



**PUBLIC CONSULTATION PAPER**  
**REVAMP OF THE MALAYSIAN COMMUNICATIONS AND**  
**MULTIMEDIA CONTENT CODE**

**24 September 2021**

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## **GLOSSARY AND INTERPRETATION**

CMA	means the Communications and Multimedia Act 1998.
CMCF	means the Communications and Multimedia Content Forum of Malaysia.
CC 2020	means the existing Malaysian Communications and Multimedia Content Code.
CCR 2021	means the revamped version of the Content Code, a draft of which is set out in the attachment of this PC Paper.
MCMC	means the Malaysian Communications and Multimedia Commission.
PC	means this Public Consultation.
PC Paper	means this Public Consultation Paper.

## EXECUTIVE SUMMARY

CMCF is conducting a PC to review and revise the CC 2020. The Content Code contains guidelines and procedures for governing standards and best practices for content dissemination within the communication and multimedia industry.

It was first introduced by CMCF in 2004 aimed at facilitating industry self-regulation in compliance with the Communications and Multimedia Act 1998 (Act 588). The Content Code recommends guidelines for a responsible approach toward the provision of content and outlines procedures on self-regulation that will provide the platform for creativity, innovation and healthy growth for a fast changing content industry.

The Content Code is intended to achieve the following objectives:

- To facilitate and promote self-regulation among the industry.
- To demonstrate responsibility and best practices in disseminating content to the public.
- To foster and encourage industry creativity and innovation on content.
- To enhance public confidence in protecting the consumer.
- To create positive relationship among the customer and service providers.

In revising the Content Code, CMCF has maintained the principle of self-regulation in addressing content related issues whilst promoting self-regulation in content dissemination.

Part A of this PC Paper introduces this PC and its purpose. It sets out the legislative context, rationale and purpose of this PC as well as the approach taken in this PC Paper.

Part B of this PC Paper sets out the proposed amendments to the existing Content Code. The proposed amendments are a result of information gathering and preliminary consultations with key authorities and stakeholders. The proposed amendments also take into consideration several issues raised by MCMC for the review of CC 2020.

Part C of this PC Paper sets out the method to submit feedback regarding the amendments to the existing Content Code to CMCF.

CMCF will take into consideration all submissions received within the PC period. Findings will be set out in a report.

CMCF anticipates full participation from industry participants, interested parties and members of the public in this PC.

## **A. INTRODUCTION**

### **1. Legislative context**

- 1.1 CMCF was established and designated by MCMC in February 2001 as an industry forum under Section 212 of the CMA. It is a platform for the industry and the public to make constructive contributions in establishing guidelines and procedures for good practice and standards of content disseminated to audiences by service providers in the communications and multimedia industry in Malaysia.
- 1.2 CMCF is tasked with, amongst others, promoting the growth of Malaysia's communications and multimedia industry whilst protect consumer interests by fostering the highest standards through industry self-governance.
- 1.3 To this end, the CMCF has prepared the Content Code, which was registered by MCMC as an industry code. Pursuant to Section 213(1) of the CMA, a content code, which is the Content Code in this case, must include model procedures for:
  - (a) the restrictions on the provision of unsuitable content;
  - (b) the methods of classifying content;
  - (c) handling public complaints and for reporting information about complaints to the Commission;
  - (d) the representation of Malaysian culture and national identity;
  - (e) public information and education regarding content regulation and technologies for the end user control of content; and

(f) other matters of concern to the community.

1.4 Pursuant to Section 98 of the CMA, while it is not mandatory for persons who are subjected to Content Code to comply with Content Code, compliance with the Content Code shall be a defence against any prosecution, action or proceeding of any nature regarding a matter dealt with in the Content Code.

## **2. Rationale and purpose of this PC**

2.1 Since the coming into effect of the Content Code in 2004, it has been reviewed once in 2020 with minor amendments. However, with the significant changes in the communications and multimedia industry, it is vital to have a more substantial review to address policy gaps on content related issues that are new within the industry as well as those that were not fully addressed in CC 2020. The objective is for the CCR 2021 to provide more comprehensive and holistic guidelines and best practices for the industry.

2.2 In this regard, several working groups were formed to discuss the relevance of CC 2020 in today's setting, and to identify and address gaps between current content related issues and the existing provisions in CC 2020. The proposed amendments are a result of information gathering and preliminary consultations with key authorities and stakeholders including Content Forum's own members, government ministries, agencies and special interest groups. These consultations were invaluable in providing vital information and insights pertaining to the relevant issues specifically in addressing the issue of influencer marketing, e-commerce advertising, exploitation of religion and the rights of persons with disabilities. The amendments also involved several benchmarking exercises. Note that in reviewing CC 2020, CMCF is guided

by the relevant provisions in the CMA, as highlighted in paragraph 1 of Part A of this PC Paper.

### **3. Issues for comments**

3.1 Throughout this PC Paper, CMCF has identified several new content related issues requiring inclusion into the Content Code and CMCF would like industry participants, interested parties and members of the public to provide feedback on these new provisions.

3.2 CMCF encourages comments on:

- (a) the revamped Code;
- (b) specific questions that are raised in this PC Paper; and
- (c) any other issues related to CCR 2021 that would be relevant and necessary to promote and afford greater consumer protection to consumers in the communications and multimedia industry.

3.3 A draft copy of the revamped Code is provided as reference to this PC Paper.

## **B. THE CONTENT CODE REVAMP**

### **1. Definition and Interpretation**

1.1 The following are new definitions that have been introduced for reference in the CCR 2021:

“Child or Children” refers to a person or persons below the age of thirteen (13) years.

“Child Pornography” means any representation in whole or in part, whether

visual, audio or written, by any means including but not limited to electronic, mechanical, digital, optical or magnetic means, or manually crafted, or the combinations of any means that falls under the definition prescribed by the Sexual Offences Against Children Act 2017.

“Corporate Social Responsibility (CSR)” means corporate initiatives concerning community development, the environment and human rights.

“Digital Media refers” to any Content, whether legal or illegal, that can be transmitted over the internet or computer networks. This can include text, audio, video and graphics as well as communications over the networked electronic media via telecommunication networks, broadcasting networks, and online services including but not limited to mobile phones, digital pads, wearable devices, and interactive game consoles that allows the receiving party to interact with the platform, service or application.

“Influencer” is defined as person(s) or group(s) who are engaged and paid by Advertisers (either in cash or other consideration) to advertise products or services on their own social media channels because of their social media influence on Consumers.

“Marketing Communications” includes Advertisements as well as other techniques, such as promotions, sponsorships, direct marketing interactive marketing, public relations and publicity, personal selling, word-of-mouth marketing, and live phone-in shows , and should be interpreted broadly to mean any communications produced directly by or on behalf of Advertisers intended primarily to promote a brand, products or services or to influence Consumer behavior, carried or delivered by a Network or Digital Media.

“Online Marketplace” means a website where products or services are marketed by third parties for the purpose of trade.



“Online Marketplace Operator” means a person who provides an online marketplace.

“Online Service Provider” means a provider of online services or network access, or the operator of facilities thereof, and includes but is not limited to an Internet service provider, news provider, entertainment provider, and e-government service providers.

“Persons with Disabilities” include those who have long term physical, mental, intellectual or sensory impairments which in interaction with various barriers may hinder their full and effective participation in society, as prescribed under the Persons with Disabilities Act 2008.

“Public Service Announcement (PSA)” means a message to raise awareness amongst the masses or changing the attitude of the public towards a key social issue that is broadcasted/disseminated to the public by mass media (TV, radio, and Digital Media).

“Reasonable Accommodation” means necessary and appropriate modifications and adjustments not imposing a disproportionate or undue burden, where needed in a particular case, to ensure to persons with disabilities the enjoyment or exercise of the quality of life and wellbeing on an equal basis with persons without disabilities, as prescribed under the Persons with Disabilities Act 2008.

“Social Media” refers to mobile, digital and online platforms that allow the creation and exchange of user-generated content by individuals, communities and corporations.

“Video-on-Demand (“VOD”)” refers to a system where a User, subscriber or viewer is enabled to access, at a time chosen by such User, any Content in electronic form, which is transmitted over a computer resource and is

selected by the User.

- 1.2 The CCR 2021 also clarifies that the Content Forum is not intended to act as a clearing house for the approval of any Content including and not limited to Advertisements.

## **2. General Guidelines on Content**

The provisions concerning standards or requirements on how the content should be disseminated in CC 2020 are largely retained in CCR 2021. Some minor amendments are proposed to ensure clarity.

### **2.1 Indecent Content**

- a) The general rule remains that indecent content is not allowed. In the CCR 2021, it has been revised that content on nudity shall be allowed depending on the degree of inherent artistic, realism or fictional elements, educational merit and presentation of the Content, as long as it is not excessive and explicit in nature but limited to its appropriateness to the context of the Content. The CCR 2021 allow depictions of nudity in art or other educational purposes taking into account on the intention of such depictions and only allow such depictions if they are not excessive and explicit. For example, representations of the human body in documentaries on human anatomy and depictions of Greek statues in travelogues.

### **2.2 Gender-Based Violence**

- a) CCR 2021 introduced a new provision to address the issues of online abuse and gender-based violence. Content that incites or provokes any act of abuse and gender-based violence that results in, or is likely to result in, physical, sexual or psychological harm or suffering shall not be allowed. This new provision is in line with Malaysia's position

as a signatory of the Convention on the Elimination of All Forms of Discrimination against Women.

### **2.3 Persons with Disabilities**

- a) The CC 2020 contains provisions concerning persons with special needs. The CCR 2021 has redefined the provisions in CC to enhance the rights of Persons with Disability to access content and strengthen their rights to be respected and protected in the production of content.
- b) In CCR 2021, persons with special needs are defined as persons with disabilities as determined under the Persons with Disabilities Act 2008.
- c) In order to encourage service providers to facilitate content accessibility for Persons with Disabilities, the CCR 2021 has introduced a provision for the service providers to provide reasonable accommodations to deliver any Content and information intended for the general public in accessible formats and technologies appropriate for Persons with Disabilities. They shall endeavour to take reasonable efforts to improve the accessibility of Content disseminated for Persons with Disabilities vis-à-vis the implementation of the appropriate access service.

### **3. Advertisement**

The provisions related to advertisements in CC 2020 are a substantial part in CCR 2021. Amendments were made to address content related issues that have arisen due to the growing advertising landscape and the emerging platforms they occupy.

- a) In CCR 2021, the scope of coverage has been extended to all advertisements over the networked medium including those by online

marketplace operators and influencers, which were not specifically addressed in CC 2020. The extension is to provide a catch-all provision to include advertisements over the networked medium in order to effectively provide consumer protection and ensure a level-playing-field for advertisers.

- b) In CC 2020, the standard of advertisement is stated as 'reliable standard'. In order to ensure that self-regulation standards are constructive, the CCR 2021 has raised the standard from 'reliable standards' to 'high standards', to meet consumers' expectations.
- d) In CCR 2021, stricter standards will be imposed particularly on claims by advertisers, in order to enhance accountability for claims, testimonials and endorsements made in advertisements. All descriptions, claims and comparisons made in advertisements should be capable of substantiation, and advertisers are required to hold such substantiation ready for scrutiny without delay if and when requested.
- e) CCR 2021 also introduced several provisions to cater to the growth of content within new advertisement areas. The new provisions are as follows:

Provision	Explanation
<b>Prohibition against 'switch selling'</b>	Advertisers shall not use the technique of switch selling i.e. shall not market a product at specific prices, refuse to show the advertised product, or to take orders for it or refuse to deliver the advertised product within a reasonable time or demonstrate a defective sample of it to promote a different product.
<b>False claim of 'closing down' or</b>	Advertisements shall not falsely claim that the advertiser is about to stop trading or move

<b>'moving out'</b>	premises or falsely state that a product or service, or the terms on which it is offered, shall be available only for a very limited time to deprive Consumers to make an informed choice.
<b>Influencer marketing</b>	Advertisements or Marketing Communications that include the involvement of third parties (such as influencers) under a commercial arrangement shall be clearly disclosed as being done in exchange for payment in cash or some other reciprocal arrangement in lieu of cash. This is to ensure that influencer marketing is not used as a tool to mislead consumers.
<b>Paid-for space in news</b>	Where paid-for space, material or programming is in the style of the normal editorial, material or programming, whether paid for by the same or different advertisers, particular care is needed to ensure that no part can be mistaken for the normal editorial, material or programming matter.
<b>Financial products and services</b>	Advertisers who are advertising or promoting financial products and services shall comply with all laws, rules and regulations related to the same.
<b>Advertisement by a Licensed Gambling or Betting Company</b>	Addressing the issue of public service announcements and corporate social responsibility campaigns by licensed gambling and betting companies, especially those being published in e-newspapers. Such messages are allowed provided that they contain either specific information for the benefit of communities or well wishes in relation to festivities or holidays. This aligns with what is currently being practiced in the industry.
<b>Use of Religion in Advertisements</b>	As a general rule, the use of religion in any form of Advertisements shall be prohibited. This is to preserve the sanctity and sensitivities of religion which shall not be exploited for commercial gain or have a tendency to create fear or disharmony among Consumers. However, it is subject to

	certain exceptions allowed by law such as Halal certification and Islamic banking.
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- f) The CC 2020 contains provisions concerning the use of children in advertisements. The CCR 2021 has redefined and enhanced the provisions in CC 2020 to further enhance the protection of children's rights in advertising. This includes, among others, ensuring that advertisements shall not condone or encourage practices that are detrimental to children's health and shall not portray or represent children in a sexual way either directly or indirectly.
- g) To promote responsible advertising, the CCR 2021 redefined the fundamental principles that must be adhered to by advertisers when dealing with consumers. Among the amendments made are on:
- i. Discounted Price

Prices shall be shown as all-in or final prices to avoid the Consumer guessing as to the final price payable for the product or service. Any discounted price shall comply with relevant guidelines issued by the Ministry of Domestic Trade and Consumer Affairs. Ancillary fees which shall be clearly communicated to cover all bases and ensure prices are more holistically advertised.
  - ii. Period of Guarantee

The full terms of the guarantee as well as the remedial action open to the Consumer shall be clearly stated in the Advertisement, or shall be made available for review by the

Consumer before committing to purchase. Any substantial limitations shall also be stated in the Advertisement.

- h) The CC 2020 contains a provision with a list of unacceptable products and services. In CCR 2021, the list has been removed as it contains outdated and irrelevant items. It shall be replaced with a 'catch all' provision that is future-proof, with the general rule is that all products and services, which are legal, should be allowed to be advertised if they comply with the advertising standards set in the revamped Content Code and existing laws.
- i) In CC 2020, there are provision prohibiting the advertisement of alcohol drinks and liquor. In CCR 2021, in order to level the playing field with print advertisers and online advertisers, the advertisements on intoxicating liquor communicated over electronic mediums based in Malaysia shall be allowed. However, the advertising of intoxicating liquor is subject to strict restrictions (with clear provisions governing age, prohibition for Muslims, responsible drinking messages) stipulated in the CCR 2021. Although the advertisements shall be allowed over electronic mediums, the broadcast mediums (television and radio) continue to be strictly prohibited from advertising intoxicating liquor.

#### **4. Specific Broadcasting Guidelines**

- 4.1 In CCR 2021, the scope of coverage has been extended to include all broadcast, regardless of mode of technology. This is to ensure it is not exhaustive and is future-proof to address advancement in technology.
- 4.2 Currently, in CC 2020, classifications are based on the Film Censorship Board (LPF). CCR 2021 introduces a new classification for subscription-based broadcasters' rating mechanism i.e. classification for the age

category of 16 years and above. This classification is to address content that is created and targeted for older children or adolescents.

4.3 CCR 2021 addresses paid-for space in news. It imposes additional requirement for news programs to disclose a paid segment or advert clearly, so as to not mislead viewers into thinking that it is part of the news program. All advertisements and marketing communications must be clearly recognizable when broadcasted during news programmes. The broadcasters are also equally responsible for advertising material on their platform.

4.4 In dealing with religious content, instead of seeking approvals, CCR 2021 states that it is sufficient for religious authorities to be consulted and advice from religious authorities obtained where necessary. This revision is a balance between what is operationally efficient for broadcasters and what is expected by religious authorities in Malaysia. It is also added that only accredited Islamic religious preachers or speakers can be featured for religious content on Islam.

## **5. Specific Online Guidelines**

5.1 In CCR 2021, the scope of coverage has been extended to Online Service Providers, which covers all content initiated, uploaded, disseminated or made available online in Malaysia.

