and applications that are able to capture the imagination, interest and needs of the public at large. This determines the likelihood of the service provider staying in business. Our current regulatory rules and practices must not therefore create artificial barriers that do not make this industry lucrative to pursue and hinders



the development of the network content industry. It must be borne in mind that the types of services offered are crucial to the margins of operators

### **PROPOSAL NO 1: REGULATING THESE SERVICES-TWO OPTIONS**

#### **FIRST ALTERNATIVE: DO NOT LICENCE THE CONTENT HOSTING SERVICE PROVIDERS**

12. The Commission proposes to introduce a set of guidelines to replace REGT-002 which is currently used as the regulatory framework for AHS Services. REGT-002, which is a code of practice used by *Jabatan Telekom Malaysia* to evaluate if a proposed AHS service is suitable/acceptable. Currently, the AHS Committee in the Commission still makes reference to this code of practice in evaluating the acceptability of a proposed AHS service. This is used as the basis of granting/ not granting a class licence to a prospective applicant for such a licence. The basis of evaluation is on both the **content and the applications aspect of the AHS service**. This code of practice is quite restrictive. A revamp is thus timely. AHS services under the REGT-002 and the current regulation do not include services with the elements of:
  - (a) Live chat and
  - (b) Game shows, wagers and quizzes, competition and contests where a prize or incentive in any form is given.
  
13. The proposed guidelines is concerned only with the regulation of the **applications part** or aspect of the AHS service. The Content Code, once registered shall be the mechanism for evaluating the suitability, appropriateness and types of content that is provided to the public. In the interim, the AHS Committee has been tasked to manage both the content regulation aspects of this service and to advise on the use of numbers for new AHS services.
  
14. If our regulatory practices are to have a modicum of fairness, we should also make these guidelines applicable to content that is accessed via a cellular mobile platform. No separate set of guidelines should be developed. Rather, all guidelines should apply in a uniform fashion and be referred to as “Content Hosting Services Guidelines”, in an effort to rationalize the situation and promote clarity in this area.

15. These guidelines may be imposed on the network service provider (NSP). It is the NSP who is responsible for activating the numbers that are to be used by the public at large to access these services. The NSP shall bear the responsibility of ensuring that all content hosting service providers adhere to these guidelines. The mechanism for incorporating the guidelines should be via the contracts entered into by the network service providers' and the respective content hosting service providers. **The Commission from this perspective shall not licence any content hosting services provider.**

16. **SECOND OPTION**

A second option would be to licence the AHS/content application services under the CASP (C) category. Content that is disseminated here is not pervasive like broadcasting and is delivered to a specific person upon request. Thus the level of regulatory oversight required is consequently lesser. An analogy can be drawn from "narrowcasting" which can be explained to be content that is targeted at special interest groups, intended for limited locations, provided for a limited period or to cover a special occasion, for programs of limited appeal or any other reason felt appropriate. This approach has the merit of enabling the Commission to monitor service providers and intervene directly, should it be necessary. The guidelines drawn up by the Commission to regulate content hosting services shall be directly applied the content hosting service providers, since in this scenario they are our licensees.

**Question: Which of these options are preferable?**

17. **PROPOSAL NO. 2:**

**CHANGING THE TERM "AUDIOTEXT HOSTING SERVICE" TO "CONTENT HOSTING SERVICES"**

The proposed change recommended here is to replace the term “**Audiotext Hosting Services**” with the term “**Content Hosting Services**” opening the way for a broader array of services to be offered, capitalizing on the opportunities made possible by new technologies in the content hosting and network service spheres.

18. This new term is also more appropriate and feasible, as it is technology neutral and thus can encompass content that is hosted and delivered via almost any platform. This term is currently employed to cover similar content hosting services in Japan, which are offered via the “i-mode” mobile phone. Thus the term “content hosting service” is broader and more versatile.

