REFLECTING MEDIA CONTENT VALUES: MEDIA INDUSTRY ATTITUDES TOWARDS MALAYSIAN MEDIA SELF-REGULATION PRACTICES

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ABSTRACT

The popularity of the digital media and the availability of a borderless world of communication networks have formed a new environment, supported by the Information and Communication Technologies (ICT). Along with the Malaysian government's Multimedia Super Corridor (MSC) projects announcement, A National Communication and Multimedia Policy was introduced, as to encourage the development of industry self-regulatory mechanisms with minimize the costs of regulation while at the same time providing clear guidelines for industry behavior in line with Government policy objectives by implementing the industry voluntary codes of practice.

This study identified to what extend the "Self-Regulatory" mechanism for the local media players would benefit the industry and the growth of future media technologies in this country, and the key issues and problems faced by Malaysian Media environment in its attempt to proactively respond to the winds of change breezing through media convergence technology policies and legislations.

The study found that there has been an important relationship between the regulators, media industry, and public interest upon the implementation of media self-regulation in Malaysia. The challenges faced by the government and media players upon broadcast and new media content

had become a discourse for the both parties to implement best practices of self-regulatory mechanism which allows the self-management of information dissemination for the public and industry interests, and as to ensure to perverse the national identity and cultures.

INTRODUCTION

The purpose of this paper is to identify the mechanism, concepts, and implementation of self-regulation of Malaysian media environment. The focus on the self-regulation and its procedures is based on the Content Code developed by the Content Forum of the media Industry. This is a preliminary research on developing a self-regulatory framework in a Malaysian media environment.

In this study, we conceptualise a self-regulatory framework in a media environment in Malaysia. Understanding a media profile and landscape in Malaysia is vital in developing a framework. Thus, a review of media profile and landscape in Asia generally and Malaysia specifically is described as an introductory discussion. First, the importance of and the role of media in Asia are briefly highlighted. Second, the profile of Malaysian media including print, broadcast and digital media is discussed to present an overview of media environment. Third, this overview will lead us to media freedom practice in Malaysia. Thus, regulatory concepts need to be revamped at large to harmonise a media regulatory environment in Malaysia in order to attain specific goals such as safeguarding the media content and educating media industry in the era of information society.

Background Media in Asia

The role of the media is very important in shaping the lives of people in urban and rural areas. Chia (1994) argues that, by the early 1990s, there were several crucial social issues such as poverty, limited access to telephones, and a lack of knowledge of the 'global' language, English. This situation has hampered most Asians, particularly people in rural areas: those who live in rural areas prefer local media programmes, whilst urban people enjoy imported products. Indeed, media content must be considered the cultural, economic and political values of Asian countries. Furthermore, the media is an essential tool for organisations in that it can offer much useful information instantly and accurately (Chia, 1994). Therefore, the media is often seen as the key to educating and entertaining Asian societies; however, this is not unproblematic, since many (particularly in Malaysia and Indonesia with their predominant Islamic populations) are very sensitive about several issues concerning aspects of cultural diversity, notably racial and religious divisions. These factors become important when there are substantial differences in content between Western and Eastern media programmes.

Today, the role of the mass media has become prominent not only in disseminating public and private organisations' information but also in increasing the degree of literacy among Asian people. The role of the media helps us to understand how public relations may support organisations to build economic transition in developing countries because it is a powerful tool to

shape public opinion (Sriramesh, 2003). This development is largely dependent on the magnitude of mass media infrastructure acquired by particular countries.

Furthermore, the mass media of printing, broadcasting and multimedia services in Malaysia have undergone tremendous growth and concomitantly have increasingly become the centralised means of communication and sources of information. Indeed, using these media helps Malaysian society to be kept informed by watching foreign and local education and entertainment programmes (Badarudin, 1998: 20).

Malaysian Media Environment
Like many European countries, the Malaysian media can be divided into two sections: print and broadcast. Both play significant roles in shaping public interest as well as national development in this country.

Print Media
There are four major publishers that produce and print newspapers and magazines in the Malay language and English: the News Straits Times Group, the Utusan Melayu Group, Star Publications and the Karangkraf Group. In practice, all print media follow strict guidelines set by the Ministry of Information (Kaur, 1993).

The Utusan Melayu Group publishes the two dailies *Utusan Malaysia* and *Utusan Melayu. Mingguan Malaysia* is published as the Sunday edition. This group, the oldest publisher, also publishes magazines such as *Utusan Kiblat*, *Utusan Pelajar*, *Mastika* and *Wanita,* a women's magazine (Kaur, 1993: 82). All publications are produced in the Malay language.