5.2 The responsibility of Online Service Providers has also been extended, in which they need to take both reactive and proactive measures with regards to prohibited material or activity. The CCR 2021 provide further clarifications on the user responsibility for the content they place online.

## **6. Complaints Handling**

The complaints handling process refers to the process on how the



Complaints Bureau handles complaints made by Consumers or industry. Most of the provisions in CC 2020 are maintained in CCR 2021, with some minor changes.

#### 6.1 Timeliness of resolution of complaints

- a) Generally, any complaints received from the general or industry will be referred to the Complaints Bureau Chairman for consideration. If the complaint lacks prima facie in merit or is outside the scope of the CC 2021, the complainant will be notified that no further action will be taking and reasons thereof.
- b) If the complaint warrants further investigation, the complaint will be forwarded immediately to the party complained against for a response within two (2) working days. In CCR 2021, the response time has been extended to five (5) working days.
- c) The Complaints Bureau Chairman will then review the complaint and the response, if any. If there are insufficient grounds for upholding the complaint, the Complaints Bureau Chairman will circulate to Bureau members for their review and response. If all the Bureau members agree with the view of the Complaints, the Complaints Bureau shall write to the complainant who will be notified that no further action will be taken and the reasons thereof.
- d) If the majority of the members agree with the view of the Complaints Bureau Chairman, the Complaints Bureau shall write to the complainant who will be notified that no further action will be taken and reasons thereof. However, if the Complaints Bureau Chairman is of the view that the complaint has merits, copies of the complaint together with the response of the party complained against will be circulated to the Bureau members for their views

within two (2) working days and if the views of the members are unanimous, the Complaints Bureau will inform the parties involved of the decision. In CC 2021, the response time has been standardized to five (5) working days.

- e) If there is a difference of opinion, CC 2021 establishes that a Complaints Bureau Meeting shall convene 'soonest possible within 14 days' instead of within 3 days as this has proven to be impracticable. This change allows flexibility, depending on the circumstances of each case. If Complaints Bureau is unanimous in their views, all parties are to be informed immediately.

6.2 The CCR 2021 has introduced a provision on availability of mediation and/or arbitration for the parties involved upon appeal and reserving the right to impose an administrative fee.

6.3 The CCR 2021 has introduced a new procedure specifically for Complaints on Matters relating to Comparative, Superlative and Misleading Claims

- a) For any complaint on matters relating to comparative, superlative, misleading claims, upon the request of the Complaints Bureau, the party complained against shall submit documentary evidence to prove the claims to the Complaints Bureau within five (5) working days.
- b) Upon receiving the documentary evidence, the Complaints Bureau shall make a ruling within ten (10) working days.
- c) If the party complained against fails to submit to the Complaints Bureau their documentary evidence to prove the claims within five (5) working days, the Complaints Bureau may rule that there has been a breach of the Code.

6.4 The CCR 2021 has introduced a provision for Complaints Bureau Chairman to exercise discretion in dispensing with a hearing when evidence is sufficient for a ruling. If the Complaints Bureau is of the opinion that the evidence presented are sufficient for the Complaints Bureau to make a ruling without having to call for presence of the Complainant and respondent; and their respective witnesses or any party to provide clarification; or the presence of any outside independent party on the complaint, the Complaints Bureau may proceed with its ruling.

# C. FEEDBACK REQUEST AND TABLE OF RESPONSES

## CMCF WOULD LIKE TO SEEK VIEWS ON THE KEY PROPOSED COMPONENTS OF CCR 2021

### RESPONSE

	Components	Feedback
1	<p>The new definitions introduced are appropriate and necessary to adapt to the changes in the communications and multimedia content industry.</p> <p>Details are in page 7 - 9, para 1.1 of the Public Consultation paper.</p>	<input type="checkbox"/> Agree <input type="checkbox"/> Not Agree  Feedback:
2	<p>The definition of 'Child' under the Child Act 2001 is 'A person who is under the age of eighteen (18)'.</p> <p>The definition of 'Child' for use in the Content Code is 'A person below the age of thirteen (13)'.</p> <p>Do you agree that children 13 years and above are more capable of assessing content than those younger?</p> <p>Details are in page 7, para 1.1 of the Public Consultation paper.</p>	<input type="checkbox"/> Agree <input type="checkbox"/> Not Agree  Feedback:
3	<p>Nudity should be allowed for the purposes of education and art, as long as it is not excessive or explicit.</p> <p>Details are in page 10, para 2.1 of the Public Consultation paper.</p>	<input type="checkbox"/> Agree <input type="checkbox"/> Not Agree  Feedback:

<p><b>4</b></p>	<p>Prohibition against online abuse and content that incites or provokes any act of abuse and gender-based violence that results in, or is likely to result in, physical, sexual or psychological harm or suffering.</p> <p>Details are in page 10, para 2.2 of the Public Consultation paper.</p> <p>Please share any experience you may have on online gender-based violence.</p>	<p><input type="checkbox"/> Agree</p> <p><input type="checkbox"/> Not Agree</p> <p>Feedback:</p> <p><input type="checkbox"/></p>
<p><b>5</b></p>	<p>Service providers shall provide reasonable accommodations to deliver content in accessible formats and technologies appropriate for Persons with Disabilities (PWD).</p> <p>Details are in page 11, para 2.3 of the Public Consultation paper.</p>	<p><input type="checkbox"/> Agree</p> <p><input type="checkbox"/> Not Agree</p> <p>Feedback:</p>
<p><b>6</b></p>	<p>Advertisement guidelines should also be adhered by online marketplace operators and influencers.</p> <p>Details are in page 11, para 3(a) of the Public Consultation paper.</p>	<p><input type="checkbox"/> Agree</p> <p><input type="checkbox"/> Not Agree</p> <p>Feedback:</p>
<p><b>7</b></p>	<p>Third party advertisers, including influencers, should disclose when their reviews, endorsements or testimonials are made under a commercial arrangement.</p> <p>Details are in page 13 under "Influencer marketing" of the Public Consultation paper.</p> <p>Please share any experience you may have with third parties advertising products/services irresponsibly.</p>	<p><input type="checkbox"/> Agree</p> <p><input type="checkbox"/> Not Agree</p> <p>Feedback:</p>

<p><b>8</b></p>	<p>News programs must disclose a paid segment or advert clearly, to avoid misleading viewers into thinking that it is part of the news program.</p> <p>Details are in page 13 under "Paid-for space in news" &amp; page 16, para 4.3 of the Public Consultation paper.</p> <p>Please share if you have ever encountered misleading or confusing advertisements in news.</p>	<p><input type="checkbox"/> Agree</p> <p><input type="checkbox"/> Not Agree</p> <p>Feedback:</p>
<p><b>9</b></p>	<p>Gambling and betting companies are allowed to air public service announcements and corporate social responsibility campaigns as long as the messages are from their charitable arm and does not include any essence of the products or marketing elements such as the original tagline or logo.</p> <p>Details are in page 13 under "Advertisement by a Licensed Gambling or Betting Company" of the Public Consultation paper.</p>	<p><input type="checkbox"/> Agree</p> <p><input type="checkbox"/> Not Agree</p> <p>Feedback:</p>
<p><b>10</b></p>	<p>Religion should not be exploited or used to advertise products and/or services, subject to certain exceptions allowed by law such as 'Halal' certification and 'Islamic' banking.</p> <p>Details are in page 13 under "Use of Religion in Advertisements" of the Public Consultation paper.</p> <p>Please share if you have ever encountered advertisements that you feel was taking advantage of people's faith or beliefs.</p>	<p><input type="checkbox"/> Agree</p> <p><input type="checkbox"/> Not Agree</p> <p>Feedback:</p>

<p><b>11</b></p>	<p>New provisions concerning the use of children in advertisement as well as advertisements targeted to children are necessary and appropriate to enhance the protection of children’s rights in content.</p> <p>Details are in page 14, para 3(f) of the Public Consultation paper.</p> <p>Please share if you have ever encountered advertisements that you feel was/is not suitable for children.</p>	<p><input type="checkbox"/> Agree</p> <p><input type="checkbox"/> Not Agree</p> <p>Feedback:</p>
<p><b>12</b></p>	<p>All products and services that are legal to be sold is allowed to be advertised as long as they comply with the advertising standards set in the revamped Code and existing laws.</p> <p>Details are in page 15, para 3(h) of the Public Consultation paper.</p>	<p><input type="checkbox"/> Agree</p> <p><input type="checkbox"/> Not Agree</p> <p>Feedback:</p>
<p><b>13</b></p>	<p>Intoxicating liquor advertisements are only allowed subject to strict restrictions (with clear provisions governing age, prohibition for Muslims, responsible drinking messages) and only over electronic mediums except from television and radio.</p> <p>Details are in page 15, para 3(i) of the Public Consultation paper.</p>	<p><input type="checkbox"/> Agree</p> <p><input type="checkbox"/> Not Agree</p> <p>Feedback:</p>
<p><b>14</b></p>	<p>An additional classification for subscription broadcasters i.e. age category of 16 years and above, have been introduced to address content targeted for older children and adolescents.</p> <p>Details are in page 15, para 4.2 of the Public Consultation paper.</p>	<p><input type="checkbox"/> Agree</p> <p><input type="checkbox"/> Not Agree</p> <p>Feedback:</p>

<p><b>15</b></p>	<p>Relevant religious authorities should be consulted for religious content to ensure reliability.</p> <p>Details are in page 16, para 4.4 of the Public Consultation paper.</p>	<p><input type="checkbox"/> Agree</p> <p><input type="checkbox"/> Not Agree</p> <p>Feedback:</p>
<p><b>16</b></p>	<p>Islamic religious content shall only feature preachers and speakers with at least one accreditation from a State Mufti Department.</p> <p>Details are in page 16, para 4.4 of the Public Consultation paper.</p>	<p><input type="checkbox"/> Agree</p> <p><input type="checkbox"/> Not Agree</p> <p>Feedback:</p>
<p><b>17</b></p>	<p>Online Service Providers need to take both reactive and proactive measures with regards to prohibited material or activity.</p> <p>Details are in page 16, para 5.2 of the Public Consultation paper.</p>	<p><input type="checkbox"/> Agree</p> <p><input type="checkbox"/> Not Agree</p> <p>Feedback:</p>
<p><b>18</b></p>	<p>The turnaround time for the Complaints Bureau has been standardized to 5 days (from 2 or 3 days) to balance between the need for expediency and the need to ensure effective complaints-handling processes.</p> <p>Details are in page 17, para 6.1(b) of the Public Consultation paper.</p>	<p><input type="checkbox"/> Agree</p> <p><input type="checkbox"/> Not Agree</p> <p>Feedback:</p>
<p><b>19</b></p>	<p>Mediation or other alternative dispute resolution methods should be offered for parties as an avenue for appeal with cost to be borne by both parties.</p> <p>Details are in page 18, para 6.2 of the</p>	<p><input type="checkbox"/> Agree</p> <p><input type="checkbox"/> Not Agree</p>



	Public Consultation paper.	Feedback:
<b>20</b>	<p>New Complaints Bureau procedure for complaints on matters relating to comparative, superlative and misleading claims as it requires an expedited process.</p> <p>Details are in page 18, para 6.3 of the Public Consultation paper.</p>	<input type="checkbox"/> Agree <input type="checkbox"/> Not Agree  Feedback:
<b>21</b>	Any other feedback on proposed revisions not addressed in the list above:	

## D. SUBMISSION AND CMCF's CONTACT DETAILS

### PUBLIC CONSULTATION PAPER REVAMP OF THE MALAYSIAN COMMUNICATIONS AND MULTIMEDIA CONTENT CODE

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Please submit your responses to the questions in the box via email to [publicconsultation@contentforum.my](mailto:publicconsultation@contentforum.my) any time before the closing date of the Public Consultation exercise.

*Tick if you consent to having your responses quoted and attributed to you in CMCF's future publications.*

I agree for my responses to be quoted in publications by CMCF

For any queries and further information about this PC Paper or the revamped Code, please contact us at [publicconsultation@contentforum.my](mailto:publicconsultation@contentforum.my)

**ATTACHMENT:**  
**Content Code Revamp 2021 Draft**

# **CONTENT FORUM**

THE COMMUNICATION AND MULTIMEDIA CONTENT FORUM OF MALAYSIA

## **THE MALAYSIAN COMMUNICATIONS AND MULTIMEDIA CONTENT CODE REVAMP 2021 DRAFT**

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24 September 2021

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## **PART 1: INTRODUCTION**

### **1.0 Preamble**

1.1 BEARING IN MIND the national policy objectives of and for the communications and multimedia industry and the need to establish agreed standards of behaviour in respect of industry members and to:

- (a) Promote a civil society where information based services will provide the basis of continuing enhancements to quality of work and life.
- (b) Regulate the long-term benefit of the end user.
- (c) Promote a high level of consumer confidence in service delivery.
- (d) Grow and nurture local information resources and cultural representations that facilitate the national identity and global diversity.
- (e) Establish Malaysia as a major global centre and hub for communications and multimedia information and Content services.

1.2 BEING AWARE of the need to avoid Content, which is indecent, obscene, false, menacing or offensive in character with intent to annoy, abuse, threaten or harass any person.

1.3 ACKNOWLEDGING THE NEED of the viewers and listeners to be provided with news and reporting to create an informed public bearing in mind the need to ensure and preserve the country's harmony and growth.

1.4 RECOGNISING THE NEED to disseminate and to provide information and entertainment to meet the diverse needs of the Malaysian viewers and listeners in all Content relating to business, politics, recreation, information, culture and education.

1.5 REALISING THAT VIEWERS as consumers should have the freedom to view contents of their choice. That choice must be balanced against public interest for which as a compromise, guidelines may be formulated to classify contents and suitability.

1.6 AND WHILST RECOGNISING the right of the consumer to choose it is AGREED that choice should be exercised with care and that the responsibility could be shared by the individuals, parents, teachers and guardians.

### **2.0 General Principles**

2.1 IT IS DECLARED AND ACCEPTED that the following general principles shall apply to all that which is displayed on or communicated and which is subject to the Act.

2.2 In creating and offering news, reports, entertainment and advertisements, content providers shall bear in mind the need for a balance between the desire of viewers, listeners and users to have a wide range of Content options and access to information on the one hand and the necessity to preserve law, order and morality on the other. The Content Forum is not



intended to act as a clearing house for the approval of any Content including and not limited to Advertisements.

2.3 The principle of ensuring that Content shall not be indecent, obscene, false, menacing or offensive shall be observed.

2.4 Women and men shall be portrayed with fair and equitable demographic diversity taking into account age, civil status, race, ethno-cultural origin, physical appearance, background, religion, occupation, socio-economic condition and leisure activities, while actively pursuing a wide range of interests.

2.5 Particular attention shall be given to Content that is created for children and to Content in which children are portrayed.

2.6 Attention will be given to include and respect diversity such as may be expressed through differences due to, but are not limited to, cognitive or physical ability, culture, ethnicity, religion, socio-economic status, gender, age, national origin, political persuasion, marital status, educational background or geographic location.

2.7 Code Subjects shall endeavour to provide Content that, as far as possible, caters to the various tastes and expectations of Malaysian viewers and listeners recognising the varied tastes of the Malaysian public.

2.8 Code Subjects shall ensure, to the best of their ability, that their Content contains no abusive or discriminatory material or comment on matters of, but not limited to, race, religion, culture, ethnicity, national origin, gender, age, marital status, socio economic status, political persuasion, educational background, geographic location, sexual orientation or physical or mental ability, acknowledging that every person has a right to full and equal recognition and to enjoy certain fundamental rights and freedoms as contained in the Federal Constitution and other relevant statutes.

### **3.0 Objectives of the Code**

3.1 The overriding purpose of this Code is to recommend guidelines relating to the provision of Content through self-regulation by the industry in a practical and commercially feasible manner and at the same time foster, promote and encourage the growth and development of the industry.

3.2 In doing so, it is noted and acknowledged that the following specific objectives shall guide the parties affected, governed by, administering and subject to the Code:

- (a) Meeting and supporting the national policy objectives set out in the Act.
- (b) Ensuring effective self-regulation of the development, production and dissemination of Content.

- (c) Empowering users of Content to make an informed selection of the Content they consume.
- (d) Recognise and keeping updated with international as well as national standards, trends and sensitivities in applying and reviewing this Code.
- (e) Ensuring compliance through a regular process of monitoring.

#### **4.0 Scope and Coverage**

4.1 This Code shall apply to all Content made available in the Content industry in the networked medium and as defined in this Code and under the Act.

4.2 This Code shall apply to all Content Application Service Providers and in particular but is not limited to:

- (a) Each member of the Content Forum;
- (b) Each person who has submitted their agreement to the Content Forum that they shall be bound by this Code; and
- (c) Each person whom the Commission has directed in accordance with Section 99 of the Act.

