

A BILL

i n t i t u l e d

An Act to amend the Communications and Multimedia Act 1998.

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ENACTED by the Parliament of Malaysia as follows:

Short title and commencement

1. (1) This Act may be cited as the Communications and Multimedia (Amendment) Act 2024.

(2) This Act comes into operation on a date to be appointed by the Minister by notification in the *Gazette* and the Minister may appoint different dates for the coming into operation of different provisions of this Act.

Amendment of section 6

2. The Communications and Multimedia Act 1998 [Act 588], which is referred to as the “principal Act” in this Act, is amended in section 6—

(a) in the definition of “certifying agency”, by inserting after the words “section 186” the words “or 230A”;

(b) by inserting after the definition of “communications” the following definition:

‘ “communications data” means any data relating to—

(a) a communication by means of a communications system, generated by the communications system that formed a part in the chain of communications, indicating amongst others, the origin, destination, geolocation, route, time, date, size, duration or type of underlying service, of the communication;

(b) a subscriber of communications services and use of the communications services and the related products, services and applications by the subscriber; and

(c) other data relating to communications;’;

(c) in the definition of “public utility”, by inserting after the words “telecommunications services” the words “, broadband or network facilities”;

(d) in the definition of “intercept”, by substituting for the words “the aural or other acquisition of the contents of any communications” the words “the acquisition or reproduction or both of contents of any communications by way of aural or otherwise”;

(e) by inserting after the definition of “public utility” the following definition: ‘

‘ “publish”, where no mode is specified, means to publish on the website of the Commission;’;

(f) by inserting after the definition of “content applications service” the following definition:

‘ “content applications service provider” means a person who provides a content applications service;’;

- (g) in the definition of “network service”—
- (i) by deleting the words “and/”; and
 - (ii) by inserting after the words “electromagnetic radiation” the words “or both”;
- (h) by inserting after the definition of “post” the following definition:
- ‘ “premises” means any site, stationary or otherwise, whether such site is with or without enclosure, and includes vehicles, aircraft, ships and any other vessel;’;
- (i) by inserting after the definition of “communications market” the following definition:
- ‘ “communications system” means any device or a group of interconnected or related devices, or one or more networks, used in the provision of network service or applications service;’;
- (j) in the definition of “instrument”, by inserting after the word “determination” the words “, written instruction”;
- (k) in the English language text, in the definition of “voluntary industry code”, by substituting for the full stop a semi-colon; and
- (l) by inserting after the definition of “voluntary industry code” the following definition:
- ‘ “written instruction” means a written instruction issued by the Commission under sections 63, 64, 65 and 73.’.

Amendment of section 16

3. Section 16 of the principal Act is amended—

- (a) in subsection (1), by inserting after paragraph (h) the following paragraph:
- “(ha) the procedures and all matters related to unsolicited commercial electronic messages;”;

(b) in subsection (2)—

- (i) by substituting for the words “three hundred thousand” the words “one million”;
- (ii) by substituting for the words “three years” the words “ten years”; and
- (iii) by substituting for the words “one thousand” the words “one hundred thousand”; and

(c) by inserting after subsection (2) the following subsection:

“(3) Notwithstanding subsection (2) and section 53, the regulations made under subsection (1), or any other subsidiary legislation made under this Act, may prescribe that the Commission may impose a financial penalty not exceeding one million ringgit for non-compliance of any direction issued under section 51.”.

New section 16A

4. The principal Act is amended by inserting after section 16 the following section:

“Power to amend Schedule

16A. The Minister may, on the recommendation of the Commission, amend the Schedule by order published in the *Gazette*.”.

Amendment of section 29

5. Section 29 of the principal Act is amended by inserting after the words “this Part” the words “and all relevant information requested pursuant to section 28”.

Amendment of section 34

6. Subsection 34(1) of the principal Act is amended by substituting for the words “sixty days” the words “six months”.

Amendment of section 41

7. Subsection 41(4) of the principal Act is amended—

- (a) by substituting for the words “five hundred thousand” the words “one million”;
- (b) by substituting for the words “five years” the words “ten years”; and
- (c) by inserting after the words “or to both” the words “and shall also be liable to a further fine of one hundred thousand ringgit for every day or part of a day during which the offence is continued after conviction”.

Amendment of section 44

8. Subsection 44(2) of the principal Act is amended by deleting the words “and/”.

Amendment of section 45

9. Subsection 45(2) of the principal Act is amended by deleting the words “, to be prescribed by the Minister by notification in the *Gazette*,”.

New section 46A

10. The principal Act is amended by inserting after section 46 the following section:

“Dispensation of formalities

46A. (1) Notwithstanding sections 45 and 46, the Minister may dispense with the formality of registration under a class licence by making a declaration under section 13, and any person operating under the class licence shall be deemed to be registered under that class licence.

(2) Where subsection (1) applies, any person may operate under the relevant class licence until the cancellation of the class licence or until the Minister cancels the registration of that person pursuant to section 48.

(3) Subsections 13(2), (4) and (5) shall not apply to a declaration under subsection (1).”.

Amendment of section 48

11. Section 48 of the principal Act is amended by inserting after subsection (2) the following subsection:

“(3) A person who contravenes subsection (2) commits an offence and shall, on conviction, be liable to a fine not exceeding five hundred thousand ringgit or to imprisonment for a term not exceeding five years or to both.”.

Amendment of section 51

12. Section 51 of the principal Act is amended—

- (a) in subsection (1), by substituting for the words “the compliance or non-compliance of any licence conditions, and including but not limited to the remedy of a breach of a licence condition, and the provisions of this Act or its subsidiary legislation” the words “the compliance with this Act, its subsidiary legislation, instrument issued under this Act, any licence conditions or any other conditions imposed by the Commission under this Act”;
- (b) in the English language text, in subsection (2), by inserting before the word “required” the word “the”;
- (c) in subsection (5), by substituting for the words “any of the conditions of his licence and/or any of the provisions of this Act or its subsidiary legislation” the words “any of

the provisions of this Act, its subsidiary legislation, any instrument issued under this Act, any licence conditions or any other conditions imposed by the Commission under this Act”; and

- (d) in subsection (7), by inserting before the words “subsection (6)” the words “subsection (1) as notified under”.

Amendment of section 53

13. Section 53 of the principal Act is amended—

- (a) by substituting for the shoulder note the following shoulder note:

“Non-compliance with direction of Commission”;
and

- (b) by substituting for the words “three hundred thousand ringgit or to imprisonment for a term not exceeding three years or to both” the words “one million ringgit or to imprisonment for a term not exceeding ten years or to both and shall also be liable to a further fine of one hundred thousand ringgit for every day or part of a day during which the offence is continued after conviction”.

Amendment of section 55

14. Section 55 of the principal Act is amended—

- (a) in subsection (1), by inserting after the words “Commission’s determination” the following words:

“or any other matter to promote industry conduct which is consistent with—

- (a) the objects of this Act;
(b) any relevant instrument under this Act; or
(c) any relevant provisions of this Act or its subsidiary legislation.”; and

(b) in subsection (5)—

- (i) by substituting for the words “forty-five days” the words “thirty-days”; and
- (ii) by substituting for the words “conclusion of the inquiry” the words “publication of the report on the inquiry under section 65”.

Amendment of section 63

15. Section 63 of the principal Act is amended—

- (a) in subsection (1), by substituting for the words “the Commission may direct that” the words “the Commission may, in writing, instruct that”; and
- (b) in subsection (2), by substituting for the word “direction” the words “written instruction”.

Amendment of section 64

16. Section 64 of the principal Act is amended—

- (a) in the shoulder note, by substituting for the word “**Directions**” the words “**Written instruction**”;
- (b) in subsection (1), by substituting for the word “direction” wherever appearing the words “written instruction”; and
- (c) in subsection (2)—
 - (i) by substituting for the words “Notwithstanding section 53, a” the word “A”; and
 - (ii) by substituting for the words “direction given under subsection (1)” the words “written instruction under subsection 63(1) and subsection (1) of this section”.

Amendment of section 65

17. Section 65 of the principal Act is amended—

- (a) in subsection (2), by inserting after the word “the inquiry” the words “and the Commission may extend that period by not more than thirty days”; and
- (b) in paragraph (3)(d), by substituting for the word “direction” the words “written instruction”.

Amendment of section 68

18. Section 68 of the principal Act is amended—

- (a) in the national language text, by substituting for the words “kesalahan sivil atau jenayah” wherever appearing the words “pelanggaran sivil atau kesalahan jenayah”; and
- (b) in the English language text, by inserting after the word “civil” wherever appearing the word “infringement”.

Amendment of section 73

19. Section 73 of the principal Act is amended—

- (a) in subsection (2)—
 - (i) by substituting for the words “written notice, direct” the words “written instruction, instruct”; and
 - (ii) in paragraphs 2(a), (b), (c), (d), (e) and (f), by substituting for the word “notice” the words “written instruction”; and
- (b) in subsection (3)—
 - (i) by substituting for the word “directed” the word “instructed”;

- (ii) by substituting for the words “and/or documents” the words “or documents or both”; and
- (iii) by substituting for the word “notice” the words “written instruction”.

New sections 73A and 73B

20. The principal Act is amended by inserting after section 73 the following sections:

“Audit by the Commission

73A. (1) The Commission may conduct an audit on any licensee or any other person providing services related to communications system on any matter under this Act, its subsidiary legislation, any instrument issued under this Act or any information which the licensee or other person furnishes to the Commission.

(2) For the purposes of subsection (1), the Commission may authorize any of its officers, agents or technical advisers to conduct the audit.