### **RATIONALE**

19. The rationale behind this proposed change is to broaden the scope or range of services that may be provided via a variety of platforms (PSTN/Cellular voice telephony) to include amongst others, services such as e-payment services, multimedia messaging, live services, chat line services, video streaming and e-commerce applications. The current definition of AHS services in the Licensing Regulations 2000 as amended appears to be restrictive, as a strict reading of the definition here curtails the scope of services being offered to merely receiving a “recorded message” or interacting with a programme to receive “information”.
20. E-commerce and e-payment services are transactional in nature, and cannot be correctly classified as “information”. Likewise live services and chat services are not by their nature, services that disseminate information. The use of the term “information” therefore may be very restrictive. Content that is allowed to be disseminated here is further restricted to content that must be in the form of audio or text based content only. We should have a regulatory regime that promotes or enhances the use of this platform for new innovations and applications such as software downloads, professional consultations, purchases via the phone etc.
21. Our current definition deters the growth of the AHS industry and prevents this sector from realizing it’s full potential. To rationalize the rules here, content, which is legally allowed in Malaysia and available in other type of media, should be capable of being disseminated via the AHS service platform as well. The content disseminated must

adhere to the Content Code (once registered) and all relevant provisions of the Communications and Multimedia Act 1998.

22. The current practice of terming downloading services such as ring tones, and logos as information is an anachronism. These services should be categorized as entertainment or lifestyle services. To allow such services to be offered, whilst rejecting chat services or games or quizzes via this platform makes for regulatory practices that are selective and inconsistent. We do acknowledge however that allowing live chat services can be contentious and sensitive as such services can degenerate into schemes that offer sexual services for instance, or even to endanger the safety and well being of children and other vulnerable members of our society by luring such persons to disclose/entrust personal information to strangers, or to make arrangements to meet personally after using a chat service. As such whether live chats should be permissible does merit special concern.

**Question: What are your views on the above proposal?**

### **PROPOSAL NO. 3: REDEFINING CONTENT HOSTING SERVICES**

23. The term “Content Hosting Services” if utilized should be defined in the Licensing Regulations 2000 as amended. This is to reflect the rich nature of the services capable of being offered offer a variety of mediums, as elucidated above.
24. We propose that the definition of content hosting services be as follows: **“Content hosting services are services where part of the overall charge paid by a customer to the network operator for the service, being payment for the content of the call or other product(s) or service(s) delivered in the course of, or as a direct consequence of the call, is passed on by the network operator directly or indirectly to the service provider”**.

25. This definition has the merit of encompassing all content hosting services, irrespective of the platform utilized to deliver such content. It makes reference to the payment scheme of the service concerned, which gives it a more generic character.

**Question: What do you think of the proposed definition?**

**PROPOSAL NO. 4:**

**REPLACING REGT-002 CRITERIA WITH A NEW SET OF GUIDELINES (ANNEXURE A) TO REGULATE THE APPLICATION ASPECTS OF THIS SERVICE**

26. The Commission is cognizant of its responsibility in promoting the policy objectives as set out in Section 3 of the Communications and Multimedia Act 1998; i.e. specifically;
- (a) to establish Malaysia as a major global center and hub for communications and multimedia information and content services;*
  - (b) to promote a civil society where information based services will provide the basis of continuing enhancements to quality of work and life;*
  - (d) to regulate for the long term benefit of the end-user; and*
  - (g) to create a robust applications environment for end users.*
27. It is imperative that controls are put in place to ensure that the expectations of end-users and stakeholders are effectively protected or addressed as well. It is with this aim that new guidelines are proposed to replace REGT-002 as appended in Annexure A of this paper.
28. In line with the effort to liberalize this sector further, it is proposed that the Commission permit live chat services and game shows and quizzes, competition and contests where

a prize or incentive in any form is given. Service providers must adhere to special rules (Annexure A) drawn up by the Commission in order to provide this category of services.

29. These rules are aimed at ensuring that some form of control mechanism is introduced to ensure that consumers are protected. Here the concern is that consumers/callers must not be cheated; and that game shows or competitions offered via this service where incentives are given is genuine.
30. In allowing live chat services via this service, the concern is that the services do not degenerate into a scheme for offering questionable services.