4.3 This Code may be reproduced in various vernacular versions but in the event of any doubt, discrepancy and inconsistency, the English version shall prevail.

#### **5.0 Definitions and Interpretation**

5.1 For the purposes of this Content Code, the following words and phrases, unless otherwise specified hereunder, bear and have the same meaning as in the *Communications and Multimedia Act 1998*.

**Act** means the *Communications and Multimedia Act 1998*.

**Advertiser** means any person who utilises the Network and Digital Media to display Advertisements or Marketing Communications including but not limited to advertising agencies, brand owners, manufacturers, content providers, sales promoters, broadcasters and direct marketers, who or on whose behalf Advertisements or Marketing Communications are transmitted or disseminated for the purposes of promoting their brand or products, or influencing Consumer behaviour.

**Advertisement or Advertising Content** means any Content of a public nature whether for the sale or purchase or provision of products or services or constituting of an invitation to participate in an activity and conveyed by or through any signage, image or sound disseminated through a Network or *Digital Media*.

**Access** means its ordinary meaning i.e. a means of entering; a means or a right of using, reaching or entering. It is not the definition in Section 6 of the Act.

**Applications Service Provider** means a person who provides applications service; these are persons who provide particular functions such as voice services, data services, content-based services, electronic commerce and other transmission services. In particular, the Communications and Multimedia (Licensing) Regulations 2000 lists as Application Service Providers, persons who provide the functions or capabilities delivered to end users which include any or all of the following application services:

- i) Public Switched Telephone Network telephony for the delivery of voice and data communications;
- ii) Public Cellular telephony services;
- iii) Public Internet protocol telephony;
- iv) Public payphone service;
- v) Public switched data service for non-services that involve circuit switching of data emanating from one specific network facility to another;
- vi) Audiotext Hosting Service enables a caller to receive pre-recorded message or interact with a programme to receive information;
- vii) Directory services;
- viii) Internet access services;
- ix) Messaging services; or
- x) Such other applications services which are not exempt under the Act.

**Chairman** means the Chairman of the Complaints Bureau.

**Child or Children** refers to a person or persons below the age of thirteen (13) years.

**Child Pornography** means any representation in whole or in part, whether visual, audio or written, by any means including but not limited to electronic, mechanical, digital, optical or magnetic means, or manually crafted, or the combinations of any means that falls under the definition prescribed by the **Sexual Offences Against Children Act 2017**.

**Code** means this Content Code as may be revised from time to time.

**Code Subjects** means persons who are subject to the Code.

**Commission** means the Malaysian Communications and Multimedia Commission established under the **Malaysian Communications and Multimedia Commission Act 1998**.

**Complaints Bureau** means a division under the Content Forum that receives, considers, mediates, adjudicates and makes rulings on matters, such as complaints and grievances, relating to alleged breaches of the Code, as described in Part 8 of the Code.

**Consumer** is a person who receives, acquires, uses or subscribes to content relating to communications and multimedia within the meaning of the Act.

**Content** means any sound, text, still picture, moving picture or other audio-visual representation, tactile representation or any combination of the preceding which is capable of being created, manipulated, stored, retrieved or communicated electronically. For the purpose of Part 5, Content does not include:

- a. Ordinary private and/or personal electronic mail other than bulk or spammed electronic mail;
- b. Content transmitted solely by facsimile, voice telephony, VOIP and which is intended for private consumption; or
- c. Content which is not accessible to the public whether freely, by payment of a fee or by registration, including (but not limited to) Content made available by way of a closed Content Application Service or a limited Content Applications Service under Sections 207 and 209 of the Act respectively.

**Content Application Service Provider** means a person who provides a content applications service. Examples of content applications services include :

- i) Direct To Home (DTH) subscription broadcasting, whether via satellite or cable;
- ii) Terrestrial Free-to-Air TV and Radio; and
- iii) Internet Web casting and Streaming Videos.

**Content Forum** means the Communications and Multimedia Content Forum of Malaysia (Forum Kandungan Komunikasi dan Multimedia Malaysia) designated by the Commission under Section 212 of the Act.

**Corporate Social Responsibility (CSR)** means corporate initiatives concerning community development, the environment and human rights.

**Council** means the Council set up for the management of the affairs of the Content Forum.

**Digital Media** refers to any Content, whether legal or illegal, that can be transmitted over the internet or computer networks. This can include text, audio, video and graphics as well as communications over the networked electronic media via telecommunication networks, broadcasting networks, and online services including but not limited to mobile phones, digital pads, wearable devices, and interactive game consoles that allows the receiving party to interact with the platform, service or application.

**Direct Sale** means the sale of products or services which a person conducts either by himself or through any person authorised by him by receiving an offer for a sale electronically.

**Influencer** is defined as person(s) or group(s) who are engaged and paid by Advertisers (either in cash or other consideration) to advertise products or services on their own social media channels because of their social media influence on Consumers.

**Internet Access Service Provider** means a service provider who provides Users with Access to the Internet including (but not limited to) the World Wide Web.

**Link Provider** means a person who provides links to other sites.

**Marketing Communications** includes Advertisements as well as other techniques, such as promotions, sponsorships, direct marketing interactive marketing, public relations and publicity, personal selling, word-of-mouth marketing, and live phone-in shows , and should be interpreted broadly to mean any communications produced directly by or on behalf of Advertisers intended primarily to promote a brand, products or services or to influence Consumer behavior, carried or delivered by a Network or Digital Media.

**Network** means any communications network, internet and online network.

**Network Facility** means any element or combination of elements of physical infrastructure used principally for or in connection with, the provision of network services, but does not include customer equipment.

**Online** means a networked environment wired and wireless, which is available through a connection to a network service where Content is available to the public for access for a fee or otherwise.

**Online Content Aggregator** means a person who aggregates and/or purchases Content.

**Online Content Developer** means a Code Subject who develops files of Content for the Code Subject or on behalf of others to be made accessible Online.

**Online Content Hosting Provider** means a provider in its capacity of merely providing Access to Content which is neither created nor aggregated by itself but which is hosted on its facilities.

**Online Marketplace** means a website where products or services are marketed by third parties for the purpose of trade.

**Online Marketplace Operator** means a person who provides an online marketplace.

**Online Service Provider** means a provider of online services or network access, or the operator of facilities thereof, and includes but is not limited to an Internet service provider, news provider, entertainment provider, and e-government service providers.

**Persons with Disabilities** include those who have long term physical, mental, intellectual or sensory impairments which in interaction with various barriers may hinder their full and effective participation in society, as prescribed under the **Persons with Disabilities Act 2008**.

**Prohibited Content** means such content as is expressed to be prohibited under this Code.

**Provide** in relation to Content in Part 5 means for a Code Subject to make available Online Content where the Code Subject has:

- a. full knowledge of the substance of the Content; and
- b. control over the substance of such Content.

To the extent it does not conflict with the above definition, the following activities are excluded from the ambit of the above definition:

- a. the enabling of Access including (but not limited to) by way of providing connectivity or links to such Content;
- b. the aggregation of such Content; and
- c. the hosting of Content Online.

**Public Service Announcement (PSA)** means a message to raise awareness amongst the masses or changing the attitude of the public towards a key social issue that is broadcasted/disseminated to the public by mass media (TV , radio, and Digital Media).

**Reasonable Accommodation** means necessary and appropriate modifications and adjustments not imposing a disproportionate or undue burden, where needed in a particular case, to ensure to persons with disabilities the enjoyment or exercise of the quality of life and wellbeing on an equal basis with persons without disabilities, as prescribed under the **Persons with Disabilities Act 2008**.

**Social Media** refers to mobile, digital and online platforms that allow the creation and exchange of user-generated content by individuals, communities and corporations.

**User** means a person accessing Online Content.

**Video-on-Demand ("VOD")** refers to a system where a User, subscriber or viewer is enabled to access, at a time chosen by such User, any Content in electronic form, which is transmitted over a computer resource and is selected by the User.

**Web page/web site/ site** means files of Content accessible on the World Wide Web by a requested URL.

## **6.0 Legal status of the Code**

6.1 In accordance with Section 95(2) of the Act, this Code shall only be effective upon registration by the Commission; (*see appendix 1*).

6.2 Compliance with this Code is voluntary, subject to Section 99 of the Act and the provision of this Code.

6.3 Compliance with this Code shall be a defence against any prosecution, action or proceeding of any nature, whether in court or otherwise as stated under Section 98 (2) of the Act.

6.4 Notwithstanding this Code and apart from the relevant legislation under the Act, all applicable Malaysian Laws including but not limited to sedition, pornography, defamation, data protection, protection of intellectual property and other related legislation are to be complied with.

## **7.0 Interpretation**

7.1 Where the intent or scope of this Code is in doubt, it must be interpreted in the light of the General Principles stated earlier and within the spirit of the Code as well as the strict letter of it.

7.2 No Code of this nature can be all-inclusive in view of changing circumstances. It should take into consideration the intention of the Act, which is for the industry to operate in an environment of self-regulation, liberalisation and transparency.

## **8.0 Complaints**

8.1 Any complaint received by a content provider or service provider should be resolved bearing in mind the spirit of this Code. However, if the complaint cannot be resolved it may be referred to the Complaints Bureau; (*see Part 8: Code Administration*).



## **PART 2: GUIDELINES ON CONTENT**

### **1.0 General Requirements**

1.1 Section 211 of the Act prohibits Content that is indecent, obscene, false, menacing or offensive in character with intent to annoy, abuse, threaten or harass any person.

1.2 This requires Code Subjects to ensure that material disseminated does not include anything which offends good taste or decency; is offensive to public feeling, is likely to encourage crime or lead to disorder, or is abusive or threatening in nature.

1.3 The standards by which Content is measured, given the requirements, will be viewed in the context of the country's social, religious, political, and educational attitudes and observances, as well as the need to accommodate global diversity in a borderless world.

1.4 In order to assist Code Subjects as to the rules to be observed with respect to Content provided and to ensure compliance with the Act through self-regulation, the following guidelines and procedures are set out in this.

### **2.0 Indecent Content**

2.1 Indecent Content is material which is offensive, morally improper and against current standards of accepted behaviour. The extent of depictions of nudity should be based on the treatment and context of films / programmes and classification considerations. Nudity shall be allowed depending on the degree of inherent artistic, realism or fictional elements, educational merit, and presentation of the Content if it is not excessive and explicit in nature but limited to its appropriateness to the context of the Content.

### **3.0 Obscene Content**

3.1 Obscene Content is material which gives rise to a feeling of disgust by reason of its lewd portrayal and is essentially offensive to one's prevailing notion of decency and modesty. There is every possibility of such Content having a negative influence and corrupting the mind of those easily influenced. The test of obscenity is whether the Content has the tendency to deprave and corrupt those whose minds are open to such communication. Specific regards to be had to:

- (i) **Explicit Sex Acts/ Pornography**  
Any portrayal of sexual activity that a reasonable adult considers explicit and pornographic is prohibited. The portrayal of sex crimes, including rape, attempted rape or statutory rape, as well as bestiality is not permitted including the portrayal of such sexual acts, through animation and whether consensual or otherwise.

- (ii) Child Pornography  
Child pornography shall have the meaning as defined under Part 1 of this Code with specific reference to Section 4 of the *Sexual Offences Against Children Act 2017*.
- (iii) Sexual Degradation  
The portrayal of any individual as a mere sexual object, or to demean, exploit or discriminate them in such manner is prohibited.

#### **4.0 Violence**

4.1 Violence, whether psychological, physical, or incitement to violence shall be portrayed responsibly and not exploitatively. Code Subjects may portray and report violence which occurs through natural disasters, acts of terrorism, war, human conflict, whether factual or fictional, the antics of cartoon characters, (body) contact sports and more, subject to specific considerations as set out in Para 4.2 below.

4.2 Portrayal or reporting of violence shall avoid being excessive, meaningless, gratuitous, humiliating, and/or instructional. Programs involving violence shall venture to present the consequences to its victims and perpetrators. Specific considerations are as follows:

- (i) Offensive violence
  - a. Violence which, whether physical, verbal or psychological, may upset, alarm and offend viewers and may lead to undue fear among the audience and encourage imitation.
  - b. Meaningless, gratuitous and blatant presentation of excessive sadistic practices and torture, imageries of injury and aggression, and of blood shall be avoided.
  - c. The portrayal of violence is reasonably permitted for the purpose of news reporting, discussion or analysis and in the context of recognised sports events in the following instances:
    - i. Use of appropriate editorial judgment in the reporting of audio and visual representation of violence, aggression, or destruction within their Content.
    - ii. Exercise of caution and discretion in the selection of, and repetition of Content, which depicts violence.
    - iii. Viewers shall be cautioned in advance of showing scenes of extraordinary violence, or graphic reporting on delicate subject matter with appropriate warnings to viewers in the case of gore or actual scenes of torture, killing or execution.
- (ii) Imitable violence

Portrayal or reporting of dangerous behaviour, which is easily imitated, shall be justified and viewers shall be cautioned.

- (iii) Sexual violence  
Graphic representations of sexual violence, such as rape or attempted rape or other non- consensual sex, or violent sexual behaviour are not allowed.
- (iv) Violence and young, vulnerable audiences  
The susceptibility of younger audiences, particularly those impressionable minds shall be considered. Particular care shall be exercised where Children may be exposed to, or be involved in, the depiction of violent behaviour.
- (v) Content that incites online abuse and gender-based violence.  
Content that incites or provokes any act of abuse and gender-based violence that results in, or is likely to result in, physical, sexual, or psychological harm or suffering is not allowed.

## **5.0 Menacing Content**

5.1 Menacing Content may include that which causes annoyance, threatens harm or evil, encourages or incites crime, or leads to public disorder and is prohibited.

5.2 Hate propaganda, which advocates or promotes genocide or hatred against an identifiable group, shall not be portrayed. Such material is considered menacing in nature and is not permitted.

5.3 Information which may be a threat to national security or public health and safety shall not be presented.

### Illustrations

- i) Making available instructions and guidance on bomb-making, illegal drug production or counterfeit products;
- ii) Disseminating false information with regards to outbreak of racial disturbances and religious tension;
- iii) Circulating false information and statements with regards to possible terrorist attacks;
- iv) Circulating or making available false information with regards to the outbreak of a deadly or contagious disease.

## **6.0 Offensive Content**

6.1 Offensive Content is material that includes expletives and profanity that is offensive to many people. Offensive Content includes the following:

- (i) Crude References

Words which are considered obscene or profane are prohibited including crude references to sexual intercourse and sexual organs. It is, however, permissible to use such words in the context of their ordinary meaning and not when intended as crude language.

(ii) Hate Speech

Hate speech refers to any portrayal (words, speech or pictures, etc.), which denigrates, defames, or otherwise devalues a person or group on the basis of race, ethnicity, religion, nationality, gender, sexual orientation, or disability and is prohibited. In particular: descriptions of any of these groups or their members involving the use of strong language, crude language, explicit sexual references or obscene gestures, are considered hate speech.

(iii) Violence

Where the portrayal of violence is permitted with appropriate editorial discretion as in news reporting, discussion or analysis and in the context of recognised sports events, care shall be taken to consider the use of explicit or graphic language related to stories of destruction, accidents or sexual violence, which could be disturbing for general viewing.

## **7.0 False Content**

7.1 Content, which contains false material or incomplete information and is likely to mislead, must be avoided. Code Subjects shall observe measures outlined in specific parts of this Code to limit the likelihood of perpetuating untruths that may cause public fear and / or panic or is prejudicial to public order or national security.

7.2 Reasonable measures to verify the truth of the content shall be taken prior to communication.

7.3 Content which is false is expressly prohibited, except in any of the following circumstances:

- (a) satire and parody; or
- (b) where it is clear to an ordinary user that the Content is fiction.

## **8.0 Children's Content**

8.1 Content designed specifically for Children reaches impressionable minds and influences social attitudes and aptitudes. Code Subjects shall closely supervise and monitor the selection, control of material, characteristics and plot. Content targeted to a specific age group of Children shall be appropriate to the respective age group. Specific attention shall be paid to the aspects stated below.

- i) Violence
  - a) Children's Content portrayed by real-life characters, shall only include violence which is essential to the development of character and plot.
  - b) Animated Content for Children may contain non-realistic violence but shall not depict violence as its central theme, and shall not invite dangerous imitation.
  - c) Any depiction of violence in Children's Content shall portray in human terms, the consequences of such violence to its victims and its perpetrators.
- ii) Safety, Security and Imitable Acts
  - a) Content for Children shall deal carefully with themes which can threaten their sense of security, when portraying, for example; domestic conflict, the death of parents or close relatives, or the death or injury of their pets, street crime or the use of drugs.
  - b) Content for Children shall deal carefully with themes which could invite Children to imitate acts which they see on screen, such as the use of plastic bags as toys, use of matches, the use of dangerous household products as play things, or dangerous physical acts such as climbing apartment balconies or rooftops.

