

**VOTING &  
SHOPPING**

**100**

# **VOTING & SHOPPING**

**EVALUATING MEDIA & TECHNOLOGY COMPANIES IN  
MALAYSIA IN THE CONTEXT OF ELECTIONS & E-COMMERCE**



## About the report

This report was produced by the Digital Asia Hub, as part of a pilot study of corporate accountability in the technology sector. The study is supported by Ranking Digital Rights, an independent program funded by New America Foundation.

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### Note on Design

Our design direction was shaped by the iconography of money and status, represented by two Malaysian artefacts: Ringgit currency notes, and Songket brocade textiles. Currency notes are material symbols of the state as well as commerce: they combine aesthetic and security features to tell a story about a nation. We used the image of a finger stained with indelible ink, an iconic symbol of a Malaysian's post-election experience. Songket, a historic weaving tradition, derives from the Malay word sungkit meaning "to hook" (gold and silver threads, denoting status, but we use it to also signal the addictive power of digital platforms.) We use patterns inspired by Songket, in a colour palette derived from the 100 Ringgit note (we score companies out of a 100). Thus, voting and shopping in the Malaysian context.

**Executive Summary** 3

**Background** 7

A. Elections, Censorship and Media 9

B. Data Economy and Platform Regulation 10

**Objective and Methodology** 11

Objectives 12

Methodology 13

Selection of Companies 15

Selection of Indicators 20

**PART 1**  
**Elections and Media** 21

A. Media Companies 19 25

B. Social Media Companies 27

C. Telecom and ISPs 30


**PART 2**  
**Commerce and Digitisation** 32

A. Fintech Companies 34

B. E-commerce and Ride-Hailing Companies 38

**Conclusion** 44

**Appendix** 47



This report is the outcome of a project aimed at adapting and localising the Ranking Digital Rights Corporate Index methodology (“RDR methodology”) for the Asian context, with a focus on 3 pilot countries: Malaysia, South Korea and Taiwan. The RDR methodology ranks companies according to indicators evaluating company disclosure of policies and practices affecting freedom of expression and privacy. For this project each country team had the flexibility to zero in on particular sectors or categories of companies and services for its study.

**The Malaysia study applied the RDR methodology to emerging technology sectors, as well as to the digital presence of legacy sectors. In order to understand the wider landscape of digital rights in Malaysia, the research included media companies that have shifted much of their operations to digital platforms, fintech applications, and superapps that have access to an unprecedented amount and variety of personal data.**

These companies have an everyday presence in the lives of Malaysians, and intermediate their experiences along a spectrum from shopping to shaping public opinion about political issues and processes.

The 14 companies studied represent international, multinational and national entities across industries. These companies allowed us to identify and compare policy disclosures and data practices in the technology sector in Malaysia. We focused our research on two broad themes that capture areas where legal and policy attention is growing globally: the information landscape around elections, which we approached through the study of news media, social media and telecom companies, and the data economy, which we approached through the study of fintech, ride-hailing and e-commerce applications. The data collection and analysis was conducted between August 2022 and March 2023.

## Key findings include:

A gap in commitment to international human rights standards and practices between international and national companies. Transnational companies and services such as TikTok, Telegram and Digi performed better in comparison to the other national media and telecom companies on disclosures about how they collect, use, store and share data with third parties. Nonetheless, users still have very little control over withdrawing consent or deciding not to share personal data – which in real terms translates to users not being able to continue accessing the platforms or services.

1

Most companies consistently **failed to inform users of any change in policies or updates**, which shifted the obligation of being informed to the user. Further, even where policies appeared reasonably well-written, the processes through which users can **seek redress were not clearly articulated**.

2

Companies collected demographic and behavioural data for the stated purposes of optimising their services, and for advertising and marketing, yet they **made no disclosures about algorithmic decision making and targeted advertising**.

3

Although companies are required by law to comply with government orders for takedown of content and surrender of user data, there is **no transparency** in this regard.

4

In addition to the broader observations above, the following data points are noteworthy:

Social media platforms TikTok and Telegram led on the freedom of expression and privacy indicators, while telecommunications company Digi had relatively better policies and disclosures on the governance indicators than all the other companies studied. All three **high-performing services are part of multinational corporations**.

5

Services of other multinational corporations with a strong presence in Asia, such as ride-hailing service Grab and online shopping platform Shopee, performed better than Capital A's AirAsia superapp in all categories, although all three **companies performed weakly in comparison to the social media platforms studied**.

6

Axiata group's Boost, which is a payment platform, performed lower than the group's telecom company Celcom, which was ranked in the 2020 RDR Index at 22% for governance, 7% for freedom of expression and 19% for privacy. This points to **service offerings within the same group performing markedly differently**.

7

**DuitNow, which is the national payments network, was the weakest performer** as far as its policies and practices were concerned. News service Sin Chew and payments service DuitNow were the only two services within this study that had no disclosures on any of the governance indicators.

8

The table below offers an overview of company performance, with the rest of the report offering more substantial analysis.

Services	Companies	Indicators		
		Governance	Freedom of Expression	Privacy
TV3	Media Prima	2.78	1.01	11.86
Awani	Astro	2.84	4.76	9.73
Sin Chew	Media Chinese International Limited (MCIL)	0	11.65	8.31
TikTok	Bytedance	12.75	46.97	46.70
Telegram Messenger	Telegram	19.35	42.62	42.42
Maxis	Usaha Tegas	3.13	8.87	17.55
Unifi	Telekom	2.92	0.18	8.36
Digi	Telenor	27.28	13.29	27.37
eWallet	Touch n Go	8.38	8.07	12.86
Boost	Axiata	11.67	5.52	11.09
DuitNow	Paynet	0	0	1.99
AirAsia Super App	Capital A	2.12	4.46	11.64
Grab	Grab Holdings	8.59	11.45	24.84
Shopee	Sea Limited	8.08	15.21	26.47


Table 1: Companies studied and their performance across categories

Transparency oriented tools and incentives have emerged as an important regulatory approach to address phenomena such as algorithmic recommender systems, for example, within recent legislation like the European Union’s Digital Services Act. Amendment proposals to older legislation like Malaysia’s Personal Data Protection Act 2010 (PDPA) also leverage transparency to mitigate harms arising out of data breaches. The RDR methodology relies on a foundational belief that companies will improve year on year when ranked publicly. If public disclosures count, and opaque internal processes - however laudable - do not, human rights commitments (and therefore scores) can be improved year on year through greater transparency about internal changes. This study presents the first empirical snapshot of the state of play of transparency efforts of companies in Malaysia.

The findings highlight a large gap between the quality of disclosures across various axes: between local and regional players and their multinational counterparts, between the media and the e-commerce sectors, and even between members of the same group. We hope that these findings can help spur greater transparency and accountability beyond the sectors that formed the focus of this study, and create the incentives to gain public trust and to respect end user rights. We also trust that this analysis can inform policymakers and civil society about the benefits of detailed disclosures, which can boost their efforts to create the conditions in which greater transparency and corporate accountability can thrive.



# BACKGROUND



For the first time in Malaysia's independent history, the Barisan National party was defeated in the 2018 general elections, and the Pakatan Harapan Coalition of parties came to power. The years since, especially between 2020-2022 have been characterised by unstable coalitions and leaders. This onset of political turmoil in Malaysia in March 2020 coincided with the beginning of the COVID-19 pandemic.

**The period witnessed two techno-political shifts that became the focus for this report: increasing bids for the control of information by successive governments engaged in retaining political power and will, and downstream effects from a rapid digitalisation of society pushed by government and private sector interests.**

The 15<sup>th</sup> general elections of November 2022 were considered a turning point for political stability, and for an anchored environment that would facilitate and accelerate economic growth and sustainable development. In this changing environment, Malaysia is working to stimulate its post-pandemic economic growth and restore dynamism in the business domain. It is imperative that Malaysia's human rights commitments are not left behind in the wake of its political and economic developments.

Given this context, Malaysia presents an important case study to investigate the role that technology companies play within a contested information ecosystem. It is one of several jurisdictions where data practices and business models are driven by the economic imperative of a 'data economy,' while simultaneously being sites for companies to experiment with solicitous censorship in the State's interests. This research study sets out to examine the presence and extent of commitment to human rights by corporate entities in their Malaysia operations, through the following two themes:



## A. Elections and Media

The 15<sup>th</sup> general elections saw two pivotal developments that significantly impacted the media landscape around the elections. The first was the constitutional amendment lowering the voting age to 18 years, followed by automatic voter registration, thus increasing the number of eligible voters as well as including a younger demographic with distinct media consumption habits. The second was the move by politicians and political parties to leverage and turn to social media as their campaigning platform. This enabled them to target young voters, as well as to reach large populations who were not otherwise accessible due to geographical barriers. Physical rallies which continued to be a key campaign platform were also live streamed on social media.

Legacy news media today exists across multiple channels and platforms. Almost all media outlets in the country have a substantial online or digital presence,

if not a fully online one. Traditional newspaper brands such as Malay Mail and Oriental Daily News no longer have a print presence, while television and radio stations – mainly owned by conglomerates or the state – are accessible via apps for mobile and digital viewing/listening. The patterns of news consumption are also changing – audiences now access content mainly through social media and social networking sites. However, news media outlets remain strong bases of power for the government and the elite. State censorship attempts span digital news and social media. Old and new laws have been abused to stifle criticism of government and other state institutions. Especially notable is the continued control by the state over Malaysian telecommunications companies through Government Linked Companies (GLCs).<sup>1</sup>

All links in this report were last accessed on 19 May 2023.