**The guidelines are in Annexure A (below). Please review them and give us your feedback.**

#### **THE OPT-IN POLICY**

31. "Opt-in-basis" means a customer to a network service and/or applications service provider shall **apply in writing; or by such other means that can be validated by the customer to the provider, as per Regulation 30(3) of the Communications and Multimedia (Licensing) Regulation 2000 as amended by the Communications and Multimedia (licensing) Regulations 2001.**
32. According to Regulation 30(3) of the Communications and Multimedia (Licensing) Regulations 2000 as amended by the Communications and Multimedia (Licensing) Regulations 2001, the implementation of the opt-in-policy can be between:
  - (a) **Private customer and the audiotext hosting services provider or;**
  - (b) **private customer and party who opens up the short codes e.g. Telekom, Maxis etc; or**

**(c) private customer and both, the party who opens up short codes and the audiotext hosting services provider.**

33. The Commission has generally been of the opinion that from a practical standpoint the opt-in-policy should be between

**(a) Private Customer and the Audiotext Hosting Services Provider.**

34. For implementation purposes, the Commission requires AHS services providers to set up a simple customer authentication / service acceptance process. A person who wishes to access an AHS service, must be asked to confirm his use or acceptance of such a service by keying in a pin number or press a hash button as an indication of his confirmation to accept the service.
35. The status of opt-in policy is that it is deemed to be applicable to all services that fall under the category of AHS services.

**PROPOSAL NO. 5: SELECTIVE IMPLEMENTATION OF THE OPT-IN POLICY**

36. It is proposed that the opt-in policy be applied selectively, on a case-by case basis; depending on the type of service offered by a service provider. The scope of services that are provided by the audiotext hosting service providers can be categorized differently.
37. The provisioning of such services include access to recorded information services, access to interactive services and access to promotions, competitions and opinion surveys. This categorization of the services provided here is consistent with ITU-T Recommendations, in particular ITU-T Recommendations E. 1.55, which relates to Premium Rate Services.
38. It is felt that given the variety in the nature of the services offered, a blanket application of the opt-in policy may be too harsh. Stricter control may be necessary for interactive services such as live chat services or services that involve competition and incentives. However access to recorded information services where a caller may want to get

information about weather conditions, stock updates etc may not require as much control. The opt-in policy if applied here may be a waste of resources. The opt-in policy can also be implemented across the board albeit selectively, on all content hosting services, irrespective of the platform of delivery utilized.

**Question: What do you think of the above proposal ?**



**ANNEXURE A**

**Proposed Guidelines for Content  
Hosting Services delivered via the  
PSTN and cellular mobile  
platforms.**

**MALAYSIAN COMMUNICATIONS AND MULTIMEDIA COMMISSION GUIDELINES**  
**ON CONTENT HOSTING SERVICES**

**Objective**

1. The Malaysian Communications and Multimedia Commission (“the Commission”) has prepared this guideline with the specific aim of regulating the application aspect of all content hosting services. **The term “content hosting services” shall hereinafter be used in lieu of the term “audiotext hosting services.” These guidelines shall also apply to content hosting services that are delivered via the cellular mobile platform.**
2. The guidelines provided here should be read in conjunction with the Communications and Multimedia Act 1998, Communications and Multimedia Licensing Regulations 2000 as amended by the Communications and Multimedia Licensing Regulations 2001, Communications and Multimedia (Rates) Rules 2002, and all other related legislation, guidelines and voluntary industry codes that may be enacted or registered in the future.
3. The objective of this guideline is to rationalize and streamline the manner and form in which the content hosting service is provided to the public. The guideline is intended to strike a balance between the rights and expectations of both the consumer and the audio text hosting services industry as a whole. It reflects the Commission’s approach in exercising its powers and responsibilities to regulate effectively and efficiently.
4. The Commission shall employ this guideline in the licence evaluation process of all content hosting services.

## Definitions

5. **Content hosting services are services where part of the overall charge paid by a customer to the network operator for the service, being payment for the content of the call or other product or service delivered in the course of, or as a direct consequence of the call, is passed on by the network operator directly or indirectly to the service provider**
  
7. A “live service” is a service that involves two-way or multi-way conversation.
  
8. A “chatline service” is a service which consists of enabling more than two persons simultaneously to conduct a telephone conversation without either
  - (a) each of them having agreed with each other; or
  - (b) one or more of them having agreed with the person enabling such a telephone conversation to be conducted.

## Introduction

9. A content hosting service is composed of two elements
  - A) The application aspect of the service and
  - B) The content that is disseminated.
  
10. This guideline is concerned only with the regulation of the application aspect of any content hosting service. The future voluntary industry Content Code once registered, and section 211 of the Communications and Multimedia Act 1998

shall be the mechanism of regulating all content that is made available to the public.

