

Suggested Steps Malaysia Could Take to Address Digital-Related Restrictions

Malaysia's Barriers to U.S. Digital Service Suppliers

Over the past few years, Malaysia has adopted and proposed several key measures that have significantly constrained market access for U.S. digital service suppliers: (1) **Licensing obligations for data centers and cloud services** under the Communications and Multimedia Act (CMA), (2) the **Social Media Licensing (SML) regime** under the CMA, (3) **platform liability provisions** under the CMA, (4) 2025 CMA amendments expanding warrantless **law-enforcement access** to data, and (5) a proposed **digital news remuneration framework** requiring large platforms to compensate local media.

The cumulative effect of these initiatives is to place U.S. firms at a marked disadvantage in the Malaysian market: imposing broad licensing obligations on cloud and data center providers that extend far beyond traditional telecommunications regulation; mandating local incorporation and licensing under the SML regime that create forced establishment and expose companies to discretionary state control; maintaining intermediary liability provisions that criminalize platforms for user-generated content; and expanding warrantless law enforcement powers that conflict with global privacy and cybersecurity norms. In addition, Malaysia's proposed digital news remuneration framework threatens to introduce coercive, state-facilitated compensation arrangements between platforms and local publishers. Collectively, these measures heighten operational and legal risk, increase compliance uncertainty, and deter foreign investment—undermining Malaysia's goal of positioning itself as a trusted regional hub for digital trade, data-driven innovation, and cross-border cloud services, and raising barriers to a market that accounted for US\$2.6 billion in digital services exports in 2023.¹

As the U.S. engages with Malaysia to address trade barriers, several targeted measures could significantly enhance market access for U.S. suppliers:

Commitments from Malaysia to Ease Digital Trade Barriers

Addressing existing barriers:

- Address concerns with recent amendments to the 1998 Communications and Multimedia Act, including by:
 - Exempting cloud and data-hosting providers from **telecommunications-style obligations**, including requirements related to government interception, mandatory data-access disclosure, periodic MCMC-imposed technical standards, and contributions to the Universal Service Provision Fund.²

¹ <https://apps.bea.gov/iTable/?reqid=62&step=6&isuri=1&tablelist=359&product=4>.

² <https://insightplus.bakermckenzie.com/bm/data-technology/malaysia-introduces-licensing-for-social-media-and-internet-messaging-services>

- Repealing the **SML regime**³ that requires social media and messaging platforms with over 8 million Malaysian users to obtain an “applications service provider” license and establish a local presence as a condition of operation.⁴ If maintained, at a minimum, Malaysia should commit to ensuring that licensing conditions apply transparently, based on objective, technology-neutral criteria, and without discrimination toward foreign service providers. Further, it should limit the Minister of Communications’ discretionary authority to revoke or suspend licenses based on vague “public interest” grounds.
- Repealing **intermediary liability provisions, including Sections 211⁵ and 233⁶** that hold online platforms directly or criminally liable for user-generated content.
- Revising the **2025 CMA amendments granting warrantless access to communications data**⁷ to ensure that such access requests are subject to judicial authorization, proportionality standards, and clear procedural safeguards that align with international privacy and due process norms, and that avoid putting U.S. suppliers in conflict with U.S. law (e.g., ECPA) where cross-border data or U.S. persons are involved.

- Commit to eliminating and not imposing any discriminatory local content requirements:
 - Press for withdrawal or revision of the Selangor State Government’s **Local Economy Development Policy (LED)**⁸ initiative for data-center and digital-infrastructure investments that conditions investment approval on companies’ pledge to achieve 30% local content within three years—a measure inconsistent with Malaysia’s commitments in both the WTO⁹ and TPP. The requirement covers key hardware components such as servers, memory, storage, networking, and other advanced systems. Federally, the Malaysian government—through agencies like MITI and MDEC—should avoid introducing similar conditions and clarify that incentives will not be tied to local-sourcing quotas, instead prioritizing outcome-based criteria.

Addressing proposed barriers:

- Commit to transparent and meaningful public consultation and impact assessment before implementing any **digital news remuneration framework**¹⁰ or other regulation

³<https://www.vertic.org/media/National%20Legislation/Malaysia/MY%20Communications%20and%20Multimedia%20Act.pdf#page=80>

⁴[https://insightplus.bakermckenzie.com/bm/technology-media-telecommunications_1/malaysia-licensing-of-social-media-and-internet-messaging-service-providers-from-1-january-2025-onwards#:~:text=reliable%20data%20points.-How%20to%20apply%20the%20service%20and%20others\).](https://insightplus.bakermckenzie.com/bm/technology-media-telecommunications_1/malaysia-licensing-of-social-media-and-internet-messaging-service-providers-from-1-january-2025-onwards#:~:text=reliable%20data%20points.-How%20to%20apply%20the%20service%20and%20others).)

⁵<https://www.vertic.org/media/National%20Legislation/Malaysia/MY%20Communications%20and%20Multimedia%20Act.pdf#page=108>

⁶<https://www.vertic.org/media/National%20Legislation/Malaysia/MY%20Communications%20and%20Multimedia%20Act.pdf#page=118>

⁷<https://www.mcmc.gov.my/skmmgovmy/media/General/pdf2/A1743-BI-COMMUNICATIONS-AND-MULTIMEDIA-AMENDMENT-ACT-2025-1.pdf#page=45>

⁸ YAB Dato’ Seri Amirudin Shari, Chief Minister (Menteri Besar) of Selangor’s Officiating Speech at the Smart City and Digital Economy Convention (SDEC)

⁹ Local content requirements would be actionable under the WTO’s Agreement on Trade-Related Investment Measures, available here: https://www.wto.org/english/docs_e/legal_e/trims_e.htm

¹⁰<https://www.reuters.com/business/media-telecom/malaysia-mulls-rules-google-pay-news-outlets-content-2023-09-05/>

impacting the technology sector, and ensure that future approaches are aligned with a consultative, voluntary, market-based approach consistent with fair competition principles and trade commitments.¹¹

- Ensure that any measures aimed at promoting “AI sovereignty” are not onerous, discriminatory, or trade-restrictive in effect, and do not impose localization or compliance requirements that unfairly disadvantage U.S. cloud service providers.

Additional References

See CCIA comments on Malaysia in its [submission for USTR’s 2025 National Trade Estimate](#) report. Several of the laws discussed above were cited as barriers to U.S. exports in USTR’s 2025 edition of the [report](#).

¹¹ Recent examples of regulations introduced without a public consultation process include the Online Safety Act 2024, the Communications and Multimedia (Amendments) Act 2024, and the social media licensing regime.