<sup>1</sup> Government-Linked Companies (GLCs) are companies that have a primary commercial objective and in which the Malaysian Government has a direct controlling stake; See GLC Transformation Program FAQs <https://www.pcg.gov.my/faqs>; See also Gomez, E. T., Padmanabhan, T., Bhalia, S. and Kamaruddin, N. (2018). Minister of Finance Incorporated: Ownership and Control of Corporate Malaysia. Institute for Democracy and Economic Affairs (IDEAS)

## B. Commerce and Digitisation

Malaysia offers a flexible and supportive environment for data-intensive enterprises. Although Malaysia became the first country in Southeast Asia to amend applicable legislation to legalise ride-hailing services in August 2017,<sup>2</sup> the amended laws were intended to streamline the transportation service industry as a whole, and did not result in better labour rights for the drivers, or data rights for ride-hailing users.<sup>3</sup>

Numerous regulatory changes were also introduced to the traditional banking system in order to 'accommodate the speed and innovation' of fintech companies. Institutions such as Bank Negara Malaysia (BNM) and the Malaysia Digital Economy Corporation (MDEC) have begun initiatives like the Financial Technology Regulatory Sandbox that allow fintech business models and products to be experimented with and implemented in the country.<sup>4</sup> The existing frameworks for the protection of personal data were not strengthened to meet the needs arising from new fintech products and business models.<sup>5</sup>

The policy groundwork for fintech companies created conditions for rapid adoption of digital payment solutions in a short span of time during the pandemic, creating a significant shift in consumer behaviour

when it came to financial transactions. With the implementation of the Movement Control Order in 2019 to curb the spread of Covid-19, 3 million new mobile banking service subscribers were added.<sup>6</sup> The introduction of government Covid-19 assistance programmes for the public through e-wallet disbursements also presupposed the use of e-wallets by anybody engaging with these programmes. Businesses were quick to ride the wave of digitalisation, with over 400,000 new businesses registering for QR code payment acceptance in 2020, a 164% jump from the previous year.<sup>7</sup>

The political developments of the last few years and the rapid digitalisation of society are two aspects that represent a changing Malaysia. It is against the backdrop of successive electoral battles and censorship efforts by governments that we study the disclosures of media and telecom companies, and in a burgeoning data economy of aspiring superapps that we study the disclosures made by popular ride-hailing, e-commerce and fintech applications.

<sup>2</sup> This was done through amendments to the Land Public Transport Act 2010 and the Commercial Vehicles Licensing Board Act 1987

<sup>3</sup> Under the new amended laws, both the ride-hailing platforms and drivers are regulated. Platforms are required to have an intermediation business licence whilst the ride-hailing drivers are required to obtain a Public Service Vehicle licence and to apply for a driver's card.

<sup>4</sup> Financial Technology Regulatory Sandbox Framework <https://www.bnm.gov.my/-/financial-technology-regulatory-sandbox-framework-2>

<sup>5</sup> Aside from the Personal Data Protection Act 2010, the Personal Data Protection Code of Practice for the Banking And Financial Sector sets out requirements for financial institutions in relation to the processing of personal financial data. Fintech companies are subject to banking secrecy provisions under the Financial Services Act 2013 (FSA), Islamic Financial Services Act 2013 (IFSA) and the Money Services Business Act 2011 (MSBA). All together, they prohibit financial institutions from disclosing customers' personal information tied to their accounts, and prescribe the standard of controls and security measures needed in place to protect the security of users' data and money.

<sup>6</sup> Fintech Malaysia Report 2021 – Fintech Reaches an Inflection Point in Malaysia <https://fintechnews.my/27070/malaysia/fintech-malaysia-report-2021/>

<sup>7</sup> Fintech Malaysia Report 2021 – Fintech Reaches an Inflection Point in Malaysia <https://fintechnews.my/27070/malaysia/fintech-malaysia-report-2021/>



# OBJECTIVES & METHODOLOGY

## Objectives

The research was informed by two key developments: on one side, attempts to control political speech on digital media, and, on the other, a burgeoning data economy without guardrails. With this in mind, we set two main objectives:

- a.** Leveraging election-time interest and developments to study elections-related corporate accountability, towards aligning technology business operations with democratic processes in Malaysia; and
- b.** Building public awareness about the harmful consequences of data-intensive business models, towards ultimately influencing law, policy and practice reforms, and also influencing the data practices of companies.

# Methodology

We studied technology businesses operating in Malaysia by reviewing their disclosures and commitments towards human rights using the Corporate Accountability Index methodology developed by Ranking Digital Rights.<sup>8</sup>

The RDR Index considers transparency as the starting point for corporate accountability and provides a methodology to measure and compare policy disclosures of services. The methodology benchmarks companies on the basis of indicators that set standards for corporate disclosure aligned with international human rights standards. There are a total of 58 indicators, across 3 categories: Governance, Freedom of expression and information, and Privacy:

## **Governance commitments:**

Indicators in this category assess the governance-level disclosures of companies about their commitment towards human rights. We look for evidence of companies' commitments, policies as well as structures in place that shape their values, practices and accountability to stakeholders. As high-level policies are measured in many of the governance indicators, the commitments are also evaluated at the group and operating company levels. For digital platforms that might not have local entities incorporated, the indicators are evaluated at group and service levels. There are 6 indicators in this category.

## **Freedom of Expression & Information commitments:**

Indicators in this category assess company disclosures related to the protection of the freedom of expression and information. The set of 13 indicators includes measurement of policies related to content management, takedown requests, and network shutdowns, among others.

## **Privacy commitments:**

Indicators in this category assess company disclosures on their privacy policies, benchmarked against various international human rights instruments. There are 18 indicators in this category.

<sup>8</sup> 2020 RDR Index Methodology  
<https://rankingdigitalrights.org/index2020/methodology>

For those unfamiliar with the RDR methodology, the following caveats or limits might be helpful before engaging with the data that follows:

- a.** The RDR methodology only considers publicly available information – such as annual reports and terms of service – for scoring indicators.
- b.** The scores of indicators pertain to company disclosures, and do not assess their actual practice.
- c.** The methodology can be applied to a wide range of digital services. However one challenge with applying the RDR methodology to government services or publicly-owned companies is that such entities may not be as responsive to certain levers of pressure such as the need to be seen as competitive amongst other players.

That company practices may fall short of commitments made within policy documents, or that companies may have progressive policies but lack concomitant disclosures to that effect, are both possible, and go beyond the scope of the methodology. In the first stage of the research, we looked for disclosures at the levels of group, operating company, and service. We then quantified the disclosures in each category of indicators according to the RDR methodology, which standardises disclosure expectations.<sup>9</sup>

We parsed information in English and Bahasa Malaysia (Malay), and in the case of a Chinese language media company, Mandarin as well. This first stage was followed by secondary verification before the scores were finalised.

<sup>9</sup> Companies are scored as 'yes' where satisfactory disclosures are found, 'partial' where some elements are available, 'no disclosure found' where there is a policy but no specific information, 'no' if the companies declare that such information is not disclosed and 'N/A' if it is not applicable to the company or service. RDR's methodology can be found here: <https://rankingdigitalrights.org/methods-and-standards/>

## Selection of Companies

We chose to study a diverse set of industries while focusing on key actors within the country's tech ecosystem. The selection was guided by two thematic areas, elections and media, and commerce and digitisation.

### Part 1: Elections and Media

In the last decade, elections in different countries have confirmed that technology businesses are critical in engaging and empowering the public to participate in a democratic process. This means that tech companies have an important role in processes that are central to how democracies function: delivering information, building public opinion and solidarities, as well as enhancing public experiences and interactions with candidates and campaigns representing all political factions.

However, the business models and priorities of tech companies often pose a challenge to their human rights commitments, and to transparency within the information ecosystem. We studied a cross-section of companies that represent important actors involved in ensuring that elections function as intended.

Specifically, we studied:

- a. the digital presence of media corporations **Astro, Media Prima** and **Media Chinese International Limited** (MCIL);
- b. popular social media platforms **TikTok** and **Telegram**;
- c. services of telecommunications and internet service providers **Maxis, Telekom, Digi**.

The following section lists the services we studied within each of the three types of companies, as well as the rationale behind our selection. Among media corporations, we selected the following services:

**1. TV3**, a television broadcaster with primarily Malay language content, and a subsidiary of one of the largest media conglomerates, Media Prima;

**2. Astro Awani**, also a television broadcaster with Malay and English content, owned by a parent company, Astro, whose shareholders include owners of the telecommunications company, Maxis Berhad; and

**3. Sin Chew**, owned directly by Media Consolidation Chinese International and indirectly by a timber tycoon, Rimbunan Hijau. Its content is in the Chinese language (the Chinese represent the second largest ethnic community in Malaysia).


The parent companies are publicly listed, and as such, have obligations for reporting company practices to the regulator, the Securities Commission. They also have higher standards of governance and accountability when compared to those that are registered as private limited companies. Astro Awani and TV3 are popular brands for broadcast news, with the latter recording 39% of the market share of TV audiences,<sup>10</sup> and benefitting from the increased viewership across broadcast and digital platforms during the pandemic. Sin Chew is the leading Chinese language newspaper in the country, with a national print and online presence. These companies deserve scrutiny as they are highly influential among voters and audiences in Malaysia.

News media practices have transformed in the face of emerging data practices. Users' direct access to digital platforms and sources means that media companies now collect user information and personal data to varying degrees. The use of data gathered through registrations, subscriptions, and purchases is increasingly used to shape marketing, promotions, and advertising. Personal data is also increasingly used to curate news feeds and landing pages of media sites.

Access to the news content of the three selected companies is usually online, via social media or online streaming. Media Prima's video content is available via its video streaming service tonton, while Astro has its own apps to stream its radio stations. Awani can be viewed via satellite channels, as also via Youtube and Facebook, with live broadcasts now carried out by almost all news companies via TikTok. Together, these form a representative cross-section of companies which are central to, and have a critical role to play in, maintaining an information environment where free and fair elections may be conducted.

<sup>10</sup> Media Prima trumps challenges to return higher profits  
<https://www.freemalaysiatoday.com/category/business/2022/11/29/media-prima-trumps-challenges-to-return-higher-profits/>





We selected the following social media platforms:

**1. TikTok**, a short-form video based social media platform owned by ByteDance

**2. Telegram**, an encrypted instant messaging service with a 'channel' feature for broadcasting public messages to large audiences

The general elections held on 19 November 2022 were dubbed by some as Malaysia's 'TikTok elections' as the platform emerged as one of the primary sites for attracting and influencing young voters, an increasingly important constituency after the lowering of voting age from 21 to 18. Political campaigns on TikTok targeting the youth were also reported to be leveraging hateful and divisive content along ethnic lines.<sup>11</sup>

Telegram gained prominence in Malaysia during the COVID-19 pandemic due to the affordance of creating and participating in large public fora called 'channels'. There was significant reliance on the various government Telegram channels for reliable and timely information on lockdown measures and vaccination. While Telegram was not as controversial as TikTok during the general elections, it continued to be a source of news, as more legacy media, including Astro Awani, Sin Chew, TV3 have their own channels on the platform.