(3) In conducting the audit, the Commission or any of its authorized officers, agents or technical advisers may—

- (a) enter the premise of any licensee or any other person providing services related to communications system; and
- (b) obtain any information pertaining to the licensee or any other person providing services related to communications system and shall be given access to such information whether stored in a computer or otherwise.

(4) The Commission may request the licensee or any other person providing services related to communications system to bear the cost of the conduct of an audit, as it deems necessary.

(5) The Commission may designate the licensees or any other persons providing services related to communications system that are to be subject to an audit.

(6) A licensee or any other person providing services related to communications system who refuses to assist or facilitate, or obstructs the Commission, its authorized officers, agents or technical advisers in conducting an audit under this section, commits an offence.

(7) For the purposes of this section, “access” has the same meaning assigned to it under subsection 249(2).

Independent audit

73B. (1) The Commission may at such intervals as determined by it, require any licensee to appoint at its own cost an independent expert to audit on any matter under this Act, its subsidiary legislation, any instrument issued under this Act or any information which the licensee furnishes to the Commission.

(2) The audit under subsection (1) shall be conducted in accordance with any guidelines or directions under section 51 issued by the Commission under this Act.

(3) The Commission may designate the licensees that are to be subject to an audit.

(4) The licensee shall establish to the satisfaction of the Commission that such independent expert referred to in subsection (1) has the necessary qualification and competence.

(5) The licensee shall submit a copy of a report of such audit to the Commission within the time as specified by the Commission.

(6) A licensee who fails to comply with this section commits an offence.”.

Substitution of section 74

21. The principal Act is amended by substituting for section 74 the following section:

“Non-compliance with written instructions

74. A person who fails to comply with a written instruction of the Commission under this Chapter commits an offence and shall, on conviction, be liable to a fine not exceeding one million ringgit or to imprisonment for a term not exceeding ten years or to both and shall also be liable to a further fine of one hundred thousand ringgit for every day or part of a day during which the offence is continued after conviction.”.

Substitution of section 75

22. The principal Act is amended by substituting for section 75 the following section:

“Giving false or misleading information, evidence or document, etc.

75. A person who—

- (a) fails to disclose or omits to give any relevant information, evidence or document;
- (b) provides information, evidence or document that he knows or has reason to believe is false or misleading;
or
- (c) intentionally alters, suppresses or destroys any document or information which he has been required to produce,

in response to a written instruction issued by the Commission, commits an offence and shall, on conviction, be liable to a fine not exceeding five hundred thousand ringgit or to imprisonment for a term not exceeding six months or to both.”.

Amendment of section 78

23. Section 78 of the principal Act is amended by inserting after the words “section 268” the words “or 268A”.

Amendment of section 79

24. Subsection 79(1) of the principal Act is amended by substituting for the word “directions” the words “written instructions”.

Amendment of section 80

25. Section 80 of the principal Act is amended—

(a) in subsection (1)—

(i) by inserting after the word “publish” the word “any”;

(ii) by inserting after the word “information” the words “that the Commission has in its original possession or”; and

(iii) by substituting for the word “Chapter” the word “Act”; and

(b) in subsection (2), by inserting after the word “shall” the words “, for information that it has received”.

Amendment of section 81

26. Subsection 81(2) of the principal Act is amended by substituting for the words “charge (if any) to be decided” the words “fee, if any, as may be imposed”.

Amendment of section 82

27. Subsection 82(1) of the principal Act is amended—

(a) in the national language text, by substituting for the words “dua orang atau lebih (“pihak-pihak”)” the words “dua pihak atau lebih”; and

(b) in the English language text, by substituting for the words “persons (“the parties”)” the word “parties”.

Amendment of section 89

28. Subsection 89(2) of the principal Act is amended—

(a) by substituting for the word “complainant” the words “party seeking to enforce the decision”; and

(b) by deleting the words “except in the case of an injunction”.

Deletion of sections 90, 91, 92 and 93

29. The principal Act is amended by deleting sections 90, 91, 92 and 93.

Amendment of section 94

30. Section 94 of the principal Act is amended—

(a) in subsection (1), by substituting for the words “an industry body to be an industry forum” the words “one or more industry bodies as one or more industry forums”; and

(b) in subsection (3), by inserting before the words “the requirements” the words “any of”.

Amendment of section 96

31. Subsection 96(2) of the principal Act is amended by substituting for the word “formulated” the word “determined”.

Amendment of section 97

32. Subsection 97(5) of the principal Act is amended by substituting for the words “three years” the words “one year”.

Amendment of section 99

33. Section 99 of the principal Act is amended—

(a) by renumbering the existing section as subsection (1);
and

(b) by inserting after the renumbered subsection (1) the following subsection:

“(2) Notwithstanding section 53, the Commission may impose a financial penalty not exceeding five hundred thousand ringgit on any person who fails to comply with a direction of the Commission under subsection (1).”.

Deletion of section 100

34. The principal Act is amended by deleting section 100.

Amendment of section 104

35. Section 104 of the principal Act is amended—

(a) by substituting for subsection (1) the following subsection:

“(1) The Commission may determine a mandatory standard for any matter including—

(a) any matter which may be the subject matter of a voluntary industry code if the Commission is satisfied that the designated industry forum has not developed a satisfactory voluntary industry code or that the voluntary industry code is likely to fail or has failed, and will continue to fail; or

(b) any matter to promote industry conduct which is consistent with—

(i) the objects of this Act;

(ii) any relevant instrument under this Act;
or

(iii) any relevant provisions of this Act or its subsidiary legislation.”; and

(b) in subsection (3), by inserting after the words “Ministerial direction” the words “to the Commission”.

Amendment of section 105

36. Section 105 of the principal Act is amended—

(a) in subsection (2), by substituting for the word “licensees” the word “persons”; and

(b) by inserting after subsection (3) the following subsections:

“(4) The Commission may issue a direction to any person under section 51 to comply with any mandatory standard.

(5) Notwithstanding section 53, the Commission may impose a financial penalty not exceeding five hundred thousand ringgit on any person who fails to comply with a direction of the Commission under subsection (4).”.

Deletion of section 109

37. The principal Act is amended by deleting section 109.

Amendment of section 110

38. Subsection 110(2) of the principal Act is amended by deleting the words “/or”.

Amendment of section 111

39. Section 111 of the principal Act is amended—

- (a) in paragraph (3)(d), by inserting after the words “register the undertaking” the words “or such other period agreed by the Commission”;
- (b) in paragraph (4)(b), by inserting after the words “register the undertaking” the words “or such other period agreed by the Commission”; and
- (c) in subsection (5), by inserting after the words “receipt of the undertaking” the words “and the Commission may by written notice to the person making the written application extend the period by not more than thirty days”.

Amendment of section 113

40. Section 113 of the principal Act is amended—

- (a) by inserting after the word “may” the words “, with the approval of the Commission,”; and
- (b) by deleting the words “at any time by notifying the Commission in writing”.

Amendment of section 115

41. Section 115 of the principal Act is amended by inserting after the words “Chapter 6” the words “of this Part”.

Amendment of section 116

42. Section 116 of the principal Act is amended—

- (a) in subsection (1), by substituting for the words “a court” the words “the High Court”; and

(b) by substituting for subsection (2) the following subsection:

“(2) A direction made by the Commission under subsection 112(2) may be enforced by the High Court as if the direction is a judgment of the High Court, provided that a certificate has been issued by the Commission to the party seeking to enforce the registered undertaking for leave to proceed to the High Court for the enforcement of the registered undertaking.”.

Amendment of section 119

43. Section 119 of the principal Act is amended—

- (a) in subsection (2), by inserting after the words “the request by the Commission” the words “and the Commission may by written notice to the person making the written request extend the period by not more than thirty days”; and
- (b) in subsection (4), by inserting after the word “report” the words “, written instruction”.

Amendment of section 121

44. Subsection 121(1) of the principal Act is amended by substituting for the words “A person affected by” the words “A person who is aggrieved or whose interest is adversely affected by”.

Amendment of section 126

45. Section 126 of the principal Act is amended—

- (a) in subsection (1)—
 - (i) by substituting for the word “determined” the word “prescribed”; and
 - (ii) in paragraph (1)(bb), by inserting before the words “class license” the word “valid”; and

(b) in subsection (2)—

- (i) by substituting for the words “five hundred thousand” the words “one million”;
- (ii) by substituting for the words “five years” the words “ten years”; and
- (iii) by substituting for the words “one thousand” the words “one hundred thousand”.

Amendment of section 127

46. Section 127 of the principal Act is amended—

(a) by substituting for subsection (3) the following subsection:

“(3) A licensee under this Part shall not provide any facility or service except in accordance with all the conditions of the individual licence granted to that licensee under this Part or all the conditions of a class licence to which the licensee is subject.”; and

(b) by inserting after subsection (3) the following subsections:

“(4) The Commission may issue a direction under section 51 to any licensee to comply with—

- (a) any applicable condition of the individual licence granted to that licensee under this Part; or
- (b) any applicable condition of the class licence to which such licensee is subject.

(5) Notwithstanding section 53, the Commission may impose a financial penalty not exceeding five hundred thousand ringgit on a licensee who fails to comply with a direction under subsection (4).”.

Amendment of section 145

47. Paragraph 145(1)(c) of the principal Act is amended by deleting the words “and”.

Amendment of section 146

48. Paragraph 146(c) of the principal Act is amended by deleting the words “and”.

Amendment of section 147

49. Section 147 of the principal Act is amended—

- (a) in paragraph (1)(c), by deleting the words “and”; and
- (b) by substituting for subsection (2) the following subsection:

“(2) The Commission may determine that—

- (a) the recommended network facilities or class of network facilities;
- (b) the recommended network service or class of network services; or
- (c) any other recommended facilities or services which facilitate the provision of network services or applications services, including content applications services,

be included in or removed from the access list, if it is satisfied that the access forum has provided sufficient opportunity for public consultation with persons who have an interest in the recommendation, and that not less than nine-tenths of the members of the access forum support the recommendation.”.