## **9.0 Family Values**

9.1 The principles of intellectual and emotional equality of both sexes and the dignity of all individuals are to be respected. Despite societal discrimination, Code Subjects shall be aware of the need to avoid and overcome biased portrayals. Women and men shall be portrayed as equals in all respects.

9.2 Content shall portray all persons as supporting participants in the family unit, home management and household tasks. They shall be portrayed as equal beneficiaries of family or single-person life, in both work and leisure activities and, as far as possible, under all types of thematic circumstances.

9.3 In the acquisition of or involvement in non-Malaysian Content, Code Subjects shall make every effort to evaluate Content having regard to family values in relation to this Code.

## **10.0 Persons with Disabilities**

10.1 Humour and ridicule based on physical, mental or sensory disability may be offensive, even where no malice is intended and subject to relevance to context. Any reference to disability shall be expressed by neutral terms. Persons with Disabilities may have every opportunity to be included in any programme.

10.2 Code Subjects shall endeavour to make reasonable accommodations to deliver any Content and information intended for the general public in accessible formats and technologies appropriate for Persons with Disabilities.

10.3 Code Subjects shall endeavour to take reasonable efforts to improve the accessibility of Content disseminated for Persons with Disabilities vis-à-vis the implementation of the appropriate access service.

## **11.0 Privacy**

11.1 Code Subjects shall respect the privacy of individuals with due regard to the requirements under the ***Personal Data Protection Act 2010***. There shall be no intrusion into an individual's privacy except where required by law and/or necessary in the interest of the public.

## **PART 3: ADVERTISEMENT (MARKETING COMMUNICATIONS)**

### **1.0 Scope and Coverage**

1.1 This part of the Code applies to Advertisements communicated over a networked medium and displayed on devices that can process Content electronically and includes television, radio and Digital Media. The Code shall not apply for Advertisements content that do not utilise the networked medium.

1.2 Notwithstanding the requirements of this Code, Advertisers shall also be guided by relevant Acts, guidelines and/or regulations that may be enforced by other regulatory bodies in Malaysia where it is relevant to Advertisements.

1.3 Responsibility for observing this Part 3 primarily falls on the Advertisers and Online Marketplace Operators. Others involved in producing and transmitting advertisements such as Influencers, agencies, online publishers, broadcasters and other advertising service suppliers such as production houses, music composers and designers shall also accept an obligation to abide by this part and the specific guidelines that apply to them.

### **2.0 Objectives**

2.1 The main objective of this part is to ensure that continued high standards of Advertisements are delivered through self-regulation in accordance with expectations of Consumers and internationally recognised good practice governing Advertisements by the Advertisers.

2.2 The Malaysian advertising fraternity should recognise that creative freedom carries with it the responsibility of ensuring that the rights of its Consumers are protected.

2.3 This Part of the Code, is aimed at upholding the high standards expected of the Advertisers in a practical and commercially feasible manner and at the same time foster, promote and encourage its development.

### **3.0 General Principles Governing Advertisements**

3.1 The following general principles shall guide Advertisers and Content providers who are affected by and/or are subject to this Part of the Code dealing with Advertisements.

All Advertisements:

(a) shall conform with this part and to the general guidelines on Content. They shall also conform to all specific legislation governing the advertised products and services.

(b) shall be legal, decent, honest and truthful.

- (c) shall be produced with a sense of responsibility to Consumers and to society generally, especially taking note of the different demographics being addressed by the Advertisements.
- (d) shall respect the principles of fair competition generally accepted in business, however, the Code is not intended to suppress free and vigorous competition.
- (e) shall not, directly or indirectly, do anything to infringe the rights of Consumers.
- (f) shall not mislead the Consumers or otherwise conduct themselves in a manner that contravenes the provisions under Part 3 of the Code.

#### **4.0 Specific Guidelines**

4.1 Without prejudice and in addition to the general principles stated above and General Principles under Part 1 of this Code, the following specific guidelines shall apply to Advertisements.

##### 4.2 Legality

Advertisers and Advertising Content providers have primary responsibility to ensure that their Advertisements comply with this Code and the various laws of Malaysia that have a direct impact on the different products and services.

##### 4.3 Decency and Sensitivity

- (a) Advertisements shall contain nothing that is likely to cause serious or widespread offence. Particular care shall be taken to avoid causing offence on the grounds of, but not limited to, race, religion, sex, sexual orientation and physical or mental disability.
- (b) Advertisements shall not contain statements, audio or visual presentations that are offensive to the standards of decency prevailing among those who are likely to be exposed to them. Subject to sensitivities relating to religion and ethnicity, the fact that a particular product is offensive to some people is not sufficient grounds for objecting to an Advertisement for it.

##### 4.4 Honesty and Truthfulness

- (a) Advertising Content shall not be constructed in a manner that would abuse the trust of the Consumer or exploit his lack of experience or knowledge.
- (b) Advertising Content shall not cause the Consumer to be misled by any inaccuracy, ambiguity, exaggeration, falsehood, omission or otherwise.



(c) More specifically, Advertisements shall not:

- i. Misrepresent any matter likely to influence Consumers on, among others:-
  - a. source of the product, quality of the product, capability of the product, obligation (or non-obligation) in using a trial product, and others;
  - b. actual price of products and/or services without hidden costs;
  - c. conditions on the terms of payment such as hire-purchase, leasing, instalment sales and credit sales;
  - d. after sales services including terms of guarantee, delivery, exchange, return, repair and maintenance;
  - e. benefits for charitable causes.
- ii. Omit "material information" and mislead by hiding material information or presenting it in an unclear, unintelligible, ambiguous or untimely manner. "*Material information*" is information that Consumers need in context to make informed decisions about whether or how to buy a product or service. Whether the omission or presentation of material information is likely to mislead Consumers depends on the context, the medium and, if the medium of the Advertisement is constrained by time or space, the measures that the Advertiser takes to make that information available to Consumers by other means.
- iii. Obvious Hyperbole, which is intended to attract attention or to amuse, is permissible provided that it is not likely to be taken as a positive claim to superior or superlative status.

#### 4.5 Fear and Distress

Advertisements shall not, without justifiable reason, play on fear. They may, however, issue an appeal "to be fearful" to encourage prudent behaviour or to discourage dangerous or ill-advised actions, taking into consideration that the fear likely to be aroused shall not be disproportionate to the risk intended to be avoided.

#### 4.6 Safety

- (a) Advertisements shall not show or encourage unsafe practices except in the context of promoting safety. Particular care shall be taken with Advertisements addressed to or depicting Children.

- (b) Advertisements shall not mislead about the nature or extent of the risk to Consumers' personal security, or that of their families, if they do not purchase or subscribe to the advertised product or service.

#### 4.7 Violence / Anti-social behaviour

Advertisements shall not condone or provoke violence, unlawful or anti-social behaviour nor shall they appear to condone, glorify or lighten the gravity of such acts.

#### 4.8 Truthful Presentation

All descriptions, claims and comparisons which relate to matters of objectively ascertainable fact should be capable of substantiation, and Advertisers are required to hold such substantiation ready for scrutiny without delay if and when requested.

### **Claims**

- (a) Advertisements should not contain any statements or visual presentation which directly or by implication, omission, ambiguity, or exaggerated claim, that is likely to mislead the consumer about the product advertised, the advertiser, or about any other product or advertiser, in particular with regard to:
  - i. Characteristics such as nature, composition, method and date of manufacture, fitness for purpose, range of use, quantity, and commercial or geographical origin.
  - ii. Copyright and industrial property rights such as patents, trademarks, designs and models, and trade names.
  - iii. Official or other recognition of approval, awards or medals, prizes or diplomas.
  - iv. Scientific, statistical, or other research data quoted in Advertisements shall be neither misleading nor irrelevant.
  
- (b) It is seldom possible to substantiate general claims by an Advertiser that his product is of superlative quality (best, finest) in a manner which is universally acceptable. Such claims, however, are permissible under this Code, provided that their inclusion in an Advertisement does not create a false impression concerning any quality possessed by the product which is capable of assessment in the light of generally accepted standards of judgment.

- (c) Where a substantial division of informed opinion exists or may reasonably be expected to exist, as to the acceptability of any evidence which is required to substantiate a claim in an Advertisement, it should neither state nor imply that the claim is universally true or that it enjoys universal support, nor that it represents anything other than the Advertiser's opinion or of such other authorities as may be named.
- (d) Advertisements should not misuse research results or quotations from technical and scientific literature. Statistics should not be presented so as to imply that they have greater validity than is the case. Scientific terms should not be misused, and scientific jargon and irrelevances should not be used to make claims appear to have scientific basis they do not possess.
- (e) Where Advertisement claims are expressly stated to be based on, or supported by, independent research or assessment, the source and the date of this should be indicated. Where this is not possible, for whatever reason, such claims to independent support should not be made. Where a claim relating to research or testing is based on the Advertiser's own work or work done at his request, it should be clear from the text of the Advertisement that such is the basis of the claim.

## **Comparisons**

- (a) Advertisements containing comparisons with other advertisers, or other products are permissible in the interest of vigorous competition and public information, provided they comply with the terms of the Code.
- (b) The subject matter of a comparison should not be chosen in such a way as to confer an artificial advantage upon the Advertiser or so as to suggest that a better bargain is offered than is truly the case.
- (c) Points of comparison shall be based on facts that can be substantiated and shall not be unfairly selected. In particular:
  - i. The basis of comparative claims shall be the same for all the products being compared and shall be clearly stated in the Advertisements so that it can be seen that like is being compared with like.
  - ii. Where items are listed and compared with those competitors' products, the list shall be complete or else the Advertisement shall make clear that the items are only a selection.

- iii. Where a comparison is made between the respective cash values or prices of products or services that are not identical, the Advertiser shall clearly indicate that this is the case.

#### 4.9 Testimonials and Endorsements

- (a) Advertisements shall not contain or refer to any testimonial or endorsement unless it is genuine and related to the personal experience over a reasonable period of time of the person giving it.
- (b) Testimonials or endorsements that are obsolete or otherwise no longer applicable shall not be used. For example, where there has been a significant change in the product or service concerned.
- (c) Testimonials per se should not contain any statement or implication contravening the provisions of this Code and should not be used in a manner likely to mislead.
- (d) Where a testimonial is given by a person with professional qualifications, care should be taken that in indicating those qualifications the Advertiser does not cause the person giving the testimonial to transgress any regulations of the professional institution(s) to which the person belongs.
- (e) Testimonials shall not make any claim to efficacy which cannot justifiably be attributed to the use of the product and any specific or measurable results claimed shall be fairly presented. Where 'before' and 'after' claims are made, they shall be expressed and illustrated in such a way as to permit a fair comparison to be made.
- (f) Advertisers shall ensure that Advertisements based upon fictitious characters are not so framed as to give the impression that real people are involved. In particular, they shall not contain 'testimonials' or 'endorsements' which may give such an impression. Where an illustration of a person is used in conjunction with a testimonial implying personal endorsement of the product, that person shall be the person giving the testimonial.
- (g) Where any testimonial contains an expression which conflicts with this Code, the Advertiser may amend the testimonial so as to remove the source of conflict, provided that, in so doing, he does not distort the sense of original views expressed by the person giving the testimonial.

- (h) Testimonials from persons resident outside Malaysia are not acceptable unless an indication of their address and country of residence is given in the Advertisement.
- (i) Advertisers and their agencies should hold ready copies of any testimonials used in advertising for inspection, when required. Such copies should be signed and dated by the persons providing the testimonials, and should confirm what is said in any Advertisement. When an Advertisement containing a testimonial is submitted for the first time, a copy of the testimonial statement should accompany the Advertisement, for the recipient's retention.

#### 4.10 Prices

- (a) Any stated price shall be clear and shall relate to the product advertised. Advertisers shall ensure that prices match the products illustrated.
- (b) If the price of one product is dependent on the purchase of another, the Consumers shall be clearly informed.
- (c) Price claims such as 'up to' and 'from' shall not exaggerate the availability of benefits likely to be obtained by Consumers.
- (d) Prices shall be shown as all-in or final prices so as not to leave the Consumer guessing as to the final price payable for the product or service (for example, the price of a flight shall include all compulsory charges (such as sales and service tax, airport tax, airport fee, destination airport taxes etc.). Customers shall have a right to select optional items at their discretion (for example, travel insurance).
- (e) If a product is illustrated, and a price quoted in conjunction with the illustration, Advertisers shall ensure that what is illustrated can be purchased for the price shown.
- (f) If the price quoted does not include the product or service in its entirety, this fact and the additional price for the full product or service shall be clearly stated.
- (g) If a product cannot be purchased without purchasing other product(s) from the Advertiser or promoter, this fact shall be stated with no less prominence than the product itself.
- (h) When a product is being advertised, or promoted as to be sold at a discount (or similar description such as a bargain), it shall be an actual discount i.e. price is

lower than normal for a specific time period and shall comply with any relevant guidelines issued by the Ministry of Domestic Trade and Consumer Affairs.

- (i) All quoted prices in Advertisements shall include non-optional taxes, duties, fees and charges that apply to all or most buyers including taxes in accordance with published laws. If a tax, duty, fee or charge cannot be calculated in advance, for example, because it depends on the Consumer's circumstances, the Advertisement shall make clear that it is excluded from the advertised price and state how it is calculated.
- (j) Advertisements that quote instalment costs shall state the total price of the advertised product or service and the instalment frequency as clearly as the cost of individual instalments.
- (k) Advertisers shall clearly direct Consumers to a specific reference for the full terms and conditions of the sale.

#### 4.11 Free Offers

- (a) In making a free offer conditional on the purchase of other items, Consumers' liability for any costs shall be made clear in all material featuring the offer.
- (b) An offer shall be described as free only if Consumers pay no more than the:
  - i. Current public rates of postage.
  - ii. Actual cost of freight or delivery.
  - iii. Costs, including incidental expenses, or any travel involved if Consumers collect the offer.
  - iv. Other ancillary fees which shall be clearly communicated.
- (c) Exaggerating the availability of the number of free products or services as part of the free offer to induce Consumers to purchase ancillary items shall not be permitted (for example, airlines offering 'one million tickets' free where there is no mechanism for the Consumer to know actual availability of free seats at the time a purchase is done, or when the product no longer is "free").

#### 4.12 Availability of Products

- (a) Advertisements shall not be electronically disseminated unless the Advertiser has reasonable grounds for believing that the Advertiser can supply the demand likely to be created by his advertising.

- (b) In particular, no attempt shall be made to use the advertising of unavailable or non-existent products as a means of assessing likely public demand, should such a product be offered in the future.
- (c) Where it becomes clear that an advertised product is not available, (in circumstances where the public are not likely to assume from advertising its ready availability) immediate action shall be taken to ensure that further Advertisements for the products are promptly amended or withdrawn.
- (d) Advertisers shall not use the technique of switch selling. They shall not market a product at specific prices, which their sales staff refuse to show the advertised product, refuse to take orders for it or refuse to deliver the advertised product within a reasonable time or demonstrate a defective sample of it to promote a different product.
- (e) Advertisements shall not falsely claim that the Advertiser is about to stop trading or move premises. They shall not falsely state that a product or service, or the terms on which it is offered, shall be available only for a very limited time to deprive Consumers of the time or opportunity to make an informed choice.
- (f) Advertisements shall not mislead Consumers about market conditions or the possibility of finding the product or service elsewhere to induce Consumers to buy the product or service at conditions less favourable than normal market conditions.

#### 4.13 Guarantees

- (a) The word 'guarantee' shall not be used in any way that could diminish Consumers' legal rights. Substantial limitations shall be spelt out in the Advertisement.
- (b) The full terms of the guarantee as well as the remedial action open to the Consumer shall be clearly stated in the Advertisement, or shall be made available for review by the Consumer before committing to purchase. Any substantial limitations shall also be stated in the Advertisement.
- (c) The period of any guarantee shall be clearly stated in the Advertisement.
- (d) The word 'guarantee' shall refer to the mandatory requirement that goods and services supplied must be guaranteed in respect of consumer satisfaction and quality.

#### 4.14 Denigration

Advertising Content shall not attack, discredit or denigrate any person, product or service, Advertiser or Advertisement or a trademark, trade name or other distinguishing mark, or seek to bring them into public contempt or ridicule.