<sup>11</sup> TikTok on 'high alert' in Malaysia as tensions rise over election wrangle  
<https://www.reuters.com/world/asia-pacific/tiktok-high-alert-malaysia-tensions-rise-over-election-wrangle-2022-11-23/>

We selected the following services of telecommunications companies:

**1.** Usaha Tegas' **Maxis**, the leading provider of mobile services, having a market share of 27.4%,<sup>12</sup> as of 2021

**2.** Telekom's **Unifi**, the dominant fixed telephone service provider with Telekom holding a market share of 90%<sup>13</sup> of the fixed broadband market, as of 2021

**3.** Telenor's **Digi**, with a market share of 21.6%<sup>14</sup> mobile customers, as of 2021

**Note:** Celcom Digi, the product of a merger that concluded in November 2022 between Digi (Telenor) and Celcom (Axiata), will now displace Maxis as the largest brand in the Malaysian market. The data collection for this study preceded the merger, so our analysis considers Digi as an independent entity belonging to the Telenor group.

The 3 telecommunications service providers represent a valuable snapshot of the industry given their diverse ownership background as well as the expansion of the industry operations beyond just telecommunications.

Ultimately we hope that this thematic area can provide guidance to Malaysian and transnational companies about the specific needs of Malaysians regarding the role of corporations before, during and after elections, and also inform regulators/policymakers about directions for intervention.

<sup>12</sup> Market share of mobile subscribers in Malaysia 2021, Statista Research Department <https://www.statista.com/statistics/721723/malaysia-mobile-subscriber-market-share/>

<sup>13</sup> Telekom Malaysia Bhd. Company Background, Nikkei Asia <https://asia.nikkei.com/Companies/Telekom-Malaysia-Bhd>

<sup>14</sup> Market share of mobile subscribers in Malaysia 2021, Statista Research Department <https://www.statista.com/statistics/721723/malaysia-mobile-subscriber-market-share/>

## Part 2: Commerce and Digitisation

Data-intensive business models are increasingly in the spotlight as a vector for discrimination, inequity, and commodification/datafication of people. The risks can be greater in emerging economies, or in countries with weak data or consumer rights. We studied apps gaining popularity in different realms: from electronic payment systems that are tracking mobility and payments in cities, to superapps that accumulate population-level insights about eating habits, movement, shopping preferences etc.

Specifically, we studied:

**a.** financial technology applications  
Touch n Go **ewallet**, PayNet's money transfer service **DuitNow**, and Axiata's fintech ecosystem **Boost**;

**b.** popular ride-hailing application **Grab**, Capital A's lifestyle and travel application **AirAsia** Superapp, and Sea Limited's e-commerce application **Shopee**

As platforms broaden their services, and the superapps phenomenon continues to gather steam, technology companies wield enormous power in shaping social, cultural, economic and political dynamics worldwide. However, most current regulatory frameworks are unprepared to effectively govern their potential risks, especially in terms of privacy and security. With rampant cases of data leaks and breaches, state and private surveillance, and unfair labour practices in the gig economy, the impact on equality, dignity and other human rights is potentially significant.

With this thematic area, we hope to bring a wider focus on the risks and responsibilities of companies that are currently handling large volumes and diverse registers of data.



## Selection of Indicators

This study uses the full list of indicators from the 2020 RDR Corporate Accountability Index methodology, which is the latest version of RDR's standards (see Annex 1).

The tabulated scores in this report are presented in the form of 'lenses,' or clusters of indicators that, taken together, give a full picture of an area of inquiry. For example, some indicators in the privacy category taken together signal the performance of a service when it comes to data handling. These lenses were developed by Ranking Digital Rights and allow a lay reader to grasp the significance of otherwise manifold and disparate indicators. We opted to use lenses as they present a more holistic view, but the scoring of individual indicators is also available at this [link](#).

PART 1

# ELECTIONS AND MEDIA

Our findings are presented at thematic, company specific and sector-wide levels.

The most notable thematic level findings are highlighted below:

## Thematic Level Findings

### **There is a direct correlation between companies' commitments to human rights and their transnational status.**

Services such as TikTok, Telegram and Digi, which are offered by transnational companies, fared significantly better than purely local Malaysian media and telecom companies when it came to all categories of indicators. However, none of these companies had explicit commitments about their role in delivering political speech, forming public opinion and informing the public.

### **News media companies are not transparent about decisions affecting news delivery.**

Despite being at the vanguard of information stewardship, news media companies did not disclose any high-level commitments towards the freedom of expression and information. They did not make specific commitments about responsibilities related to election-related reporting. They did not declare, for eg., whether, and how, personalised news curation was used in their digital offerings, or whether they circulated their reportage through social media advertisements. While these declarations are not necessarily standard practice for digital news media, there are several ethical reporting norms around print and broadcast media coverage of elections which are not applied to their digital publishing counterparts.

Media companies operating with a digital presence have to meet legal and statutory requirements with

respect to data protection and privacy, anti-corruption, whistleblowing, the environment and sustainability.<sup>15</sup> As such, as standard practice, these are included in media companies' policies. Nonetheless, leadership and oversight are confined to broadly worded references on the companies' responsibilities with regards to risks, which include privacy.

### **Most companies collect demographic and behavioural data, both as a means of optimising their services, as well as for advertising and marketing purposes.**

Whether it is personalised content curation by news media companies, enhanced paid reach of social media advertisements or telecom companies favouring certain types of content violating net neutrality principles, these data practices have an impact on public opinion and critical information especially in the context of election-time contestation of narratives. Practices such as distribution of election-related coverage through social media ads have been known to leverage information or inferences about age, race, religion, political affiliations etc.

News media and telecom companies, aside from Digi, had minimal to no information at all about targeted advertising practices. Social media companies led with disclosures on algorithmic transparency, but stopped short of offering actionable remedies for algorithmic effects.

<sup>15</sup> Personal Data Protection Act 2010, Malaysian Anti-Corruption Commission Act of 2009, Environmental Quality Act 1974

The table (right) offers a comparative picture of disclosures about algorithmic decisions and targeted advertising. The lens on algorithmic transparency groups indicators that asked questions about whether companies conducted human rights impact assessments on algorithmic systems and whether they disclosed how they used and developed algorithms. The second lens on targeted advertising groups indicators that asked whether companies conducted human rights impact assessments on their targeted advertising systems, and whether they disclosed rules around ad targeting and how those rules are enforced. We see that social media companies are generally stronger when it comes to algorithmic transparency and disclosures around targeted advertising, with telecom and news media companies trailing far behind, respectively.

<b>Are particular sectors better than others when it comes to algorithmic transparency?</b>	<b>Algorithmic transparency</b>	<b>Targeted Advertising</b>
ASTRO	7.67	7.86
MEDIA PRIMA	6.17	6.21
MCIL	10.26	10.96
TIKTOK	39.96	41.77
TELEGRAM	40.84	40.34
MAXIS	10.73	12.23
TELEKOM	4.20	4.08
DIGI	20.21	18.21

*Table 2 : Comparison of algorithmic transparency across sectors of news media, social media and telecom companies*

**Social media companies lead the charge when it comes to disclosure of government takedown and user account information requests**

We saw stark differences between social media companies such as TikTok, Facebook and Twitter (part of the Ranking Digital Rights Corporate Accountability Index 2020<sup>16</sup>) on the one hand, and news media platforms and telecom companies on the other, when it came to disclosures related to the government’s demands to censor content and to access user information. There was no reporting on these demands by news media and telecom companies, nor clear disclosure of the related processes, policies or criteria for dealing with such requests.

The table (right) offers a comparative picture of disclosures about government demands to censor content and access user information. The lens on ‘Government demands to censor content’ groups indicators that asked questions about processes, user notification and data about government demands to restrict content and accounts. The second lens on ‘Government demands to access user information’ groups indicators that asked about processes, user notification and data about government demands for accessing user information. Again, we see that social media companies performed better when it came to having disclosures in place about government demands for censorship and access to user information.

Are particular sectors better than others when it comes to disclosures around government demands to censor content or access user information?	Government demands to censor content	Government demands to access user information
ASTRO	2.38	0.00
MEDIA PRIMA	0.00	0.00
MCIL	4.76	0.00
TIKTOK	54.52	31.43
TELEGRAM	10.72	8.93
MAXIS	0.00	0.00
TELEKOM	0.00	0.00
DIGI	16.51	7.14

*Table 3: Comparison of transparency in reporting on government demands for censorship and access to user information*

<sup>16</sup> See also social media companies Twitter and Facebook evaluated in the Ranking Digital Rights Corporate Accountability Index 2020 <https://rankingdigitalrights.org/index2020/companies/Twitter>, <https://rankingdigitalrights.org/index2020/companies/Facebook>.



## Company and Sector Level Finding

# A. Media Companies

The most notable findings for each news media company are highlighted below.

## Media Prima's TV3

Media Prima positions itself as “the largest and leading integrated media company” with operations comprising television, radio, print, out-of-home advertising, content creation, commerce and digital media. Aside from news and content, it runs a home shopping business, WOWSHOP, that uses various platforms such as television, electronic commerce and mobile commerce. Media Prima is an example of the intersection of news media, content creation, digital technology, and finance that is redefining the ways in which we understand the once-separate industries.

Media Prima had disclosures relating to the whistleblower policy for employees,<sup>17</sup> but no disclosures were found about commitments to the freedom of expression and information, or of privacy rights of users. The disclosures also highlighted the existence of a general grievance mechanism for submitting complaints to the company.

The privacy policy of TV3 under Media Prima and its online streaming platform xtra.com.my list the use and processing of personal data: they include the company reaching out to users for promotions and new products, to understand and analyse sales and customers' needs and preferences, comply with regulators' requests, and to send festive messages and customised personalised ads.<sup>18</sup> TV3 had no disclosures about their advertising policies and enforcement measures.

## MCIL's Sin Chew

MCIL, which contains a range of newspapers in its conglomerate besides Sin Chew, did not have any disclosures relating to governance indicators even though it has well-established leadership and oversight committees within the group for traditional business and financial oversight.<sup>19</sup>

Sin Chew disclosed the types of content that it prohibited, as well as provided the legal basis<sup>20</sup> for complying with government regulations. Sin Chew's terms and conditions cited several types of prohibited content including 'racist', 'political' and 'religious' content.<sup>21</sup> Sin Chew's list of prohibited content was more restrictive than the other companies in this category as it also prohibited 'blasphemous' content.

