



4 January 2012

Board of Computing Professionals Malaysia (BCPM) Open Day

SUGGESTIONS/ FEEDBACK

Name: Dr John Ure (director@asiainternetcoalition.org)

Organisation: Asia Internet Coalition

About the Asia Internet Coalition

The Asia Internet Coalition (AIC) is an industry association founded by eBay, Google, Skype and Yahoo!. Incorporated in Hong Kong, the AIC seeks to promote the understanding of Internet policy issues in the Asia-Pacific Region.

Summary

The AIC believes that the introduction of a Computing Professionals Act as introduced by the Ministry of Science, Technology and Innovation (“MOSTI” or “the Ministry”) is well intentioned. According to the Ministry’s website, the objectives of the Act are to:

1. Enhance the value of the profession as it will require registered members to possess minimum levels of qualification/experience
2. Raise professional standards by developing and maintaining a code of conduct for computing professionals;
3. Review qualifications offered by other bodies in order to serve as a guide and reference when gauging which certifications are valid and relevant;
4. Provide some level of assurance of the quality of computing professionals to employers who hire those who are registered by BCPM;
5. Enhance the supply of ICT manpower in the country and help the nation achieve the goals of the New Economic Model in becoming a productive high-income nation; and
6. Serve as a central repository of all computing professionals and practitioners in the country.

We think that while these are laudable goals, such an Act, if not crafted clearly and specifically for the computing industry, could add another layer of bureaucracy and abuse. As computing and technology are inherently fast moving industries, such a bill

could also chill innovation within Malaysia. It is from the perspective of ensuring that these things do not happen, that the AIC offers its comments.

Specific Comments and Suggestions

Our key concerns revolve around

- Section 2(2) - Application
- Section 3 - Interpretation
- Section 18 - Rights of Submission, and
- Section 19(1)(a) - Restrictions on Un-registered Persons.

RE: Section 2(2) and Section (3) – Applicability and scope of Act

The main issue we have with these clauses and their application is that they are very broad, and the way they are worded may be prone to misinterpretation, thereby affecting companies' and persons' abilities to apply for projects.

We note that Section 2(2) in the current draft suggests that “this Act applies to the Critical National Information Infrastructure (CNII)”, which is defined in Section 3 “to those assets, systems and functions that are vital to the nation that their incapacity or destruction would have a devastating impact on National economic strength or National image or National defense and security or Government capability to function or Public health and safety”.

According to the Ministry's website and further clarifications provided by MOSTI's spokesperson, the BCPM does not aim to regulate the entire computing profession in the nation. Instead it only applies to those who are identified as CNII entities, with these CNII entities being further specified by the Chief Government Security Office (CGSO) at a later date.

We presume that the projects identified will be big country or state-wide infrastructure projects, along the lines of email enterprise services for government, or online tax submission platform for citizens. As such, one might argue that CNII will be narrowly defined, and not affect those sectors of the industry that require flexibility in their hiring, and rely on talented employees with the expertise, instead of academic or professional qualifications.

However, the problem is that both these sectors can overlap. For example, in the process of developing an online platform for disaster relief management, the entity developing it may also want to develop a smart phone application so that ordinary people can access the data and keep abreast of weather information in their region.

Should disaster relief management be identified as a CNII field (a very conceivable proposition given the impact of climate disasters), this means that the company or persons developing the smart phone app, would all have to be Registered Computing Practitioners and Registered Computing Service Providers.

As we would be aware, app developing is a field that does not require professional or educational certification. Indeed, many excellent app developers are independent technology “geeks”, some of whom may or may not have finished college but have been scouted for their expertise in the area. For example the founder of Milo.com, an online search engine for local shopping, Jack Abraham, is a self-taught programmer/entrepreneur who was still attending Business at the University of Pennsylvania when he decided to develop applications in the shopping industry. Jack has since has taken Milo.com from an idea to a successful website with 1 million monthly visitors and sold the company to eBay Inc. in 2010.

Another example would be an online website for state run media channel TV3. One might argue that the information disseminated by TV3 would be of critical importance to national image. However, some of the best online web developers are self-taught, and often do not have the educational pedigree one might expect of a top lawyer or doctor.