#### 4.15 Imitation

Advertisements shall not be similar in general layout, copy, slogans, visual presentation, music or sound effects to other Advertisements or promotions as to be likely to mislead or confuse the Consumer pursuant to the Copyright Act 1987.

#### 4.16 Unacceptable Products and Services

Advertisements for products or services that are prohibited under any laws/regulations currently existing in Malaysia are unacceptable. This shall include but is not limited to the items in Appendix II.

- (a) Advertisements shall not contain anything that is illegal or might incite anyone to break the law nor should they appear to condone or lighten the gravity of illegal activities.
- (b) Advertisements shall not contain anything that contravenes the ethical code of recognized professional bodies in Malaysia.

### **5.0 Indirect Advertising and Product Placements**

5.1 An Advertisement for an acceptable product or service shall be unacceptable in the event a significant effect would be to publicise indirectly an unacceptable product or service.

5.2 "*Product Placements*" are allowed but products and services that are specifically banned are not allowed except where it is incidentally shown.

### **6.0 Identifying Advertisers and Recognising Advertisements**

6.1 Advertisers, online publishers, broadcasters and owners of other electronic media should ensure that Advertisements including lead-in ads are designed and presented in such a way that it is clear that they are Advertisements.

6.2 Advertisements or Marketing Communications by way of features, announcements or promotions that are disseminated in exchange for a payment or other reciprocal arrangement should comply with this Code if their Content is controlled by the Advertisers. Such Advertisements or Marketing Communications should also be clearly identified as such so as not to mislead Consumers.



6.3 Advertisements or Marketing Communications include the involvement of third parties under a commercial arrangement to do product or service reviews, endorse or provide testimonials about Advertisers' products or services. Such Advertisements or Marketing Communications, which may include those on their social media platforms, shall be clearly disclosed as being done in exchange for payment in cash or some other reciprocal arrangement in lieu of cash. In particular, such Advertisements or Marketing Communications should adhere to the following:-

- (a) Disclosures should be placed with the endorsement content itself and use an upfront label that must first be noticed and then understood, for example 'Advertisement', 'Advertisement Feature', 'Ad', 'Sponsored' and the like;
- (b) Avoid using vague or confusing terms like "sp," "spon," or "collab," or stand-alone terms like "thanks" or "ambassador," as well as other abbreviations and shorthand, which may confuse the public/consumers;
- (c) Disclosures should be in the same language as the endorsement itself;
- (d) If an endorsement is made in a video, the disclosure should be in the video itself and not just in the description uploaded with the video;
- (e) If an endorsement is in a live stream, the disclosure should be repeated periodically so viewers who only see part of the stream will get the disclosure.

6.4 Where paid-for space, material or programming is in the style of the normal editorial, material or programming, whether paid for by the same or different advertisers, particular care is needed to ensure that no part can be mistaken for the normal editorial, material or programming matter. Any paid-for space used during news programmes shall be required to include disclaimers or notifications, whether in the form of a pop-up or push notifications and crawlers or other clear ways to indicate that the segment is paid.

## **7.0 Children and Advertising**

7.1 Special care and attention is to be administered to children featured in Advertisements as well as advertisements targeted at Children. Advertisements addressed to or targeting children shall not exploit their credulity, loyalty, vulnerability or lack of experience. It shall be made easy for Children to exercise appropriate judgement towards the size, characteristics and performance of advertised products and to distinguish between real-life situations and fantasy provided it is not likely to mislead or to be taken as a positive claim to superior or superlative status.

7.2 Children are not a homogeneous group but have varying levels of maturity and understanding. Care needs to be taken that the product advertised and style of Advertisement are appropriate for the audience to whom it is primarily directed. Advertisers are required to comply with the following principles:

- (a) The use of Children is not encouraged unless the products advertised are relevant to them or except in the context of promoting safety for the Children.

- (b) Advertisements addressed to Children or likely to be seen by them, shall not contain anything whether an illustration or otherwise, which result in harming them physically, mentally or morally:
  - i) Children shall not be encouraged to enter strange places or talk to strangers.
  - ii) Children shall not be shown in hazardous situations or behaving dangerously except to promote safety. Children shall not be shown unattended in street scenes unless they are old enough to take responsibility for their own safety.
  - iii) Children shall not be shown using or being in close proximity to dangerous substances or equipment without direct adult supervision.
- (c) Children shall not be encouraged to copy practices that might be unsafe for a child.
- (d) Advertisements shall not include a direct exhortation to Children to buy or hire a product or service or to persuade their parents, guardians or other persons to buy or hire a product or service for them.
- (e) If it includes a price, an Advertisement for a Children's product or service shall not use qualifiers such as "only" or "just" to make the price seem less expensive.
- (f) For products sold which contain special gifts or toys, the presence of such gifts or toys associated with such products shall not overshadow the products sold as to not be deceptive on the product being sold.
- (g) Advertisements pertaining to activities of a society or club for Children shall be that of a club or society that is properly supervised and its activities are structured for Children.
- (h) In any situation where Children are projected, careful consideration shall be given for their safety. They shall not be shown in hazardous situations or behaving dangerously in the home or outside except to promote safety.
- (i) Advertisements targeted at Children shall not promote a lifestyle that is promiscuous or that denigrates or is detrimental to family values.
- (j) Advertisements shall not condone or encourage practices that are detrimental to Children's health.
- (k) Advertisements shall not condone or encourage bullying.
- (l) Advertisements shall not portray or represent Children in a sexual way either directly or indirectly.
- (m) Advertisements shall not imply that Children are likely to be ridiculed, inferior to others, less popular, disloyal or have let someone down if they or their family do not use a product or service.

- (n) Child actors may feature in Advertisements, but care shall be taken to ensure that those Advertisements neither mislead nor exploit Children's inexperience, credulity or sense of loyalty.
- (o) Advertisements shall not exaggerate what is attainable by an ordinary child using the product being advertised.
- (p) Advertisements shall not exploit Children's susceptibility to charitable appeals and shall explain the extent to which their participation will help in any charity-linked promotions.
- (q) Advertisements shall not actively encourage Children to make a nuisance of themselves to parents or others and shall not undermine parental authority.
- (r) Advertisements shall not include a direct exhortation to Children to buy an advertised product or persuade their parents or other adults to buy an advertised product for them.
- (s) Advertisements that contain a direct exhortation to buy a product via a direct-response mechanism shall not be directly targeted at Children. Direct-response mechanisms are those that allow consumers to place orders without face-to-face contact with the Advertiser.
- (t) Advertisements shall make clear that adult permission is required if a prize or an incentive might cause conflict between a Child's desire and a parent's, or other adult's, authority.
- (u) Advertisements shall contain a prominent closing date if applicable.
- (v) Advertisements shall not exaggerate the value of a prize or the chances of winning it.
- (w) Marketing promotions that require a purchase to participate and include a direct exhortation to make a purchase shall not be addressed to Children.
- (x) Any marketing promotions which leads to a use of an additional product, service application (whether via digital or not) that may require additional payment shall be stated upfront during the promotion.
- (y) Adult permission shall be obtained before Children are committed to buying complex or costly products (such as electronic based items, branded products etc.).

## 8.0 Other Specific Advertisements

### 8.1 Advertisements on Medical Products, Treatments & Facilities

- (a) Advertisements on medicines, remedies, appliances, skill and services relating to diagnosis, prevention and treatment of diseases or conditions affecting the human body including but not limited to slimming products and services, are under the authority of the Medicine Advertisements Board (KKLIU), Ministry of Health Malaysia. All Advertisements shall comply with the requirements under the *Medicines (Advertisement & Sale) Act 1956*, the *Medicine Advertisements Board Regulations 1976*, the *Medical Device (Advertising) Regulations 2019* and any other relevant legislation and guidelines.
- (b) Advertisements relating to medical matters and sale of substances recommended as a medicine are prohibited without the approval of the KKLIU, Ministry of Health Malaysia.

### 8.2 Pesticide Advertisements

Advertisements on pesticides are under the authority of the Pesticide Board and Ministry of Agriculture and Food Industries. All Advertisements shall comply with the requirements under the *Pesticides Act 1974*, the *Pesticides (Advertisement) Regulations 1996*, and any other relevant legislation.

### 8.3 Food and Beverage

Advertisements relating to food and beverage products that claim therapeutic or having prophylactic qualities shall be subject to prior screening. All Advertisements shall comply with the requirement in the *Food Act 1983*, the *Food Regulations 1985*, the *Food Advertisement Regulations 2014* and any other relevant legislation.

### 8.4 Direct Sales & Prohibition of Pyramid Schemes

All Advertisements relating to Direct Sales and Pyramid Schemes shall comply with the *Direct Sales and Anti-Pyramid Scheme Act 1993* which governs direct sales and the prohibition of pyramid schemes.

### 8.5 Intoxicating Liquor

For the purposes of this part, 'intoxicating liquor' is defined under Section 2(1) of the *Customs Act 1967*. This paragraph shall apply to Advertisements of intoxicating liquor communicated over electronic medium based in Malaysia. However, Advertisements of intoxicating liquor are not allowed to be communicated over television and radio.

Advertisements of intoxicating liquor shall comply with the requirements under the *Food Act 1983*, the *Food Regulations 1985* and any other relevant legislation. Advertisements of intoxicating liquor shall abide by the following :-

- (a) Advertisements of intoxicating liquor shall not:
- (i) feature any person below 21 years of age;
  - (ii) promote excessive consumption;
  - (iii) emphasize the stimulant, sedative, or tranquillizing effects of any intoxicating liquor;
  - (iv) be presented as preferable because of their high alcohol content or intoxicating effect. However, such Advertisement may include factual information about the alcoholic strength of the intoxicating liquor but this shall not be the dominant theme of the Advertisement;
  - (v) give the general impression that a drink is being recommended mainly for its intoxicating effect;
  - (vi) challenge or dare people to consume intoxicating liquor;
  - (vii) be based on a dare or impute any failing to those who do not accept the challenge of a particular drink;
  - (viii) encourage irresponsible or excessive or rapid consumption of intoxicating liquor;
  - (ix) portray consumption of intoxicating liquor as the main reason for the success of any personal relationship or social event;
  - (x) portray consumption of intoxicating liquor is necessary for social success or acceptance;
  - (xi) suggest that consumption of intoxicating liquor can overcome boredom, loneliness or other problems;
  - (xii) suggest that intoxicating liquor has therapeutic qualities or can enhance mental, physical or sexual capabilities, popularity, attractiveness, masculinity, femininity or sporting achievements;
  - (xiii) exploit those who are especially vulnerable because of age, inexperience or any physical, mental or social incapacity;
  - (xiv) promote driving while intoxicated; and
  - (xv) depict activities or locations where consumption of intoxicating liquor would be unsafe or unwise. In particular, such Advertisements shall not associate the consumption of intoxicating liquor with operating machinery, driving, any activity relating to water or heights, or any other occupation that requires concentration in order to be done safely.
- (b) Advertisements of intoxicating liquor shall:

- (i) include a clearly visible disclaimer stating that the Advertisement is intended "strictly for non-Muslims aged 21 and above only";
- (ii) include clearly visible responsible drinking messages; and
- (iii) only feature people who are non-Muslims aged 25 and above and reasonably appear to be and are being portrayed as over 25 years of age.

(c) Reasonable efforts shall be made to ensure Advertisements of intoxicating liquor are not targeted at Muslims and any person below 21 years of age.

This paragraph, in addition to the advertising service industry self-regulation system, serves as a guide towards upholding the standards expected of the advertising service industry in a practical and commercially feasible manner and at the same time keep updated with the trends while respecting, protecting and promoting those interests of minority and/or marginalised groups. Whilst this paragraph is relating to Advertisement of intoxicating liquor, there is no issue with corporate advertising and/or commercials relating to other products/services by intoxicating liquor companies."

#### 8.6 Cosmetic Products

All Advertisements relating to cosmetic products shall comply with the *Guidelines for Control of Cosmetic Products in Malaysia* and the *Guideline for Cosmetic Advertisement* as published by the National Pharmaceutical Regulatory Agency (NPRA), Ministry of Health Malaysia.

#### 8.7 Use of Religion

As a general rule, the use of religion in any form of Advertisements shall be prohibited. This is to preserve the sanctity and sensitivities of religion which shall not be exploited for commercial gain or have a tendency to create fear or disharmony among Consumers. By way of example, this will include:

- (a) use of religious authorities, religious departments, clerics or preachers to convey an impression that a certain product is sanctioned by a religious authority;
- (b) use of religious personalities to provide religious testimonials promoting or endorsing products or services;
- (c) use of holy books and/or any religious sources from any religion to associate them to certain products or services;
- (d) making claims or giving false interpretations of the teachings of any religion that may mislead, create fear or give false promises to Consumers; and
- (e) use of religious descriptions to promote products or services except where the use of religious descriptions is in compliance with the relevant legislation.

However, the use of Halal certification on products or services issued by the Department of Islamic Development Malaysia (JAKIM) and other recognized Halal certification bodies shall not be construed as a breach of the Code.

## **9.0 Financial Products and Services**

9.1 All Advertisers who are advertising or promoting financial products and services shall comply with the *Financial Services Act 2013*, the *Islamic Financial Services Act 2013*, the *Money Services Business Act 2011* and all other laws, rules and regulations related to the same.

9.2 Advertisers who are marketing and dealing in Securities shall comply with the *Capital Markets and Services Act 2012*, Division 3 (Advertising Guidelines) of the Prospectus Guidelines.

## **10.0 Advertisement by a Licensed Gambling or Betting Company**

10.1 For the purpose of compliance, companies which are in the business of gambling and betting, shall adhere to the *Common Gaming Houses Act 1953*, *Betting Act 1953*, and other relevant advertising or promotional guidelines related to said business.

10.2 Corporate Social Responsibility (CSR) and Public Service Announcements (PSA)

- (a) Within the gambling and betting industry, there exists messages with the elements of CSR and public interest messages in the form of PSA. These messages are allowed to reach out to Consumers and society at large provided that such messages contain either specific information for the benefit of communities or well wishes in relation to festivities or holidays.
- (b) Companies that are in the business of gambling and betting are not excluded from its ability to provide messages with the elements of CSR and to produce PSA.

However, such companies are to observe the following guidelines:

- (i) Companies that are in the business of gambling and betting are permitted (with restrictions) to produce CSR and/or PSA messages over the Network or via Digital Media provided always that the messages are brought by an associated charitable or its equivalent entity (hereinafter referred to as "charitable arm") which is clearly different from its parent company.
- (ii) The charitable arm entity shall have its own identity which does not in any way allude to promote and/or portray any relation to the business of gambling and betting other than what it was set up for. The entity shall be clearly identifiable to only promote its charitable activities.

- (iii) The Content produced by the charitable arm shall be clearly done for the sole purpose of providing CSR and/or PSA type messages and therefore any related elements which may lead the messages to the business of its parent company (including but not limited to name, taglines, sound jingles, logos, font, colour and other relatable indicators) on its gambling and betting activities are strictly prohibited.
- (iv) Due care is to be taken for any specific festive greetings via CSR and/or PSA messages whereby the level of appropriateness shall be considered for messages towards communities of different cultures, races and religions among Malaysians. A high level of sensitivity shall be accorded in such cases to avoid misunderstandings and non-compliance to the Code as a whole.
- (v) The charitable arm is also expected to form its own identity in communicating to the public and any related content derived from its parent company shall be neutralized in order to avoid any form of misleading messages and/or identity of the purveyor of such messages.

### 10.3 Sponsorship

Should a company in the business of gambling and betting were to become a title sponsor of an event held in Malaysia, it is only allowed to promote the event and not directly advertise any elements of its products and/or services related to gambling and betting. In addition to this, said companies shall only use the events' logo and/or charitable arm logo (which is clearly different from its parent company) in any promotional material.

### 10.4 Examples/Illustrations on Advertisement Cases Related to Gambling Products and Services

#### (a) CSR and/or PSA

- i. A PSA and/or CSR which is **allowed** to be broadcasted by a gambling/betting company by using its charitable arm entity.

Example: "Kids learn a lot from their parents including domestic violence. Domestic violence is child abuse. You can make a difference. This community message is brought to you by ZZZ Foundation. Together we care".

\*ZZZ Foundation is the gambling/betting company's charitable arm.

- ii. A PSA and/or CSR online content which is **allowed** to appear by a gambling/betting company by using its charitable arm entity's logo.



Example: 1 in 10 persons are exposed to cybercrime. Stop being a victim. Think before you click. This message is brought to you by



\*the logo used is the logo of a gambling/betting company's charitable arm and NOT of the product".

- iii. A PSA and/or CSR broadcasted which is **forbidden** by a gambling / betting company by using its own name.