In its privacy policy,<sup>22</sup> Sin Chew noted that it is in compliance with the European Union's General Data Protection Regulation (GDPR). While Sin Chew offered a privacy notice and terms of use, they did not contain disclosures about policies for advertising, the use of algorithms, and encryption.

<sup>17</sup> Anti-fraud & Whistleblowing Policies <https://www.mediaprima.com.my/anti-fraud-and-whistleblowing-policies.html>

<sup>18</sup> Personal Data Protection Notice <https://www.mediaprima.com.my/personal-data-protection-notice.html> and Privacy Policy - xtra.com.my <https://www.xtra.com.my/polisi-privasi/>

<sup>19</sup> See pages 57-91 for report on Corporate Governance reporting where the priorities are for finance and business risks in the 2021/2022 Annual Report; <https://www.mediachinesegroup.com/wp-content/uploads/2022/07/e-00685-Annual-Report.pdf>

<sup>20</sup> See Clause 39 of the Members' General Terms and Condition: “You acknowledge that the Publisher may be required under applicable law or upon the receipt of legitimate instructions from government authorities, to carry out acts in breach of the terms of this Agreement” <https://member.sinchew.com.my/terms>

<sup>21</sup> <https://member.sinchew.com.my/terms> “22. You may not submit, upload or publish through the Site or the Services any User Content that is inaccurate, misleading, libellous, defamatory, threatening, pornographic, obscene, indecent, lewd, abusive, illegal, political, racist, religious, blasphemous, false...”

<sup>22</sup> Sin Chew Privacy Policy <https://www.sinchew.com.my/privacy>

## Astro's Awani

Astro had better disclosures on top level oversight as articulated in the company's Board Charter,<sup>23</sup> including the existence of board committees and management teams, but the charter did not make any commitments to either human rights broadly or to the freedom of expression and information of users more specifically. The company had commitments in its Code of Business Ethics and its Environment, Social and Governance policy regarding the impact of the company's operations on employees and the public.<sup>24</sup>

### The most notable findings across the news media sector are highlighted below:

All companies disclosed in their terms of service the types of content that were prohibited; however, no data was available about compliance with government and private requests for content takedowns and account restrictions. In the case of all of the companies, disclosures on legal compliance referred to copyright and other intellectual property rights.

1

Taken as a whole, the low level of performance related to the freedom of expression indicators raises concerns as to the protection of users' rights, particularly given the power of media companies to moderate users' expression on their platforms, and the potential to target them to receive customised political and social content without their consent or even awareness.

2

All three services meet the minimum legal requirements as per the PDPA in relation to the protection of personal data, but there is little to no initiative on proactive disclosures on indicators that are not legally mandated.

3

Neither Astro nor Sin Chew require users to verify their identity with their government-issued identification. However, Sin Chew discloses that 'identity card number' may be one of the fields of personal information collected by them.

4

<sup>23</sup> Astro Malaysia Holdings Berhad Board Charter [https://static02.astro.com.my/astrocorporate/media/docs/our-company/4-board-charter-\(approved-by-bod-on-4-12-2019\).pdf](https://static02.astro.com.my/astrocorporate/media/docs/our-company/4-board-charter-(approved-by-bod-on-4-12-2019).pdf); Astro Malaysia Holdings Berhad Audit & Risk Committee Charter <https://acm-cms-assets.eco.astro.com.my/acm-cms-a-corporate/amh-arc-charterr.pdf>

<sup>24</sup> "As a responsible global corporate citizen, we shall push to meet standards and practices that are guided by principles expressed in the International Bill of Human Rights. The policy shall apply to all business units, employees, stakeholders, talents and our customers."; ESG Statement and Policies [ESG Statements and Policy](#)

## B. Social Media Companies

The most notable findings for each social media platform are highlighted below.

### ByteDance's TikTok

TikTok, with its parent company in China and separate business operations in jurisdictions other than China, presented a unique case for this study. Usually we evaluate governance indicators at the group level but in this instance, we focussed on service level disclosure instead as ByteDance has separate operations in jurisdictions outside of China.

Although TikTok commits to a number of human rights instruments like the International Bill of Human Rights and the Universal Declaration of Human Rights, the company did not specifically commit to protecting users' freedom of expression or privacy.<sup>25</sup> TikTok has an Anti-Discrimination Ad Policy which prohibits categories of discriminatory targeting on the basis of 'legally protected classes based on the local laws of the region, such as race, ethnicity, age, familial status, and sexual orientation.' The policy also notes prohibition of ad targeting on the basis of 'personal, financial, or legal hardships.'<sup>26</sup>

In its Terms of Service, the social media platform provided a non-exhaustive list of grounds for restrictions of content or user accounts.<sup>27</sup> TikTok's Community Guidelines policy lays down exceptions to the enforcement of the guidelines, provides an appeals process as well as discloses the policy on notifying users when they have violated the rules of the platform.<sup>28</sup> Tiktok publishes Community Guidelines Enforcement Reports every quarter with content removal and restrictions figures.

### Telegram

Telegram makes a clear commitment to protecting both freedom of expression and privacy of users. In addition, the company also stated that it has a decentralised data storage structure to mitigate the risks of government intrusion on freedom of expression.

Telegram disclosed that it processes "legitimate requests to take down illegal public content (e.g., sticker sets, bots, and channels) within the app" and performs the necessary legal checks, removing content where it deems appropriate. Telegram also disclosed clearly that its content takedown policy does not apply to local restrictions on freedom of speech, and that for eg., if criticism of the government is illegal in some countries, Telegram would not be a part of such politically motivated censorship. The policy states that although Telegram would block 'terrorist' bots and channels, it would not censor those who peacefully expressed alternative opinions.<sup>29</sup> Telegram did not disclose content removal statistics.

<sup>25</sup> Upholding human rights  
<https://www.tiktok.com/transparency/en-us/upholding-human-rights/>

<sup>26</sup> TikTok's Anti-Discrimination Ad Policy  
<https://ads.tiktok.com/help/article/tiktok-anti-discrimination-ad-policy#>

<sup>27</sup> The section "Your Account With Us" states "We reserve the right to disable your user account at any time, including if you have failed to comply with any of the provisions of these Terms, or if activities occur on your account which, in our sole discretion, would or might cause damage to or impair the Services or infringe or violate any third party rights, or violate any applicable laws or regulations."

<sup>28</sup> Enforcement - Community Guidelines  
<https://www.tiktok.com/community-guidelines/en/enforcement/>

<sup>29</sup> Telegram FAQ  
<https://telegram.org/faq>

## The most notable findings across social media platforms are highlighted below:

Overall, both TikTok and Telegram had minimal disclosures about their commitment to human rights due diligence, including on conducting human rights impact assessments. Neither of them had enforcement policies on grievance and remedy processes in relation to users' freedom of expression or privacy concerns. However both services published user-friendly content moderation policies, available in both Malay and Bahasa Indonesia.

1

Both services had some disclosures on their use of algorithmic systems and automated software agents (bots). TikTok, in particular, published a document titled "How TikTok recommends videos #ForYou" which explains in abstract terms the design considerations and key elements of user behaviour that influence the algorithm.<sup>30</sup> Telegram has a "Bots FAQ" that outlines the use of, and processes related to, bots on the platform.<sup>31</sup> By default, the bot channels indicate the presence of bots in their descriptions or by specific features available in the channel, for instance, the "stop bot" button.<sup>32</sup>

2

Both Tiktok and Telegram disclosed what types of user information were collected, how that information was shared, and circumstances in which sharing was permitted. They also provided information on what data was retained and how users could control and access their own data.

3

TikTok also published transparency reports, which include bi-yearly statistics and analyses about governments' requests for data, and related processes involving disclosure of data.<sup>33</sup> Its "Law Enforcement Guidelines" were detailed, and clearly set out TikTok's approach to handling data requests from the government, including around user notification<sup>34</sup> Similarly, Telegram's FAQs provided information about how it processed take-down requests from third parties, including governments.<sup>35</sup>

4

<sup>30</sup> How TikTok recommends videos #ForYou <https://newsroom.tiktok.com/en-us/how-tiktok-recommends-videos-for-you>

<sup>31</sup> Bots FAQ <https://core.telegram.org/bots/faq>

<sup>32</sup> Bots FAQ <https://core.telegram.org/bots/faq>

<sup>33</sup> Government Removal Requests Report <https://www.tiktok.com/transparency/en/government-removal-requests-2022-1/>

<sup>34</sup> TikTok Law Enforcement Guidelines <https://www.tiktok.com/legal/page/global/law-enforcement/en>

<sup>35</sup> Telegram FAQ <https://telegram.org/faq>

The table below offers an aggregated scoring of the social media platforms' performance on different criteria relating to the freedom of expression and information.

