

## GNI Letter to the Prime Minister of Malaysia on Recent Digital Regulations

YAB Dato' Seri Anwar Ibrahim  
Prime Minister of Malaysia  
Office of the Prime Minister  
Putrajaya, Malaysia

Dear YAB Dato' Seri,

The Global Network Initiative (GNI), a multistakeholder organization focused on freedom of expression and privacy in the technology sector, acknowledges the work that the Government of Malaysia is engaged in regarding digital services but expresses concerns regarding recent regulatory initiatives by the Malaysian Government targeting social media providers and messaging services, specifically the new *Regulatory Framework for Internet Messaging Service and Social Media Providers* (“[the licensing regime](#)”) under the *Communications and Multimedia Act (CMA) 1998*, and the [draft Online Safety Bill \(OSB\) 2024](#). These initiatives further expand the Malaysian Government’s already significant powers over online service providers without adequate guardrails and are likely to significantly complicate the operation of social media and private messaging services in Malaysia, posing serious threats to the rights to freedom of expression and privacy.

The licensing regime, which brings internet messaging services and social media providers under the scope of the CMA, provides the Malaysian Communications and Multimedia Commission (MCMC) overbroad authority to pressure a wide range of service providers to restrict access to content and facilitate excessive government access to personal user data. Through the amendment of two orders – the Communications and Multimedia (Licensing) (Exemption) Order 2000 and the Communications and Multimedia (Licensing) Regulations 2000 – these service providers are, as of 1 August 2024, now subject to licensing if they have eight million or more users in Malaysia.

As licensees, social media companies would be required to comply with the CMA and its subsidiary legislations. This is problematic, since the CMA [does not comply with international freedom of expression standards](#) and has previously been used to censor content, particularly political art, and satirical commentary criticizing the government. Because the “punitive” CMA underpins the licensing regime, GNI is concerned that the licensing requirement will lead to platforms having to comply with removal requests that lead to undue restrictions of freedom of expression instead of focusing on rights-respecting content moderation.

In addition, GNI is concerned about the Minister's expansive discretionary power to approve or reject licenses without adequate checks and balances. The CMA mandates social media companies to prevent misuse and assist the government, while also broadly prohibiting "offensive" content, including speech that may "annoy" or "abuse" others. Such broad monitoring obligations risk censoring legitimate speech and imposing significant compliance costs.

On top of these troubling provisions, the lack of meaningful public consultations or structured dialogues with stakeholders concerning the licensing regime leaves the industry with numerous unanswered questions and growing concerns about the potential unintended consequences of the proposed framework. Traditional licensing requirements were designed to incentivize infrastructure investment, content production, and market development, as well as manage spectrum and address gatekeeping functions in network ownership. As the joint special mechanisms on freedom of expression stated, while licensing can be justified by reference to the airwaves as a limited public resource, extending a licensing regime to the online sphere [is not justified](#). Social media platforms have lower barriers to entry, often relying on user-generated content and requiring less infrastructure investment and gatekeeping. Imposing licensing on these services without clear justification could stifle innovation, hinder competition, and limit access to information. This approach echoes restrictive practices used by authoritarian regimes like [China](#) to control media.

GNI is also concerned with the draft Online Safety Bill, which would introduce a new framework for the governance of online content. The Bill appears to draw inspiration from various online safety laws around the world, including from the EU, UK, and Canada, that GNI has been [closely engaging on](#) for several years, but raises distinct and additional human rights issues, a key one being the lack of regulatory independence of the MCMC set to oversee the Bill or the proposed broad categories of 'harmful' content. In addition, we note that borrowing from these models without ensuring safeguards for freedom of expression and privacy, and government overreach can lead to human rights violations. Problematic trends in these emerging models include: centralization of power with gaps in regulatory oversight, vague definitions of 'harmful' content, requirements for proactive monitoring, and criminal liability for non-compliance. The GNI urges the Malaysian government to avoid these mistakes and incorporate human rights into its regulatory framework. We have published our recommendations on incorporating human rights into content regulation, [here](#).

While the Malaysian government is still drafting the OSB, GNI strongly urges the government not to rush to pass the law soon but to provide more time to engage in an open, iterative, and

transparent consultation process to ensure all relevant stakeholder groups can deliberate and contribute to the draft. We call upon the Malaysian government to make the draft law public with enough time for deliberation and assessment.

GNI acknowledges the important role that governments can have in regulating the ICT sector to ensure due process, transparency, and accountability. However, a rights-respecting law requires carefully considered approaches to enforcement and narrowly tailored requirements for content-related decision-making. An open, transparent, iterative, and multi-stakeholder consultation process will not only benefit Malaysia's long-term social and economic interests but also position it as a regional leader in human rights-respecting digital regulations, especially as the country prepares to chair ASEAN in 2025.

#### About GNI

*GNI is the leading multistakeholder forum for accountability, shared learning, and collective advocacy on government and company policies and practices at the intersection of technology and human rights. Over the last several years, GNI has reviewed, commented on, and helped shape a range of “online safety” bills and intermediary liability laws across several jurisdictions. Our human rights analysis and recommendations for policymakers can be found in the [Content Regulation & Human Rights Policy Brief](#), which uses international human rights principles to analyze a wide range of legislative efforts and provides proactive guidance on how to address online safety and digital regulations in a rights-protective manner.*