The New Straits Times Group publishes two types of publications: newspapers and magazines. The daily newspapers include *The New Straits Times*, *The Malay Mail*, *Berita Harian* (in Malay), *Business Times*, and *Shin Min Daily News* (in Chinese) and three Sunday papers - *The New Sunday Times, Sunday Mail* and *Berita Minggu* (in Malay). This media organisation also publishes magazines such as *Her World*, *The Malaysian Business*, *Malaysian Digest*, *Her World Cook Book*, *Her World Annual*, *Home Scene*, *Information Malaysia* and *Jelita* (in Malay) (ibid). Most of them, as suggested by their titles, are produced in English. The Star Publications Group publishes *The Star* (a daily), the *Sunday Star*, and the magazines *Shanghai* (in Chinese) and *Kuntum* (in Malay) (Kaur, 1993). Another publisher is the Karangkraft Group, which publishes the following magazines: *Bintang Kecil*, *Arena*, *Bolasepak*, *Fokus SPM*, *Geli Hati*, *Remaja*, *Media Hiburan Ria*, *Stadium* and *Telatah Olok-Olok*, and a bi-weekly newspaper, *Watan* (Kaur, 1993). All publications are in Malay.

Broadcast Media
The implementation of a privatisation policy has had a significant impact on broadcast media in Malaysia, which has encouraged stiff competition among public and private broadcast stations to improve the media and broadcasting industry (Kaur, 1998: 199). There are four major television stations operating in the country: TV1, TV2, TV3 and NTV7. Of these, TV1 and TV2, which are directly controlled by the Ministry of Information, play a vital role in influencing public opinion

for national development (Badarudin, 1998). TV3, a private and commercial television station, is aimed at propagating the government agenda for the purpose of unity among multi-ethnic and multi-religious groupings in this country. Another private and commercial television station is NTV7, which exclusively operates in major urban areas, particularly in the Klang Valley, the largest urbanised area in Malaysia (ibid).

The audio broadcast media, which are fully owned and controlled by the Ministry of Information, operate 24 hours a day. The national network is broadcast in the Malay, English, Chinese and Tamil languages. Adding to the booming broadcasting industry, All Asia Networks plc (ASTRO), a pay-TV and Malaysia's first digital broadcast service, offers 22 TV and radio services. Satellite TV is run by Measat Broadcast Network Systems Sdn Bhd (Badarudin, 1998) and reached about one million subscribers in 2003 and currently has nearly 3 millions subscribers (Astro, 2010).

New or Digital Media

Under the Communication and Multimedia Act 1998, the Ministry of Energy, Communication and Multimedia became responsible for regulating the multimedia and broadcasting industry (International Law Book 1999). The growing awareness of the importance of new communication and multimedia technologies, under the leadership of Mahathir Mohamed, the former Prime Minister of Malaysia, has led to the building of a Multimedia Super Corridor, which was claimed to be one of the most sophisticated communication and multimedia projects in the world, to promote and marshal the national policy towards the era of digitalisation (Ariff and Chuan, 2000). Thus, under policies of privatisation, liberalisation and deregulation, and coupled with the effects of digitalisation, Malaysia has now become one of the top developing countries in the world in the era of globalisation (Badarudin, 1998).

In preparing for the challenges of globalisation, the Malaysian media have eagerly promoted digital media to reach their audiences interactively. Telekom Malaysia is responsible for providing Internet infrastructure, for instance Internet and multimedia services such as *Tmnet*, *Bluehyppo*, *Tmnet Streamyx* and many more, to enable users to get connected to the world of digital technology, where information is interactively disseminated (Telekom Malaysia, 2010). Moreover, under ASTRO's operation, the All Asia Broadcast Centre has provided digital facilities with the latest broadcasting technology to make people's lives more interactive, exciting and convenient (Astro, 2010). However, Badarudin (1998) argues that although digital and multimedia services have been vigorously promoted by Telekom Malaysia and ASTRO, the Ministry of Information has fully controlled all programmes (local and foreign) to be aired by considering Malaysian culture and sensitivities.

Indeed, Malaysia, the fastest developing country in South East Asia (Bhuiyan, 1997), has projected its good reputation across the world. Mahathir Mohamad, the former Prime Minister, who published a book, *World Class Public Relations In Practice*, claimed that by using excellent public relations skills, Malaysia has come to represent the leading edge of globalisation by portraying the nation's image through world class mega-projects such as the world's tallest building (PETRONAS Twin Towers), the biggest airport (Kuala Lumpur International Airport), and the ultra-sophisticated Multimedia Super Corridor (Mohamad, 2003; Mohamad, 2005; see

Bhuiyan, 1997). However, Malaysia has been criticised by anti-imperialist scholars for its support of Western imperialism, and for turning Malaysia into a new Asian capitalist country (Chomsky, 2004). In the next section, media freedom is discussed to see to what extent mainstream media play a role in shaping and influencing public perception.