Example: "Help stop cyber bullying. You can save a life. This reminder is from XZX."

\*XZX is a gambling/betting company.

- iv. A PSA and/or CSR broadcasted for specific festive greetings which is **forbidden** by a gambling/betting company where due care should be accorded.

Example: "Wishing Happy Eid Mubarak to all Muslims around the world. This message is brought to you by ZZZ Foundation".

\*ZZZ Foundation is gambling / betting company's charitable arm.

- v. A PSA broadcasted on air or online content which is **forbidden** by gambling/betting company by using its charitable arm name, gambling/betting company official's jingle and gambling/betting company official's taglines.

Example:

Message: All that I am, or hope to be, I owe to my angel mother. (Intro with gambling/betting company official's jingle)

Tagline: Go for It

Charitable arm name: ZZZ Foundation

\*ZZZ Foundation is a gambling/betting charitable arm, **however** since the PSA's message uses the corporate tagline and jingle, it is not allowed.

## **(b) Sponsorship**

- i. A sponsorship broadcasted on air which is **allowed** by a gambling/betting company by using its charitable arm entity.

Example: "Everyone is invited to a charity international concert which will be held in [location] in support of the National Kidney Foundation, brought to you by ZZZ Foundation".

\*ZZZ Foundation is gambling/betting company's charitable arm.

- ii. A sponsorship online content which is **allowed** by a gambling/betting company by using its charitable arm entity's logo.

Example: This Happy Laughter Contest is brought to you by



\*the logo used is the logo of a gambling/betting company's charitable arm and NOT of the product".

- iii. A sponsorship broadcasted on air which is **forbidden** by a gambling/betting company by using its own name.

Example: "The winner of this lip sync contest will receive RM3000 cash brought to you XZX".

\*XZX is a gambling/betting company.

- iv. A sponsorship broadcasted on air or online content which is **forbidden** by a gambling/ betting company by using its own name, in which the content is related to its parent company's products and/or services.

Example: "This 'Numbers Contest' is brought to you by XZX". 'Click the Number' Contest is sponsored by XZX.

\*XZX is a gambling/betting company.

- v. A sponsorship broadcasted on air or online content which is **forbidden** by a gambling/betting company by using its own name, jingle, and their taglines, in which its content is related to its parent company's products and/or services.

Example:

Message: Be happy, change your life and be richer

Tagline: Go For It

Company name: this message was brought to you by XZX Company.

\*XZX is a gambling company and the message includes the company's name, jingle and tagline.

## **PART 4: SPECIFIC BROADCASTING**

### **1.0 Scope and Coverage**

1.1 This part serves as a guideline for content that is transmitted via:

- (i) Subscription broadcasting; and
- (ii) Terrestrial Free-to-Air TV and Radio.

Otherwise collectively known as "Broadcasters".

### **2.0 Objectives**

2.1 The objective of these specific broadcast guidelines is to ensure continued reliable standards of Content disseminated by Broadcasters in accordance with expectations of audiences and internationally recognised good practice of electronic media and journalism.

2.2 This Code is a manifestation of a paradigm change brought about by technological advancements in the broadcasting industry. It is acknowledged that compliance with the Content Code is what sets the standards for Content and not the other way around whereby Content takes precedence over standards.

2.3 Malaysian Broadcasters recognise that creative freedom carries with it the responsibility of ensuring that not only are the rights of Children protected, but also that of viewers and listeners in general. This necessitates the upholding of ethical and professional practices in the conduct of their business operations toward fulfilling social responsibility.

### **3.0 Specific Broadcasting**

3.1 In amplification to the general principles and the general guidelines laid out in Part 1 and Part 2 of this Code encompasses the following considerations with regards to the dissemination of Content:-

- (i) broadcasting channel;
- (ii) the likely audience; and
- (iii) in certain instances (as in free visual and audio broadcast).

#### **Classification**

3.2 Viewers need adequate information about content to make informed viewing choices based on their personal tastes and standards. As such, Broadcasters (excluding radio operators) will provide an indication as to the type of Content shown by adopting the following classifications as issued by the Film Censorship Board (LPF) and any amendments thereof from time to time. The Broadcasters shall display the relevant classifications at regular intervals of the programme:

## U

This category is suitable for viewing by all level of society without any age restrictions. The film displays noble values, is decent, impart positive messages and is entertaining.

## P13

This category is suitable for viewing by those aged 13 years and above. Viewer aged below 13 years require the guidance of their parents or guardian. The film has some scenes of violence or horror.

## 18

This category is suitable for viewing by those aged 18 years and above. The film contain elements of violence, horror and sex that are not excessive or may touch on aspects of religion, socio-culture and politics.

### **Scheduling**

3.3 Content which contains scenes of excessive violence, or adult material intended for adult audiences shall not be transmitted before 10.00 p.m. Where applicable, Broadcasters are required to endeavour to have their own Unit tasked with the responsibility of the classifications and scheduling of Content.

The scheduling of programmes that have been classified is applicable to free-to-air Broadcasters (excluding radio operators) as follows :

U and P13 - Can be shown at any time of day

18 - Can only be shown after 10 p.m.

Exception to this scheduling principle is applied to subscription-based Broadcasters that provide information on programme classifications prior to the broadcast of a particular programme and employs technological safeguards including but not limited to parental locks and electronic programme guides.

3.4 For subscription-based broadcasters, the following additional classification to their rating mechanism may be provided whenever necessary to accommodate their segmented audiences but must abide with provisions set out in Part 2.

## 16

This category is suitable for the age of 16 and above. No children below 16 years of age. The programme may contain moderate physical violence, comedic violence, comic horror, special effects, fantasy, supernatural elements or animated violence with a sustained sense of threat. Infrequent, brief and non-detailed depictions of torture, drugs and psychoactive abuse can be observed. It may also contain some suggestive dialogue and moderate sexual situations and innuendo, but depictions will be infrequent and of low intensity.

## **Content Offerings**

3.5 Broadcasters shall endeavour to provide Content that, as far as possible, caters to the various tastes and expectations of Malaysian viewers and listeners. This is in view of the varied tastes of the Malaysian public.

## **Non-Discrimination**

3.6 Broadcasters shall ensure, to the best of their ability, that their Content contains no abusive or discriminatory material or comment on matters of, but not limited to, race, religion, culture, ethnicity, national origin, gender, age, marital status, socio economic status, political persuasion, educational background, geographic location, sexual orientation or physical or mental ability.

## **News and Current Affairs**

3.7 Broadcasters recognise that the fundamental purpose of news dissemination and current affairs Content in a democracy is to enable people to know what is happening, and to understand affairs that may affect them as members of the community so that they may form their own conclusions.

3.8 **"Current Affairs Content"** means Content focusing on social, economic or political issues of current relevance to the Malaysian community.

3.9 Broadcasters shall ensure that Content of news programmes and Current Affairs Content programmes are presented:

- a) Accurately, fairly and objectively at all times and not manipulated resulting in a distortion of its original context with due regard being given to the circumstances at the time of preparing and the broadcast of the Content (e.g. live coverage).
- b) With due care, taking into consideration the likely composition of the Consumers at the time of broadcast.
- c) With sensitivity in the case of material likely to cause some distress to a substantial number of viewers such as images or interviews with victims of traumatic incidents. Such material shall only be used when deemed editorially essential, and if so, sparingly.
- d) With due respect to the cultural differences in Malaysian community.
- e) With due respect to the rights of any individual group of persons who should not be portrayed in a negative light by placing gratuitous emphasis on matters pertaining, but not limited to, race, religion, culture, ethnicity, national origin, gender, age, marital status, socio economic status, political persuasion, educational background, geographic location, sexual orientation or physical or mental disability. Where in the

opinion of a broadcaster it is in the public interest, it may report events and broadcast comments in which such matters are raised.

- f) With due respect to privacy of an individual. However, in the public interest, an intrusion into an individual's privacy may be justified such as in detecting or exposing crime or a serious misdemeanour, protecting public health or safety and preventing the public from being misled by some statement or action of an individual or organisation.

3.10 Reasonable efforts shall be made to correct significant errors of fact at the earliest opportunity.

3.11 Where paid-for space, material or programming is in the style of the normal editorial, material or programming, whether paid for by the same or different advertisers, particular care is needed to ensure that no part can be mistaken for the normal editorial, material or programming matter, as per Part 3, para 6.0 of this Code.

### **Violence and Offensive Language**

3.12 In strictly adhering to the general guidelines on violence and offensive language set out in Part 2 of this Code, all Broadcasters will:

- a) Exercise appropriate editorial judgment in the reporting of audio and visual representation of violence, aggression or destruction within their Content.
- b) Exercise caution and appropriate discretion in the selection of, and repetition of, Content, which depicts violence.
- c) Exercise appropriate discretion in the use of explicit or graphic language related to stories of destruction, accidents or sexual violence, which could be disturbing for family viewing.
- d) Caution viewers in advance of scenes of extraordinary violence, or graphic reporting on delicate subject matters.

### **Religious Content**

3.13 In dealing with religious Content, Broadcasters shall have regards to Islam as the official religion of the country and the constitutional rights to freedom of religion of all other communities.

3.14 Religious broadcasts are aimed at respecting and promoting spiritual harmony and to cater to the varied religious needs of the community. Broadcasters shall ensure that its religious Content is not used to convey attacks upon any race or religion or is likely to create any disharmony.

3.15 All religious Content on Islam shall be in consultation with the relevant religious authorities or accredited scholars prior to transmission. Advice from the appropriate religious authorities shall be obtained in relation to Content relating to other religions.

3.16 Content that includes the propagation of any religion other than Islam whether directly or indirectly is not permitted.

3.17 Content that is wrongful, fanatical, critical and insulting against any religion shall not be permitted.

3.18 Broadcasters shall ensure that any Islamic religious preachers or speakers being featured in religious Content on Islam shall have at least one accreditation from a State Mufti Department.

### **Exploitation.**

3.19 No Content shall condone the exploitation of women, men and Children. Negative or degrading Content on the role and nature of women, men or Children in society shall be avoided.

3.20 Content that degrades either sex by negative portrayal such as implied lewd conduct through modes of dress or camera focus on areas of the body is not allowed. Similarly, the degradation of Children through improper portrayal or behaviour is not acceptable.

## **4.0 Advertisements**

4.1 Broadcasters are equally responsible for the acceptability of advertising material transmitted and shall ensure that:

- a) All Advertisements comply with Part 3 of the Code.
- b) There is no influence by Advertisers, or the perception of such influence, on the reporting of news or public affairs, which shall be accurate, balanced and objective, with fairness and integrity being the paramount considerations governing such Content.

4.2 Broadcasters shall ensure that any Advertisement being shown in news dissemination and current affairs Content shall clearly be labelled as a Advertisement. Broadcasters shall ensure that Marketing Communications being shown in news dissemination and current affairs Content is recognisable as a Marketing Communication by the viewers and listeners and not part of the news dissemination and current affairs Content.

## **5.0 Information, Advice and Warnings**

5.1 Broadcasters shall ensure that classification details and other information announcements facilitate viewers to make appropriate choices at all times.



5.2 Broadcasters shall consider whether any elements or programming might disturb viewers, in particular, Children. Appropriate information, advice and or warnings shall be provided at the start of any programme, or news report, which might disturb Children.

5.3 Broadcasters are to ensure that clear and specific warnings shall be employed especially after 10.00 p.m. where there is the likelihood that some viewers may find the programme disturbing or offensive. This does not diminish the Broadcasters' responsibility for sensitive scheduling of programmes to reduce the risk of offence to the minimum.

## **PART 5: SPECIFIC ONLINE GUIDELINES**

### **1.0 Scope and Coverage**

1.1 The Online environment is not a legal vacuum. In general, if something is illegal "off-line", it shall also be illegal "on-line". In this matter, the relevant existing laws apply.

1.2 In adhering to this and the relevant parts of this Code, no action by Code Subjects shall, in any way, contravene Section 3[3] of the Act, which states that "Nothing in this Act shall be construed as permitting the censorship of the Internet".

1.3 Code Subjects in this Part are providers of Online Content or those who provide Access to Online Content through present and future technology either fixed or mobile. These include, but are not limited to:

- (a) Internet Access Service Providers;
- (b) Online Content Hosting Providers;
- (c) Online Content Developers;
- (d) Online Content Aggregators;
- (e) Link Providers; and
- (f) Online Service Providers.

For the avoidance of doubt, Code Subjects shall not include providers of Over-the-Top ("OTT") Content Services which is intended to refer to providers who offer curated content directly to consumers over the Internet, including, but not limited to, Video-on-Demand services, linear OTT services and other like television streaming services.

### **2.0 Concept of Innocent Carrier**

2.1 Code Subjects providing Access to any Content but have neither control over the composition of such Content nor any knowledge of such Content is deemed an innocent carrier for the purposes of this Code. An innocent carrier is not responsible for the Content provided. Nonetheless, this does not exempt such Access providers from adhering to the General measures as outlined in Part 6.0 of this Part where it expressly applies to them.

### **3.0 Objectives**

3.1 Code Subjects are committed towards taking a responsible approach to the provision of Content by implementing reasonable, practicable and proportionate measures and to provide a proactive and reactive mechanism in cases where prohibited material or activity is identified.

3.2 Responsible Code Subjects and Content providers shall, therefore, be guided by the commitment to reassure Consumers and businesses that Online Content to inform, educate, entertain and facilitate commerce is safe and secure. Hence, the purpose of this Part is to:

- a) Recommend guidelines and procedures relating to the provision of Online Content through self-regulation by the industry in a practical and commercially feasible manner and at the same time foster, promote and encourage the growth and development of the Online services industry;
- b) Promote the education of Users in making an informed selection of the Content they consume; and
- c) Keep updated with international as well as national standards, trends and cultural sensitivities of the general Malaysian public in applying and reviewing this Part.

#### **4.0 Principles**

4.1 The following principles shall guide the parties who review, administer, apply, are affected by and/or are subject to this Part of the Code:

- a) There shall be no censorship of the Internet as provided in Section 3(3) of the Act.
- b) Responsibility for Content provided Online by Code Subjects primarily rests with the creator of the Content.
- c) In acknowledging that in the fast-changing Online environment, it is very often impractical, costly, difficult and ineffective to monitor Content, Code Subjects shall nonetheless fulfil, to the best of their ability the requirements of the Code.
- d) Users are responsible for their choice and utilisation of Online Content.
- e) Users are able to consume and create various Online materials in various formats at any time. Thus, Users shall retain responsibility for the Content they place Online, whether legal or illegal.
- f) Any measures relating to Content which are recommended by this Part from time to time shall be:
  - i) Technologically neutral;
  - ii) Fair; and
  - iii) Widely affordable and not adversely affect the economic viability of the communications and multimedia industry.
- g) Any guidelines that apply to the provision of Online Content should not unduly restrict the growth of the industry but serve to enhance a conducive environment to encourage and stimulate the Malaysian communications and multimedia industry.

#### **5.0 Online Guidelines**

5.1 Code Subjects shall apply the guidelines set out in Part 2 of this Code in determining whether Content is indecent, obscene, menacing or offensive, save where expressly provided in this Part.

## **6.0 Measures – General**

6.1 It is recognised that it is impractical, difficult and ineffective to monitor or control a User's Access to Content available Online. It is left to the User to decide on the nature of Online Content to be consumed and the tools to be utilised by the User in controlling such Content.

6.2 The Content Forum shall assist Users in providing information on the type of tools that are available for Users to control Access to Online Content. Such information can be provided on the Content Forum's website which may be updated from time to time to reflect evolving technology. The Content Forum's website shall contain information on:

- a) The types of tools available to assist Users in filtering or controlling Online Content;
- b) User ethics in accessing and providing Content over the Internet;
- c) Responsibilities of adult Users over Children under their care in relation to Internet use;
- d) Measures which can be taken by parents, guardians and teachers to control Children's Access to Online Content;
- e) Content provider ethics;
- f) This Code; and
- g) The appropriate channel to which a complaint regarding Online Content may be made, and the procedures by which such a complaint is to be made.

6.3 The information provided on the website is intended to assist Online Users and the Content Forum is not responsible for any tools recommended or advice rendered.

6.4 Apart from the foregoing general measures the following specific measures shall be complied with depending on the degree of control that a Code Subject may have over the Online Content.

## **7.0 Measures –Specific**

### **7.1 Internet Access Service Providers (IASP)**

7.1.1 An IASP shall comply with and incorporate terms and conditions in the contracts and legal notices as to terms of use with subscribers of their services. This shall include the following terms:

- a) Subscribers shall comply with the requirements of Malaysian law including, but not limited to, the Code and shall not provide prohibited Content nor any Content in contravention of Malaysian law;
- b) The IASP shall have the right to withdraw Access where a subscriber contravenes the above; and

- c) The IASP shall have the right to block Access to or remove such prohibited Content provided such blocking or removal is carried out in accordance with the complaints procedure contained in the Code.

