Web Based Services Regulation

Telecommunications Regulatory Authority- Sultanate of Oman

Sep 2012

Introduction

Many stakeholders are involved in the use of Internet. Web hosting companies usually provide space in their servers to host websites' contents. Website owners upload their content online. ISPs provide the access and delivery mechanism to the end-users. End-users access online contents except for chat rooms, emails and forum, where end-users upload content themselves. In this chain, different stakeholders have different interests, and responsibilities. It may be noted that some contents are either uploaded or accessed by entities/person outside the jurisdiction of Oman.

As per Article (37) repeated 5 of the Telecom Act, "*the Authority may set the rules and procedures Regulating the provision of services through the Internet, according to which the financial and technical conditions and the other necessary conditions to perform this service and its measures are determined*".

Therefore, Pursuant to article (5) Repeated of the Telecommunications Regulatory Act issued by the Royal Decree No. 30/2002 and its amendments thereto, TRA is seeking the public opinion through this consultation paper on the draft regulation on Web Based services.

TRA shall give due consideration to all comments and contributions received from the interested parties; however, incorporation of any proposed changes will be at the sole discretion of the Authority.
The TRA, at its own discretion, may publish comments and views of the respondents unless confidentiality is requested and justified by them.

Replies may be submitted to the Authority latest by 15th Oct 2012 along with an electronic copy by any of the following means:

a) Submission at TRA premises location:
    Oman Oil Company Builiding-2nd floor
    Al-Qurum-Muscat
b) Mail:
    Telecommunications Regulatory Authority
    PO Box 579 PC 112 Ruwi
    Muscat, Sultanate of Oman
c) Email: TRAPC@tra.gov.om

Web Based Services Regulation

Chapter One

Scope and Definitions

Article (1): In the application of the provisions of this regulation, the terms and expressions used herein shall express the exact meaning exhibited in both Telecommunications Regulatory Act and its Executive Regulation, whereas the following terms and expressions shall have the meanings shown against each, unless the text otherwise requires:

SPAM: means unsolicited electronic messages sent through various communication modes including but not limited to e-mails, mobiles short message (SMS) or instant messaging services where there is no prior relationship between the sender and the recipient regardless of content whether commercial or non-commercial messages including malicious program and/or data.

Website: means a file that contains text, audio and/or visual Data accessible on the World Wide Web (Internet) and identified by a unique single Uniform Resource Locator (URL).

Blog: A Web site on which an individual or group of users record opinions, information, etc.

Forum: a computer conference devoted to a specific subject and in which the posts are stored on a server, or in a database which may be centralized or decentralized.
A forum usually has an initiator, members, and possibly a moderator.
In a forum the posts are submitted and read asynchronously. Every End-user can read them at any moment.

Social Network: a Web site that enables users to create public profiles within that Web site and form relationships with other users of the same Web site who access their profile.

Website Host: Companies that provide space on a server they own or lease for use by their clients.

Website Owner: an entity that manages or owns a website.

Personally identifiable information: Information that can be used to uniquely identify, contact, or locate a single person or can be used with other sources to uniquely identify a single individual such as ID number, credit card number, name, address, telephone number, driver's license number, password, etc.

End-users: means a member of the public that accesses a Content Service.

Child: means all persons under the age of 18 years.

Web based services: Activities defined according to this Regulation.

Indecent Content is material which is offensive, morally improper and against current standards of accepted behaviour. This includes nudity and sex.

Obscene Content is any statement or act which strongly offends the prevalent morality of the time, is a profanity, or is otherwise taboo, indecent, abhorrent, or disgusting. The term is also applied to an object that incorporates such a statement or displays such an act.

Article (2): The web based services including but not limited to:

- Sale of goods and or services following the rules governing e-Commerce using internet as the medium of transaction.
- Advertisement on the internet.
- Transfer or store electronic content for customers.

Q1: Do you agree with the above definition of the web based services? If not, provide suggestions for change.

Chapter Two:

The Contents

Article (3): The Authority may consider any website as Prohibited website, if it violates one or more of the following rules:

First: Acts
1- The Press and Publication Law (Royal Decree No. 1984/49)
2- Cyber Crime Law (Royal Decree No. 2011/12).
3- Electronic Transactions Act (Royal Decree No. 99/2008)
4- The Copyrights Acts in sultanate of Oman.
5- Providing a professional Advice, or any specialist consultancy service without the approval of the appropriate professional authorities.
6- Publishing illegal, indecent, dishonest and not truthful information on the website.
7- Dissemination of personal information related to a third party, or impersonates a third party.
8- Publishing non-permitted information (such as installation serial numbers, access codes etc.) for third party websites or products.

Second: Content contrary to public order and public morals

9- Publishing, presenting or providing of an Indecent, Obscene Content; Specific regards to be had to:

   A. Nudity
   Nudity cannot be shown under any circumstances. Unless it is for scientific purposes and provided for +18 years end-users.

   B. Sex
   Sex scenes and nudity cannot be shown under any circumstances.

   C. Explicit Sex Acts/Pornography

   D. Child Pornography

   E. Sexual Degradation
   The representation of women, men or children as mere sexual objects or to demean them in such manner is prohibited.

Third: Threatening Content

10- Publishing Content that causes annoyance, threatens harm or evil, encourages or incites crime, or leads to public disorder.

