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Policy Trends in Asia- --and what they mean to IG Pacific



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The Internet in Asia-Pacific is becoming
more regulated

Cybersecurity

Trends

- According to the ITU Cybersecurity Index, Asia-Pacific has focused on the legal aspects of cybersecurity, and done the least work in building capacity and promoting cooperation to tackle cybersecurity issues
- Many countries are using public safety, law and order, and security as a way to justify policies that authorize invisible automated surveillance and violate privacy rights
- APAC is grappling with an increasing number of cyber attack incidents
- In some countries, tighter controls on online content are being used in an attempt to prevent the spread of ‘false’ or culturally sensitive information



Recent policies

- China's new Cybersecurity Law, which came into effect in June, mandates companies to store all data within the country and to pass security reviews. It has recently cracked down on VPN use and has required real-name registration on online platforms
- Similar and/or related legislation was also recently enacted in Bangladesh, Pakistan and Vietnam, and is under consideration in Cambodia and Malaysia
- Nauru implemented a ban on Facebook with other Pacific Island countries indicating they were also considering content filtering type legislation
- In 2015, Thailand proposed a Single Gateway policy—reducing the existing 12 Internet gateways to one state-controlled portal, to monitor Internet content
- Australia has a data retention policy in place that requires ISPs and phone companies to store consumers' metadata for up to 2 years

Issues

- Several governments, such as Australia, Thailand and India, have or are considering ‘back-door policies’ to require technology companies to hand over encryption keys to authorities upon their request, or inhibit the use of encryption technologies online
- Arrests, convictions, and takedowns of content deemed to offend the state, government officials, or sow social discord persisted in a number of countries
- The effects of Internet censorship are becoming more visible, with new studies suggesting that restrictions and vague legislation affect business confidence, especially foreign investment and can limit innovation, creativity and growth
- Many laws remain vague and overbroad in scope—and a number of cybersecurity-related policies encourage citizens to monitor and report each other

Online Privacy and Data Protection

Trends

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- Studies show that the majority of Internet users across APAC value or are concerned about their online privacy
- National identification systems are being implemented throughout APAC, and are increasingly linked to delivering public services and ensuring financial inclusion
- As part of the open government movement, governments are opening up their previously locked datasets on population, public budgets, education, health, housing, trade, etc. while they these may be beneficial for socio-economic development, the datasets may include individual records that threaten individual privacy if released openly
- Corporations are collecting and using all forms of data—every online search made, webpage visited, e-mail or message sent, product or service purchased, leaves hundreds of thousands of electronic tracks about an individual. Tools are available to aggregate these electronic tracks to form individuals' profiles.

Recent policies

- Indonesia's amendment to the 2008 Electronic Information and Transactions Law in 2016, included a "right to be forgotten" clause (the first in Asia-Pacific)-- citizens to request a court order to have information that compromises their privacy or unjustly damages to their reputation removed from the Internet
- In India, the regulator is working on a data protection law that would protect users' privacy on social networking platforms like WhatsApp
- In Vietnam, a new regulation to take effect this year requires Internet users to obtain permission from children or their legal guardians prior to posting the information of anyone below 16 years of age online.



Issues

- Privacy is highly contextual—this poses a challenge to imposing universal guidelines across cultures and borders
- A growing number of countries have privacy and data protection regimes in place—but many are poorly implemented
- Big data is being used both by the public and private sectors to develop ‘profiles’ of individuals (e.g. China’s social credit system can gauge your credit worthiness based on your information and behaviour online. This has the potential to further marginalize certain sectors by denying them much-needed services)
- The advent of new technologies, such as the Internet of Things, poses new challenges to how we approach online privacy and data protection (e.g. issues like consent, data ownership)

Connectivity and Access

Trends

- In 2016, the UN Human Rights Council released a non-binding resolution condemning intentional disruption of internet access by governments, and reaffirming that "the same rights people have offline must also be protected online"
- Many countries in APAC, including Malaysia, Singapore, South Korea and New Zealand, have a national broadband plan that mandates the rollout of a national network that will be openly accessible to all operators and Internet service providers
- Countries like Sri Lanka are exploring innovative ways to deliver high-speed Internet through non-traditional means like Google's Project Loon

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Recent policies

- The Philippines has passed a Free Internet Access in Public Place Act, making Internet available at no cost in government offices, public schools and universities, public hospitals, public parks and libraries, and transport terminals
- In Fiji, a 4G spectrum license comes with coverage obligations for 80%–95% of the population, but also with incentives, which includes 5%–40% licensing fee rebates should operators exceed these requirements.
- To address last mile access in India, the telecoms regulator has proposed an amendment to ISP license terms to allow sharing of active infrastructure—this will in turn allow communities, small entrepreneurs, and individuals to offer Internet to the public

Issues

- An increasing number of countries, mostly developed ones, have declared the Internet as a legal ‘right’
- Yet there are those that argue that technology is “an enabler of rights, not a right itself”
- Policies around Internet connectivity in APAC are mainly market-based (e.g. regulations that enable liberalisation, competition)—these have been effective in lowering costs and increasing Internet uptake, but many have no provisions to account for market failure
 - Universal service funds remain under-utilised in many countries in APAC
- Measures to address digital literacy and local content development remain patchy
- Rural, remote and marginalised populations face additional barriers to connectivity---
e.g. low purchasing power, lack of electricity and low literacy rates

Sharing Economy

Recent policies

- Singapore and the Philippines are among the economies that have allowed ride-sharing platforms to operate legally
- India has moved to put a cap on ‘surge pricing’, the spike in fares that ride-sharing services charge at peak hours
- Japan now has a provision in place to allow Internet applications to rent out private lodging to tourists

Issues

- A number of economies, like Taiwan and Thailand continue to prohibit ride-sharing platforms
- Many have yet to pass clear legislation on these services—some consider this an advantage; but having clear policies may also result in better guidelines to help direct the sector’s development, as well as competition.
 - In Vietnam, the Ministry of Transport has allowed ‘pilot operations’ by ride-hailing apps, but they still need approval from local cities
 - In Taiwan, the government is asking Uber to register as a taxi company, rather than a technology firm
- Traditional industries argue that these services bypass licensing, labour and safety laws, amounting to unfair competition; there are also concerns around their ability to track customers’ movements, and the lack of regulation on what they can do with this data

FOR DISCUSSION

1. Are these policies good or bad for the Internet? Why or why not?
2. Think of the issues that you care about as a young person—which of your concerns are being addressed by existing policies in your country?
3. Which of these concerns are NOT being reflected in government policies?
4. How can we use the multi-stakeholder model to get our voices heard in policy discussions, and our concerns reflected in policy decisions?

Thank you.

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