Amendment of section 148

50. Paragraph 148(c) of the principal Act is amended by deleting the words “and”.

Amendment of section 149

51. Subsection 149(3) of the principal Act is amended—

(a) by substituting for the words “five hundred thousand” the words “one million”; and

(b) by substituting for the words “five years” the words “ten years”.

Substitution of section 150

52. The principal Act is amended by substituting for section 150 the following section:

“Lodgment of access agreements

150. A written access agreement for the provision of listed network facilities or network services and all amendments to it shall be lodged with the Commission within thirty days from the date of execution or amendment of the access agreement, as the case may be.”.

Amendment of section 152

53. Section 152 of the principal Act is amended by substituting for the words “a single industry body” the words “an industry body”.

Amendment of section 153

54. Subsection 153(3) of the principal Act is amended—

(a) by substituting for paragraphs (b), (c), (d), (e) and (f) the following paragraphs:

“(b) pricing principles including rate methodologies;

(c) operations and maintenance;

- (d) billing and settlement;
 - (e) protection of intellectual property;
 - (f) protection of commercial information;” and
- (b) by inserting after paragraph (f) the following paragraphs:
- “(g) provisioning of facilities or services;
 - (h) sharing of technical information;
 - (i) dispute resolution; and
 - (j) suspension and termination.”.

Amendment of section 155

55. Subsection 155(2) of the principal Act is amended by deleting the words “listed in the access list”.

Amendment of heading of Chapter 1 of Part VII

56. The principal Act is amended in the heading of Chapter 1 of Part VII by deleting the word “*Assignment*”.

Amendment of section 157

57. Section 157 of the principal Act is amended—

- (a) in subsection (1), by substituting for the word “determined” the word “prescribed”; and
- (b) in subsection (2)—
 - (i) by substituting for the words “five hundred thousand” the words “one million”;

- (ii) by substituting for the words “five years” the words “ten years”; and
- (iii) by inserting after the words “to both” the words “and shall also be liable to a further fine of one hundred thousand ringgit for every day or part of a day during which the offence is continued after conviction”.

Amendment of section 172

58. Section 172 of the principal Act is amended—

- (a) in subsection (1), by inserting after the words “all of the spectrum” the words “and such spectrum plan shall be published”;
- (b) in subsection (2), by substituting for the words “(including in an electronic media)” the words “by any means,”; and
- (c) by inserting after subsection (2) the following subsection:
 - “(3) The Commission may, at any time, modify, vary or revoke the spectrum plan and publish such modification, variation or revocation.”.

Amendment of section 174

59. Section 174 of the principal Act is amended—

- (a) by deleting the words “and/”; and
- (b) by inserting after the words “apparatus assignment” the words “or both”.

Amendment of section 177

60. Paragraph 177(d) of the principal Act is amended by deleting the words “/or” at the end of the paragraph.

Amendment of section 180

61. Section 180 of the principal Act is amended—

(a) in paragraph (2)(g), by inserting before the word “rates” the words “fees or”; and

(b) by inserting after subsection (3) the following subsections:

“(4) The Commission may, at any time, modify, vary or revoke the numbering and electronic addressing plan and publish such modification, variation or revocation.

(5) The Commission may issue a direction under section 51 to any person to comply with any numbering and electronic addressing plan.

(6) Notwithstanding section 53, the Commission may impose a financial penalty not exceeding five hundred thousand ringgit on any person who fails to comply with a direction of the Commission under subsection (5).”.

Amendment of section 182

62. Section 182 of the principal Act is amended—

(a) by substituting for the words “five hundred thousand” the words “one million”; and

(b) by substituting for the words “five years” the words “ten years”.

Amendment of section 183

63. Section 183 of the principal Act is amended—

(a) by substituting for the words “five hundred thousand” the words “one million”; and

(b) by substituting for the words “five years” the words “ten years”.

Amendment of section 184

64. Section 184 of the principal Act is amended by substituting for the words “an industry body to be a forum for technical standards (“technical standards forum”)” the words “one or more industry bodies as one or more technical standards forums”.

Amendment of section 185

65. Section 185 of the principal Act is amended—

(a) in subsection (1)—

(i) by substituting for the words “the technical standards forum” the words “each technical standards forum”;

(ii) by substituting for the word “shall” the word “may”; and

(iii) in paragraph (1)(a), by deleting the words “, including, but not limited to, the provision of certain network capabilities such as calling line identification capability and pre-selection capability”;

(b) in paragraph (2)(f), by deleting the word “and” at the end of the paragraph;

(c) in paragraph 2(g), by substituting for the full stop at the end of paragraph the words “; and”; and

(d) by inserting after paragraph (2)(g) the following paragraph:

“(h) the safe emission of electromagnetic field.”.

Deletion of section 187

66. The principal Act is amended by deleting section 187.

Amendment of section 188

67. Section 188 of the principal Act is amended—

(a) by substituting for subsection (2) the following subsection:

“(2) The Commission may issue a direction under section 51 to any network facilities provider, network service provider, applications service provider or content applications service provider to comply with subsection (1).”; and

(b) by inserting after subsection (2) the following subsection:

“(3) Notwithstanding section 53, the Commission may impose a financial penalty not exceeding one million ringgit on a licensee who fails to comply with a direction under subsection (2).”.

Amendment of section 189

68. Section 189 of the principal Act is amended by substituting for the words “an industry body to be a consumer forum” the words “one or more industry bodies as one or more consumer forums”.

Amendment of section 190

69. Section 190 of the principal Act is amended—

(a) in subsection (1)—

(i) by substituting for the words “a consumer forum” the words “each consumer forum”; and

(ii) in paragraph (1)(b), by deleting the words “/or” at the end of the paragraph; and

(b) in subsection (2)—

(i) by inserting after paragraph (2)(a) the following paragraph:

“(aa) quality of service standards and service level agreements;”; and

(ii) by inserting after paragraph (2)(c) the following paragraph:

“(ca) the prohibition of contract terms which are procedurally or substantively unfair or both;”.

Amendment of section 193

70. Section 193 of the principal Act is amended in the shoulder note by substituting for the word “**Minister’s direction**” the word “**Minister’s determination**”.

Amendment of section 199

71. Section 199 of the principal Act is amended—

(a) by deleting the words “freely or frequently”;

(b) by deleting the words “determining and”; and

(c) by deleting the word “competitive”.

Amendment of section 200

72. Section 200 of the principal Act is amended—

(a) in the shoulder note, by substituting for the words “**determine persons or areas for**” the word “**set**”; and

(b) by substituting for the word “determine” the word “set”.

Amendment of section 202

73. Section 202(1) of the principal Act is amended by substituting for the words “and/or applications services” wherever appearing the words “or applications services or both”.

Amendment of section 203

74. Section 203 of the principal Act is amended by deleting the words “/or” wherever appearing.

Amendment of section 204

75. Section 204 of the principal Act is amended—

(a) in subsection (1), by deleting the words “(“USP Fund”)”;

(b) in subsection (2), by substituting for the word “USP” wherever appearing the words “Universal Service Provision”; and

(c) by inserting after subsection (2) the following subsection:

“(3) The Commission shall manage the Universal Service Provision Fund with prudence and due care.”.

Amendment of section 205

76. Section 205 of the principal Act is amended—

(a) by substituting for subsection (1) the following subsection:

“(1) Subject to such exemptions as may be prescribed by the Minister by order published in the *Gazette*, no person shall provide a content applications service except under and in accordance with the terms and conditions of—

(a) a valid individual licence granted under this Act;
or

- (b) a valid class licence granted under this Act, expressly authorizing the provision of the content applications service.”; and
- (b) in subsection (3)—
 - (i) by substituting for the words “five hundred thousand” the words “one million”;
 - (ii) by substituting for the words “five years” the words “ten years”; and
 - (iii) by substituting for the words “one thousand” the words “one hundred thousand”.

Amendment of section 206

77. Section 206 of the principal Act is amended—

(a) by substituting for subsection (3) the following subsection:

“(3) A content applications service provider shall not provide any service except in accordance with all the conditions of the individual licence granted to that licensee under this Chapter or all the conditions of a class licence to which such content applications service provider is subject.”; and

(b) by inserting after subsection (3) the following subsections:

“(4) The Commission may issue a direction under section 51 to any licensee providing content applications service to comply with—

- (a) any applicable condition of the individual licence granted to that licensee under this Chapter; or
- (b) any applicable condition of a class licence to which such licensee is subject.

(5) Notwithstanding section 53, the Commission may impose a financial penalty not exceeding five hundred thousand ringgit on a licensee who fails to comply with a direction under subsection (4).”.

Amendment of section 208

78. Section 208 of the principal Act is amended by substituting for subsection (2) the following subsection:

“(2) For the purposes of this section, “content incidental to the service provided” means content which is incidental to the supply of an applications service because of it being related solely to the interface between an applications service and an end user or any other criteria specified in the guidelines determined by the Minister to clarify the meaning of “content incidental to the service provided” and all matters related to it.”.

Amendment of section 210

79. Section 210 of the principal Act is amended—

(a) in subsection (1)—

(i) by substituting for the words “to decide” the words “for an opinion”; and

(ii) by substituting for the words “whether the content is incidental content” the words “content incidental to the service provided”;

(b) in subsection (4), by substituting for the words “three years from the date that the opinion is provided under subsection (2)” the words “one year from the date of the opinion”; and

(c) in subsection (6), by inserting after the word “opinions” the words “made under this section”.