7.1.2 The existence of terms and conditions shall be displayed on the IASP's website in a manner and form easily accessible by its subscribers by way of a link or other similar methods

7.1.3 Once an IASP is notified by the Complaints Bureau that its User or subscriber is providing prohibited Content and the IASP is able to identify such subscriber the IASP shall take the following steps:

- a) Within a period of 2 working days from the time of notification, inform its subscriber to take down the prohibited Content.
- b) Prescribe a period within which its subscriber is to remove the prohibited Content, ranging from 1 to 24 hours from the time of notification.
- c) If the subscriber does not remove such prohibited Content within the prescribed period, the IASP shall be entitled to suspend or terminate the subscribers' Access account.

7.1.4 An IASP shall place on its website a hyperlink to the Content Forum's website to enable subscribers to obtain the information specified above. If an IASP does not have a website, it shall provide its subscribers with the Content Forum's website address.

## **7.2 Online Content Aggregator (OCA)**

7.2.1 An OCA shall comply with and incorporate terms and conditions in the contracts and legal notices as to terms of use with Users, subscribers and content providers of their services. This shall include the following terms:

- a) Users, subscribers and Content providers shall comply with the requirements of Malaysian law including, but not limited to, the Code and shall not provide prohibited Content nor any Content in contravention of Malaysian law; and
- b) The OCA shall have the right to remove such prohibited Content where a User, subscriber or Content provider contravenes the preceding (a) above provided the removal of such prohibited Content is in accordance with the complaints procedure contained in the Code.

7.2.2 Upon an OCA being notified by the Complaints Bureau that its User, subscriber or Content provider is providing prohibited Content and the OCA is able to identify such subscriber, User or Content provider, the OCA shall take the following steps:

- a) Within a period of 2 working days from the time of notification, inform the User, subscriber or Content provider to take down the prohibited Content.

- b) Prescribe a period within which the User, subscriber or Content provider is to remove the prohibited Content, ranging from 1 to 24 hours from the time of notification.
- c) If the User, subscriber or Content provider does not remove such prohibited Content within the prescribed period, the OCA shall have the right to remove such Content.

7.2.3 An OCA shall place on its website a hyperlink to the Content Forum's website to enable Users and subscribers to obtain the information specified above.

7.2.4 Where an OCA has editorial rights over the substance of Content, it shall comply with Part 2 (Guidelines on Content) of the Code.

### **7.3 Link Provider**

7.3.1 A person who provides links to other sites containing prohibited Content shall remove the link to such sites within 24 hours of being notified by the Complaints Bureau of the continuing existence of prohibited Content on such site.

### **7.4 Online Content Hosting Providers (OCH)**

7.4.1 An OCH shall comply with and incorporate terms and conditions in the contracts and legal notices as to terms of use with Users and subscribers of their services. This shall include the following terms:

- a) Users and subscribers shall comply with the requirements of Malaysian law including (but not limited to) the Code and shall not provide prohibited Content nor any Content in contravention of Malaysian law;
- b) The OCH shall have the right to withdraw its hosting services where a User or subscriber contravenes (a) above; and
- c) The OCH shall have the right to remove such prohibited Content provided such removal is in accordance with the complaints procedure contained in the Code.

7.4.2 Once an OCH is notified by the Complaints Bureau that its User or subscriber is providing prohibited Content and the OCH is able to identify such subscriber or User, the OCH shall take the following steps:

- a) Within a period of 2 working days from the time of notification, inform the User or subscriber to take down the prohibited Content.
- b) Prescribe a period within which the User or subscriber is to remove the prohibited Content, ranging from 1 to 24 hours from the time of notification.
- c) If the User or subscriber does not remove such prohibited Content, the OCH shall have the right to remove such Content.

7.4.3 An OCH will place on its website a hyperlink to the Content Forum's website to enable Users and subscribers to obtain the information specified in paragraphs 7.1 – 7.4.2 above.

## Examples in Applying Specific Measures

*X, who is based in Kuala Lumpur, provides an Online lifestyle magazine which can be accessed by anyone from any part of the world. X's portal is hosted on Y's servers. Y's servers are located in Penang.*

*X provides his own Content and third party Content. In his arrangement with the third party Content providers, he does not have the rights to edit the Content. Most third party Content is pushed onto his site automatically without X having the opportunity to view the Content beforehand.*

*X is a subscriber of Z's Internet Access services.*

*In this instance:*

- *X is both a Content provider and an OCA*
- *Y is an OCH*
- *Z is an IASP*

*The Complaints Bureau receives a complaint that one of the web pages of X's Online magazine contains Content which is obscene as defined in the General Guidelines on Content contained in Part 2 of the Code.*

### **Scenario 1:**

*If X receives a notification from the Complaints Bureau it shall :*

- where X has provided the Content, remove the prohibited Content.*
- where the Content is provided by a third party W, inform W to remove the Content within a period ranging from 1 to 24 hours. The period prescribed is at X's discretion. If W fails to remove the prohibited Content, it shall be removed by X.*

### **Scenario 2:**

*If Y receives a notification from the Complaints Bureau, it shall notify X to remove the Content within a period ranging from 1 to 24 hours. The period prescribed is at Y's discretion. In this instance, Y gives X 4 hours to take the necessary action. X may either remove the prohibited Content itself or direct W to remove the Content. If the prohibited Content is not removed within 4 hours, it shall be removed by Y.*

### **Scenario 3:**

*If Z receives a notification from the Complaints Bureau, it shall notify X to remove the Content within a period ranging from 1 to 24 hours. The period prescribed is at Z's discretion. In this instance, Z gives X 12 hours to remove the Content. X may either remove the prohibited Content itself or direct W to remove the Content.*

*If the prohibited Content is not removed within 12 hours, Z can suspend or terminate X's Access to the Internet.*

*If X is not Z's subscriber, Z shall not be required to take any measures.*

## **8.0 Measures not required**

- 8.1 IASPs, OCAs, Link Providers and OCHs shall not be required to undertake any of following:
- a) Provide rating systems for Online Content;
  - b) Block access by their Users or subscribers to any material unless directed to do so by the Complaints Bureau acting in accordance with the complaints procedure set out in the Code;
  - c) Monitor the activities of Users and subscribers; or
  - d) Retain data for investigation unless such retention of data is rightfully requested by the relevant authorities in accordance with Malaysian law.



## **PART 6: SPECIFIC AUDIOTEXT HOSTING SERVICE GUIDELINES**

### **1.0 Scope and Coverage**

1.1 An Audiotext Hosting Service is defined as a service provided pursuant to a licence issued by the Commission, such service being accessed by utilising a telephone or any other future communication tool, and having access via numbers beginning with the prefix 600 or any other number/mode determined by the Commission.

#### **Objectives**

1.2 The major purpose of these specific guidelines is to allow Audiotext Hosting Service providers to self-regulate themselves in the best interest of users generally and in accordance with internationally recognised practice and national policy.

#### **Principles**

1.3 The following principles shall guide Audiotext Hosting Service Content providers who are affected by and/or are subject to this Part of the Code:

- (a) Audiotext Hosting Service Content providers shall apply the guidelines set out in Part 2 of this Code in determining whether Content is indecent, obscene, menacing or offensive unless otherwise defined in this Part.
- (b) No Audiotext Hosting Service provider shall knowingly provide prohibited Content.
- (c) Any Content provided shall not be misleading, likely to mislead or contain inaccurate information.
- (d) Guidelines shall be adhered to on a self-regulatory basis in a manner that would encourage the development of Content and the positive growth of the industry.
- (e) While recognising the importance of the positive growth and commercial viability of the industry, Audiotext Hosting Service providers shall at all times abide by all relevant laws and consider the views and interest of the general public;
- (f) Where live Audiotext Hosting Services are offered, at least one adequately trained employee shall be assigned and present at all times to moderate, facilitate and monitor the service to ensure that all activities within the service remain healthy. The service shall provide facilities for the trained employee to immediately remove callers who misuse and abuse the service.

### **2.0 Specific Guidelines**

#### **Rating Classification**

2.1 All Audiotext Hosting Services must be classified according to the following rating classification below and displayed clearly in all advertising materials.

- (a) "U" - Information or Entertainment services suitable for all ages. However callers below 18 years of age shall obtain permission from the person making payment for the use of the Audiotext Hosting Services.
- (b) "18+" - Services for the general public 18 years and above.

### **Specialist Information**

2.2 "Specialist Information" is defined as information or advice provided by professionals, corporations, the government, government agencies or any other persons who is appropriately qualified or an expert or specialist in relation to the area of expertise.

2.3 Audiotext Host Service Content containing professional advice or opinion (e.g. Medical/Dental/Legal/Financial Services) shall ensure that:

- a) The person is appropriately qualified in his area of expertise;
- b) The advice is prefaced with a disclaimer that such advice shall not be acted upon without first consulting a suitably qualified practitioner, and be conveyed in a manner that accurately reflects the seriousness of the subject matter; and
- c) Any advice involving scientific, statistical or other research data shall indicate clearly the source of such data.

2.4 An Advertisement relating to an Audiotext Hosting Services containing Specialist Information or endorsement shall clearly indicate:

- a) The identity, current status and relevant professional qualification and experience of the person(s) involved; or
- b) The identity of the professional association, statutory authority or government department involved.

### **Content Designed For Children Or Dependent Persons**

2.5 Audiotext Hosting Services designed for, either wholly or mainly, and aimed at an audience of Children or dependent persons shall not :

- a) Include references to sexual practices, language or materials that are offensive to the standards of decency prevailing among those likely to be exposed to them;
- b) Involve any information or noise or sound effect likely to alarm any Child , or of other dependent person, having regard to special protection for such dependent persons; and
- c) Force or unfairly cause any of the above persons, mentioned in this paragraph to dial additional telephone numbers.

2.6 Advertisement of services aimed at Children shall carry the following warning messages: "This call costs RMX.XX per minute/per call. Callers under 18 must seek parent's or guardians approval before calling".

### **3.0 Copyright**

3.1 Audiotext Hosting Services shall respect copyright ownership of recorded announcements or interactive Content and shall not utilise part or all of the Content from another medium without the permission of the copyright owner.

## **PART 7: SPECIFIC LIMITED CONTENT GUIDELINES**

### **1.0 Scope and Coverage**

1.1 Limited Content refers to programmes, Advertisements and other related material conveyed through television, any networked medium or other means of transmission, which are displayed or communicated to a limited, specified or specific group of people or individuals. Providers of Content for this Part include:

- a) In-house TV and radio broadcasting;
- b) Electronic Boards (indoor/outdoor); and
- c) Any related networked medium.

1.2 Limited Content include, but are not be limited to, Bus TV, Rail TV, Hotel TV and radio, Airport TV, Complex TV and radio broadcasting and Pay Per View TV.

1.3 Providers of all Limited Content Communications must abide by the provisions set out in this Code especially those of Parts 2, 3 and 4 referring to the Guidelines on Content, Advertisement and Broadcasting respectively.

## **PART 8: CODE ADMINISTRATION**

### **1.0 Introduction**

1.1 The keyword in this Code is self-regulation. By virtue of this being a voluntary industry Code, all those subscribing to it have expressly undertaken the commitment and responsibility to uphold its objectives and principles. Good governance through self-discipline and self-monitoring is the best form of administration as it ultimately serves the interests of all parties concerned.

1.2 Content providers and Code Subjects are responsible for ensuring that Content and promotion of their services, whether produced by themselves or others on their behalf comply with the provisions of the Code.

### **2.0 Communications and Multimedia Content Forum of Malaysia**

2.1 The Communications and Multimedia Content Forum of Malaysia, designated on 29 March 2001, comprises a balanced representation of the relevant sectors of the industry to ensure the Code it has prepared reflects the views of the community at large.

2.2 Any addition, amendment or review of the Code shall be deliberated upon by the relevant representative industry working group and referred to the Council. Its adoption shall be subjected to input by members and due consideration of public comment.

2.3 The Content Forum, under its registered Constitution, is responsible for the administration of this Code and for sanctions in the case of any breach.

2.4 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.

2.5 Any complaint on matters covered by this Code received by a Code Subject should be resolved by the parties concerned. However, if the complaint cannot be resolved, it may be referred to the Complaints Bureau.

### **3.0 The Complaints Bureau**

3.1 The Complaints Bureau shall:

- a) Consider and deal with complaints relating to content as provided for in the Code;
- b) Investigate any Content which is considered to be in breach of the Code without there necessarily having been a complaint;
- c) Rule on any dispute arising between members of the Content Forum or between a member and a non-member; and
- d) Interpret provisions of the Code when the need arises or a request is made.

3.2 The basis of the action of the Complaints Bureau is the Code and provision of the Act.

3.3 The Complaints Bureau shall deal with all complaints of a general or specific nature that relate to this Code provided the complaint is made within two (2) months after its occurring, and if deemed valid, with reasonable basis and not frivolous.

3.4 The Complaints Bureau is not permitted to consider complaints if they concern matters that are the subject of legal proceedings, or if the Complaints Bureau decides it would be inappropriate. The Complaints Bureau may hold an inquiry into a complaint:

- a) In response to a written request from a person or persons; or
- b) On its own initiative.

3.5 On receiving a complaint and prior to adjudication, the Complaints Bureau shall provide the necessary assistance and guidance to the parties involved with the intention of mediating an amicable resolution by mutual consultation.

3.6 In the event mediation attempts fail, the Complaints Bureau shall proceed with dealing with the complaint. The Complaints Bureau shall convene an inquiry as and when the need arises and may combine the hearing of two or more complaints into a single inquiry.

#### **4.0 Procedure for General Public Complaints**

4.1 Any complaint received from the public shall be made in writing specifying, if possible, the part of the Code that has been breached together with supporting documents or details of the alleged misconduct.

4.2 The complaint shall be referred to the Chairman for his consideration. If the Chairman is of the view that the complaint is frivolous or prima facie lacking in merit or outside the scope of the Code, he shall notify the complainant that no further action is being taken and the reasons therefore.

4.3 If the Chairman is of the opinion that the complaint warrants further investigation to determine its validity, the complaint shall be forwarded immediately to the party complained against for a response within five (5) working days.

4.4 Upon receipt of the response, the Chairman shall review the complaint and the response, if any. If the Chairman feels there are insufficient grounds for upholding the complaint, the Chairman shall circulate to the Complaints Bureau members his views together with the complaint and the response, if any, within five (5) working days where practicable.

4.5 Within five (5) working days, if the majority of the members agree with the view of the Chairman, the Complaints Bureau shall write to the complainant stating that there are insufficient grounds to uphold the complaint.

4.6 If the Chairman is of the view that the complaint has merits, copies of the complaint together with the response of the party complained against shall be circulated to members for their views within five (5) working days where practicable and:

- a) If the views of the members are unanimous, the Complaints Bureau will inform the parties involved of the decision immediately.
- b) If there is a difference of opinion, the Complaints Bureau will convene a meeting soonest possible within the period of 14 days.

## **5.0 Procedure for Industry Complaints**

5.1 Any complaint that any member or person from the industry has should first be raised with the alleged offending party in writing, specifying the Part of the Code which it is claimed has been breached with a copy extended to the Complaints Bureau.

5.2 If within five (5) working days, the complaint is not resolved, then either party shall in writing inform the Complaints Bureau which shall then circulate copies of the complaint to its members for their views within five (5) working days and;

- a) If views are unanimous, the Chairman shall instruct the Secretaries on the action to be taken immediately.
- b) If there is a difference of opinion, the Complaints Bureau will convene a meeting soonest possible within the period of 14 days.

5.3 Notwithstanding paragraphs 3.5 and 3.6 above, the Complaints Bureau encourages industry practitioners to discuss and deliberate any matters of complaints via mediation. To this end, the Complaints Bureau shall provide an avenue for mediation and/or arbitration for parties involved in a particular complaint, as a form of appeal for the Complaint's Bureau's initial decision. The Complaints Bureau reserves the right to impose an administrative fee, which will be imposed on both parties, to facilitate the convening of a mediation process which will be informed to the parties prior to any proceedings.

## **6.0 Procedure for Complaints on Matters relating to Comparative, Superlative and Misleading Claims**

6.1 For any complaint on matters relating to comparative, superlative, misleading claims, upon the request of the Complaints Bureau, the party complained against shall submit documentary evidence to prove the claims to the Complaints Bureau within five (5) working days.

