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For Immediate Release

Regulatory Transformation for Digital Transformation: Responsible and Secure Government Access to Data

SERI supports the recent Joint Statement of the OECD Committee on Digital Economy Policy calling for policy guidance on trusted government access to personal data held by the private sector. With the increasing importance of data for digital transformation and data-driven policymaking, access to and sharing of data has become critical, particularly towards the enhancement of public service delivery and identification of emerging governmental and societal needs.

When employed meaningfully, data has enabled insights and the development of solutions for contact tracing, vaccine production, and most recently COVID hotspot identification. As data fuels innovation and our ability to infuse resilience into COVID exit strategies, open data frameworks and cross-border data flow have become integral to the global digital economy and Malaysia's ability to reap the benefits of digitalisation.

However, despite the growing need for access to data and evidence of its economic and social benefits, data access and sharing remains below its potential. Compared to data, there is far greater regulatory clarity in relation to cross-border access to goods or funds.

Digital Transformation Requires Regulatory Transformation

To enable law enforcement agencies to protect public safety both online and offline, governments sometimes require access to digital information, including data stored in the cloud. However, depending on the process involved, this may undermine public trust in cloud computing. Trust deficits are observed not only at the individual user level, but also within organisations and nations, with some enterprises and governments choosing to opt out of emerging technologies in response to fears that third-party entities may have access to data over which they previously maintained exclusive control. Therefore, it is important that governments strike a balance between public safety and national security on one hand, and personal privacy and freedoms on the other by adopting clear legal rules for accessing digital evidence.

To address these considerations, some governments and private sector actors have established a wide variety of initiatives, but efforts have been uneven across sectors and countries. There remains a need for data access and governance frameworks to be coherent across and within economic sectors, public sector organisations, and countries.

This presents an imperative for regulatory clarity on appropriate governance for government access to personal data held by private entities – an important part of building trust and minimising barriers to data flows.

Why is this necessary?

The rapid adoption of cloud services coupled with the corresponding rise in transnational criminal activity raises new challenges for law enforcement. However, as most countries' laws have not kept pace with technology, there continues to be uncertainty about the legal frameworks that govern government access to information held in cloud datacentres by the private sector

To fight crime and protect public safety, governments have a clear and compelling need to access digital data. Balancing that interest against citizens' expectation of due process and the rule of law is essential to maintaining trust in technology. Regulators around the world are developing new legal frameworks and principles for trusted government access to data held or processed by cloud service providers (CSPs). For example, conventional search and seizure rules do not apply to cloud computing, e.g., removing a server from a hyper-scale cloud datacentre would not enable access to the information in the server, as data is encrypted both at rest and in transit.

This makes it a critical priority to craft modern laws that provide law enforcement and national security agencies with clear and transparent legal mechanisms to access digital information pursuant to lawful process. These laws should protect citizens' fundamental privacy rights, hold law enforcement accountable, and respect the sovereignty of other nations.

The way forward

For Malaysia, increased clarity relating to government access to data will bolster our position as a regional datacentre hub and increase confidence of Malaysians and entities from other nations storing data in Malaysia. This is particularly important as our digital infrastructure expands via investments such as the recent Microsoft Bersama Malaysia announcement made by the Prime Minister.

“With continued growth of the global data economy, a principled rules-based approach to government law enforcement access would enhance legal certainty and increase investment opportunities, allowing countries to become datacentre hubs or innovation testbeds”, shared Dr Helmy Haja Mydin, CEO, Social & Economic Research Initiative. “With increased clarity, countries would be more willing to store their data in Malaysia, with the knowledge that law enforcement would not be able to access data arbitrarily without due process.”

As a thinktank working on evidence-based policies to address issues at the intersection of technology and society, SERI is pleased to support the Joint Statement of the OECD Committee on Digital Economy Policy, and the work to develop principles for trusted government access to personal data held by the private sector. With agile policymaking highlighted in the recently launched Malaysia Digital Economy Blueprint, we look forward to working with the public and private sectors towards the development of principles which will promote a secure, transparent, and trusted digital economy.

SERI is a non-partisan think-tank dedicated to the promotion of evidence-based policies that address issues of inequality. For more information, please visit seri.my or send an e-mail to hello@seri.my



Covid-19 Provides an Opportunity to Strive Towards Inclusive and Accessible Education for All

The novel Coronavirus has effectively disrupted education for children across Malaysia and the world. As a universal basic right, inclusive and accessible education must be treated as a priority.