Media Freedom in Malaysia

Having described the profile of the media in Malaysia, it is worth briefly noting the development and trends of mass media in building and sustaining a civil society. The current government, which has ruled Malaysia since independence in 1957, has generally controlled all key mainstream media[1] (Anuar, 2000; Netto, 2002). Netto (2002) argues that this mainstream has developed to serve the government's policies in every national aspect relating to political, economic and social matters, with the result that only governmental political and economic interests are allowed to diffuse to the public in terms of shaping and influencing public perceptions. Since 1969, the government has proposed a censorship law and has banned any negative reports published in foreign magazines and newspapers (Anuar, 2000: 184). Owing to stringent media controls, the alternative parties have failed to challenge the government's mainstream media in influencing public's perceptions. Netto (2002) argues that media freedom in Malaysia has been restricted in three ways:

1. Through restrictive laws.
2. Through ownership of media by political parties and connected business individuals.
3. Through self-censorship exercised by editors and journalists themselves (Netto, 2002: 18).

In the light of such control over the mainstream media in Malaysia, Aliran, which is an alternative political party, has proposed adopting Charter 2000's guiding principles with the purpose of neutralising the media monopoly in order to encourage rounded perceptions within civil society (Netto, 2002: 22). Five key principles of media freedom are as follows:

1. The media must be pluralistic, democratic, and accessible.
2. The media must be committed to upholding human rights, democracy, and the rule of law.
3. The media must uphold ethical responsibility and professionalism
4. The media must consciously promote justice, freedom and solidarity
5. The media must empower the disenfranchised, downtrodden and dispossessed (Ibid: 22).

It is important to note that the media must be 'free' in order to encourage new ideas voiced by a civil society. When the media is used as a means to stimulate dialogue and negotiation, public

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[1] Print media: *Utusan Malaysia*, *Berita Harian* and News Straits Times, and broadcast media: TV1, TV2, TV3 and NTV7.

relations practice in the context of relationship management is improved (Sriramesh & Vercic, 2004: 11).

Media Regulation and Self-regulation

Along with the Malaysian government's Multimedia Super Corridor (MSC) projects announcement a National Communication and Multimedia Policy was introduced as to encourage the development of industry self-regulatory mechanism with minimize the costs of regulation while at the same time providing clear guidelines for industry behavior in line with the government policy objectives. It involves industry ownership and involvement in regulation but within a framework of clear guidelines and objectives of the government regulations (Shafie, 2000). It is intended that the media industry bodies recognized by the regulatory authority have implemented the industry voluntary codes of practice regarding various matters relate to the subject of regulations.

However there are some double standard in practicing the media regulations and policies as those online and multimedia players (internet access providers, search engines, web host or content aggregators) do not have full control over the content which passes through their servers or websites, compared to other paper based publications to the public (Cutler, 1997).

The term "self-regulation" means that the industry of profession rather than the government is doing the regulation (Campbell, 1999). Thus the term "self regulation" would be best reflect to the ways media organizations perform practices by involving legislation stage by developing a code of practice but the government may mandate that an industry adopt and enforce a code of self regulation and even monitor or guide them to impose those regulation (Ayres and Braithwaite, 1992).

This study will identify to what extend the self regulatory mechanism for the local media players would benefit the industry and the growth of future media technologies in this country. The objectives of this study are as follows:

1. The meaning and the understanding of self regulatory framework;

2. The mechanism used to implement Content Code;

3. Enforcement and monitoring mechanism of Content Code;

4. Issues and complaints on Content Forum/Content Code;

5. Evaluation on Content Code;

6. Advantages and disadvantages of Content Code; and finally,

7. Suggestions to improve the Content Code.

Multimedia Super Corridor (MSC)

Given the changing communications media landscape, no government can now ignore the obvious challenges and the Malaysian government has as most other Asian nations, began massive and ambitious plans to wiring up the nation. Perhaps Malaysia can lay claim to symbolizing this move better than anywhere else in its Multimedia Super Corridor (MSC).