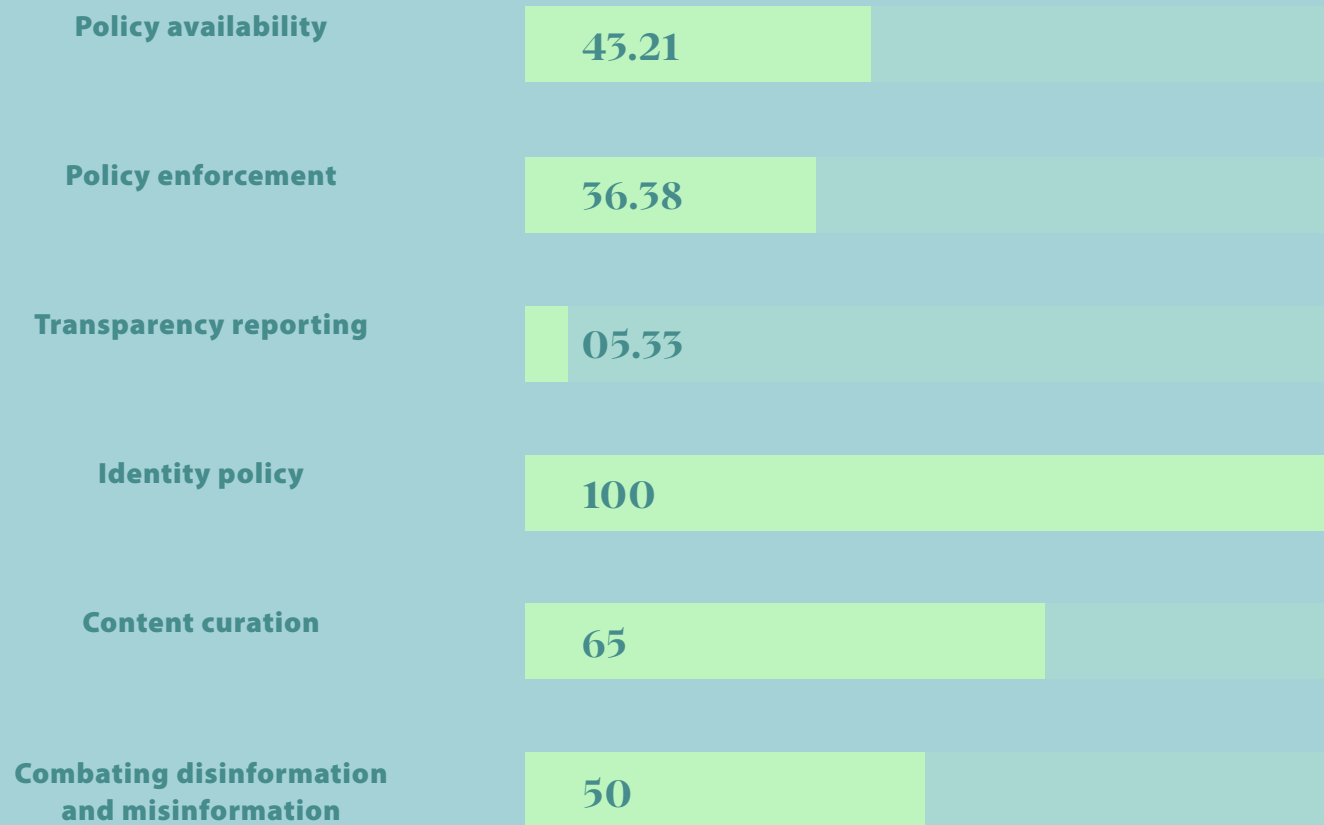
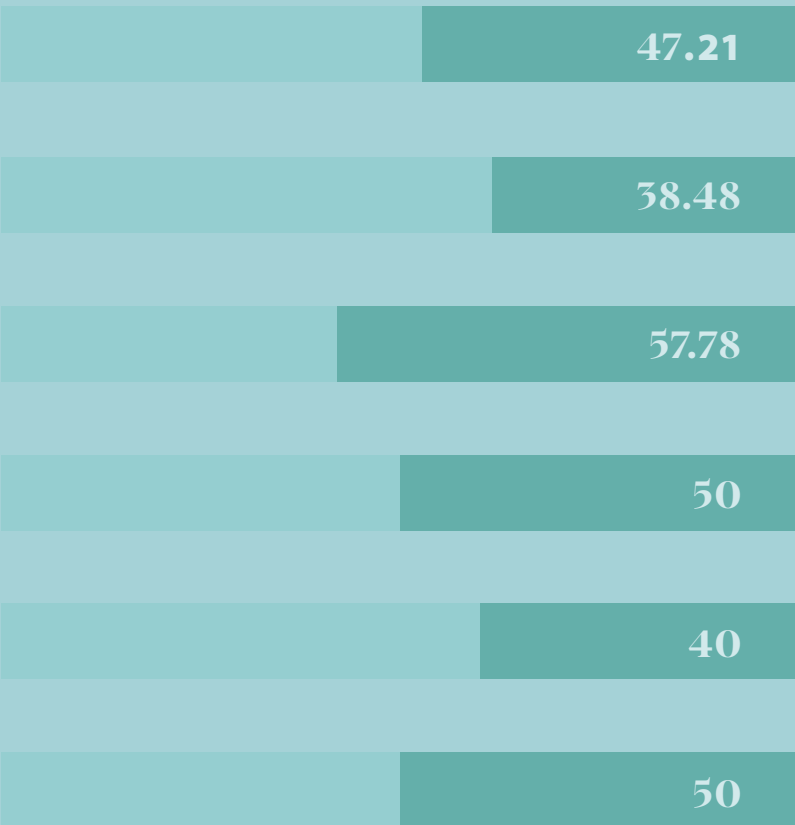


Table 4 : Freedom of Expression and information performance of social media companies

## C. Telecom and ISPs

The most notable findings for each telecommunications service provider are highlighted below.

### Telenor's Digi.

In the 2020 RDR Corporate Accountability Index,<sup>36</sup> Telenor ranked number 3 amongst 12 telecom service providers worldwide with a relatively high score for its governance (64%), while it scored 26% for freedom of expression and 30% for privacy. Its Malaysian subsidiary, Digi, attained lower scores for its Malaysia operations, although it performed better than its competitors Maxis and Telekom when it came to all three categories of indicators. Digi performed significantly better in terms of policies relating to stakeholder engagement (Telenor is a member of the Global Network Initiative<sup>37</sup>), and provided mechanisms for submitting complaints related to freedom of expression and privacy, and as such ranked better for overall governance.

Based on its parent company's policies<sup>38</sup> Digi was the only company that articulated how it pushed back against government requests to remove, filter, or restrict content and accounts. Further, Digi's human rights policy had a clearly stated commitment to preventing discrimination on the basis of race, gender identity or expression, religion, nationality, marital status, age, and disability among others.<sup>39</sup>

### Usaha Tegas' Maxis

Like Digi, Maxis had disclosures about a number of its policies, including providing information regarding content or account restriction, network management and network shutdowns.

Maxis stated that it may obtain personal data from third parties such as credit reporting agencies and financial institutions for a long list of non-exhaustive purposes including for assessing creditworthiness.<sup>40</sup>

### Telekom's Unifi

Telekom's disclosures included the circumstances under which it could restrict content or users' accounts, but there were no disclosures about whether such actions were enforced. The company's privacy policy disclosed the types of user information collected, the methods of collection, data shared with third parties, and a statement that users could obtain a copy of their personal information.<sup>41</sup>

<sup>36</sup> 2020 RDR Corporate Accountability Index Telenor ASA <https://rankingdigitalrights.org/index2020/companies/Telenor>

<sup>37</sup> Global Network Initiative is a multi-stakeholder platform that creates an evolving framework for responsible company decision making in support of freedom of expression and privacy rights <https://globalnetworkinitiative.org/>

<sup>38</sup> Handling access requests from authorities <https://www.telenor.com/sustainability/responsible-business/handling-access-requests-from-authorities/>

<sup>39</sup> Strategy Pillar 3 Responsible Business <https://store.digi.com.my/sustainability/human-rights.html>

<sup>40</sup> Maxis Privacy Notice <https://www.maxis.com.my/en/privacy-notice/>

<sup>41</sup> Unifi privacy notice: <https://unifi.com.my/sites/default/files/page/assets/pdf/privacynotice.pdf>

**The most notable findings across the telecommunications sector are highlighted below:**

No disclosures were found regarding zero rating by telecom companies although telecommunications companies offered free data during the Covid-19 pandemic to support access to health information from the Ministry of Health, as well as educational content.<sup>42</sup> There is no legal framework related to zero rating in Malaysia, as noted by Axiata in its 2021 integrated annual report.<sup>43</sup> The companies have also not disclosed policies on the use of algorithms, warranting further inquiry in that area.

1

Malaysian telecom companies had no explicitly stated commitments to international human rights standards, nor any disclosures relating to human rights due diligence and impact assessments. Digi's disclosures were restricted to its information about its human rights awareness programmes for employees.

2

Overall, all companies disclosed their privacy policies and cited grounds and purposes for collecting and sharing user information. While this is encouraging, the companies did not communicate with users about changes in these policies or how they make inferences from user data.

3

<sup>42</sup> MCMC: Four telcos to offer free 1GB data daily starting April 1 <https://www.malaymail.com/news/tech-gadgets/2020/03/27/mcmc-four-telcos-to-offer-free-1gb-data-daily-starting-april-1/1850936>

<sup>43</sup> Integrated Annual Report 2021 <https://www.axiata.com/investors/2021/integrated-annual-report.html>

PART 2

# COMMERCE AND DIGITISATION



Our findings are presented at thematic, company specific and sector-wide levels. The most notable thematic level findings are highlighted below:

## Thematic Level Findings

### **Disclosures by fintech services were weaker than the disclosures made by ride-hailing and e-commerce services**

Of the services we studied, e-commerce and ride-hailing apps performed better than fintech companies when it came to data handling. Other than the nature of primary business, it is pertinent that the better performing apps Shopee, Grab and AirAsia are multinational companies with a strong presence across South-east Asia, whereas DuitNow, Boost and Touch n Go have operations only in Malaysia.

### **Grab leads the charge in having an accessible privacy policy**

With the exception of DuitNow, all companies publish their privacy policies or notices in both English and Malay as part of the legal requirement under the PDPA. Aside from offering the policies in the native language, some companies like Grab<sup>44</sup> have attempted to write privacy policies that are comprehensible to everyday users and use relatively less legal jargon.

### **Despite recent incidents of data breaches, none of the companies have policies related to breach notifications or other grievance mechanisms**

Across companies, there is no grievance or accountability mechanism in place for users for issues related to breaches of information privacy. In November 2022, AirAsia was affected by a ransomware attack and the personal data of 5 million passengers was jeopardised.<sup>45</sup> No direct notification was made to the affected passengers. The company also does not disclose the impact of such breaches after the fact and whether users' personal data was exposed. These are not requirements under the PDPA.

<sup>44</sup> Privacy Notice <https://www.grab.com/my/terms-policies/privacy-notice/>

<sup>45</sup> Wong, A. (2022, November 24). Here's AirAsia's response to alleged data breach involving 5 million passengers. SoyaCincau. Available at: <https://soyacincau.com/2022/11/24/airasia-responds-ransomware-data-breach-reports/>

## Company and Sector Level Finding

# A. Fintech Companies

The most notable findings for each fintech company are highlighted below.