Amendment of section 211

80. Section 211 of the principal Act is amended—

(a) in the shoulder note, by substituting for the words “**offensive content**” the words “**indecent content, etc.**”;

(b) in subsection (1)—

- (i) by deleting the words “, or other person using a content applications service,”; and
- (ii) by substituting for the words “offensive” the words “grossly offensive”; and

(c) in subsection (2)—

- (i) by substituting for the words “A person” the words “A content applications service provider”;
- (ii) by substituting for the words “fifty thousand” the words “one million”;
- (iii) by substituting for the words “one year” the words “ten years”; and
- (iv) by substituting for the words “one thousand” the words “one hundred thousand”.

New section 211A

81. The principal Act is amended by inserting after section 211 the following section:

“Suspension of content applications service

211A. The Commission may issue a direction under section 51 to direct a content applications service provider to suspend its services for such period specified in the direction, in any one of the following circumstances:

- (a) the content applications service provider has contravened any provision of Chapter 2 of Part IX;
- (b) the content applications service provider has breached any condition of its individual or class licence relating to content; or
- (c) the content applications service provider has failed to comply with any instrument issued, made or given by the Minister or the Commission relating to content.”.

Amendment of section 212

82. Section 212 of the principal Act is amended by substituting for the words “an industry body to be a content forum” the words “one or more industry bodies as one or more content forums”.

Amendment of section 213

83. Section 213 of the principal Act is amended—

(a) in subsection (1), by substituting for the words “by the content forum” the words “by each content forum”; and

(b) in subsection (2), by inserting after paragraph (b) the following paragraph:

“(ba) the types of tools which allow end users to filter or control content which they access;”.

Amendment of section 219

84. Paragraph 219(1)(b) of the principal Act is amended by substituting for the word “utility” the words “public utility”.

Amendment of section 222

85. Paragraph 222(4)(a) of the principal Act is amended by deleting the words “and”.

Amendment of section 228

86. Section 228 of the principal Act is amended—

(a) in the shoulder note, by deleting the words “, **network facilities**”; and

(b) by deleting the words “, network facilities” wherever appearing.

Amendment of section 229

87. Section 229 of the principal Act is amended by deleting the words “, network facilities” wherever appearing.

New Chapter 1A of Part X

88. The principal Act is amended by inserting after Chapter 1 in Part X the following chapter:

“Chapter 1A

Network Security

Certifying agencies

230A. The Commission may register certifying agencies or classes of certifying agencies, including agencies outside Malaysia, for the purpose of certifying compliance with regulations or standards in relation to network security under this Act.

Network security measures and requirements

230B. (1) Where the Commission is satisfied that it is necessary to prevent, detect or counter any network security risk, the Commission may, by a written notice, instruct any person to take such measures or comply with such requirements as may be necessary to prevent, detect, or counter, any such risk.

(2) Any person instructed by the Commission, under subsection (1), who without reasonable excuse fails to take any measure or comply with the written notice given by the Commission under subsection (1) commits an offence and shall, on conviction, be liable to a fine not exceeding one million ringgit or to imprisonment for a term not exceeding ten years or to both.

(3) For the purposes of this section, “network security risk” means any risk or threat, if exploited or not mitigated, could pose a significant risk of damage or disruption to the operation of any network facilities, network service or applications service.”.

Amendment of section 231

89. Section 231 of the principal Act is amended—

- (a) in the shoulder note, by substituting for the words “**Offence if use**” the words “**Use of**”;
- (b) by substituting for the words “fifty thousand” the words “one hundred thousand”;
- (c) in the national language text, by substituting for the words “satu tahun” the words “tiga tahun”; and
- (d) in the English language text, by substituting for the words “two years” the words “three years”.

Amendment of section 232

90. Subsection 232(3) of the principal Act is amended—

- (a) by substituting for the words “three hundred thousand” the words “one million”; and
- (b) by substituting for the words “three years” the words “ten years”.

Amendment of section 233

91. Section 233 of the principal Act is amended—

- (a) in paragraph (1)(a)—
 - (i) by substituting for the word “offensive” the words “grossly offensive”; and
 - (ii) by substituting for the words “or harass another person” the words “, harass or commit an offence involving fraud or dishonesty against, any person”;

(b) by substituting for subsection (2) the following subsection:

“(2) A person who commits an offence under subsection (1) shall, on conviction, be liable to a fine not exceeding five hundred thousand ringgit or to imprisonment for a term not exceeding two years or to both and shall also be liable to a further fine of five thousand ringgit for every day during which the offence is continued after conviction.”;

(c) by substituting for subsection (3) the following subsection:

“(3) Notwithstanding subsection (2), where the offence under paragraph (1)(a) has been committed against a child who is under the age of eighteen years, the person who commits the offence shall, on conviction, be liable to a fine not exceeding five hundred thousand ringgit or to imprisonment for a term not exceeding five years or to both and shall also be liable to a further fine of five thousand ringgit for every day or part of a day during which the offence is continued after conviction.

Explanation 1 — Obscene content may include content that gives rise to a feeling of disgust due to lewd portrayal which may offend a person’s manner on decency and modesty, having possibility of bringing negative influence and corrupting the mind of those easily influenced. In relation to a child, obscene content includes but not limited to child sexual grooming, sexual degradation that portrays any person as a mere sexual object or to demean the dignity, exploit or discriminate them, portrayal of sex or pornography including rape, attempted rape against child, sexual bestiality, whether consensual or otherwise.

Explanation 2 — Indecent content may include content which is profane in nature, improper and against generally accepted behavior, customary laws and culture. Content that portrays private parts based on arts, information or science which are not gross, are not indecent. In relation to a child, indecent content includes but not limited to content which is profane in nature, improper and inappropriate for a child according to a reasonable adult’s consideration.

Explanation 3 — Content that portrays private parts based on arts, information or science which are not gross such as sex education or anatomy, are not obscene or indecent.

Explanation 4 — False content may include content or information which are untrue, confusing, incomplete or fabrication of non-existent matters. Content in the form of satire and parody or where it is clear that it is fictional, are not false.

Explanation 5 — Menacing content may include content which causes annoyance, harmful and evil threats, encourages and incites criminal act or leads to public disorder. In relation to a child, menacing content includes but not limited to—

- (a) content that may cause emotional disturbance such as, portrayal of gruesome death, and domestic violence; or
- (b) content that may cause a child to imitate the portrayal of such act, such as content with suicidal tendencies, dangerous physical acts, street crime acts, or usage of drug.

Explanation 6 — Grossly offensive content may include content that contains expletive and profane in nature that offends many people including crude references, hate speech and violence as follows:

- (a) crude references are obscene, offensive, coarse or profane words. However, the usage of those words in the context of their ordinary meaning and not intended to be used as crude language are not grossly offensive;
- (b) hate speech that refers to any word, visual, audio and gesture that are insulting or demeaning a person are grossly offensive.
- (c) portrayal of violence in news reporting in accordance with ethics for journalists are not grossly offensive. In relation to a child, content which portrays violent scenes that depict humanitarian context or for the purpose of character and plot development, is not grossly offensive; or
- (d) any communication made in good faith is not grossly offensive as long as the communication consists of statements of fact, that are true in substances and facts, and consists of statements of opinion.”; and

(d) by inserting after subsection (3) the following subsections:

“(4) A person who knowingly—

- (a) by means of a network service or applications service provides any obscene communication for commercial purposes to any person; or
- (b) permits a network service or applications service under the person’s control to be used for an activity described in paragraph (a),

commits an offence.

(5) A person who commits an offence under subsection (4) shall, on conviction, be liable to a fine not exceeding one million ringgit or to imprisonment for a term not exceeding five years or to both and shall also be liable to a further fine of ten thousand ringgit for every day or part of a day during which the offence is continued after conviction.”.

New section 233A

92. The principal Act is amended by inserting after section 233 the following section:

“Sending of unsolicited commercial electronic messages

233A. No person shall send or cause to be sent or authorize the sending of an unsolicited commercial electronic message in contravention of any provisions of this Act or any regulations under this Act.”.

Amendment of section 234

93. Subsection 234(3) of the principal Act is amended—

(a) by substituting for the words “fifty thousand” the words “five hundred thousand”; and

(b) by substituting for the words “one year” the words “five years”.

Substitution of section 235

94. The principal Act is amended by substituting for section 235 the following section:

“Damage to network facilities, etc.

235. (1) A person who by any willful, dishonest or negligent act or omission, extends, tampers with, adjusts, alters, removes, destroys or damages any network facilities or any part of them commits an offence.

(2) A person who has in his possession any network facilities or any part of them, whether in its original state or altered form, knowing or having reason to believe the same to be removed in the circumstances described in subsection (1) commits an offence.

(3) A person who commits an offence under subsection (1) or (2) shall, on conviction, be liable to a fine not exceeding five hundred thousand ringgit or to imprisonment for a term not exceeding five years or to both.

(4) In any prosecution for an offence under subsection (2), any person who has in his possession any network facilities or any part of them, whether in its original state or altered form is presumed to know or has a reason to believe that the same has been removed in the circumstances described in subsection (1), unless the contrary is proven.”.