The MSC was initiated ini 1994 and launched on August 1, 1996 by the then Prime Minister. Huff (2002) recognizes that Malaysia's MSC is a way for Malaysia to join the information society. Malaysian leaders were quick to develop an Internet infrastructure that would link Malaysia to the Web, thus laying the foundation towards a knowledge-based economy. It was hoped that by linking to the new global knowledge-based economy, Malaysia would be able to ride on the wheels of the new technology. This project demonstrated the total commitment of the country in trying to keep up with the competition and challenges of the new global information and communication environment. The plan was actually assisted by the McKinsey consultants who advised that by developing information industries, Malaysia will leapfrog into the Information Age. It is developed with the following objectives:

- To achieve the goals of Vision 2020 by catalyzing productivity-led growth
- To leapfrog Malaysia into leadership in the Information Age by attracting and developing world-leading companies through "smart partnership" between leading international and Malaysian firms
- To build global bridges between Malaysia and other intelligent cities for mutual enrichment

(NITC Malaysia, 2006)

The 10 point Bill of Guarantees pledged by the government should remain one of the most attractive pull factors, as to ensure the continuous creation and development of MSC. The incentives are:

- A world-class physical and information infrastructure
- Unrestricted employment of local and foreign knowledge workers

- Freedom of ownership
- Freedom to source capital to funds globally
- Competitive financial incentives
- Intellectual Property Protection and Cyber laws
- No censorship of Internet
- Competitive telecommunication tariffs
- Tender key MSC infrastructure contracts for companies using the MSC as their regional hub
- MDC as an effective one-stop super shop

The MSC was also to be:

- A test-bed for invention, research, and other ground-breaking multimedia developments
- Vehicle for attracting world-class technology-led companies to Malaysia and for developing local industries
- A multimedia utopia offering a productive intelligent environment
- An island of excellence with multimedia-specific capabilities
- A global community living on the edge of the Information Society

However, Sharifah (2002) reported that there still exists an imbalance between the Malaysian government's IT development vision (access to IT services), IT capability and practices. The argument is that some of the media players involved under MSC project are not aware of the federal legislation and policies development.

MSC's media legislation, regulations and policies caused of new development shift to support multimedia industry were not well disseminated to the public, as well as local and international media players. The regulations and policies came just several months after the MSC project was announced by the Prime Minister. This problem has created a paradox thinking among the media practitioners, as they do not really understand about those policies strategy in line with the promotion of a well-being multimedia technology competitive environment in Malaysia.

It is noted that there are double-standards in practicing the media regulations and policies, as those online and multimedia players (internet access providers, search engines, web host or content aggregators) do not have full control over the content which passes through their servers or websites, compared to other paper-based publication which are more easily identifiable in publishing and distributing such publications to the public.

Malaysian Communications & Multimedia Act 1998

The Malaysian Communications and Multimedia Commission was created pursuant to the Malaysian Communications and Multimedia Commission Act (1998) as a new regulator for the communications and multimedia industry in Malaysia. At the same time, the Communications and Multimedia Act (1998) was passed, to fulfill the need to regulate an increasingly convergence communications and multimedia industry.

The Malaysian Communication and Multimedia Act provides a set of media regulations which regulates the converging communications and multimedia industries in Malaysia. The Acts reflects the changing needs of the industry with new emerging services, networks and facilities. The commission has been set up to monitor, regulate and to enforce the communication and multimedia laws to all local media players, which are licensed under the Malaysian Communication and Multimedia Commission (MCMC).

The Communications and Multimedia Act 1998 is based on the basic principles of transparency and clarity; more competition and less regulation; flexibility; bias towards

generic rules; regulatory forbearance; emphasis on process rather than content; administrative and sector transparency; and industry self-regulation. The Act seeks to provide a generic set of regulatory provisions based on generic definitions of market and service activities and services. The jurisdiction of this Act is restricted to networked services and activities only.

The Communications Sector of the Ministry is responsible for the policy and strategic planning of the communications industry, coordinating its implementation and monitoring industry performance.

The main objectives as provided in the Communications Act 1998, are:

- To establish Malaysia as a global centre and hub for communications information content services;
- To promote a new civil society where information-based services will provide the basis of continuing enhancements to quality of work and life;
- To grow and nurture local content and culture;
- To give priority for the long-term benefits of the end user;
- To promote consumer confidence in the industry;
- To ensure access and equitable services;
- To create a robust applications environment for end users;
- To allocate resources efficiently;
- To develop sector capabilities; and
- To provide secure and safe networking.