## Touch n Go's eWallet

The Touch n Go e-wallet service has its roots in the Touch n Go contactless card payments for toll roads, public transportation, and parking lots back when it was first introduced in 1997.<sup>46</sup> Even though the company was late in entering the e-wallet sector compared to its competitors, it is now the no.1 e-wallet service in Malaysia with more than 18.5 millions registered users reported in 2023.<sup>47</sup> Touch n Go e-wallet is widely used in supermarkets, convenience stores, wet markets<sup>48</sup> and even for trishaw<sup>49</sup> services.

Touch n Go has an easy to read Privacy Notice which is relatively low on legal jargon and available as a PDF download.<sup>50</sup> The notice includes the types of personal information collected, the sources from which such information may be collected, and the purposes for which such information is collected and used. Touch n Go disclosed that they collect

several registers of information such as 'personal information typically collected on application forms' such as ethnicity and marital status, but also precise location-based information, information about risk profiles, information relating to activities, habits and preferences and more. The sources from which they collect personal information range from credit referencing agencies to analysis of behaviour on the Touch n Go account. As a company also involved in the provision of other mobility-related services, Touch n Go also collects personal information from 'wherever our Radio Frequency Identification (RFID) or License Plate Recognition (LPR) products or services are offered.' This allows Touch n Go the custody of both high-quality mobility as well as financial information, and the ability to combine two coveted registers of data.

<sup>46</sup> Malaysia's mobility leader paves the way to a cashless society <https://www.touchngo.com.my/about-us/our-story/>

<sup>47</sup> Touch 'n Go eWallet Achieves Six Times Improvement in Test Efficiency with Alibaba Cloud EMAS Mobile Testing <https://www.alibabacloud.com/blog/touch-n-go-ewallet-achieves-six-times-improvement-in-test-efficiency-with-alibaba-cloud-emas-mobile-testing-599841>

<sup>48</sup> A wet market is a market selling fresh meat, fish, and produce common in South-East and East Asia.

<sup>49</sup> A trishaw is a light passenger vehicle with three wheels and pedals common in parts of South-East Asia.

<sup>50</sup> Personal Data Protection Act (PDPA) Privacy Notice (For Customers) <https://www.touchngo.com.my/assets/documents/pages/home/TNG-Privacy-Notice-Revised-Nov-2021.pdf>

## Axiata's Boost

Boost started as an e-wallet but has since broadened its scope and brands itself as a 'full-spectrum fintech player in Southeast Asia.'<sup>51</sup> Boost Credit's microfinance and microinsurance products are marketed as 'solving' the 'problem' of financial inclusion and boost cash flow for businesses.<sup>52</sup> If the product offerings are aimed at including previously unbanked and underbanked persons through the provision of personalised financial products, human rights commitments become an urgent priority to ensure that the company's data practices do not enable harms such as predatory lending.

Regarding users' data access rights, Boost noted that 'system-recorded' personal information was not editable upon request by users. Boost stated that deletion of data is limited to deletion of the Boost account, and when it deletes any information, it will only be deleted from the active database and will remain in their archives. Further, Boost stated that the company reserves the right to decline requests that jeopardise the security and privacy of the personal information of others, as well as requests that are impractical or not made in good faith.<sup>53</sup>

The Axiata Group, parent company of the fintech platform Boost, with a presence in 11 countries in Asia, has made explicit commitments to the United Nations Sustainable Development Goals (UNSDGs) in its sustainability report, particularly on SDG 4 (Quality Education) and SDG 13 (Climate Action).<sup>54</sup>

## PayNet's DuitNow

DuitNow, operated by PayNet, is a money transfer service which allows real-time payments between Malaysian bank accounts. In 2018, all Malaysians were automatically 'opted-in' for DuitNow, a system that allows users to transfer money via an identifier – usually a mobile number or passport number, instead of through bank account numbers.<sup>55</sup> This was actioned in the absence of explicit consent of citizens and the opt out process was available for only 30 days after the receipt of the registration SMS. This coercive move was made worse by the lack of transparency about what data was collected, and how it was processed and stored by DuitNow. No Terms of Service or Privacy Policy were found online for users of the service. As PayNet was established by the central bank of the country, Bank Negara Malaysia, there is a lack of clarity about whether PayNet enjoys the exemptions under the PDPA that apply to government agencies. As per the framework under which it was instituted, PayNet is only required to share its policies and guidelines about data privacy and security with participating financial institutions, and not with the public.<sup>56</sup>

Despite the mass onboarding of citizens, and the sensitivity and volumes of data processed by DuitNow, its data practices could at best be pieced together through information about what legacy banks such as Maybank and The Hongkong and Shanghai Banking Corporation (HSBC) disclosed about the treatment of payments data. Some of these policies disclosed that users' personal data will be shared with the DuitNow operator.<sup>57</sup>

<sup>51</sup> Boost About Us <https://myboost.co/about-us>

<sup>52</sup> Boost Credit <https://credit.myboost.co/>

<sup>53</sup> Your Rights to Access, Correct Your Personal Information and Delete Your Account <https://www.myboost.com.my/privacy/your-rights-to-access-correct-your-personal-information-and-delete-your-account/>

<sup>54</sup> Axiata's Integrated Annual Report 2021 (page 4): <https://axiata.listedcompany.com/misc/Axiata-IAR2021.pdf>

<sup>55</sup> DuitNow Is Coming Soon: Here's What You Need To Know <https://ringgitplus.com/en/blog/banking-technology/duitnow-is-coming-soon-heres-what-you-need-to-know.html>

<sup>56</sup> Interoperable Credit Transfer Framework <https://www.bnm.gov.my/documents/20124/761679/PD+ICTF.pdf/65a10c57-4905-9681-4f86-cf049acc72a8?t=1578649871519>

<sup>57</sup> DuitNow Terms of Use <https://www.hsbcamanah.com.my/content/dam/hsbc/hbms/documents/ways-to-bank/duitnow/terms-of-use.pdf> DuitNow Terms and Conditions <https://www.maybank2u.com.my/iwov-resources/pdf/personal/digital-banking/DuitNowTNC.pdf>

## Sector-wide Findings

Companies with a global presence such as Axiata went beyond what's required of them as per laws in Malaysia and adopted language that signals to human rights principles. Axiata committed to following applicable laws, regulatory requirements and policies across markets of operation, including in regard to human rights and freedom of expression.<sup>58</sup> However, privacy disclosures of Axiata's Boost was weaker than the privacy disclosures of Touch n Go, which made no such human rights commitments in its disclosures.

1

Boost and Touch n Go disclosed that personal data would be used in offering promotions and personalised financial products such as loans and insurance policies, but stopped short of disclosing which data points affect the personalisation and in what manner. Such a disclosure would allow regulators and users to assess whether there is a risk of discriminatory practices embedded within products and services. Although fintech services speak in the language of empowerment - marketing themselves as enablers of financial inclusion - there are no policies to mitigate the risk that their product offerings might discriminate on the basis of any of the several sensitive data points gathered and processed about users.

2

<sup>58</sup> Axiata Sustainability & National Contribution Report 2022 <https://sustainability.axiata.com/wp-content/uploads/2023/05/Axiata-SNCR-Final-2022.pdf>

**Shopee** 33.79

**Grab** 27.15

**Capital A** 18.87

**Touch n Go** 15.10

**Boost** 14.69

**Duitnow** 05.73

The figure (right) offers a comparative picture of disclosures about data handling. The lens on 'data handling' groups indicators that ask questions about how companies collect, infer, share and retain user information, as well as what options companies provide users to access and control their own information. We see that ride-hailing and e-commerce companies generally have better data handling practices compared to fintech companies.

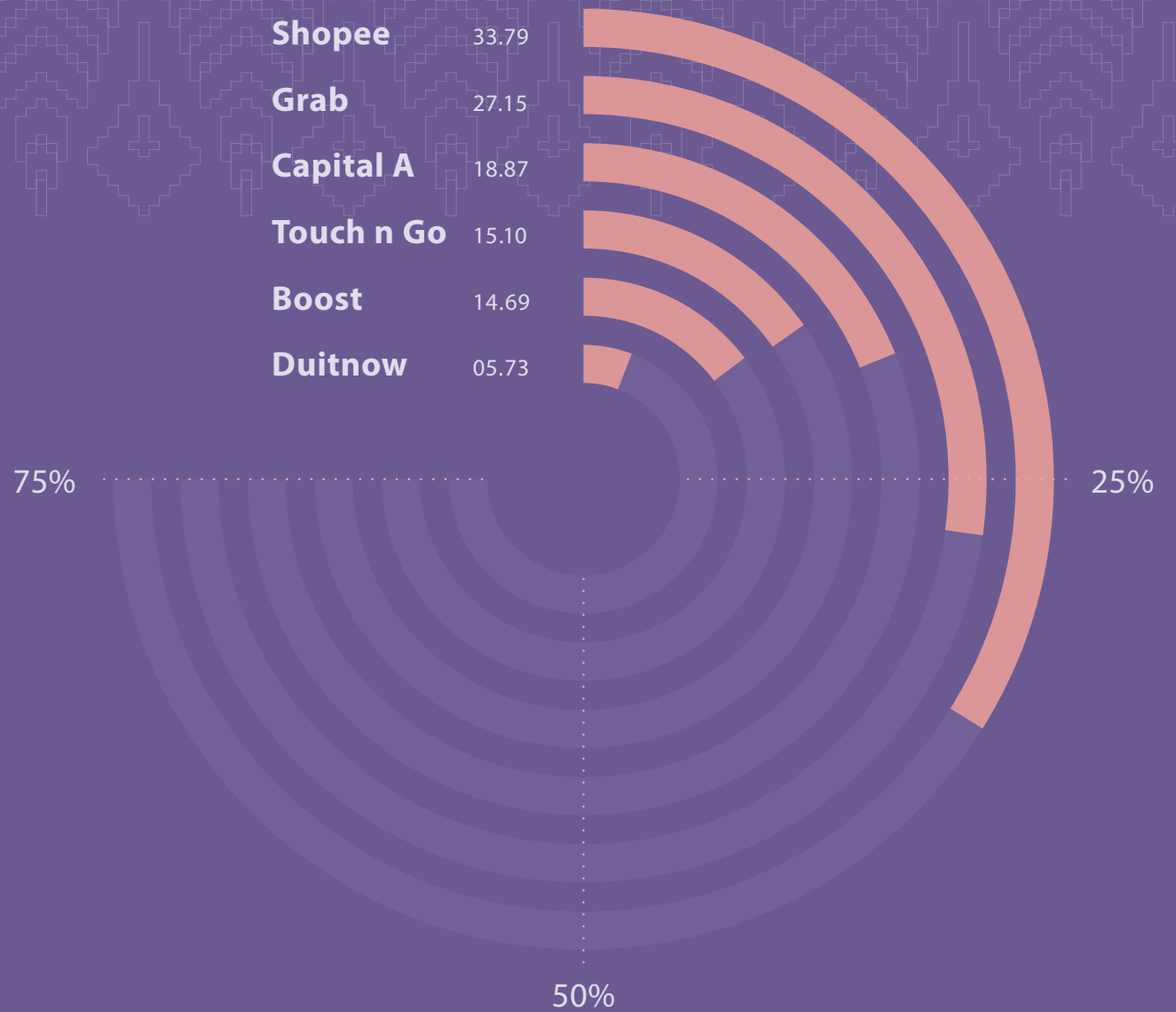


Table 5 : Data handling by fintech and e-commerce companies

## B. E-commerce and Ride-Hailing Companies

The most notable findings for each ride-hailing and e-commerce company are highlighted below.

