Malaysia

Hoping that an Internet unencumbered by censorship will spur growth in domestic information technology industries, Malaysia has pledged not to censor the Internet. There is no evidence of technological Internet filtering in Malaysia. However, pervasive state controls on traditional media spill over to the Internet at times, leading to self-censorship and reports that the state investigates and harasses bloggers and cyber-dissidents.

Background

Malaysia has a long history of state censorship and tight media controls. All four major newspapers are pro-state, and any oppositional and independent media outlets face the possibility of harassment by police, extended legal wrangling, detention, and imprisonment for publishing speech critical of the state.[1] As many as twenty different Malaysian laws restrict speech, and free speech activists contend this leads to self-censorship by journalists.[2] The state also monitors the content of Web sites, and independent news Web site www.malaysiakini.com claims to have been the subject of several police investigations and an eviction notice as a result of publishing content deemed defamatory or offensive.[3]
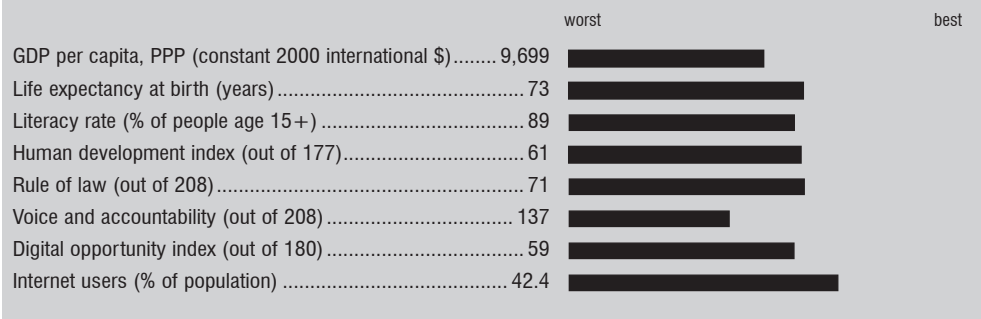
Internet in Malaysia

Since 1996, Malaysia has embarked on an international public relations campaign to draw technology research and development to its Multimedia Super Corridor (MSC), a high-tech business center and communications infrastructure designed to help Malaysia become an international information technology leader.[4] Developing Internet infrastructure in Malaysia is a state priority, and consumers are encouraged to purchase PCs and Internet access. By 2005, Malaysia had approximately eleven million

RESULTS AT A GLANCE

Filtering	No evidence of filtering	Suspected filtering	Selective filtering	Substantial filtering	Pervasive filtering
Political	●				
Social	●				
Conflict/security	●				
Internet tools	●				

Other factors	Low	Medium	High	Not applicable
Transparency			●	
Consistency			●	

Internet users, and with a national Internet penetration rate of 42 percent was third in Southeast Asia behind Hong Kong and Singapore.[5] The state, recognizing the opportunities for e-commerce and for individuals to exchange ideas and information,[6] has strongly encouraged adoption of broadband Internet throughout the country.[7] Nevertheless, uptake has been slow as dial-up remains the method by which most Malaysians access the Internet.[8] Broadband penetration reached a mere 2 percent in 2006, far behind other Southeast Asian regional leaders such as Singapore and Hong Kong, which had broadband penetrations of nearly 16 and 24 percent, respectively.[9]

Legal and regulatory frameworks

Malaysia's constitution guarantees every citizen the right of free speech and expression, but also sets significant limitations on that freedom, as Parliament may by law effect "such restrictions [on free speech] as it deems necessary or expedient in the interest of the security of the Federation …."[10] Parliament has enacted numerous laws enabling broad state control over the media. Notable print and broadcast media regulations include the Printing Presses and Publications Act, which requires all print publishers to seek annual renewal of a publication license granted at the state's discretion, and the Sedition Act, which criminalizes the expression or publication of words that tend to incite hatred or contempt against any government.

The Communications and Multimedia Act of 1998 ("CMA") and the Communications and Multimedia Commission Act of 1998 ("CMCA") together directly govern Malaysia's telecommunications, broadcasting, and Internet sectors, including related facilities, services, and content.[11] The CMCA establishes the Malaysian Communications and Multimedia Commission, which is empowered to regulate the information technology and communications industries. The commission takes the position that Internet content must be regulated and controlled for "reasons of access, privacy and security and protection of individual rights."[12] The CMA empowers the commission with broad authority to regulate online speech, providing that "no content applications service provider, or other person using a content applications service, shall provide content which is indecent, obscene, false, menacing, or offensive in character with intent to annoy, abuse, threaten or harass any person."[13]

Publishers of media content in violation of this provision may face criminal penalties, including a fine of up to RM50,000 and/or a maximum of one year in prison.[14] The CMA also establishes the Content Forum, which formulates and implements the Content Code—voluntary guidelines for content providers concerning the handling of content deemed offensive and indecent.[15]

The CMA and other laws empower the state with extensive media controls. To foster the growth of the Internet market and the MSC, however, the state has generally refrained from directly censoring the Internet. In its "Bill of Guarantees" to approved MSC companies, the state pledges not to censor Internet content.[16] Nevertheless, Internet content publishers in Malaysia operate under constant risk that the CMA and numerous other laws regulating speech and content on traditional media will be interpreted or amended to extend to Internet publications.[17]