Generally, objectives and activities of the Communications Sector involve Policy Planning; Strategic Planning; Implementation Coordination; and Industry Relations. The national policies for the communications and multimedia industry are set out in the Act (Section 3(2)). It is hoped that Malaysia would be able to be a global centre for communication and multimedia information and content services, throughout the Asian regions (Lowe, 1999). In doing so, the government has set up four industrial forums:

- Economic Forum;
- Technical Forum;
- Consumer Forum; and
- Content Forum

The forums consist of respective members of local media players and civic groups. The aims of these forums are to create and promote local contents, as these will increase the quality of those media products and emerge to cater for an information-based society. In the long term, the act will benefit the end-users by gearing them to open competition and new market of being providing newer, quality and comprehensive services.

The Act also reflects a convergence market of network service providers. Separate or different licenses for content application services to set-up new regulatory framework to promote

the growth of the development of local content application services are reflective of the cultural diversity of the country (Lowe, 1999).

A Commission to supervise and regulate the converging activities and to enforce communications and multimedia laws has been set up. The Acts reflects the needs of the news of the industry with new emerging services, networks and facilities. The government wants to attract new market entrants and to increase competition. An open and liberalized market is also intended to increase the quality of products and services offered by the industry.

The Malaysian Communications and Multimedia Commission is the regulator for the converging communications and multimedia industry. At the time it was created its key role was the regulation of the communications and multimedia industry based on the powers provided for in the Malaysian Communications and Multimedia Commission Act (1998) and the Communications and Multimedia Act (1998). Pursuant to these Acts the role of the Malaysian Communications and Multimedia Commission is to implement and promote the Government's national policy objectives for the communications and multimedia sector. The Malaysian Communications and Multimedia Commission is also charged with overseeing the new regulatory framework for the converging industries of telecommunications, broadcasting and on-line activities.

Generally, the new institutional framework was based on the roles and functions of the following :-

- The Government as policy maker
- Independent regulatory agencies
- Operators or players in the market
- The society as end-users or consumers

The act is a legal structure to regulate the convergence of telecommunication media, broadcasting and multimedia. In Addition, the framework has been setup after the Telecommunication Acts in America was approved by the US President in 1996. Hence, the convergence of the media initiates the cyber legislation because of the vitals of those media to deliver information technology in the future. (Leo Moggie, 1997). Furthermore, 588 Act was planned to balance the drastic acceleration of information technology besides organizing or regulating the act that we possess currently.

Section 211 of the Communications and Multimedia Act 1998 provides:

"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."

The Communications and Multimedia Act 1998 seeks to establish a regime of self-regulation by providing for the creation of industry forums.

An industry body may be designated or appointed as an industry forum if the Malaysian Communications and Multimedia Commission is satisfied that the criteria stipulated in Section 94 of the Communications and Multimedia Act 1998 has been fulfilled.

The primary function of a designated industry forum would be to formulate and implement voluntary industry codes, which would serve as a guide for the industry to operate. The relevant codes may be developed on the forum's own initiative or upon request by the Malaysian Communications and Multimedia Commission.

If the Malaysian Communications and Multimedia Commission is of the view that a voluntary code prepared by the designated industry forum is ineffective, the Malaysian Communications and Multimedia Commission may determine a mandatory standard, which is the subject matter of the voluntary industry code. The Minister may also direct the Malaysian Communications and Multimedia Commission to determine a mandatory standard in place of a voluntary industry code.

In March 2001, the Malaysian Communications and Multimedia Commission designated the Communications and Multimedia Content Forum of Malaysia and the Communications and Multimedia Consumer Forum of Malaysia as the Content Forum and Consumer Forum respectively. Both forums are now in the midst of preparing the Content Code and Consumer Code.

Communication and Multimedia Content Forum of Malaysia (CMCF)

The Communications and Multimedia Act 1998 (CMA 98) seeks to promote Malaysia's enshrined national policy aspirations via the communications and multimedia industry. A vital provision in the Act's chartered objectives is the establishment of a regime of self-regulation, to better achieve its noble purpose and keep it unblemished.

The activities regulated under the CMA 98 cover traditional broadcasting, telecommunications and online services including the facilities and networks employed in providing such services, as well as the content supplied via facilities and networks. Cognisant of the evolving nature of this emerging media landscape in which a gamut of standalone industries are converging, the CMA 98 provides for the formation of CMCF.

Designated by the Malaysian Communications and Multimedia Commission (MCMC), this Forum acts as the mechanism to formulate and implement developed codes of practice for the communications and multimedia industry. The CMCF will uphold these codes, to ensure they serve as a guide for the industry to operate and flourish.

The CMCF will govern content by self regulation in line with the Malaysian Communications and Multimedia Content Code. By virtue of it being a voluntary Code, those subscribing to it have undertaken the commitment and responsibility to uphold its objectives and principles.