11- Broadcasting a hate publicity, which advocates or promotes extermination or hatred against an identifiable group, or any portrayal (words, speech or pictures, etc.), which denigrates, defames, or otherwise devalues a person or group on the basis of race, ethnicity, religion, nationality, gender, sexual orientation, or disability. In particular: descriptions of any of these groups or their members involving the use of strong language, crude language, explicit sexual references or obscene gestures.

12- Publishing Information which may be a risk to people security, health or safety. Which include but not limited to the following:

   A. Instructions on explosive making, illegal drug production, computer Hacking/Cracking, counterfeit products, etc.

   B. Broadcasting false information with regards to outbreak of racial disturbances.

   C. Circulating information and statements about possible terrorist attacks.

   D. Circulating or making available information about the outbreak of a deadly or contagious disease.

Fourth: Bad Language

13- Using bad language including derogatory terms, crude words, expletives and profanity in the website. Bad language includes the following:

   A. Offensive Language
   The use of disparaging or abusive words which is calculated to offend an individual or a group of persons is not permitted.

   B. Crude References
   Words, in any language, which are considered obscene or profane, are prohibited. It is, however, permissible to use such words in the context of their ordinary meaning and not when as crude language intended.

Fifth: Children's Content

14- Providing contents designed specifically for children which:
   A. Invite dangerous imitation and encourage violence.
   B. Invite imitable acts that can harm the children Safety and Security such as: death, crime, drugs, the use of dangerous household materials, dangerous physical acts, etc.

Sixth: Persons with Special Needs

15- Publishing an offence in the use of humour based on physical, mental or sensory disability is present.

Q2: Do you agree with the terms and conditions given in the Article (3)? If not, what other conditions are essential to be part of this Article?

Chapter Three:

Security and Privacy

Article (4): The Websites Hosts and Owners shall maintain effective methods to protect the integrity and confidentiality of the End-users transactions and other personal identifiable information. Security/Privacy mechanisms shall be consistent with current industry standards and appropriate to the type of information collected, maintained and transferred to third parties.

Article (5): The web site owner must adopt a policy of privacy and security of the website and must abide by them. The website should contain a link in all its pages that leads to the page of the policy adopted by it.

Article (6): The website owner shall declare in their websites the purpose of collecting personally identifiable information, and the way the collected information is used.

Article (7) The website owner shall ensure that the collected information are kept secured, and not being disclosed to any third party unless the sharing is consented by end-users and is not in breach of any other applicable laws.

Article (8) the website owner and website host shall not utilize or make available any program that may destroy or damage data on end-users devices.

Article (9) the website owner and website host shall not use any program that may access any details on the end-users devices without the consent of the viewer.

Q3: Do you think that the Articles (4) to (9) are adequate to ensure the security and Privacy of end-users?

Chapter Four:

Child Protection

Article (10) is committed to website owners to take what is necessary to determine whether the person communicating or dealing with a child or not.

Article (11) Website owner shall maintain effective methods to avoid financial transactions with children.

Article (12) Website owner shall not collect, use or disclose personally identifiable information of children without the permission of their parents or guardians. When seeking parental permission, owner shall clearly specify the nature of the proposed communications, the personal information being collected and all potential uses of the information.

Article (13): The web Site has to contain a warning to the end-users about the contents of the webpage if it is not appropriate to children.

Q4: Do you think that the conditions in Articles (10), (11), (12) and (13) are adequate to protect children online? If not, what more can be added?

Chapter Five:

Services

Article (14): All the website services must be compliant to the Electronic Transactions Law (Royal Decree No. 2008/69)

Article (15): Financial services should be provided using systems that ensure security and privacy of the user's data. This includes but is not limited to the encryption protocols of (TLS/SSL) (HTTPS).

Article (16): The Website Owner shall clearly show the stages and mechanisms of concluding financial transactions and send an electronic authentication letter verifying the basic features of the contract made.

Chapter Six:

Chatting/Blogs/Forum/Social Networks Services

Article (17) Websites that provides Chatting, Blogs, Social Networks or Forum services should maintain the following:

a. Electronic filtering to contents.
b. The ability for the end-user to block unwanted contact.
c. Limiting search results to include only those profiles about end-users that the end-users have agreed to be placed in a directory.
d. Avoid any links to any external website that violate this regulation.
e. The End-User's privacy and security.

Article (18): The Website owner has to authenticate the subjects posted on his Blog/Forum.

Q5: Do you think that websites owners would be able to implement article (18)?

Chapter Seven:

General Obligations

Article (19): The Owner should ensure that End-users understand their liability arising out of accessing the website.

Article (20): Website owner shall list contact details such as email address and/or local telephone that may be utilized by end-users for any enquiry or complaints.

Article (21): The website should not host any links to external website that violate this regulation.

Article (22): Advertising items must not deceive, nor give misleading indications as to price, worth, value or amount.

Article (23): When prices are specified, these should clearly identify any conditions and additional charges such as sales tax, delivery and packaging charges etc.

Article (24): Website Owner must make sure to obtain any necessary approval for his business from the concerned authorities.

Article (25): The Website owner must not attempt to conceal the real website owners or mislead End-users such that they believe they are visiting another website.

Chapter 8:

Web Site Access Blockage

Article (26): The Authority or any party authorized by it shall have the right to block access to any website in the following cases:
1- If the web site & its content are contrary to this regulation.
2- Order from the law enforcement authorities.

Article (27): The TRA shall respond to any complaint about website access blockage within seven working days.

Article (28): Upon the judicial authorities or TRA request the Web site Owner, Host or Internet service provider must provide any personally identifiable information of their end users.

Q6: Do you agree with the conditions given in the Article (28)? If not please state why.