Amendment of section 236

95. Section 236 of the principal Act is amended—

(a) in paragraph (1)(a)—

- (i) by inserting after the words “imports,” the words “exports,”;
- (ii) by inserting after the word “supplies” the words “, modifies”; and
- (iii) by inserting after the word “hire” the words “or distributes”;

(b) in paragraph (1)(c)—

- (i) by inserting after the words “imports,” the words “exports,”;
- (ii) by inserting after the word “supplies” the words “, modifies”; and
- (iii) by inserting after the words “hire,” the word “distributes”;

(c) in subsection (3)—

(i) by substituting for the words “five hundred thousand” the words “one million”; and

(ii) by substituting for the words “five years” the words “ten years”; and

(d) in subsection (4), in the definition of “counterfeit access device”, by inserting after the words “a counterfeit access device” the words “, which includes any access device that is primarily to assist in decoding an encrypted programme-carrying signal transmitted by any means without the authorization of the lawful distributor of such signal”.

New section 236A

96. The principal Act is amended by inserting after section 236 the following section:

“Right of private action for contravention of section 235 or 236

236A. (1) Any person who suffers loss or damage directly as a result of a contravention of section 235 or 236 by another person shall have a right of action for relief in civil proceedings in a court under this section against any person who is or who has at the material time been a party to such contravention, whether or not the other person has been charged with an offence in respect of the contravention or, whether or not a contravention has been proved in a prosecution.

(2) This section shall not affect any liability under any other written law in respect of the conduct constituting the contravention.”.

Amendment of section 237

97. Section 237 of the principal Act is amended—

(a) in subsection (1), by substituting for the words “operate, or provide, or use,” the words “operate, provide or use”; and

(b) in subsection (3), by deleting the words “and/”.

Amendment of section 238

98. Subsection 238(1) of the principal Act is amended—

- (a) by substituting for the words “fifty thousand” the words “one hundred thousand”; and
- (b) by substituting for the words “one year” the words “two years”.

Amendment of section 239

99. Subsection 239(1) of the principal Act is amended—

- (a) by substituting for the words “one hundred thousand” the words “one million”; and
- (b) by substituting for the words “two years” the words “ten years”.

Amendment of section 240

100. Section 240 of the principal Act is amended—

- (a) in the shoulder note, by substituting for the words “**Offence for distributing**” the word “**Distributing**”;
- (b) by substituting for the words “one hundred thousand” the words “two hundred thousand”; and
- (c) by substituting for the words “two years” the words “three years”.

Amendment of section 241

101. Section 241 of the principal Act is amended—

- (a) in the shoulder note, by substituting for the words “**Offence for giving**” the word “**Giving**”;

- (b) by substituting for the words “twenty thousand” the words “five hundred thousand”; and
- (c) by substituting for the words “six months” the words “five years”.

Amendment of section 242

102. Section 242 of the principal Act is amended—

- (a) by substituting for the words “one hundred thousand” the words “one million”; and
- (b) by substituting for the words “two years” the words “five years”.

Substitution of section 243

103. The principal Act is amended by substituting for section 243 the following section:

“Compounding of offences

243. (1) The Minister may, with the approval of the Public Prosecutor, make regulations prescribing—

- (a) any offence under this Act or its subsidiary legislation as an offence which may be compounded; and
- (b) the method and procedure for compounding such offence.

(2) The Chairman of the Commission may, with the consent in writing of the Public Prosecutor compound any offence committed by any person under this Act prescribed to be a compoundable offence by making a written offer to the person suspected to have committed the offence to compound the offence upon payment to the Chairman of the Commission of a sum of money not exceeding fifty per centum of the amount of maximum fine to which the person would have been liable to if he had been convicted of the offence, within such time as may be specified in his written offer.

(3) An offer under subsection (2) may be made at any time after the offence has been committed but before any prosecution for it has been instituted.

(4) If the amount specified in the offer is not paid within the time specified in the offer, or such extended time as the Chairman of the Commission may grant, prosecution for the offence may be instituted at any time after that against the person to whom the offer was made.

(5) Where an offence has been compounded under this section—

(a) no prosecution shall be instituted in respect of the offence against the person to whom the offer to compound was made; and

(b) any document or thing seized in connection with the offence may be released by the Chairman of the Commission, subject to such terms and conditions as the Chairman thinks fit.

(6) All sums of moneys received by the Chairman of the Commission under this section shall be paid into and form part of the Federal Consolidated Fund.”.

New section 244A

104. The principal Act is amended by inserting after section 244 the following section:

“Recovery of fees, etc.

244A. Notwithstanding the provisions of any other written law, any fee, charge, rate, financial penalty or other amount payable under this Act or its subsidiary legislation may, without prejudice to any other remedy or sanction, be recoverable as a civil debt.”.

Amendment of section 247

105. Section 247 of the principal Act is amended—

- (a) in paragraph (2)(a), by inserting after the words “computerized data” the words “and records”;
- (b) in subsection (4), by inserting before the words “they may be detained” the words “in so far as the search is for the investigation of an offence,”;
- (c) in subsection (6), by inserting after the words “computerized data,” wherever appearing the words “record,”; and
- (d) in subsection (7), by inserting after the words “computerized data,” the words “record,”.

Amendment of section 248

106. Section 248 of the principal Act is amended by inserting after the word “Inspector” the words “or an authorized officer”.

New section 248A

107. The principal Act is amended by inserting after section 248 the following section:

“Warrant admissible notwithstanding defect

248A. A search warrant issued under this Act shall be valid and enforceable notwithstanding any defect, mistake or omission in the search warrant or in the application for such warrant and any book, account, document, computerized data, record or other thing seized under such warrant shall be admissible in evidence in any proceedings under this Act.”.

Amendment of section 249

108. Section 249 of the principal Act is amended—

- (a) by inserting after the words “computerized data” wherever appearing the words “and records”; and

(b) in subsection (1)—

- (i) by inserting after the words “A police officer” the words “or an authorized officer”; and
- (ii) by deleting the words “or an authorized officer conducting a search under section 247”.

Substitution of section 250

109. The principal Act is amended by substituting for section 250 the following section:

“List of things seized

250. (1) Except as provided in subsection (2), where any equipment, instrument, material, book, account, document, goods, record or other thing is seized pursuant to this Act, the authorized officer making the seizure—

(a) shall prepare—

- (i) a list of the equipments, instruments, materials, books, accounts, documents, goods, records or other things seized and shall sign the list; and
- (ii) a written notice of the seizure containing the grounds for the seizure and shall sign the notice; and

(b) shall, as soon as practicable, serve a copy of the list of the equipments, instruments, materials, books, accounts, documents, goods, records or other things seized and the written notice of the seizure to the occupier of the premises which have been searched, or to his agent or servant at those premises.

(2) The written notice of the seizure shall not be required to be served pursuant to paragraph (1)(b) where the seizure is made in the presence of the person against whom proceedings under this Act are intended to be taken, or in the presence of the owner of such property or his agent, as the case may be.

(3) If the premises are unoccupied, the authorized officer shall post a copy of the list of the equipments, instruments, materials, books, accounts, documents, goods, records or other things seized conspicuously on the premises.”.

Amendment of section 251

110. Section 251 of the principal Act is amended—

(a) in subsection (1)—

(i) by substituting for the words “a designated police officer other than the police officer” the words “the authorized officer”;

(ii) by substituting for the words “seizure, may at any time after that before it is forfeited under this Act” the words “seizure may, after referring to the Public Prosecutor,”; and

(b) in subsection (2), by deleting the words “and to the Inspector General of Police”.

Amendment to section 252

111. Section 252 of the principal Act is amended—

(a) in subsection (1), by substituting for the words “intercept or to listen to” the words “intercept, listen to, record or retain”;

(b) by inserting after subsection (1) the following subsection:

“(1A) The Public Prosecutor, if he considers that any communication is likely to contain any information which is relevant for the purpose of any investigation of an offence under this Act or its subsidiary legislation, may—

(a) require any licensee to intercept or retain a specified communication or communications of a specified description received or transmitted, or about to be received or transmitted by that licensee; or

(b) authorize an authorized officer or a police officer of or above the rank of Superintendent to enter any premises and to install on such premises, any device for the interception and retention of a specified communication or communications of a specified description and to remove and retain such device.”;

(c) in subsections (2), (3) and (5), by substituting for the words “subsection (1)” the words “this section”; and

(d) by substituting for subsection (4) the following subsection:

“(4) The court shall take cognizance of any authorization by the Public Prosecutor under this section.”.

New sections 252A and 252B

112. The principal Act is amended by inserting after section 252 the following sections:

“Preservation of communications data

252A. (1) If a police officer or an authorized officer is satisfied that—

(a) communications data is reasonably required for the purposes of an investigation; and

- (b) there is a risk that the communications data may be destroyed or rendered inaccessible,

the police officer or authorized officer may, by written notice given to a person in control of the communications system, require the person to ensure that the communications data specified in the notice be preserved for the period and in such manner as may be specified in the written notice.

(2) The person to whom the written notice is given under subsection (1)—

- (a) shall preserve the communications data specified in the notice for the period and in such manner as may be specified in the written notice; and
- (b) shall not disclose the existence and content of the written notice, the procedure, method, manner or any matter related to the preservation of communications data under subsection (1) without lawful authority.

(3) A person who contravenes subsection (2) commits an offence.

Disclosure of stored communications data

252B. (1) If a police officer or an authorized officer is satisfied that any communications data is reasonably required for the purposes of an investigation into an offence under this Act or its subsidiary legislation, the police officer or authorized officer may, by written notice given to a person in control of the communications system, require the person to disclose such communications data in the manner specified in the written notice.

(2) The person to whom the written notice is given under subsection (1)—

- (a) shall disclose such communications data in the manner specified in the written notice; and

(b) shall not disclose the existence and content of the written notice, the procedure, method, manner or any matter related to the disclosure of communications data under subsection (1) without lawful authority.