The Constitution of the CMCF states that a Complaints Bureau be established under Article XIII, to deal with complaints. The Bureau is empowered by the Council to impose sanctions on any member who is considered to have breached the Content Code.

Content Code

The CMCF will govern content by self regulation in line with the Malaysian Communications and Multimedia Content Code. By virtue of it being a voluntary Code, those subscribing to it have undertaken the commitment and responsibility to uphold its objectives and principles.

The Content Code will set out guidelines and procedures for good practice and standards of content disseminated for public consumption by service providers in the communications and multimedia industry.

The Content Code will demonstrate a commitment toward self-regulation by the industry in compliance with the Communications and Multimedia Act 1998 (CMA 98). It will seek to identify offensive and objectionable content while spelling out the obligations of content providers within the context of social values in this country.

The Content Code will provide the platform for creativity, innovation and healthy growth of a fast changing industry. The ambit of the Content Code is defined under Section 213 (1) CMA 98 which states that the Content Code "shall include model procedures for dealing with offensive and indecent content".

Section 213 (2) CMA 98, lists the matters that maybe addressed by the Code, but are not limited to:

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

Section 211 CMA 98 states that no content applications service provider shall provide content which is indecent, obscene, false, menacing, or offensive in character with intent to annoy, abuse, threaten or harass any person.

Section 6 CMA 98 defines content as any sound, text, still picture, moving picture, audio-visual or tactile representation, which can be manipulated, stored, retrieved or communicated. The Content Code would comprise the following parts:

Guidelines on Content, Specific Advertisement Code, Specific Broadcasting Guidelines, Specific Online Guidelines, Specific Audio text Hosting Service Guidelines, Specific Closed Content,

Consumer Protection, Public Education and Code Administration. The Content Code was registered with MCMC on 1st September 2004

The Content Code Jurisdiction

The scope of the Content Code is defined under Section 213 (1) of the CMA 1998 which states that the Code "Shall include model procedures for dealing with offensive and indecent content extending and not exclusive to:

- Content classification
- Collation of complaints
- Content suitability
- Portrayal of local culture and identity
- Public education on content regulation
- Other related concerns to the society

- The compliance with the Content Code is **voluntary** as provided under Section 98 (1) of the CMA 1998

- Under section 98 (2) of the CMA 1998, the compliance with the Code shall serve as a **defense against prosecution**

- Under Section 104 of the CMA 1998, the MCMC may introduce a mandatory standard to provide for the low level of compliance with a voluntary code

- Under Section 99 of the CMA 1998, the **MCMC is empowered to direct a person or class of persons to comply with a registered voluntary Code.** Any complaint on matters covered by this Code received by a Code subject should be resolved by the parties concerned.

The Content forum through its Complaints Bureau shall **receive, consider, mediate, and if necessary, adjudicate and make a ruling on matters**, such as complaints and grievances, relating to alleged breaches. The Complain Bureau comprises and appointed Chairman (A retired judge or senior judicial officer) and **six members of the Forum, one each representing the six affiliations.**

The Complaints Bureau shall:

- **Consider and deal with complaints** relating to content as provided for in the Code

- **Investigate any Content which is considered to be in breach of the Code** without there necessarily having been a complaint

- **Rule on any dispute** arising between members of the Forum or between a member and non-member

- **Interpret provisions of the Code** when the need arises or when a request is made.

In the event of a breach of the Code, the Bureau may impose fines and other penalties permitted by virtue of this Code. This includes:

- The issuance of a written reprimand on the offender

- The imposition a fine not exceeding Malaysian Ringgit Fifty Thousand (RM50,000) and/or

- The removal of the Content or cessation of the offending act.

(The whole processes of Voluntary Content Code management are shown in appendix.)

Benefits of Self-Regulation

The self-regulation mechanism and practises is claimed to be more efficiency over governmental regulation, increased flexibility, increased incentives for compliance and reduced cost (Campbell, 1999). Therefore, it is more efficient for the government to rely on the industry expertise to create the regulations fit for them, rather than to impose new legislation. The industry are equipped with technical knowledge at professional level is needed to develop such regulation and determine whether they have been violated.

Second, it is stated that self-regulation is more flexible than government regulation. In circumstances, media industry is allowed to create and their own regulation, from a collective decision made by them, in curtain area and within certain period of time. Moreover, self-regulation can be more tailored to the particular industry than government regulation. This would be an opportunity for those media organizations to impose and amend such regulation, as to ensure that they would be able to deliver better services to the public, with regards to the standard regulation. The regulation, however will be monitored by the government as they are bond to follow license rules and procedures.