11. The applications aspect of the content hosting service relate to the nature of interaction and the manner in which the information is presented to the end user. For example, to download a ring tone or to listen to a song, a customer will have to interact with the content hosting server (applications part), and once the information is located, the content, that is the ring tone or the song is presented to the customer over the phone line.

### **Policy Context**

12. The guidelines formulated here are further aimed at promoting the policy objectives as set out in Section 3 of the Communications and Multimedia Act 1998; i.e. specifically;

*(c) to establish Malaysia as a major global center and hub for communications and multimedia information and content services;*

*(d) to promote a civil society where information based services will provide the basis of continuing enhancements to quality of work and life;*

*(e) to regulate for the long term benefit of the end-user; and*

*(h) to create a robust applications environment for end users.*

13. **The Explanatory Statement to the Bill** sets out specific objectives for the social regulation in Part VIII of the Act. These guidelines are meant to protect and promote consumer interests whilst at the same time developing an audiotext hosting services industry that is robust, dynamic and sophisticated. These

guidelines, in the opinion of the Commission are meant to strike a balance between the competing interests of industry and consumers at large.

### **Opt –In-Policy**

14. “Opt-in-basis” means a customer to a network service and/or applications service provider shall **apply in writing; or by such other means that can be validated by the customer to the provider, as per Regulation 30(3) of the Communications and Multimedia (Licensing) Regulation 2000 as amended by the Communications and Multimedia (licensing) Regulations 2001.**
  
15. According to Regulation 30(3) of the Communications and Multimedia (Licensing) Regulations 2000 as amended by the Communications and Multimedia (Licensing) Regulations 2001, the implementation of the opt-in-policy can be between:
  - (d) Private customer and the content hosting services provider] or;**
  
  - (e) private customer and the network service provider e.g. Telekom, Maxis etc; or**
  
  - (f) private customer and both, the network service provider and the content hosting services provider.**
  
16. The Commission is of the opinion that from a practical standpoint the opt-in-policy should be between
  - (b) Private Customer and the Content Hosting Services Provider.**
  
17. The Commission shall notify a service provider to implement an opt-in policy if necessary. The opt-in policy may or may not be applicable depending on the type of services provided and consequently, the degree of control that may be

deemed necessary by the Commission. If the opt-in policy applies, a person who wishes to access a content hosting service must be asked to confirm his use or acceptance of such a service by keying in a pin number or press a hash button as an indication of his confirmation to accept the service.

18. The content hosting services providers and the network service providers must have a service level agreement between themselves to implement this policy.

### **Preface to all Content Hosting Services**

19. In an effort to prioritise and protect the end-user and the public interest at large, the following information is to be given to users at the start of the service. No variation of this prescribed order is allowed. This preface is meant to make available to the user the information necessary to make a decision on whether to use the content hosting service concerned. The delivery of the preface should take no more than 30 seconds.

|   |   |
|---|---|
| (a) Welcome message   | Description of service (1 sentence)   |
| (b) Call charges (off-peak and peak hours per minute, where relevant) |   |
| (c) OPT –IN-POLICY (if relevant)                                      | If YES, press 1<br>If NO press 2<br><br>In the event of a lack of response from the caller, the call should be terminated via force release within 5 seconds. |
| (d) Advise on age requirement (if relevant)                           | This service is for a user aged 18 and above  |

### **Force Release Mechanism**

20. All content hosting services which are directed to comply with this requirement shall last no longer than fifteen minutes. If the call exceeds fifteen minutes, it shall be terminated by a force release mechanism.

**Customer Service- Helpdesk**

21. Each content hosting services provider shall provide a customer service helpdesk with a contact number to facilitate users enquiry / complaints with regard to the content hosting service provided. The helpdesk number must not be a short code number. It must be a local number or a toll-free number.

**Rates**

22. Where relevant, the rates charged must be in accordance with the Communications and Multimedia (Rates) Rules 2002. The rates charged for content hosting service at specific bands approved by the Commission shall not exceed the rate as specified in the Table in the Third Schedule.

**Application for use of numbers**

23. Where content hosting services providers are assigned a block of numbers from the Commission, it is incumbent upon the content hosting service providers to arrange for the numbering block to be opened up by the relevant telecommunication operators. The content hosting service providers must apply for approval from the Commission to utilize the numbers in the block for the purposes of providing the audiotext hosting service. This is to ensure that the numbers are utilized in a manner that is consistent with all Numbering Guidelines / Plans that the Commission has or will, put in place.