### Capital A's AirAsia

AirAsia identified itself as a 'one-stop shop' for travel, e-commerce, and fintech. The superapp had 51 million users and 40 million downloads and provided integrated access to 15 types of products and services.<sup>59</sup> Owned by Capital A Berhad, AirAsia reported a quarterly revenue of \$24 million in September 2022.<sup>60</sup>

AirAsia's Terms of Use stated that the AirAsia group of companies is managed and operated out of Malaysia with 'the server' located in Malaysia.<sup>61</sup> The policy mentioned that the company reserves the right to

amend, modify, add, delete and make corrections to the policy, and users were advised to review policy documents periodically to be aware of the modifications.

AirAsia offered the least information on the purpose of data collection including health information and medical records. The company did not specify how long user data would be retained. Data access procedures allowed users to access account information about themselves, and make data deletion requests through Google Forms.

<sup>59</sup> airasia Super App and Google Cloud Forge Strategic Collaboration to Unlock Digital Growth and Democratize Digital Convenience Across Southeast Asia <https://newsroom.airasia.com/news/2022/4/8/airasia-super-app-and-google-cloud-forge-strategic-collaboration-to-unlock-digital-growth-and-democratize-digital-convenience-across-southeast-asia#gsc.tab=0>

<sup>60</sup> AirAsia's Tony Fernandes Refocuses Back on a SuperApp Just for Travel <https://skift.com/2023/01/30/airasia-tony-fernandes-refocuses-back-on-a-superapp-just-for-travel/>

<sup>61</sup> AirAsia Terms of Use <https://www.airasia.com/aa/about-us/en/gb/terms-of-use.html>

## Grab Holdings' Grab

Grab started off as MyTeksi, a ride-hailing, service but it has ventured into food delivery, parcel/item delivery, insurance, eWallet, and more. It is available in 428 cities across 8 countries.<sup>62</sup>

Grab commits to non-discrimination in its Code of Conduct for drivers and delivery partners.<sup>63</sup> In its Code of Conduct for its suppliers, Grab states that suppliers are expected to protect the human rights of their employees, including meeting minimum labour requirements under applicable local laws and regulations.<sup>64</sup> The company's Guideline on Inappropriate and Sensitive Online Content stated that advertisements 'should not portray women as an object of sex or in an exploitative manner,' and that 'people with disabilities should be portrayed in a positive light and racial profiling and discrimination must be avoided.'<sup>65</sup>

Grab disclosed that its privacy office reviews the global regulatory landscape and best practices to maintain robust data privacy control, which includes having its Internal Audit and Risk Assurance teams as

well as the privacy and Ethics and Compliance teams identify and provide evaluations and assurance on the effectiveness of these control measures. Its Board of Directors maintains oversight for sustainability at Grab and receives regular updates on key risk-related Environment, Social and Governance (ESG) matters through the Board's Audit Committee.<sup>66</sup> Grab has also instituted an independent third-party system to receive complaints related to its policies and practices. Once the investigations are complete, a report is submitted to a Remediation Council for its adjudication on appropriate remediation steps to be taken.<sup>67</sup>

Grab scored the highest among all companies in terms of their obligation to directly notify users about changes to the privacy policy. Grab committed to notifying users of such amendments at least 5 business days before the effective date.<sup>68</sup> Other than that, the company also disclosed that users can write in to request correction, deletion, or restriction of the use of their personal data, or withdraw their consent in some cases. However, it is not clear what processes or criteria are followed for complying with such requests.

<sup>62</sup> Super App Grab MY <https://www.grab.com/my/about/superapp/>

<sup>63</sup> "You shall not refuse to provide services or make derogatory comments about anyone based on their race, religion, nationality, disability, sexual orientation, gender or, gender identity, age or any other characteristic."

<sup>64</sup> Grab Code of Conduct: Suppliers <https://www.grab.com/my/terms-policies/code-of-conduct-suppliers/>

<sup>65</sup> Guideline on inappropriate and sensitive online content: GrabAds and GrabFood <https://www.grab.com/sg/terms-policies/guideline-on-inappropriate-and-sensitive-online-content-grabads-and-grabfood/>

<sup>66</sup> Grabs Our guiding principles <https://www.grab.com/my/about/our-principles/>

<sup>67</sup> Grab ESG Report 2021 <https://assets.grab.com/wp-content/uploads/media/si/reports/Grab-ESG-Report-2021.pdf>

<sup>68</sup> Grab Privacy Notice <https://www.grab.com/my/terms-policies/privacy-notice/>

## Sea Limited's Shopee

Shopee topped the market for online shopping by monthly traffic in Malaysia as of June 2022, with almost 55 million clicks.<sup>69</sup> Shopee's advertising policy prohibited any content that is discriminatory or constitutes 'hate speech,' whether directed at an individual or a group, and whether based upon the race, sex, creed, national origin, religious affiliation, sexual orientation, or language of such individual or group.<sup>70</sup>

Under its Introduction to Discovery Ads, Shopee described a ranking system for advertising based on the bidding price and ad quality, as well as positive reviews, good product ratings, and high 'sold' count.<sup>71</sup> This was the only such disclosure about algorithmic curation made by any of the companies studied in this section. Shopee also stated that the use of bots by

users is prohibited. Shopee's Prohibited and Restricted Items Policy stated that any violation of terms of service may lead to limitation of the user's account.<sup>72</sup>

Shopee disclosed that it may use personal information to respond to legal processes or to comply with any applicable law, governmental or regulatory requirements of any relevant jurisdiction where it has a 'good faith' belief that such disclosure is necessary.<sup>73</sup> Shopee did not offer any statistics about compliance with legal orders.

<sup>69</sup> Malaysia: Most visited e-commerce sites in Malaysia as of 2nd quarter 2022, by monthly traffic. <https://www.statista.com/statistics/869640/malaysia-top-10-e-commerce-sites/>

<sup>70</sup> Shopee Advertising Policy <https://help.shopee.com.my/portal/article/77222?previousPage=other%20articles>

<sup>71</sup> Shopee Discovery Ads Introduction <https://ads.shopee.com.my/learn/faq/82/141>

<sup>72</sup> Prohibited and Restricted Items policy <https://help.shopee.com.my/portal/article/77220?previousPage=other%20articles>

<sup>73</sup> Shopee Privacy Policy <https://help.shopee.com.my/portal/article/77216?previousPage=other%20articles>



## The key findings across the ride-hailing and e-commerce companies are highlighted below:

All three companies scored higher overall when it came to privacy indicators compared to governance and freedom of expression indicators. However, they did not disclose any enforcement policies or grievance redressal mechanisms related to users' freedom of expression or privacy concerns.

1

Only Grab and Shopee disclosed limited grounds for restrictions of content and user accounts. Both companies, however, had not disclosed any processes for enforcing their rules once violations were detected.

2

No disclosures were found in relation to any of the companies' processes on responding to government requests for restriction or removal of content or user accounts.

3

Grab and AirAsia had no disclosures on rules governing their use of algorithmic systems and automated software agents (bots), but Shopee provided information on its algorithmic curation of ads.

4

The three companies had varying levels of information on how they secure and protect user data, with AirAsia providing the weakest disclosures on its policies, measures and processes.

5

The table below offers a comparative picture of disclosures among ride-hailing and e-commerce apps for their policies relating to the freedom of expression and information.