(3) A person who contravenes subsection (2) commits an offence.”.

Substitution of section 253

113. The principal Act is amended by substituting for section 253 the following section:

“Obstruction

253. Any person who—

- (a) refuses any authorized officer access to any premises which such authorized officer is entitled to have under this Act or in the execution of any duty imposed or power conferred by this Act;
- (b) assaults, obstructs, hinders or delays any authorized officer in effecting any entry which the authorized officer is entitled to effect under this Act, or in the execution of any duty imposed or power conferred by this Act;
- (c) refuses to give any authorized officer any information relating to an offence or suspected offence under this Act or any other information which he has in his knowledge or power to give;
- (d) rescues or endeavours to rescue or causes to be rescued anything which has been seized; or
- (e) destroys any thing to prevent the seizure or the securing of the thing,

commits an offence and shall, on conviction, be liable to a fine not exceeding one million ringgit or to imprisonment for a term not exceeding ten years or to both.”.

Amendment of section 254

114. Section 254 of the principal Act is amended by substituting for paragraph (a) the following paragraph:

“(a) to require the production of computers, devices, books, records, accounts, data, computerized data and documents kept by a licensee or any other person and to inspect, examine and to download, make copies or take extracts from them;”.

Amendment of section 263

115. Section 263 of the principal Act is amended—

(a) in subsection (1), by deleting the words “use his best endeavour to”;

(b) in subsection (2)—

(i) by substituting for the words “written request by” the words “receipt of a written notice from”; and

(ii) by substituting for the words “assist the Commission or other authority as far as reasonably necessary” the words “comply with the written notice,”; and

(c) by inserting after subsection (2) the following subsection:

“(3) A licensee who fails to comply with the written notice under subsection (2) commits an offence and shall on conviction, be liable to a fine not exceeding one million ringgit or to imprisonment for a term not exceeding three years or to both.”.

Amendment of section 264

116. Section 264 of the principal Act is amended—

(a) by inserting after the word “criminal” the words “or civil”; and

(b) by substituting for the words “section 263” the words “sections 230B and 263”.

Amendment of section 266

117. Section 266 of the principal Act is amended by deleting the words “and/” wherever appearing.

Amendment of section 268

118. Section 268 of the principal Act is amended—

(a) by substituting for the words “one or more licensees or persons” the words “any licensee or person”; and

(b) by inserting after the words “retain records” the words “and to submit such records to the Commission”.

New sections 268A and 268B

119. The principal Act is amended by inserting after section 268 the following sections:

“Minister may make rules on keeping, etc., communications data for investigation purposes

268A. The Minister may make rules, to be published in the *Gazette*, to require any licensee or person to keep and retain communications data to facilitate the investigation of offences.

Power to specify form and manner of submission

268B. Where under any provision of this Act, its subsidiary legislation or any instrument issued, made or given under this Act any person is required to submit to the Commission any information, records, returns or documents, the Commission may specify that such information, records, returns or documents be submitted in such form or manner and within such period or at such intervals as the Commission may specify.”.

Amendment of section 269

120. Section 269 of the principal Act is amended—

(a) in subsection (2), by deleting the words “/or”; and

(b) in subsection (3)—

(i) by substituting for the words “made and/or” the word “and”; and

(ii) by deleting the word “determined”.

Saving and transitional

121. (1) Section 34 of the principal Act as amended by this Act shall apply to all licences issued before the coming into operation of this Act at the expiry of twelve months of the coming into operation of this Act.

(2) Any inquiry under section 55, application for registration of an undertaking under section 111 and request for a copy of a statement of reasons for the decision under section 119 of the principal Act, pending before the date of coming into operation of this Act, shall be dealt with in accordance with the principal Act as amended by this Act.

(3) Any direction, determination, decision, written notice, guideline and action made, issued, given or done by the Minister or Commission under the principal Act on the date of coming into operation of this Act shall, after the date of coming into operation of this Act, continue to be in force and have effect as if the principal Act has not been amended by this Act.

(4) Any access agreement registered under section 150 of the principal Act before the date of coming into operation of this Act shall, after the date of coming into operation of this Act, be dealt with as if the principal Act has not be amended by this Act.

(5) Any investigation or proceedings commenced or pending before the date of coming into operation of this Act shall, after the date of coming into operation of this Act, be continued as if the principal Act has not be amended by this Act.

EXPLANATORY STATEMENT

This Bill seeks to amend the Communications and Multimedia Act 1998 (“Act 588”) primarily to prescribe financial penalties for breach of any subsidiary legislation, to expand the power of the Commission to issue directions and mandatory standards, to empower the Commission to carry out audits, to expand the power of the Commission to designate industry forum and to expand the subject matter of voluntary industry codes, to strengthen the regulatory and enforcement powers of the Commission, to promote industry regulation on network security and powers of the Commission to address network security risks, to prohibit the sending of unsolicited commercial electronic messages and to empower the Minister to make regulations on it, to provide for stricter penalties as deterrent and other related matters.

2. *Clause 1* contains the short title and the provision on power of the Minister to appoint the commencement date of the proposed Act including the power to appoint different dates for the coming into operation of different provisions of the proposed Act.

3. *Clause 2* seeks to amend section 6 of Act 588 to introduce new definitions of “communications data”, “publish”, “content applications service provider”, “premises”, “communications system” and “written instruction”, and amend the existing definitions in Act 588.

4. *Clause 3* seeks to amend section 16 of Act 588.

Subclause 3(a) seeks to empower the Minister to make regulations on the procedures and all related matters regarding unsolicited commercial electronic messages.

Subclause 3(b) seeks to increase the penalty which may be prescribed for any contravention of the regulations made under subsection 16(1) of Act 588 or any other subsidiary legislation made under Act 588.

Subclause 3(c) seeks to prescribe the financial penalty that may be imposed for non-compliance of any direction issued under section 51 of Act 588 notwithstanding the penalty provided under subsection 16(2) and section 53 of Act 588.

5. *Clause 4* seeks to introduce a new section 16A into Act 588 to empower the Minister to amend the Schedule to Act 588 by order published in the *Gazette*.

6. *Clause 5* seeks to amend section 29 of Act 588 to provide that the written recommendation to the Minister by the Commission shall be provided after receiving all relevant information requested under section 28 of Act 588.

7. *Clause 6* seeks to amend subsection 34(1) of Act 588 to extend the period of application for the renewal of an individual licence from sixty days to six months before its expiry. Thus, the licensees are required to submit their licence applications earlier as this may give the licensees additional time to rectify any non-compliance under section 34 of Act 588.

8. *Clause 7* seeks to amend subsection 41(4) of Act 588 to increase the penalty for the offence under section 41 of Act 588.

9. *Clause 10* seeks to introduce a new section 46A into Act 588 to empower the Minister to dispense with formality of registration of a class licence through a declaration, and any person operating under that class licence shall be deemed to be registered under that class licence.

10. *Clause 11* seeks to introduce a new subsection 48(3) into Act 588 to make it an offence for a person who contravenes subsection 48(2) of Act 588 and to impose a penalty for the offence of operating the licensable activity despite the cancellation of the registration.

11. *Clause 12* seeks to amend section 51 of Act 588 to expand the powers of the Commission to issue directions to any person on compliance with the provisions of Act 588, its subsidiary legislation or any instrument issued under Act 588, including but not limited to, any licence conditions.

12. *Clause 13* seeks to amend section 53 of Act 588 to increase the penalty for the offence under section 53 of Act 588.

13. *Clause 14* seeks to amend section 55 of Act 588.

Subclause 14(a) seeks to expand the powers of the Commission to issue determinations on any matter to promote industry conduct which is consistent with the objects of Act 588, any relevant instrument under Act 588 or any relevant provisions of Act 588 or its subsidiary legislation.

Subclause 14(b) seeks to extend the period for the Commission to determine any matter under section 55 of Act 588 within the period of thirty days from the publication of the report on the inquiry under section 65 of Act 588. Currently, the Commission must determine the matter within the period of forty-five days from the conclusion of the inquiry.

14. *Clauses 15 and 16* seek to amend sections 63 and 64 of Act 588 to change the applicable instrument from a direction to a written instruction to facilitate enforcement.

15. *Clause 17* seeks to amend section 65 of Act 588.

Subclause 17(a) seeks to empower the Commission to extend the period to publish the report on an inquiry by not more than thirty days.

Subclause 17(b) seeks to change the applicable instrument from a direction to a written instruction to facilitate enforcement.

16. *Clause 19* seeks to amend section 73 of Act 588 to clarify that the instrument to be used by the Commission is a written instruction, and not a direction under section 51 of Act 588.

17. *Clause 20* seeks to introduce new sections 73A and 73B into Act 588.

The proposed section 73A seeks to enhance governance and efficiency in the communications and multimedia industry through audit of licensees or any other person providing services related to communications system.

The proposed section 73B seeks to empower the Commission to require any licensee to appoint independent experts to audit on any matter under Act 588, its subsidiary legislation or instrument issued.

18. *Clause 21* seeks to substitute section 74 of Act 588 to clarify that the instrument used is a written instruction, and not a direction under section 51 of Act 588 and to provide for an offence of non-compliance with a written instruction of the Commission under Chapter 5 of Part V of Act 588 and its penalty.

19. *Clause 22* seeks to substitute section 75 of Act 588 for the following purpose:

(a) to expand the ambit of the offence to include the act of intentionally altering, suppressing or destroying any document or information that is required to be produced;

(b) to clarify that the instrument used is a written instruction and not a direction under section 51 of Act 588; and

(c) to increase the penalty for the offence under section 75 of Act 588.