### **Complaints and disputes handling mechanism**

24. Complaints or disputes alleging a breach of service by the content hosting services provider shall be referred to or dealt with by
  - (a) The Commission, if it concerns the application aspects of the service;
  - (b) The Content Forum if it concerns matters pertaining to the content of the service concerned; and
  - (c) Section 211 of the Communications and Multimedia Act 1998 on matters pertaining to content that is deemed to be offensive.
  
25. The Commission reserves the right to institute action in the event that a licensing condition has been breached by the content hosting services provider.

### **Advertising of Content Hosting Services**

26. Advertising of premium rate services or audiotext hosting services in any media or location is permitted; provided it conforms to all advertising laws, rules, regulations, codes and/or guidelines in that are in force in Malaysia.
  
27. All advertisements in whatever form, must contain the following information:
  - (a) Information on the price per minute of each call and the maximum charges payable per call;
  - (b) A description of the type of service provided;
  - (c) The licence approval number for the service as issued by the Communications and Multimedia Commission for the above service;
  - (d) Advice on the suitability of the service for adults, minors or both;
  - (e) A clear and legible identification of the identity and correspondence address of the content hosting services provider which must include a customer service contact number that is not a premium rate number; and
  - (f) Content hosting services for the purposes of charity, fund raising or live activities must obtain prior permission from the Commission and



all other relevant authorities concerned. In the case of charity and fund raising activities, the percentage of revenue or amount that is forwarded to charity must be stated clearly in all such advertisements.

28. No advertising of content hosting services is permissible prior to the service having been approved as a licensed audiotext hosting service by the Communications and Multimedia Commission.
29. The layout of the proposed advertising and promotional material must be furnished to the Commission with all other requisite documents for the purposes of obtaining an application service provider (class) licence. If the layout is subsequently varied or changed, copies of the new layout must be furnished to the Commission prior to the advertisement appearing in any media.

#### **GUIDELINES RELATING SPECIFICALLY TO LIVE AND CHATLINE SERVICES**

30. A service provider may not provide “Live services” without prior written permission from the Commission for that service. Such permission may be withdrawn or varied upon reasonable grounds and with notice in writing. Such permission is subject to conditions that the Commission may find necessary to ensure consumers are protected. If permission is withdrawn or not granted, service providers cannot operate a live service.
31. Chatline services must not be used to promote content that is contrary to the Content Code and service providers must use all reasonable endeavours to prevent conversation, which is primarily of such a nature.
32. The Commission may set out conditions as it sees fit for the granting of permission to service providers who wish to provide Live and Chatline Services.
33. The Commission requires that service providers ensure that an appropriately qualified operator, who is acting on behalf of the service provider and to whom a caller may speak when accessing such a Live or Chatline Service, monitors all

- calls in this service category. Prior to commencing employment, operators must be given adequate training in the relevant provisions of these guidelines. A record of such training records should be maintained at the service provider's offices.
34. The Commission also requires that all calls be continuously recorded to allow investigation for complaints. Such recordings should allow for the time, date and content of the Live and Chatline Services to be captured accurately, and must enable monitoring by the Commission.
  35. Live and Chatline Services must be disconnected immediately if recording facilities should cease at any time and for any reason.
  36. Such recordings should be retained for a minimum period as stipulated by the Commission's Record Keeping Rules, and delivered to the Commission intact, within three working days of request.
  37. In the application to the Commission for purposes of providing live services, service providers must supply to the Commission documentation detailing the type of recording equipment to be used, the total number of simultaneous conversations which the recording equipment can support.
  38. Service providers should discourage callers from seeking and giving out information such as surnames, places of work, addresses and telephone numbers during a live or chatline service. Any attempts to arrange a meeting whilst being connected to a live or chatline service should also be discouraged.
  39. Service providers must ensure that reasonable efforts are made by its operators to prevent persons below the age of 18 from participating in a live service. If an operator has knows or has reasonable grounds to suspect that the caller is below 18, the service provider must end the call.

