



PRESS RELEASE

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Halt the Tabling of the Repressive Amendments to the Communications and Multimedia Act

ARTICLE 19 and the Centre for Independent Journalism (CIJ) are deeply concerned by the proposed [amendments](#) to the Communications and Multimedia Act (CMA) 1998, which underwent the first reading in Parliament on 2 December 2024. As drafted, these amendments violate rights to freedom of expression and privacy, protected under international human rights law and Malaysia's Federal Constitution. Furthermore, we are concerned about the lack of comprehensive and meaningful consultation with all stakeholders, including civil society organisations. We call for the immediate withdrawal of the amendments.

ARTICLE 19 and the Centre for Independent Journalism (CIJ) find the regressive amendments are inconsistent with Article 10 of the Federal Constitution as well as Section 3(3) of the CMA, which clearly states that "nothing in the CMA shall be construed as permitting the censorship of the internet". Instead of upholding the commitment to a free, open and interoperable internet, these amendments prioritise control over information, posing risks of censorship and suppression of dissent.

We are deeply concerned that the Madani Government, under the premiership of Pakatan Harapan, is undermining its commitments under the [Pakatan Harapan Manifesto](#), to review and repeal draconian provisions of acts that restrict free speech, including the CMA. Instead, the government has introduced further rights-restricting amendments. Over the years, the government has continued to [abuse](#) and [weaponise](#) the CMA to restrict freedom of expression. The latest amendments contradict the government's obligations under international human rights law, particularly Article 19

of the International Covenant on Civil and Political Rights (ICCPR), which protects freedom of expression and raises even more serious questions about the government's commitment to uphold such standards.

Despite significant [criticism](#) and [legal analysis](#) from civil society organisations and political analysts on the government's failure to proceed with institutional and human rights reforms, the Madani government seems to disregard public participation for purposes of political expediency. It is more focused on railroading through amendments that appear to control information and censor the internet.

Key concerns with proposed amendments

We urge the government to review the following amendments, which undermine good governance and accountability and violate freedom of expression:

1) Expansion and overreach of the powers of the Malaysian Communication and Multimedia Commission (MCMC)

At the outset, we note that the proposed amendments would grant MCMC and the communication minister powers without oversight, enabling them to control and allow censorship.

- a) **Section 51:** expanded powers of MCMC to issue direction to any person and not limited to license holders significantly broaden its original mandate by including "... any license conditions or any other conditions imposed by the Commission under this Act'. This unfettered clause would allow arbitrary powers without legislative oversight, risking arbitrary interference with freedom of expression.
- b) **Section 73A:** grants the MCMC or its authorised officers and agents of technical advisors the power to search and seize information from service providers without safeguards, including protection of journalistic sources, violating privacy and due process rights.
- c) **Sections 252A and 252B:** compel service providers to disclose user data undermine data protection and privacy rights. This is further compounded by the fact that the government is excluded from the scope of the Personal Data Protection Act 2010, thus removing the obligations to guarantee data protection.
- d) **Section 51A under the Malaysian Communication and Multimedia Commission (Amendment) [Bill 2024 - Immunity from prosecution or other proceedings](#)** for the MCMC, any member, committee, employee, agent of the Commission, and any other person lawfully acting on behalf of the MCMC, when acting under the Act 'in good faith'. This ouster clause, which includes a

vague and arbitrary notion such as “good faith”, would enable abuse of powers and create an accountability gap for human rights violations, allowing for impunity for those public officials. Furthermore, the possibility of arbitrary investigation without access to a remedy violates due process, fair trial and access to justice rights.

Note: The extension of the MCMC's powers should also be read with the amendments under the MCMC Act.

2) Highly disproportionate punitive measures and strengthening of investigative powers

The amendments further disproportionately increase punitive measures in offences and related penalties. No rationale is provided to support the amendments for increasing sanctions, nor is there a clear justification for the quantum adopted in determining the threshold of fines and imprisonment.

Examples of increase in punitive measures:

- (a) Section 16 (Ministers powers to make regulation): subsection (2) – an increase of (i) fine from MYR300,000 to MYR1,000,000; (ii) imprisonment from three years to ten years; and (iii) fine for each day the offence continues after conviction from MYR1,000 to MYR100,000 per day.
- (b) Section 53 (Non-compliance of a direction of MCMC): an increase of (i) fine from MYR300,000 to MYR1,000,000; (ii) imprisonment from three years to ten years; and (iii) additional fine for each day the offence continues after conviction from MYR1,000 to MYR100,000 per day.
- (c) Section 211 (prohibition of provision of offensive content by content application service providers (CASP): subsection (2) – an increase (i) fine from MYR50,000 to MYR1,000,000; (ii) imprisonment from one year to ten years; and (iii) fine for each day the offence continues after conviction from MYR1,000 to MYR100,000 per day.
- (d) Section 233 (improper use of network facilities): subsection (2) - an increase of (i) fine from MYR50,000 to MYR500,000; (ii) imprisonment from one year to two years; and (iii) fine for each day of the offence continues after conviction from MYR1,000 to MYR5,000 per day.