In January 2007, Malaysian Prime Minister Datuk Seri Abdullah Ahmad Badawi made a somewhat ineffectual distinction by stating that while the government policy is not to censor the Internet, bloggers are bound by laws on defamation, sedition, and other limits on speech.[18] Badawi's statement was an official restatement of the policy announced in August 2006 that bloggers who publish seditious, malicious, or defamatory content will be reported to the police.[19] In January 2007, the *New Straits Times* (NST) newspaper and several of its executives inaugurated the first known defamation suits against bloggers. Jeff Ooi (www.jeffooi.com) and Ahirudin Attan (www.rockybru.blogspot.com), both prominent bloggers and the latter the President of the National Press Club, were sued simultaneously for both blog posts and reader comments.[20] The allegedly libelous content included Jeff Ooi's blog coverage of NST and its editors' roles in misrepresenting facts, publishing a caricature of the Prophet Muhammad, and plagiarism in blog posts in 2006.[21] Ooi had previously been investigated by the Communications and Multimedia Commission and the police concerning comments a reader posted on his blog that were deemed offensive to the official version of Islam in Malaysia.[22]

ONI testing results

Testing was conducted during October and November 2006 on two of the largest Malaysian Internet service providers (ISPs), Jaring and TMNet, and also on Macrolynx, a smaller Malaysian ISP. The tests revealed no evidence of filtering for any of the categories tested.

Conclusion

Malaysia retains strict control over traditional broadcast and print media through a broad web of vaguely worded regulations.[23] To encourage growth of Internet and new media technologies and commerce in Malaysia, however, the state has promised Internet companies that it will not censor the Internet. ONI's testing revealed no evidence of technological Internet filtering. This does not necessarily mean, however, that the Internet environment in Malaysia is free of government influence and control. Bloggers and independent online news publishers report being investigated and harassed by police on several occasions for posting allegedly offensive or seditious content, and the state media frequently run articles and opinion pieces questioning whether the Internet should be subject to tighter state controls.

NOTES

1. See Reporters Without Borders, Malaysia: 2004 Annual Report, http://www.rsf.org/article. php3?id_article=10201.
2. Ibid.
3. See Steven Gan, "Yes, another police report," August 11, 2006, http://www.malaysiakini.com/editorials/55265; see also South East Asian Press Alliance, "World publishers and editors back Malaysiakini's non-disclosure policy," January 30, 2006, http://www.seapabkk.org/news/malaysia/20030130.html.
4. See http://www.msc.com.my/msc/msc.asp.

5. International Telecommunication Union, *World Telecommunication Indicators 2006*; Paul Budde Communication Pty Ltd., Asia: Internet, March 5, 2006, p. 3.

6. Communications and Multimedia Content Forum of Malaysia, "Broadband in Malaysia: More supply than demand?" 2006, http://www.cmcf.org.my/HTML/cmcf_industry_watch-12.asp; The Communications and Multimedia Content Forum of Malaysia, "Convergence," 2006, http://www.cmcf.org.my/HTML/cmcf_industry_watch_3.asp.

7. Paul Budde Communication Pty Ltd., Malaysia: Broadband Market, July 30, 2006, p. 1.

8. Ibid.

9. International Telecommunication Union, *World Telecommunication Indicators 2006*.

10. Constitution of Malaysia, Article 10.

11. See The Communications and Multimedia Content Forum of Malaysia, http://www.cmcf.org.my/.

12. Ibid.

13. Malaysian Communications Multimedia Act of 1998, §211(1).

14. Ibid., §233.

15. See The Communications and Multimedia Content Forum of Malaysia, http://www.cmcf.org.my/.

16. See MSC Malaysia National Rollout, http://www.msc.com.my/msc/rollout_status.asp.

17. See, for example, *Star Online,* "Government looking at gaps in printing Act," July 27, 2006, http://www.thestar.com.my/news/story.asp?file=/2006/7/27/nation/14961817&sec=nation ("The Government will study if the Printing Presses and Publications Act should be amended to include the electronic media and the Internet media").

18. *Malaysia General News,* "Gov't won't censor Internet bloggers but they must be responsible, says PM," January 23, 2007.

19. Reuters, "Malaysian leaders carry quarrel into cyberspace," August 11, 2006.

20. *South China Morning Post,* "Newspaper sues Internet bloggers for defamation," January 19, 2007, reprinted at http://www.asiamedia.ucla.edu/article.asp?parentid=61629.

21. See Jeff Ooi's blog *Screenshots* at http://jeffooi.com/.

22. See Ethan Zuckerman, "Global voices blogger Jeff Ooi questioned in Malaysia regarding Weblog," Global Voices, February 28, 2005, http://www.globalvoicesonline.org/2005/02/28/global-voices-blogger-jeff-ooi-questioned-in-malaysia-regarding-weblog-post/.

23. See, for example, http://www.kempen.gov.my/coci/mypress.htm.