6.2 Upon receiving the documentary evidence, the Complaints Bureau shall make a ruling within ten (10) working days.

6.3 If the party complained against fails to submit to the Complaints Bureau their documentary evidence to prove the claims within five (5) working days, the Complaints Bureau may rule that there has been a breach of the Code.

## **7.0 Inquiry Proceedings**

7.1 In adjudication of all cases, the Complaints Bureau may require the parties concerned to provide evidence in support of or against the complaint and for this purpose, the Complaints Bureau may request:

- a) A written submission with documents, recordings or transcripts of the relevant Content from the complainant and respondent;
- b) The presence of the complainant and respondent and their respective witnesses at the inquiry;
- c) The presence of any party to provide clarification on a document submitted as evidence; and
- d) The presence of any outside independent party for further information or further evidence.

7.2 If the Complaints Bureau is of the opinion that the evidence presented in paragraph 7.1 are sufficient for the Complaints Bureau to make a ruling without having to call for presence of the Complainant and respondent; and their respective witnesses or any party to provide clarification; or the presence of any outside independent party on the complaint, the Complaints Bureau may proceed with its ruling.

7.3 The Complaints Bureau shall specify the time at which or within which the complainant, respondent, their witnesses and any other affected parties are required to be present at the inquiry.

7.4 The provision as to the time within which any party is required to act or respond shall be strictly observed. However, all time limits set out may, in the Complaints Bureau's discretion, be extended if it is considered that its strict application may cause injustice.

## **8.0 Decisions of the Complaints Bureau**

8.1 The ruling of the Complaints Bureau, on any matter and at any given time, shall be decided upon by a majority of votes of its members and rendered in writing.

8.2 The parties concerned shall be notified in writing of the decision and of the subsequent action that is recommended or to be taken.



8.3 In the event that after the decision, any of the parties concerned comes into possession of evidence not earlier available, it may request the Complaints Bureau for reconsideration of its earlier decision. Such a request shall be accompanied by a fee to be determined by the Complaints Bureau and any decision upon such reconsideration shall be final.

## **9.0 Sanctions**

9.1 The Complaints Bureau after adjudicating on a complaint and upon finding that there has been a breach of the Code may impose fines and other penalties permitted by virtue of this Code. The Complaints Bureau may upon finding that there has been a breach of the Code:

- a) Issue a written reprimand;
- b) Impose a fine not exceeding Ringgit Malaysia fifty thousand (RM50,000.00); and/or
- c) Require removal of the Content or cessation of the offending act.

9.2 The Complaints Bureau may also refer the Offending Party to the Commission for further appropriate action as may be required.

9.3 The decision of the Complaints Bureau on the interpretation of the Code shall be final. The Complaints Bureau shall not be responsible or be held liable in any way for any loss of profits/income or any other consequential loss or damage whatsoever and howsoever suffered by the parties including any indirect, incidental or consequential losses or that which may arise directly or indirectly by reason of the Complaints Bureau exercising its power under this Code.

## **10.0 Publication of Decision**

10.1 The Complaints Bureau shall report to the Council the outcome of its mediation efforts or the ruling made, and whether or not the party complained against has complied with or the party in breach has agreed to comply with the ruling.

10.2 The Complaints Bureau shall publish its findings within thirty (30) days of the conclusion of the inquiry and in doing so shall not include in the report:

- a) Any material of a confidential nature; or
- b) Any disclosure or personal information about any individual deemed not relevant to the complaint.

## **11.0 Composition of the Complaints Bureau**

11.1 The Complaints Bureau comprises an appointed Chairman and six members of the Forum, one each representing Advertisers, Audiotext Service providers, Broadcasters, Civic Groups, Content Creators/Distributors and Internet Access Service Providers.

11.2 The appointed Chairman shall be a retired judge or judicial officer or anyone the Council deems fit. The Chairman may be appointed and reappointed for any duration as deemed fit by the Council. The members of the Complaints Bureau shall be appointed for a two-year term at the Annual General Meeting of the Content Forum. A member is eligible for reappointment but cannot hold office for more than two consecutive terms.

11.3 A Complaints Bureau member is entitled to appoint another member of the Content Forum from the same category he/she represents, as an alternate and shall notify the Content Forum Secretary in writing.

11.4 A formal inquiry convened by the Complaints Bureau shall be made up of the Chairman and at least three members. In the event of the Chairman not being able to attend such a scheduled inquiry, it shall nonetheless be convened by at least three Complaints Bureau members, one of whom shall be elected to be the Chairman of the inquiry.

11.5 In ensuring the fair hearing of a complaint, a Complaints Bureau member shall disclose to the Chairman, as soon as practicable, any interest, direct or otherwise, in any particular matter related to the complaint. If the Chairman deems it necessary, all parties involved in the inquiry shall be informed of such disclosure to determine whether the member may continue to execute his duties as a member of the Complaints Bureau in relation to that matter. If none of the parties objects, the member may then continue. If there is an objection, the member cannot proceed in his capacity as a member of the Complaints Bureau in relation to that matter.

11.6 Should any vacancy in the Complaints Bureau occur between the Annual General Meeting of the Content Forum, the position may be filled by a member of the Council until the next Annual General Meeting. The exercise of the powers, or the performance of the functions of the Complaints Bureau shall not be affected only by reason of there being a vacancy in its membership.

11.7 The Chairman or any member of the Complaints Bureau may, at any time, resign his office by giving a written notice to the Council.

11.8 The Council may, at its discretion, suspend any member of the Complaints Bureau on the ground of inappropriate behaviour or incapacity or any other reasons which makes him unfit to be a member of the Complaints Bureau.

## **12.0 Development, Amendment and Review of Code**

12.1 Any proposal for development, addition to, amendment of, or review of the Code required or necessary shall be referred to a working group comprising the six categories, namely Advertisers,

Broadcasters, Audiotext Service Providers, Content Creators/Distributors, Internet Access Service Providers and Civic Groups ("Working Group").

12.2 Any such proposal for development, addition to, amendment of, or review of the Code shall be considered and formulated by the members of the Working Group and shall if approved by a resolution of a simple majority of the members of the Working Group (whereupon it shall be referred to as the "Recommendation") be made available to members of society for their input.

12.3 The Working Group shall consider and deliberate on the input received from members and decide the extent to which the Recommendation is to be revised. If two thirds of the members agree on the Recommendation whether in its original form or as revised, the Recommendation shall be submitted to the Council.

12.4 So long as the Council by simple majority of its members present and voting approves the Recommendation the Council shall make available such Recommendations for Public Comment (public consultation) for a reasonable period.

12.5 The Working Group shall thereafter consider the input in the form of Public Comment that has been received and shall upon approval in its original or amended form by a simple majority forward its Recommendation to the Council.

12.6 Upon receipt of such Recommendation in relation to the Code as so approved, the Council shall forward the same to the Commission for registration.

12.7 The Commission shall be notified of any amendment or modification to the Code as it would be considered as a new code and would therefore need to be registered to take effect.

## **PART 9: PUBLIC EDUCATION**

### **1.0 Public Awareness**

1.1 The Content Forum will actively inform and educate the public about the importance and relevance of this Code.

1.2 The potential use of the wide array of Content choices created by the technological revolution of multimedia convergence is endless. But where there is use, there is also potential for abuse. In this regard, it is necessary for self-regulation and self-censorship.

1.3 Of particular concern is the exploitation of individuals, particularly of Children. It is therefore the responsibility of all Code Subjects and Content and service providers to work in conjunction with non-governmental organisations or civic groups and individuals such as parents and teachers to educate society on how best to eliminate such exploitation.

### **2.0 Industry Awareness**

2.1 In the professional arena of the industry, all Code Subjects, and Content and service providers should consider it incumbent upon themselves to ensure that the provisions of this Code are brought to the attention of their employees entrusted with Content development and production, Content acquisition decisions and commercial message and news production.

2.2 Conscious efforts to adhere to stipulated standards of excellence and continuous measures to promote the responsible use and dissemination of Content can only lead to healthy growth of the industry and maximise the gains such technological development can bring to society at large.

## **PART 10: CONSUMER PROTECTION**

### **1.0 Introduction**

1.1 In accepting, creating and disseminating Content, the need for protection of Consumers is of paramount importance and a relevant consideration.

### **2.0 Principles**

2.1 Consumers have rights as users of services provided by service providers and that such rights must be upheld and observed.

2.2 In creating and providing Content in the context of this Content Code, it must always be in the basis, belief and philosophy and rationale that:

- a) Consumers shall be given sufficient, up to date and accurate information in relation to the provision of and use of any communications and multimedia service;
- b) Consumers are entitled to a level of service that is of an acceptable standard and quality;
- c) The meeting of Consumer requirements needs to be always be balanced with the service providers' business needs and practices; and
- d) Consumers and service providers must always deal reasonably with each other.

### **3.0 General Guidelines**

3.1 The need for and the manner of protecting Consumers are already reflected throughout this Content Code. Code Subjects shall follow the guidelines and procedures relevant to the service they provide, keeping in mind the national policy objective of promoting a high level of Consumer confidence in service delivery from the industry.

### **3.2 Child Protection**

In reiterating the importance of protecting young children;

- a) All Content must have due regard to the welfare of a Child at all times; and
- b) All efforts must be made to ensure that any Content provided will not result in causing, encouraging or promoting physical and emotional injury, abuse or expose a Child to moral danger.

### **3.3 Quality and Standards**

Consumers have their expectations of Content and related services:

Example :

- i) Consumers should be able to watch shows and view materials without being subject to lengthy commercials that affect the enjoyment of the viewing.
- ii) Viewing or listening pleasure should not be marred by the dissemination of objectionable or prohibited material. As set out in the General Guidelines under Part 2.
- ii) Content and materials should not glorify events and occurrence relating to horror, sex and violence unless it is in the context of an actual and real situation.

### **3.4 Cultural Diversity**

Content should respect, protect and promote cultural diversity. Interests of minority and marginalised groups such as the disabled or indigenous peoples should be protected and promoted.

3.5 Diverse cultural Content (in terms of variety, mix, timing , etc) must be actively promoted to avoid over-commercialisation of information.

### **3.6 Corrective Measures**

Corrective and Counter Advertising should be provided for and detailed rules and regulation drawn up to ensure adequate and effective compliance.

## **Appendix I:**

Extracts from the Communications and Multimedia Act 1998

### **Part I – PRELIMINARY**

#### **S. 3 Objects**

- (1) The objects of this Act are -
  - (a) To promote national policy objectives for the communications and multimedia industry;
  - (b) To establish a licensing and regulatory framework in support of national policy objectives for the communications and multimedia industry;
  - (c) To establish the powers and functions for the Malaysian Communications and Multimedia Commission; and
  - (d) To establish powers and procedures for the administration of this Act.
  
- (2) The national policy objectives for the communications and multimedia industry are -
  - (a) To establish Malaysia as a major global centre 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;
  - (c) To grow and nurture local information resources and cultural representation that facilitates the national identity and global diversity;
  - (d) To regulate for the long-term benefit of the end user;
  - (e) To promote a high level of consumer confidence in service delivery from the industry;
  - (f) To ensure an equitable provision of affordable services over ubiquitous national infrastructure;
  - (g) To create a robust applications environment for end users;
  - (h) To facilitate the efficient allocation of resources such as skilled labour, capital, knowledge and national assets;
  - (i) To promote the development of capabilities and skills within Malaysia's convergence industries; and
  - (j) To ensure information security and network reliability and integrity.
  
- (3) Nothing in this Act shall be construed as permitting the censorship of the Internet

## **Part V - POWERS AND PROCEDURES OF THE MALAYSIAN COMMUNICATIONS AND MULTIMEDIA COMMISSION**

### **Chapter 9 - Voluntary Industry Code**

#### **S. 95 Code by the Industry Forum**

- (1) An industry forum may prepare a voluntary industry code dealing with any matter provided for in this Act -
  - (a) on its own initiative; or
  - (b) The voluntary industry code shall not be effective until it is registered by the Commission.
- (2) The voluntary industry code shall not be effective until it is registered by the Commission.

#### **S. 98 Compliance with a Registered Voluntary Industry Code a Legal Defence**

- (1) Subject to section 99, compliance with a registered voluntary industry code shall not be mandatory.
- (2) Compliance with a registered voluntary industry code shall be a defence against any prosecution, action or proceeding of any nature, whether in a court or otherwise, taken against a person (who is subject to the voluntary industry code) regarding a matter dealt with in that code.

#### **S. 99 Directions to Comply with a Registered Voluntary Industry Code.**

The Commission may direct a person or a class of persons, in accordance with section 51, to comply with a registered voluntary industry code.

## **PART IX - SOCIAL REGULATION**

### **Chapter 2 - Content Requirements**

#### **S. 211 Prohibition on Provision of Offensive Content**

- (1) 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.



- (2) A person who contravenes subsection (1) commits an offence and shall, on conviction, be liable to a fine not exceeding fifty thousand ringgit or to imprisonment for a term not exceeding one year or to both and shall also be liable to a further fine of one thousand ringgit for every day or part of a day during which the offence is continued after conviction.

### **S. 212 Content Forum**

The Commission may designate an industry body to be the content forum for the purposes of this Part.

## **Appendix II:**

### **Relevant Legislation**

Apart from the Communications And Multimedia Act 1998 (Act 588), Code Subject and users may need to be aware of the following Acts of Parliament, Rules, Regulations and other Guidelines and are advised to have sufficient resources and expertise to ensure compliance where necessary.

#### **List of Laws, Rules, Regulations and Guidelines Affecting or Relevant to Content**

Accountants Act 1967 (Revised 1972)

Betting Act 1953 (Revised 1992)

Capital Markets and Services Act 2007

Child Act 2001

Children & Young Persons (Employment) Act 1966 (Revised 1988)

CMCF's Guidelines on Advertisements of Slimming Products & Services published on 25<sup>th</sup> January 2016

CMCF's Guidelines for any Marketing Communications by a Gambling Company published on 27<sup>th</sup> October 2020

Common Gaming Houses Act 1953 (Revised 1983)

Communications and Multimedia (Licensing) Regulations 2000

Competition Act 2010

Consumer Protection Act 1999

Consumer Protection (Electronic Trade Transactions) Regulations 2012

Kompilasi Pandangan Hukum, Muzakarah Jawatankuasa Fatwa Majlis Kebangsaan Bagi Hal Ehwal Ugama Islam Malaysia in 2015

Copyright Act 1987

Customs Act 1967 (Revised 1980)

Defamation Act 1957 (Revised 1983)

Dental Act 1971

Direct Sales and Anti-Pyramid Scheme Act 1993 Electronic Commerce Act 2006

Explosives Act 1957 (Revised 1978)

Financial Services Act 2013 (FSA) Film

Censorship Act 2002

Food Act 1983

Food Regulations 1985 Food Advertisement Regulations 2014

Garis Panduan Pengiklanan Ubat Dan Produk Perubatan Kepada Orang Awam (berkuat kuasa 1 September 2015)

Garis Panduan Pengiklanan untuk Pengamal Perubatan Traditional dan Komplementari (disediakan pada 28 September 2016)

Garis Panduan Mengelakkan Iklan Palsu atau Mengelirukan (berkuat kuasa pada 17 Ogos 2017)

Geneva Conventions Act 1962 (Revised 1993)

Guidelines for Control of Cosmetic Products in Malaysia

Guideline for Cosmetic Advertisement  
Indecent Advertisements Act 1953 (Revised 1981)  
Islamic Financial Services Act 2013 (IFSA)  
Medicine (Advertisement and Sale) Act 1956 (Revised 1983)  
Medicine Advertisements Board Regulations 1976  
Medical Device (Advertising) Regulations 2019  
Minor Offences Act 1955 (Revised 1987)  
Money Services Business Act 2011 (MSBA)  
National Anthem Act 1968  
Penal Code (Revised 1997)  
Perintah Perihal Dagangan (Perakuan dan Penandaan Halal) 2011  
Personal Data Protection Act 2010  
Persons with Disabilities Act 2008  
Pesticides Act 1974  
Pesticides (Advertisement) Regulations 1996  
Poisons Ordinance 1952  
Printing Presses and Publications Act 1984  
Private Higher Educational Institutions Act 1996  
Private Healthcare Facilities and Services Act 1998  
Rujukan Industri Kandungan: Iklan Tuntutan Kesihatan (MCMC)  
Sale of Drugs Act 1952 (Revised 1989)  
Security Offences (Special Measures) Act 2012  
Sedition Act 1948 (Revised 1969)  
Sexual Offences Against Children Act 2017  
Trade Descriptions Act 2011  
Trademarks Act 2019  
Traditional and Complementary Medicine Act 2016