40. If a caller who has been connected to a live service for a significant amount of time without speaking, he must be prompted to speak, failing which; the call should be cut off.
41. The Commission shall engage in random monitoring of conversations under live services to ensure that these Guidelines are adhered to. The Commission or its authorized agents shall have the right to visit any premises at which a live service is conducted with or without notice, to investigate compliance with this guideline.

**SPECIFIC GUIDELINES FOR GAME SHOWS, QUIZZES, COMPETITION AND CONTESTS WHERE THERE IS AN ELEMENT OF LUCK INVOLVED AND INCENTIVES IN THE FORM OF CASH OR OTHERWISE ARE GIVEN TO CALLERS.**

42. This guideline concerns competitions, game shows, quizzes and contests where there is an element of luck involved and/or incentives in the form of cash or kind are given to callers.
43. Promotional material must clearly provide the following information:
  - (a) any closing date;
  - (b) significant terms and conditions on the number of entries or prizes which may be won;
  - (c) any restrictions to participation;
  - (d) the cost per minute and likely playing time, or the full cost of the call;
  - (e) any costs which a reasonable consumer may not be expected to pay in the course of collecting or using the prize or item;
  - (f) an adequate description of the prizes offered, including the total number of prizes; and
  - (g) details of how the competition operates and of any tie-breakers.
44. *Services providers are not permitted to change a closing date of a competition or withhold prizes due to an insufficient number of entries or entries of an inadequate quality.*

45. In the case of instant prizes being granted, the competition need not have a closing date.
46. Promotional material must not exaggerate the chances of a person winning a prize, misrepresent the circumstances under which such a prize may be won and suggest that winning a prize is a certainty.
47. Service providers must ensure that:
  - (a) all correct entries have the same chances of winning;
  - (b) prizes are awarded within 30 days of the closing date of the competition; and within 10 days in the case of instant prizes; and
  - (c) where the assessment is subjective; the judging is by person(s) independent of the service provider.
48. The following information must also be made readily available on request:
  - (a) how and when the prize-winners will be informed;
  - (b) how prize-winner information may be obtained;
  - (c) any criteria used for judging entries;
  - (d) any alternative prizes that are available;
  - (e) any post-event publicity drives; and
  - (f) any other relevant information and/or supplementary rules.

#### **SPECIFIC GUIDELINES FOR FUNDRAISING AND CHARITABLE PROMOTIONS**

49. A service provider may not provide “Fundraising and charitable services” without prior written permission from the Commission for that service. Approval from any other relevant authorities for this purpose must be obtained by the service provider. Such permission may be withdrawn or varied upon reasonable grounds and with notice in writing. Such permission is subject to conditions that the Commission may find necessary to ensure consumers are protected. If

permission is withdrawn or not granted, service providers cannot operate a live service.

50. The Commission may set out conditions as it sees fit for the granting of permission to service providers who wish to provide fundraising and charitable services.
51. Promotional material for fundraising and charitable promotions must make explicit:
  - (a) the identity of the beneficiary;
  - (b) the total sum per call or amount per minute that will be paid to the beneficiary;  
and
  - (c) any conditions that are attached to the contributions that are to be made to the beneficiary.

#### **SPECIFIC GUIDELINES FOR ADVICE SERVICES**

52. All advice services must be conveyed in a responsible manner. The identity, current status and professional qualifications and experience of the person(s) or organization(s) supplying the information/advice must be clearly indicated in all promotional material and attached with the license application form.
53. All advice services must be prefaced with a statement that a caller should not act upon advice which needs individual interpretation without first consulting a suitably qualified practitioner.
54. All advice service providers must offer a caller the option of interacting directly with an appropriately qualified and experienced practitioner in that field.

#### **TERMINATION OF SUBSCRIPTION SERVICES**

55. If content hosting services are provided on the basis of subscription, service providers must ensure that customers are able to terminate such services in an immediate, simple and effective manner. Termination of such services should be made possible via phone, short message service (sms) or e-mails.

#### **APPLICABILITY OF THE NEW CONTENT HOSTING GUIDELINES**

56. The above guidelines shall apply to content hosting services that are hosted/delivered on the PSTN and cellular mobile platform. Web hosting and client server services are exempted from licensing pursuant to Regulation 5 of the Licensing Exemption Order 2000 P.U. (A) 2000 as amended. Content hosting via television requires a ASP (I) licence and a CASP (I) licence in light of the special socio-political implications that broadcasting activities have.