We cannot afford to continue centralised decision-making on the back of flawed assumptions on the uniformity of issues, preferences, and resources across our 13 states and the federal territories. This will increase the likelihood that 2021 will be memorable for the wrong reasons, as far as primary and secondary education are concerned.

Challenges to education during this predicament:

1. Accessibility & Connectivity

The pandemic has highlighted and potentially deepened the digital divide faced by students. Education has been pushed online, with the exception of students sitting for the SPM and STPM examinations. With online lessons, students require access to digital platforms, making Internet connectivity and devices prerequisites for effective online learning.

One effort to address the digital divide has been led by Yayasan Generasi Gemilang, an organisation serving low-income urban households. They have provided digital accessibility packs to 134 families since the pandemic started. (Link to video conversation with Yayasan Generasi Gemilang: <http://bit.ly/yggseri>)

However, connectivity and the availability of devices continue to be significant barriers. The absence of devices and poor or unavailable internet connection prevents productive and fruitful lessons or even worse, bars the learning process as a whole. Parents and caregivers are facing novel challenges in guiding children as they strive to balance work commitments and their newfound responsibilities as educators at home., The generation gap and resistance or lack of knowledge and/or ability to adapt to technological development also inhibit children's education.

2. Digital Readiness

The transition from physical classes to online classes is turbulent at best. Under ordinary circumstances, online platforms and learning materials have been supplementary options.

These have now become a central part of the education system. Teachers and students alike were caught by surprise but were forced to adapt. While the government has provided digital textbooks and limited programming via television and online platforms, these channels are insufficient for the needs of the students who are accustomed to physical classes.

3.Mental Health

These unprecedented times have shown us that mental health must be treated with equal importance alongside physical health. Education, assessments, and interactions with students must take into consideration their experiences with isolation, quarantine, shifts to online learning, as well as the possibility that students are processing grief due to losses faced in the past year. The mental well-being of the students must be given greater consideration to ensure we develop a generation that understands the importance of mental health, without stigma, prejudice, or discrimination.

Psychosocial support has become a critical component in inclusive recovery. Youth with autism, learning and/or cognitive disabilities must be included in plans and implementation of efforts to provide inclusive and accessible education. Educators must also receive the necessary support for their own mental health, while also having access to resources to provide the relevant support for their students.

Undeniably, the plight endured by the students as they attempt to navigate this new normal has brought undesirable consequences to their mental health that could be detrimental to their education. We must act swiftly to ensure risks and challenges are mitigated, and children are able to achieve their potential. Education is the foundation on which the future of our country is built, and we must strive to ensure no one is left behind.

Recommendations:

1.Digital Access

The government should provide devices for students to access their respective online learning platforms. Without the means to participate in online lessons, students' education will be halted. The government has the option of providing refurbished devices which may be more cost-efficient as opposed to brand new devices. However, this may require replacement or repairs sooner than a new device.

Stable, affordable, and accessible internet connectivity should also be provided nationwide. Connectivity allows for students to fully engage in their online lessons and access their online learning materials. In remote areas where connectivity is seemingly impossible due to geographical barriers, TV white spaces (technology that allows WiFi to be transmitted via unused television spectrum) is a viable option that may resolve this issue.

2. Resilient Education Systems

We have an opportunity to build resilience into existing systems. The government should consider an approach which anchors on equity and inclusion, and reinforces capacities for risk and crisis management. Innovation is required to formulate better strategies as a safeguard for future crises. Teachers were expected to rely on their own resources and digital skills as they scrambled to provide continuity as the transition from physical to online platforms happened almost overnight. There is an opportunity here to put necessary safeguards and systems in place, with a view to ensuring any further disruption to the education system would be minor.

3. Awareness & an empathic approach

An empathic approach should be adopted by the government where mental health is concerned. All the surrounding circumstances should be weighed before making a decision that may affect the mental health of students. Parents and teachers should be educated and well-equipped with strategies on how to aid students through this chaotic storm.

18-year old Lexsy and 13-year old Kieran also shared their views and recommendations, as current students facing unprecedented challenges. Here is the video conversation capturing their thoughts: <http://bit.ly/seriyouthvoicesedu>

Innovative and collaborative efforts need to be implemented to ensure that children's education does not come to a standstill. Malaysia has developed robust regulatory and policy frameworks but more can be done to ensure advancement which parallels societal and technological developments.

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