20. *Clause 24* seeks to amend section 79 of Act 588 to clarify that the instrument used is a written instruction and not a direction under section 51 of Act 588.

21. *Clause 25* seeks to amend section 80 of Act 588 to allow the Commission to publish not only information that it receives under Chapter 5 of Part V of Act 588 but also information that it has in its original possession.

22. *Clause 28* seeks to amend subsection 89(2) of Act 588 to allow the High Court to make orders for injunctions for the enforcement of decisions of the Commission. Currently, all decisions made by the Commission may be enforced by the Court except in the case of an injunction.

23. *Clause 29* seeks to delete sections 90, 91, 92 and 93 of Act 588 as registration of agreements is no longer required.

24. *Clause 30* seeks to amend section 94 of Act 588 to allow the Commission to designate one or more industry bodies as one or more industry forum. The communications sector is diverse, and having a more focused industry forum will allow for a better industry self-regulation and administration of the relevant industry forums.

25. *Clause 32* seeks to amend subsection 97(5) of Act 588 to shorten the period for which opinions issued by the Commission in relation to voluntary industry codes are binding from three years to one year. This amendment is required given the fast-paced industry development.

26. *Clause 33* seeks to amend section 99 of Act 588 to empower the Commission to impose financial penalty for failure to comply with any direction of the Commission under section 99 of Act 588.

27. *Clause 34* seeks to delete section 100 of Act 588 as a consequential amendment to the new subsection 99(2) of Act 588.

28. *Clause 35* seeks to amend subsection 104(1) of Act 588 to expand the power of the Commission to determine a mandatory standard to cover any matter and the circumstances relating to the determination of the mandatory standards by the Commission.

29. *Clause 36* seeks to amend section 105 of Act 588.

Subclause 36(a) seeks to expand the applicability of the mandatory standard determined by the Commission to any class of persons, which is currently limited to licensees.

Subclause 36(b) seeks to empower the Commission to impose financial penalty for failure to comply with any direction of the Commission under section 105 of Act 588 on the compliance with any mandatory standard.

30. *Clause 37* seeks to delete section 109 of Act 588 as a consequential amendment to the new subsection 105(5) of Act 588.

31. *Clause 39* seeks to amend section 111 of Act 588.

Subclauses 39(a) and *(b)* seek to allow the Commission and the party giving the undertaking to agree on other period of the undertaking.

Subclause 39(c) seeks to empower the Commission to extend the period to register the undertaking by an additional period of not more than thirty days so that the Commission will have sufficient time to consider the likely effects of the undertaking on the communications sector and the relevant communications market.

32. *Clause 40* seeks to amend section 113 of Act 588 to provide any withdrawal of an undertaking is subject to the approval of the Commission. Currently, a person may withdraw the undertaking only by notifying the Commission in writing.

33. *Clause 41* seeks to amend section 115 of Act 588 to clarify that the reference to Chapter 6 refers to Chapter 6 of Part V of Act 588.

34. *Clause 42* seeks to amend section 116 of Act 588.

Subclause 42(a) seeks to clarify that the application for enforcement of an undertaking should be made to the High Court.

Subclause 42(b) seeks to amend subsection 116(2) of Act 588 to allow the High Court to make orders for injunction for the enforcement of the registered undertaking. Currently, all directions under subsection 112(2) of Act 588 given by the Commission may be enforced by the Court except in the case of an injunction.

35. *Clause 43* seeks to amend section 119 of Act 588.

Subclause 43(a) seeks to empower the Commission to extend the period to give the statement of reasons for the decision, by a period of not more than thirty days.

Subclause 43(b) seeks to include “written instruction” as a decision of the Commission so that such “written instruction” can be reviewed by the Appeal Tribunal.

36. *Clause 44* seeks to amend subsection 121(1) of Act 588 to include a person who is aggrieved or whose interest is adversely affected for purposes of consistency with sections 119 and 120 of Act 588.

37. *Clause 45* seeks to amend section 126 of Act 588 to increase the penalty for the offence under section 126 of Act 588.

38. *Clause 46* seeks to amend section 127 of Act 588.

Subclause 46(a) seeks to require licensees to comply with all of the licence conditions.

Subclause 46(b) seeks to empower the Commission to issue directions to licensees to comply with the conditions of the licence. The procedure under section 51 of Act 588 shall apply to the issuance of a direction which gives the licensee a right to make a written submission to the Commission prior to the issuance of the direction. Where a licensee fails to comply with a direction of the Commission, the Commission may impose a financial penalty on the licensee.

39. *Clause 49* seeks to amend section 147 of Act 588.

Subclause 49(b) seeks to substitute subsection 147(2) of Act 588 to enable the Commission to have an option to determine the persons to be included or removed from the access list including content applications services, if the Commission is satisfied that the access forum has provided sufficient opportunity for public consultation.

40. *Clause 51* seeks to amend subsection 149(3) of Act 588 to increase the penalty for the offence under section 149 of Act 588.

41. *Clause 52* seeks to substitute section 150 of Act 588 to change the requirement to register a written access agreement with the requirement to lodge such agreement. With this amendment, the onus will be on the parties to the agreement to ensure that the access agreement is compliant with Act 588 and its subsidiary legislation, and instruments issued pursuant to Act 588.

42. *Clause 54* seeks to amend subsection 153(3) of Act 588 to expand the list of matters which the access code may address.

43. *Clause 55* seeks to amend subsection 155(2) of Act 588 to allow the Commission to accept access undertakings in relation to network facilities or network services which are not limited to those set out in the access list. Currently, the Commission may only accept access undertakings which are listed in the access list.

44. *Clause 56* seeks to amend the heading of Chapter 1 of Part VII of Act 588 for purposes of clarity.

45. *Clause 57* seeks to amend subsection 157(2) of Act 588 to increase the penalty for the offence under section 157 of Act 588.

46. *Clause 58* seeks to amend section 172 of Act 588.

Subclause 58(a) seeks to amend subsection 172(1) of Act 588 to provide for the need to publish the spectrum plan.

Subclause 58(b) seeks to amend subsection 172(2) of Act 588 to provide for the means the spectrum plan is to be made available to the public upon payment of a fee to be decided by the Commission.

Subclause 58(c) seeks to introduce a new subsection 172(3) into Act 588 to provide that the Commission may modify, vary or revoke the spectrum plan and publish such modification, variation or revocation.

47. *Clause 61* seeks to amend section 180 of Act 588.

Subclause 61(a) seeks to amend paragraph 180(2)(g) to empower the Commission to impose fees, in addition to rates, for the assignment and transfer of numbers and electronic addresses.

Subclause 61(b) seeks to introduce new subsections 180(4), (5) and (6) into Act 588.

The proposed subsection 180(4) seeks to provide that the Commission may modify, vary or revoke the numbering and electronic addressing plan and publish such modification, variation or revocation.

The proposed subsection 180(5) seeks to empower the Commission to issue a direction under section 51 of Act 588 for compliance with the numbering and electronic addressing plan.

The proposed subsection 180(6) seeks to empower the Commission to impose financial penalty for failure to comply with any direction issued under subsection 180(5) of Act 588.

48. *Clause 62* seeks to amend section 182 of Act 588 to increase the penalty for the offence under section 182 of Act 588.

49. *Clause 63* seeks to amend section 183 of Act 588 to increase the penalty for the offence under section 183 of Act 588.

50. *Clause 64* seeks to amend section 184 of Act 588 to allow the Commission to designate one or more industry bodies as one or more technical standards forums to prepare technical codes which is specific to different segments of the communications and multimedia industry.

51. *Clause 65* seeks to amend subsection 185(2) of Act 588 to include matters relating to the safe emission of electromagnetic field as matters to be addressed in the technical code.

52. *Clause 66* seeks to delete section 187 of Act 588. With the proposed amendment, all network facilities provider, network service provider, applications service provider or content applications service provider must comply with section 188 of Act 588 without exception.

53. *Clause 67* seeks to amend section 188 of Act 588.

Subclause 67(a) seeks to substitute subsection 188(2) to empower the Commission to issue a direction under section 51 of Act 588 for the compliance with the obligation under subsection 188(1) of Act 588.

Subclause 67(b) seeks to introduce a new subsection 188(3) into Act 588 to empower the Commission to impose a financial penalty for failure to comply with any direction issued under subsection 188(2) of Act 588.

54. *Clause 68* seeks to amend section 189 of Act 588 to allow the Commission to designate one or more industries bodies as one or more consumer forums so that different groups can be designated as consumer forum depending on the relevant services.

55. *Clause 69* seeks to amend section 190 of Act 588.

Subclause 69(a) seeks to amend subsection 190(1) of Act 588 as a consequential amendment to section 189 of Act 588.

Subclause 69(b) seeks to expand the matters which the consumer code may address.

56. *Clause 71* seeks to amend section 199 of Act 588 to provide that the power of the Minister to intervene to set rates is not limited to competitive facilities or services.

57. *Clause 72* seeks to amend section 200 of Act 588 to provide that the power of the Minister is to set a special rate regulation regime and that the provision does not involve the Minister issuing a determination pursuant to section 10 of Act 588.

58. *Clause 75* seeks to amend section 204 of Act 588.

Subclause 75(c) seeks to introduce a new subsection 204(3) into Act 588 to provide that the Commission shall manage the Universal Service Provision Fund with prudence and due care, in the interest of good governance.

59. *Clause 76* seeks to amend section 205 of Act 588.

Subclause 76(a) seeks to substitute subsection 205(1) of Act 588 to provide that a person who provides a content applications service shall comply with terms and conditions of a valid individual licence and class licence granted under Act 588 subject to exemptions prescribed by the Minister by order published in the *Gazette*.

