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A brief overview on the current situation.

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ABSTRACT

Internet has caused the emergence of 'Cyberspace' through which business transactions can be undertaken 'paperless' anytime, anywhere and practically without binding laws. Some countries have made a bold attempt to enact 'Cyber Laws' to regulate the Internet and among these, the US Laws are regarded as a source of reference by others.

On the whole, the US Cyber Laws deal on the three specific areas of Internet use: Access control, Consumer privacy and Security in the cyberspace. Sixteen federal laws with another eleven statutory provisions collectively provide the regulatory framework for these. In the US Cyber Laws are often challenged illegal as infringing on fundamental rights. Hence, the government shows reluctance to enact Cyber Laws on a preemptive basis and instead, prefer the industry to devise its own self-regulatory controls.

Unlike the US, Singapore's Cyber Laws are on the Internet Access, Computer abuse, Electronic transactions, Intellectual property and Consumer protection. 'Internet Access' includes also 'content creation, their transmission' and relevant codes of practices. Laws under the remaining four mainly deal on the various aspects of e-commerce. Laws are enacted on a preemptive basis with provisions for the industry to devise its own 'codes of good practices.' As a regional centre for commerce and finance, Singapore recognizes the emerging importance of k-economy and e-commerce, and its Cyber Laws are meant for the eventual conversion to these.

In the race towards embracing Internet and conversion to k-economy, Malaysia had adopted a novel 'leap-forge' strategy. It is the establishment of the Multimedia Super Corridor (MSC), designated to be the 'international test bed' for IT-based ideas. The MSC is claimed to be the "gift to the world" and IT industries are invited to MSC with incentives and protections, including through enacting 'innovative' Cyber Laws. Content-wise, these Cyber Laws are almost similar to those of others except their 'extra-territorial reach' in intended enforcement. The government aims to champion these Cyber Laws for the eventual 'international acceptance and adoption.' On theory, these Laws are 'internationally binding and enforceable' at present. Malaysia had in fact assumed the role of a pacesetter in drafting Laws for the cyberspace and only time can determine the eventual success of this assumed leadership.

ABSTRAK

Internet telah mewujudkan 'alam maya' dimana segala transaksi bisnes dapat dilakukan 'tanpa kertas' dan tanpa sekatan masa, tempat dan sebarang perundangan. Kini ada sebilangan negara yang telah memperkenalkan undang-undang untuk mengawal Penggunaan Internet. Di antara ini, negara Amerika Syarikat (AS) di anggap sebagai panduan untuk negara-negara lain.

Pada amnya, undang-undang 'alam maya' AS melibatkan tiga aspek amalan Internet iaitu Penggunaan, Keperibadian Konsumer dan Keselamatan di 'alam maya'. Enam belas peraturan Internet dan sebelas undang-undang yang lain mengeluarkan garis panduan umum untuk mengawal penggunaan Internet di AS. Usaha memperkenalkan undang-undang seperti ini pada amnya sering dicabar dengan dakwaan mencabuli hak asas kebebasan. Maka kerajaan AS at pada lazimnya tidak begitu berminat memperkenalkan undang-undang untuk sekatan Internet, malahan suka menggalakan industri 'IT' mewujudkan 'sekatan kawal mutu' sendiri yang boleh diikuti oleh semua pihak yang berkenaan.

Undang-undang 'alam maya' negara Singapura sebaliknya, meliputi aspek-aspek Penggunaan Internet, Penyalahgunaan Komputer, Transaksi Elektronik, Hak milik intelek dan Keselamatan Konsumer. 'Penggunaan Internet' juga membicarakan butiran seperti Isi Penghasilan intelek, Transmisi Hasil Isi dan Kod-kod Amalan Industri yang relevan. Undang-undang yang digubal di bawah keempat-empat aspek yang berlainan pada amnya adalah mengenai amalan 'Perniagaan Elektronik'. Kesemua peraturan ini digubal atas dasar 'mencegah kesalahan' (pre-emptive basis) dan dengan ruang untuk mengenalkan 'Kod Amalan Baik' industri. Sebagai sebuah pusat antarabangsa perniagaan dan kewangan di rantau ini, Singapura telah memperkenalkan undang-undang 'alam maya' dengan tujuan mengalih kepada 'Ekonomi Pengetahuan' dan 'Perniagaan Elektronik' tanpa sebarang kerumitan.

Dalam proses mengalih kepada 'Perniagaan Elektronik', dan mempergiatkan lagi penggunaan Internet, Malaysia telah memilih sebuah strategi yang unik dan menarik. Ini adalah dengan penubuhan MSC yang diperkenalkan sebagai 'hadiah kepada dunia' dan 'medan eksperimen Teknologi maklumat antarabangsa'. Dengan tujuan menggalakkan pelabur asing melabur di MSC, kerajaan Malaysia telah memperkenalkan pelbagai insentif dan beberapa undang-undang 'alam maya'. Dari segi isi kandungannya, undang-undang ini adalah hampir serupa dengan undang-undang 'alam maya' kebanyakan negara melainkan ianya digubal khas untuk 'pemakaian di mana-mana sahaja seluruh dunia' jika perlu. Kerajaan Malaysia berhasrat menaja serta menjayakan undang-undang ini ke masyarakat antarabangsa. Maka, dengan pendekatan ini, Malaysia telah memperkenalkan dirinya sebagai 'Negara Perintis' mengubal undang-undang 'alam maya' bagi dunia dan usaha ini adalah amat dibanggakan.

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SUDASNI, Panayan Renganathan

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CHAPTER 1: INTRODUCTION

CHAPTER 1: INTRODUCTION

Internet has caused tremendous changes to the way people do business. One among these is the emergence of "paperless" economy where business negotiations, verification, sourcing of goods and services, transfer of funds and other related commercial functions are dealt-with electronically through the Internet. This is what we mean as "e-commerce" or in a broader perspective, "knowledge-economy".

In any "e-commerce" process broadly five parties are in interaction with one another: The purchaser, seller, business intermediaries, communication network providers and the legislative or government regulatory environment under which the whole business transaction takes place.

An e-commerce transaction as any other business deal, is viable only under a safe, secure, transparent and trustworthy "business environment". Legal and governmental rules are usually considered as the very basis to ensure such an environment where e-commerce is emerging. This applies to any nation, both developed as well as the ones that are still in the process of development, including Malaysia.

In a way, e-commerce is "international" in its outlook. This is because it rides on the 'technological backbone' advantage of the Internet that permits communication linkage to all over the world, instantly and also around the clock. Hence the biggest

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