Third, self-regulation provides greater incentives for compliance (Ayres & Braithwaite, 1992). The rules created and designed by the industry would be more reasonable to impose and accepted by the industry participants. Companies are likely and easier to comply with those regulation developed by their peers, rather than the government or outsiders.

Forth, it is argued that the self-regulation mechanism is less costly to the government because the costs has been shifted to the industry for developing and enforcing rules. The cost-transfer is an

attractive alternative for the government because they will only apply fewer cost in supervision, rather than to develop regulations (Ayres & Braithwaite, 1992)

Finally, the creation and implementation of self-regulation may be useful to avoid constitutional issues (Campbell, 1999) . For example, such doubtful rules under current legislation can be by the newly regulate by media players, as long as the regulation is in-line with national policy.

RESEARCH METHOD

In-depth interviews took place between 2013-2014. Due to the cultural diversity in Malaysia, the interviews included the three main races: Malay, Chinese and Indian. Of 20 selected members of content forum, only 12 of them replied and agreed to be interviewed. First, a cover letter noting the purpose of this interview was delivered to informants via email. Then all the interviewees were contacted by telephone or email to set an appointment. With the permission of interviewees, a digital recorder was used to record the conversations, which helped the researcher to conduct the interview smoothly and efficiently. All interviews were undertaken at the interviewees' places of work. The interviews were conducted in English and/or Malay - depending on which language the interviewees preferred. During the interviews, a set of questions was used to guide the conversation and, importantly, the researcher also posed probing or follow-up questions to stimulate the conversation on the topics discussed. Having flexibility to discuss the topics of interest with interviewees and encouraging an interactive process between interviewer and interviewee may enhance the quality of interview (Daymon & Holloway, 2002: 166). After the interview, the researcher transcribed all the interview data.

FINDINGS

This section presents the results gathering from the in-depth interviews with 12 members of Content Forum registered as media and telecommunications organisations. There are two groups of informants participated in this study: electronic and new media (9 companies) and telecommunications organisations (3 companies). Seven key themes are highlighted regarding the self-regulatory framework and the scenario in the Malaysian media industry: (1) the meaning and the understanding of self regulatory framework; (2) the mechanism used to implement Content Code; (3) enforcement and monitoring mechanism of Content Code; (4) issues and complaints on Content Forum/Content Code; (5) evaluation on Content Code; (6) advantages and disadvantages of Content Code; and finally, (7) suggestions to improve the Content Code.

Key theme 1: meaning and understanding of self-regulatory framework

More than half of the members interpreted and understood that self-regulation basically is about the understanding of content code in setting out their own policy in accordance to the organisations' requirements as well as the national agenda. The members also believe that self-regulation is about applying and implementing what is right and what is wrong regarding media

laws and regulations as well as ethical issues. The affirmation can be seen in the quotation of one informant as follows:

> *"Self-regulation means (that), we as the industry eventually, understanding the frame (as) to set our own policy to be in accordance with the national objectives. I don't think we are unconsciously (in a dire state). We are doing self-regulation. We eventually create our own product as the media company (and) as the content company. …we are unconsciously followed the self regulation".*

On the other hand, some members understood that self-regulation is regarded as abiding by strict guidelines and codes set by the commission or the authority. This matter can be seen in the quotation of one particular informant as follows:

> *"Self-regulation (can be defined as) guidelines of content control based on content codes set by the commission".*

Key theme 2: mechanism used to implement Content Code

Majority of the members believe that they use suitable mechanism to communicate messages about Content Code to their staff through staff training including the compliance training, internal training, technical training, in-depth training and journalism training, regular briefing, content code distribution, seminar and workshops. The appropriate quote can be extracted from one informant as follows:

> *"Our staffs are required to attend a seminar when we invite someone from the content forum (CMCF) to deliver a talk. So whatever cautions highlighted by the staff, we actually impose that. We actually do that. I think it was last year (that) we organized (the seminar) and all our new staffs are told (to attend). They are required (to attend and) in fact they need to."*

While few others affirm that the suitable mechanism is through close collaboration with Malaysian Communications & Multimedia Commission (MCMC) and Malaysian Censorship Board (LPF) as well as other related agencies. The outcome can be extorted from a particular informant who concluded:

> *"After the training, the LPF officers (will) work with us. We let the LPF officers stay together with us (and checked whatever necessary). (There are) two officers for one channel. So the station (now) has two LPF personnel."*

However, only one informant believes that the distribution of actual copy of Communications & Multimedia Act 1998 (CMA 98) is the suitable mechanism used to help implement Content Code.