The amendments further **enhance investigative powers to search and seize without a warrant to any “authorised officer” in addition to the police under Section 248**. However, they fail to include adequate safeguards against abuse,

contravening the requirements of due process, necessity and proportionality under international law.

3) Vague and overbroad provisions

ARTICLE 19 and CIJ have long [called](#) for the repeal of Sections 211 and 233 of the CMA, as their broad scope and vague wording lead to arbitrary interpretations. The provisions also do not meet the international freedom of expression standards, especially the three-part test: legitimate aim, provided by law, legitimate aim, proportionate, and necessary.

It is extremely concerning that the new proposed texts have not been amended to meet the three-part test; on the contrary, they remain vague, overly broad in scope, and hinge upon highly subjective terms open to a broad range of interpretations despite the provided explanatory notes.

a) Section 211: The current provisions under Section 211 do not meet the legality test: None of the elements of this prohibition – “indecent”, “obscene”, “false”, “menacing”, or “offensive in character with intent to annoy, abuse, threaten or harass any person” – are defined further in the Act. Restrictions need to be precise and not open to arbitrary interpretation.

b) Section 233: equally includes expansive and vague terms such as “**feeling of disgust due to lewd portrayal**” (Explanation 1), “**content which is profane in nature**” (Explanation 2), “**evil threats**” (Explanation 5), “**crude references** (Explanation 6), and “**hate speech**” (Explanation 6), amongst others.

We are particularly concerned by the inclusion of ‘hate speech’ under the amended provision—what constitutes “**grossly offensive**” fails to meet international standards of restrictions of speech and expression. We remind the drafters that in addition to the three-part test prescribed by Article 19 (3) ICCPR, Article 20(2) also requires that governments restrict speech that incites discrimination, hostility, violence, or international crimes. These standards establish a high threshold for circumscribing speech and an obligation to prohibit speech that leads to incitement.

Thus, international law protects any form of expression or speech, even those that are profoundly offensive, shocking, and disturbing. Restrictions that do not meet the three-part test violate the right to freedom of expression.

c) The new additional provision **233A**, which deals with unsolicited commercial electronic messages, appears to address spam and should not be included under restrictions on content.

d) Further, all additional **amendments related to offenses against a child** (subsection 3) should be addressed under the Sexual Offences against Children Act

2017 (Act 792) to ensure they are consistent with restorative justice principles and do not infringe on legitimate expression.

4) Control of online platforms (section 230B)

The introduction of a new for licensing regime for social media companies in the CMA and the imposition of strict liability on service providers for user-generated content risk incentivising the removal of content, undermining freedom of expression online. Such measures contradict the [Manila Principles on Intermediary Liability](#).

ARTICLE 19 and CIJ have [highlighted](#) and expressed severe concerns over introducing the licensing scheme. It is of utmost concern that amendments to insert a new section 46A give the Minister the **power to dispense with the formalities of registration under a class license**. This removes the Application Service Providers (ASP), Content Application Providers (CAP) and Network Service Providers the right to opt in to a procedure that is already grossly unnecessary and imbued with disproportionate obligations and related sanctions.

ARTICLE 19 and CIJ also notes that under international human rights law, registration requirements [constitute](#) an interference with the right to freedom of expression. As such, they too must be justified under the three-part test.

5) Increase surveillance (section 252)

The low threshold required of the Public Prosecutor to order surveillance measures if they think communications are likely to contain any information, combined with overly broad and vaguely defined offences under the Act (such as sections 211 and 233), would violate the right to privacy and enable misuse of power.

Urgent Recommendations

To ensure alignment with Malaysia's human rights obligations, we urge the Madani government to:

- 1) Delay the second reading of the Bill until further meaningful public and stakeholder consultations have been conducted, with all feedback made publicly available;
- 2) Repeal section 233, as its provisions are redundant and offences already covered under the Penal Code.

The right to freedom of expression is a cornerstone of democracy and is protected by customary international and domestic human rights law. Although Malaysia might impose limitations to protect legitimate interests such as national security and public order, such restrictions must be narrowly defined, evidence-based, and proportionate. The proposed amendments fall short of these standards and represent a concerning step backwards in protecting human rights in Malaysia.

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