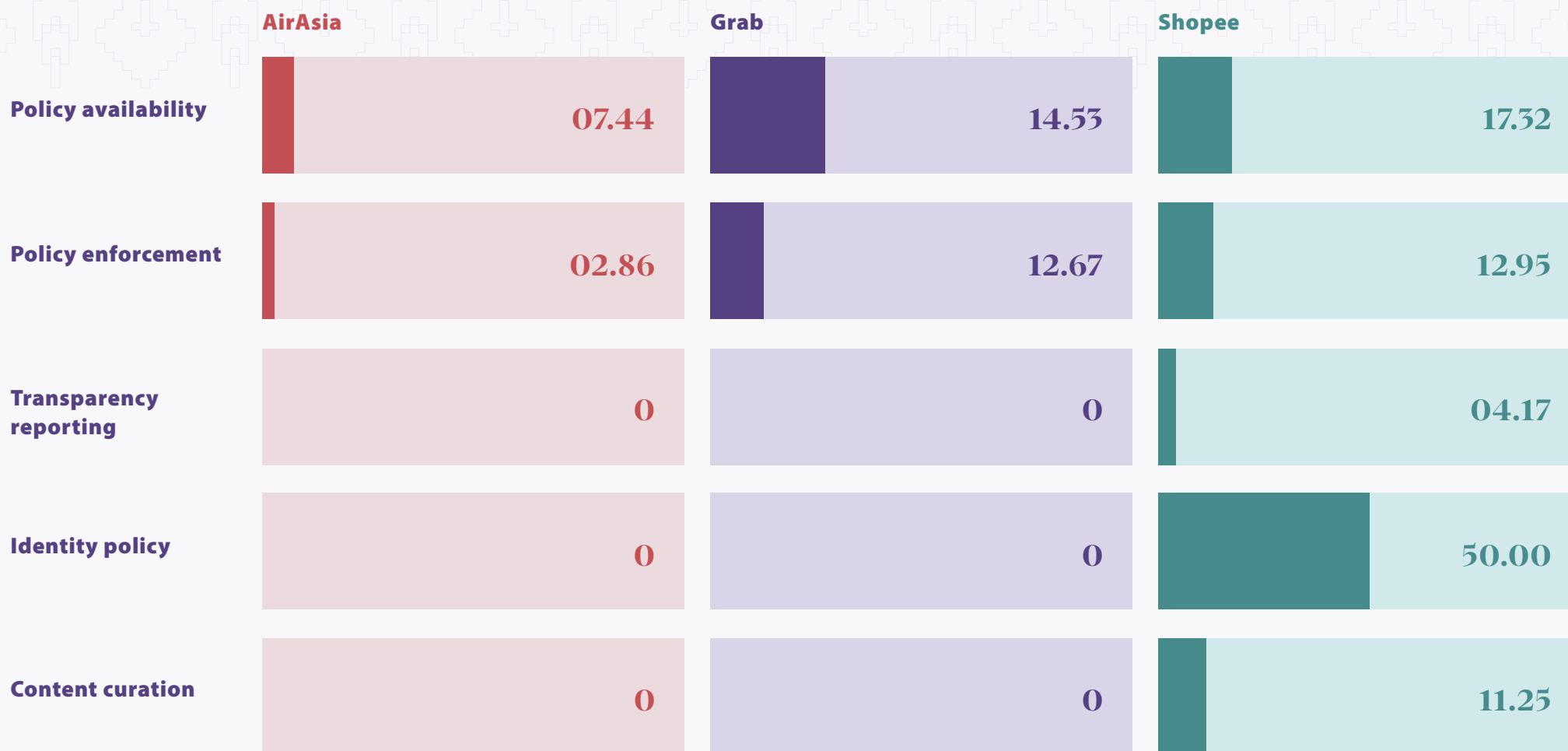


Table 6 : Policy availability, policy enforcement, transparency reporting, identity policy and content curation of companies with data-intensive business models.

The table below offers a comparative picture of disclosures among ride-hailing and e-commerce apps for their policies relating to privacy.

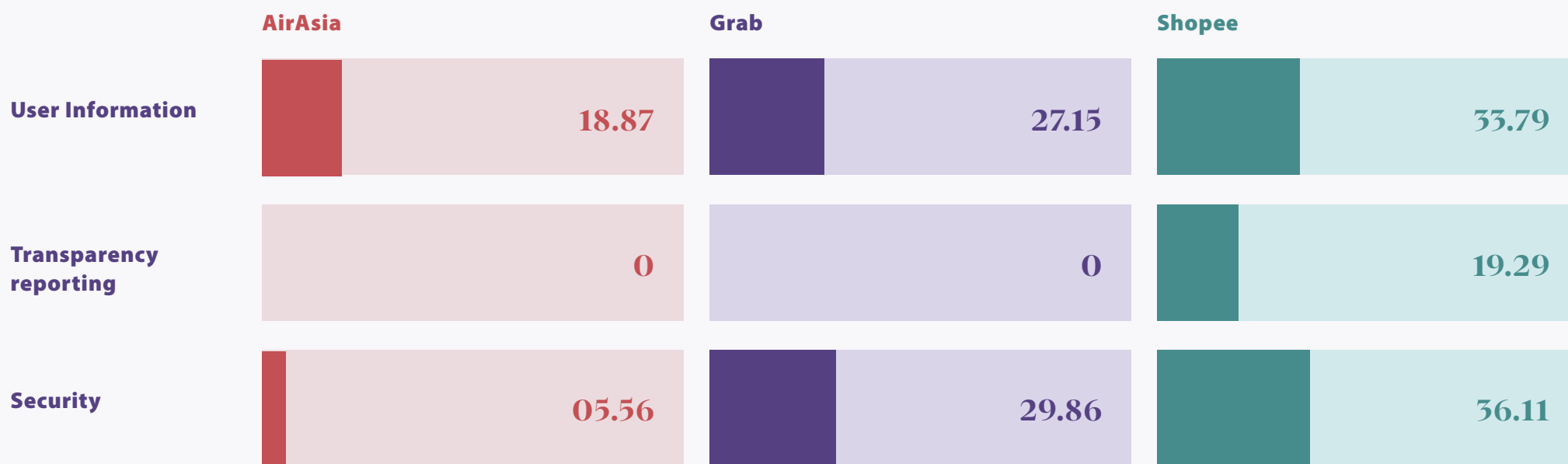


Table 7: User information, transparency reporting and security of companies with data-intensive business models.

# CONCLUSION

Our data highlights that (a) company performance has been best where they are required by law to make specific disclosures and (b) where parent companies meet international benchmarks, their subsidiaries perform better in local contexts. Seeing the correlations between legal norms and company practice, we offer recommendations to regulators and policymakers, and companies.

## A. Regulatory Bodies and Policymakers

**An independent regulator should be empowered to enforce transparency requirements under data protection laws.** Requirements for notice and consent, data access rights and other strands of transparency already present under the PDPA should be enforced such that minimum benchmarks are met by companies. Further, the ambiguity about the applicability of the PDPA to GLCs should be addressed by explicitly bringing GLCs within the scope of the law.

**Regulators should strengthen reporting requirements for listed and unlisted companies, including human rights impact assessments of their products and services.** Regulators such as the Securities Commission and Companies Commission of Malaysia, which oversee businesses, must adopt higher standards of corporate governance such as the United Nations Guiding Principles on Business and Human Rights, and mandate companies to implement human rights standards in their operations.

**Companies should be required by law to develop policies regarding the use of algorithms.** Regulation and governance of algorithmic decision making, including targeted advertisements and algorithmic content curation, should be supported by provisions on non-discrimination. Such a framework should

include grievance mechanisms for instances where algorithmic decisions are deployed in areas such as employment, housing, finance and health.

**Amendments to the PDPA should require companies to create and disclose data breach policies.** The government announced its intention to amend the PDPA in early 2023. This provides an opportunity to introduce new requirements, such as the need for companies to have breach notification policies in place to mitigate the harms and effects of data breaches. PDPA should require companies to disclose a data breach policy, including commitments to notify affected individuals about the nature of the breach, what information was leaked and any remedial measures that companies decide to undertake. Civil society, academia and users should be consulted in preparing these amendments.

**Legal and policy frameworks should be sensitive to personalisation and targeting of products and services leading to discrimination.** Because so many popular applications diversify their offerings to incorporate new areas of business such as payments, mobility and logistics services, they form a rich view of users and society. Differential service offerings in the name of personalisation and targeting should not lead to predatory or discriminatory impacts.

## B. Tech Companies


**Companies should institute processes for responding to data breach incidents and disclose relevant information to affected individuals.** There is no legal requirement for companies to notify users or to have grievance redressal mechanisms in place for when a data breach occurs. However, even in the absence of legal obligations or compulsions, companies should adopt global best practices in their Malaysia operations.

**Companies should expand the disclosures about user data collected, inferred, and shared.** Companies must be more proactive in their communications with users, especially when changes are made to privacy policies and terms of use. Companies should notify affected users and make substantive and procedural disclosures when users' personal data is shared in compliance with government orders, for example, pursuant to criminal investigation on the grounds of sedition and criminal defamation charges.

**Companies offering personalised products and services and using algorithmic content curation should disclose measures taken to mitigate the risks of discriminatory impacts of their products and services.** Companies should engage with stakeholders proactively and systematically in developing anti-discrimination policies, and addressing risks and challenges faced by those particularly at risk. Companies that are reliant on data-intensive business models should conduct impact assessments about how their business operations and product offerings might have an impact on freedom of expression.

We hope that these recommendations can serve as a starting point to locate the role of transparency in Malaysian data governance. For industry disclosures to be meaningful, it is important that they are systematic and trustworthy, as well as responsive to the information needs of users and society. Equally, transparency approaches benefit from empowered enforcement by regulators and engagement by an active civil society. Beyond industry self-disclosure, other complementary efforts such as independent audits should be considered part of corporate accountability frameworks.

# APPENDIX



Appendix 1: The table below offers a comparison across companies and across indicators relating to freedom of expression and information, and privacy. The lens on 'policy availability' groups indicators that ask questions about access to policies and notification of policy changes, the lens on 'policy enforcement' groups indicators that ask questions about processes for policy enforcement and for responding to third-party requests to restrict content or accounts, the lens on 'transparency reporting' groups indicators that ask questions about policy enforcement data, government and private demands for content and accounts restrictions, and user notifications of such actions, the lens on 'content curation' groups indicators

that ask questions about algorithmic content curation and bots, the lens on 'user information' groups indicators that ask questions about the collection, inference and sharing of user information, the purpose for collection, the retention of information, user control and access to information and the collection from third parties, 'transparency reporting' asks questions about the process for responding to demands for user information, and the lens on 'security' groups indicators that ask questions about security oversight, vulnerabilities, data breaches, encryption of user communications, account security and user information and education about potential risks.



	Policy availability	Policy enforcement	Transparency reporting	Identity policy	Content curation	User information	Transparency reporting	Security
Asro Awani	7.28	2.86	0	50	0	18.61	0	0
Media Prima	3.50	4.86	0	0	0	21.60	0	5.56
Sin Chew	13.32	22.57	0	50	0	15.56	0	0
TikTok	47.21	38.48	57.78	50	40	54.48	42.86	62.50
Telegram	43.21	36.38	5.33	100	65	61.25	17.86	50
Maxis	10.62	11.14	0	50	0	29.41	0	16.67
Telekom	2.95	0.95	0	0	0	12.22	0	0
Digi	15.91	15.43	4.45	0	0	31.09	21.43	38.89
Touch n Go	12.26	5.71	0	0	N/A	15.10	0	8.33
Boost	8.30	5.71	0	0	N/A	14.69	0	5.56
DuitNow	0	0	0	0	N/A	5.73	0	0
AirAisa	7.44	2.86	0	0	0	18.87	0	5.56
Grab	14.53	12.67	0	0	0	27.15	0	29.86
Shopee	17.32	12.95	4.17	50.00	11.25	33.79	19.29	36.11

Table 8: Company performances on key indicators

# 100

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