Key theme 3: enforcement and monitoring mechanism of Content Code

The outcome of the findings concluded that two third of the members consider using guidelines and Content Code itself as the appropriate enforcement and monitoring mechanism of Content Code. The appropriate answer can be quoted from one informant:

> *"(We) follow the CMCF's content code because it's actually about the license. So, these (matter will go) through (by) referring to the guidelines (provided)."*

While another few of the members think related laws and regulations, censorship, licenses, policies, evaluations, feedback and edited content (programs, articles, or documents) are the suitable methods used to enforce and monitor the Content Code implementation. However, two informants or members believe that complaint is the fitting option to enforce and monitor the Content Code. The suitable quote can be taken from one particular informant:

> *"(There are) specific units if you join marketing (team where) we (will) brief you (regarding rules and regulations). It's not so much but you are told what it is but it's not how we reviewed it (but depending on) how many complaints we received."*

One of the members chooses survey ratings and joint venture with related companies or organizations as the mechanism used to enforce and monitor the Content Code implementation.

Key theme 4: issues and complaints on Content Forum/Content Code

Based on the findings, more than half of the members affirm that they have issues or complaint against Content Forum/Content Code and most of the issues or complaints are related to the commercial/advertisements, religious issue, and technical term as well as inappropriate content issue. It can be quoted from one informant where the suitable statement is:

> *"The biggest battle that I have in this building with my Legal Manager is actually the agencies and the clients (with) inappropriate content. (And) another common complaints that we get is about commercial"*

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However, the total numbers of the complaints or issues are very small. Additionally, another one third of the members stated that they have no issues or complaint on Content Forum/Content Code.

Key theme 5: evaluation on Content Code

As obtained from the findings, almost all of the members had conducted the evaluation on the Content Code and concluded that the Content Code is strict and quite detail, but do not comprehensively cover every aspect of each related media fields. As mentioned by one of the informant:

> *"(This) Contents code if you really ask me is (too hard and heavily described). I would say it's quite details (and) too much to follow. On top (of that), the content code (did not) cover every aspects that relates to the industry."*

While few of the members had never conducted any evaluation on Content Code therefore had no comments or opinion regarding the matter.

Key theme 6: advantages and disadvantages of Content Code

Based on the findings, all the members believe that Content Code has its own advantages and disadvantages. The advantages stated are:

 i. The Content Code allows more creativity
 ii. The Content Code always act as a reference
 iii. The Content Code always act as a guideline
 iv. Content Code is something that can be used as defense mechanism when necessary
 v. The Content Code can act as a meeting point and source of information
 vi. The Content Code can act as a medium to solve problems since it provides different perspectives or viewpoints from different players or party involved in the industry

While the disadvantages listed are:

 i. The media players are not given much power/credibility to act on certain things
 ii. The Content Code limits the creativity
 iii. The Content Code need to be more "visible" for the media players to see
 iv. The Content Code is quite descriptive and too details
 v. The codes are not able to capture/cover everything
 vi. The codes have some elements of politics
 vii. The Content Code need to be reviewed often since the industry is evolving and changing every time

Key theme 7: suggestions to improve the Content Code

There are several propositions suggested by the members/informants to improve the Content Code. The suggestions are:

    i.   The language used in the codes need to be improved
    ii.   A lot of repetition in the codes need to be minimized
    iii.   The Content Code need to have more accessibility for the industry
    iv.   There is the need for a lot of open dialogues session with all media players and agencies that involved with the media industry
    v.   The government and related agencies must allow the media to have a little bit of space on how the media want to disseminate news
    vi.   All media players and related agencies have to work together with the government on certain campaign to help improve the Content Code
    vii.   The Content Code need to be constantly updated
   viii.   Malaysian Communications & Multimedia Commission (MCMC) should educate those involved in the Content Code creation
    ix.   Malaysian Communications & Multimedia Commission (MCMC) have to evaluate on how well the people in the industry adopt and adapt to the Content Code as to see the impact or results of Content Code usage
    x.   Heavy promotion should be given since not all players involved in media industry know what is Content Code
    xi.   Those involved in the Content Code draw up process should understand the Content Code well
    xii.   The Content Code need to be less descriptive or details
   xiii.   Each code needs to interplay, intertwine and support each other, not contradict.
   xiv.   The government and agencies involved need to put a lot of effort and get the masses to understand the language used in the codes
    xv.   The government have to trust and give some space for the media players to regulate themselves
   xvi.   There is the need to have a separation on which matters that need the government interference and which matters that do not need the government interference

CONCLUSION

This initial finding is presented to encourage a better media regulation in Malaysia in developing the nation towards becoming a more organic information society and also set a vital preparation to face new media challenges ahead.

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