While Section 14(1)(a)(iii) states that, “any other qualifications, certifications or relevant experiences recognised by the Board, shall be entitled on application to be registered as a Registered Computing Practitioner”, it is unclear what sort of relevant experiences will be considered, and more importantly, whether the fixed set of officers and Board members vetting through the hundreds of registrations will have sufficient expertise in niche areas of computing to determine what experiences are relevant and sufficient to make up for lack of qualifications.

Ultimately, if ensuring accountability for CNII projects is the main motivation for the Act, a professional requirement statement¹ in CNII project tender documents would suffice for achieving these aims.

As such, we also hope to propose a rework of Section 2 so that it reads:

2. This Act applies to the Critical National Information Infrastructure
 - (i) This Act applies throughout Malaysia
 - (ii) Every Registered Computing Practitioner, Registered Computing Professional and Registered Computing Service Provider shall be subject to this Act.
 - (iii) The Minister may, by notification in the Gazette, suspend the operation of this Act in any part of Malaysia or suspend the operation of any part of this Act.

And add a more granular definition for CNII projects in Section 3.

¹ A statement that would specify the type of experience/ education/ professional qualifications needed for the project.

RE: Section 18 - Rights of Submission, and Section 19(1)(a) - Restrictions on Un-registered Persons.

All of this would be fine if entities were still allowed the flexibility to determine when they can dispense with the requirement of hiring a Registered Computing Professional or Registered Computing Services Provider.

However, this flexibility is denied under Section 18, which states in unequivocal terms that “no person or body, other than a Registered Computing Professional who is residing in Malaysia or a Registered Computing Services Provider providing Computing Services that are within the scope stipulated in section 2, shall be entitled to submit proposals, plans, designs, drawings, schemes, reports, studies or others to be determined by the Board to any person or authority in Malaysia.”

Furthermore, the line “to be determined by the Board to any person or authority in Malaysia” suggests that the Board could widen the scope of projects/ persons/ authorities requiring Registered Computing Professionals or Registered Computing Services Providers, beyond the stipulations of Section 2(2) and Section 3 of the Act.

The restriction on whom can apply for projects is further tightened by Section 19(1)(a), which limits the type of people/ entities that can work on projects requiring Registered Computing Professionals or Registered Computing Services Providers².

Collectively, what these two sections mean is that a company wanting to apply for a CNII project, would have to go through the added bureaucratic process of ensuring that both the company and every employee involved in the project is registered with the Board, before they can even apply for the project.

As the Act does not stipulate the obligations on the part of the Board as to how long they should take to turn-around registration applications, this would also add an extra layer of bureaucracy, and slow down the process exponentially.

It could also lead to abuse, as Board Members could take their time to approve applications to hinder a company’s ability to apply for a project.

Conclusion

Rapid changes in technology have resulted in the need for companies to have a flexible attitude towards determining who is best qualified for a project or job. Indeed, if one were to look at the founders of some of the most noteworthy Internet companies and app developers of our generation for example Google, Apple, Facebook, one would notice that not all of them received professional or educational

² “no person shall, unless he is a Registered Computing Professional practice, carry on business or take up employment which requires him to carry out or perform the services of a Registered Computing Professional”

certification in computing at the time that they developed some of the most revolutionary internet applications of today.

Whilst this Act is well intentioned, we believe that more needs to be done to ensure that efficiency, fairness and innovation are not compromised. We encourage the CGSO to ensure that there is adequate advanced consultation on future drafts of the bill, as well as the CNII categories.

During the BCPM Open Day, it was mentioned by the MOSTI panel that a large part of the current draft was modelled after the Engineering Act. With some of the most noteworthy internet and technology-based companies in the world as our members, the AIC strongly believe that Computing and Engineering fields require vastly different sets of expertise and should therefore not be regulated by the same set of principles or measured with the same yardstick. Furthermore, additional layers of accreditation that the BCPM had hoped to achieve may not necessarily be suited to the innovation economy of today.

In conclusion, we thank you for taking the time to review our comments, and look forward to further engaging you on this. Should you have any further queries, please do not hesitate to contact director@asiainternetcoalition.org should you require further information on the contents of this submission.

Yours sincerely,

A handwritten signature in black ink, appearing to read 'John Ure', with a long horizontal stroke extending to the right.

John Ure
Executive Director
Asia Internet Coalition