Subclause 76(b) seeks to amend subsection 205(3) of Act 588 to increase the penalty for the offence under subsection 205(1) of Act 588.

60. *Clause 77* seeks to amend section 206 of Act 588.

Subclause 77(a) seeks to amend subsection 206(3) of Act 588 to provide that a content applications service provider shall provide a service in accordance with all the conditions of the licence granted to the licensee.

Subclause 77(b) seeks to introduce new subsections 206(4) and (5) into Act 588.

The proposed subsection 206(4) seeks to empower the Commission to issue directions requiring compliance with all licence conditions.

The proposed subsection 206(5) seeks to empower the Commission to impose a financial penalty for failure to comply with any direction issued under subsection 206(4) of Act 588.

61. *Clause 78* seeks to amend subsection 208(2) of Act 588 to clarify the definition of “content incidental to the service provided” for the purposes of consistency with the definition of “incidental content” under section 6 of Act 588.

62. *Clause 79* seeks to amend section 210 of Act 588.

Subclause 79(a) seeks to amend subsection 210(1) Act 588 to allow a person to apply for an opinion of the Commission on whether a content applications service is considered a limited content applications service or content incidental to the service provided.

Subclause 79(b) seeks to amend subsection 210(4) Act 588 to shorten the period for which opinions issued by the Commission are binding from three years to one year.

63. *Clause 80* seeks to amend section 211 of Act 588.

Subclause 80(b) seeks to amend subsection 211(1) of Act 588 to limit the scope of the application of section 211 of Act 588 to content applications service providers only. Currently, section 211 Act 588 is applicable to content applications service providers and other person using content applications service. With the proposed amendment, section 233 of Act 588 shall apply to an offence committed by a person using content applications service.

Subclause 80(c) seeks to amend subsection 211(2) of Act 588 to increase the penalty for the offence under section 211 of Act 588.

64. *Clause 81* seeks to introduce a new section 211A into Act 588 to empower the Commission to suspend content applications service in the event of a contravention of the provisions under Chapter 2 of Part IX of Act 588, breach of licensing conditions relating to content or non-compliance of instruments relating to content regulation.

65. *Clause 82* seeks to amend section 212 of Act 588 to allow the Commission to designate one or more industry bodies as one or more content forums to prepare content codes which is specific to different segments of the communications and multimedia industry.

66. *Clause 83* seeks to amend section 213 of Act 588.

Subclause 83(b) seeks to introduce a new paragraph 213(2)(ba) to include content filtering as one of the matters which the content code may address.

67. *Clause 86* seeks to amend section 228 of Act 588 to provide that the provision only relates to access to post or right-of-way, and not access to network facility.

68. *Clause 88* seeks to introduce a new Chapter 1A of Part X into Act 588.

The proposed section 230A seeks to provide for the Commission to register certifying agencies, including agencies outside Malaysia, for the purposes of certifying compliance with regulations or standards related to network security under Act 588.

The proposed section 230B seeks to empower the Commission to take pre-emptive measures to prevent, detect or counter any network security risk.

69. *Clause 89* seeks to amend section 231 of Act 588 to increase the penalty for the offence under this section.

70. *Clause 90* seeks to amend section 232 of Act 588 to increase the penalty for the offence under this section.

71. *Clause 91* seeks to amend section 233 of Act 588.

Subclause 91(a)(ii) seeks to introduce new element of offence in subsection 233(1) of Act 588 in relation to commission of any fraud and dishonesty to any person.

Subclause 91(b) seeks to increase the penalty and imprisonment for the offence committed under subsection 233(1) of Act 588.

Subclause 91(c) seeks to introduce a new subsection (3) into section 233 of Act 588 to provide for a different and higher punishment where the offence under paragraph 233(1)(a) of Act 588 has been committed against a child who is under the age of eighteen years, which construed the offence committed under this section as seizable offence.

Subclause 91(d) seeks to introduce a new subsection (5) into section 233 of Act 588 to provide for a higher penalty and imprisonment for any offence committed under subsection 233(4) of Act 588 which construed the offence committed under this section as seizable offence.

72. *Clause 92* seeks to introduce a new section 233A into Act 588 to prohibit persons from sending, causing to be sent or authorizing the sending of unsolicited commercial electronic messages. This provision also relates to the introduction of a new paragraph 16(1)(ha) to empower the Minister to make regulations in relation to this matter.

73. *Clause 93* seeks to amend subsection 234(3) of Act 588 to increase the penalty for the offence under section 234 of Act 588.

74. *Clause 94* seeks to substitute section 235 of Act 588 to increase the penalty for offences under the existing subsections 235(1) and (2) of Act 588 and to include a prohibition on the possession of any network facilities which have been unlawfully removed.

75. *Clause 95* seeks to amend section 236 of Act 588.

Subclauses 95(a) and *(b)* seek to amend subsection 236(1) of Act 588 to expand the scope of actions which constitute fraud and related activities in relation to access devices.

Subclause 95(c) seeks to amend subsection 236(3) of Act 588 to increase the penalty for the offence under section 236 of Act 588.

Subclause 95(d) seeks to amend 236(4) of Act 588 to clarify the definition of “counterfeit access device”.

76. *Clause 96* seeks to introduce a new section 236A into Act 588 to provide for the right of private action for persons who have suffered loss as a result of the commission of the offence under section 235 or 236 of Act 588.

77. *Clauses 98, 99, 100 and 101* seek to amend subsections 238(1) and 239(1), and sections 240 and 241 of Act 588 respectively to increase the penalties for the offences under those subsections and sections.

78. *Clause 102* seeks to amend section 242 of Act 588 to increase the general penalty for offences under Act 588 or its subsidiary legislation.

79. *Clause 103* seeks to substitute section 243 of Act 588 to empower the Minister with the approval of the Public Prosecutor to prescribe any offence under Act 588 to be compoundable. The Commission implements the compounding of such offences with the consent of the Public Prosecutor.

80. *Clause 104* seeks to introduce a new section 244A into Act 588 to provide for the recovery of any fee, charge, rate, financial penalty or other amount payable under Act 588 or its subsidiary legislation as a civil debt.

81. *Clause 105* seeks to amend section 247 of Act 588.

Subclauses 105(a), (c) and (d) seek to amend subsections 247(2), (6) and (7) of Act 588 to expand the scope of the Commission's investigation powers to request for records, which may include data that licensees must retain under the new record keeping rules under Act 588.

Subclause 105(b) seeks to amend subsection 247(4) of Act 588 to clarify that the power of a police officer or an authorized officer to detain things believed to be instruments or evidence of a crime is only for the purposes of investigation of a criminal offence.

82. *Clause 106* seeks to amend section 248 of Act 588 to also empower an authorized officer to enter the premises without warrant in the circumstances specified in the section. Currently, only a police officer not below the rank of Inspector may enter the premises without warrant.

83. *Clause 107* seeks to introduce a new section 248A into Act 588 to enable evidence to be admissible notwithstanding defects in the search warrant or in the application for such warrant.

84. *Clause 109* seeks to substitute section 250 of Act 588 to provide for new procedures on seizure of any equipment, instrument, material, book, account, document, goods, record or other things in the course of investigation.

85. *Clause 110* seeks to amend section 251 of Act 588 to provide for new procedures on the release of things being seized in the course of investigation.

86. *Clause 111* seeks to amend section 252 of Act 588 to be consistent with the provision under the Criminal Procedure Code [Act 593] regarding the power to intercept by the Public Prosecutor.

87. *Clause 112* seeks to introduce new sections 252A and 252B into Act 588.

The proposed new section 252A seeks to empower a police officer or an authorized officer to require any person in control of a communications system to preserve the communications data for a period and in such manner as may be specified. This proposed section is to be read together with the proposed section 268A which empowers the Minister to make record keeping rules for investigation purposes.

The proposed new section 252B seeks to empower the police officer or authorized officer to require any person in control of a communications system to disclose communications data in a specified manner.

88. *Clause 113* seeks to substitute section 253 of Act 588 to detail out the offence of obstruction and to increase the penalty.

89. *Clause 114* seeks to amend section 254 of Act 588 to expand the scope of items which the authorized officer may require the production of in the course of investigation.

90. *Clause 115* seeks to amend section 263 of Act 588 to impose a mandatory obligation on licensees to adhere to the written notices issued by the Commission or any other authorities, to prevent the commission of any offence under any written law in Malaysia. A specific offence provision is also included in relation to the mandatory obligation.

91. *Clause 116* seeks to amend section 264 of Act 588.

Subclause 116(a) seeks to amend section 264 of Act 588 to expand the immunity to cover civil proceedings.

Subclause 116(b) seeks to amend section 264 of Act 588 to expand the scope of immunity to include compliance with the written notice issued by the Commission under the new section 230B of Act 588.

92. *Clause 118* seeks to amend section 268 of Act 588 to require any licensee or person to not only keep and retain records but also submit such records to the Commission.

93. *Clause 119* seeks to introduce new sections 268A and 268B into Act 588.

The proposed section 268A seeks to empower the Minister to make rules on the keeping and retention of communications data for investigation purposes.

The proposed section 268B seeks to empower the Commission to specify the form and manner in which information, returns or documents may be submitted.

94. *Clause 121* deals with the saving and transitional provisions.

95. Other amendments not specifically dealt with in this Explanatory Statement are minor or consequential in nature.

FINANCIAL IMPLICATIONS

This Bill will involve the Government in extra financial expenditure, the amount of which cannot at present be ascertained.

[PN(U2)2688]