Governing ASEAN e-Commerce: Getting Cloudier

By Kaewkamol Pitakdumrongkit

Synopsis

Big business has tapped into ASEAN's burgeoning e-commerce market and regional governments have enacted measures to govern the Internet "cloud". However institutional gaps remain and a region-wide legislation for e-commerce is required.

Commentary

THE E-COMMERCE market in ASEAN has grown exponentially with the rise in its netizen population. According to a recent UBS survey the prospects for expansion are bright as the number of Internet users increases from the current 199 million to 294 million by 2017, representing a penetration rate of 48% of the ASEAN population, 67% of whom are under 35 years of age.

The UBS report also indicated that ASEAN's budding online shopping market is now worth between US$548 million and US$1 billion or around 0.12-0.24 percent of the total retail sales. These figures are expected to rise by five percent, making the future markets gross at US$21.8 billion in 2020.

ASEAN's online markets

Despite impediments such as internet access, payment systems, and logistics infrastructure problems, the region's growth prospects and young online users make ASEAN one of the world's lucrative e-market places. With the ASEAN Economic Community (AEC) rolling out major programmes such as the Master Plan for ASEAN Connectivity and ASEAN Single Window from next year, the prospects of e-trade have become brighter.

Businesses have been swift to tap into ASEAN's online markets. For example, Alibaba, the Chinese e-commerce giant that launched the world's largest initial public offering (IPO) recently, declared in June that it spent around US$250 million to acquire a 10.35 percent stake in Singapore Post, one of the region's largest e-commerce logistics providers. On 16 September 2014, the company finished its regional roadshow in Singapore where its founder and executive chairman Jack Ma met with about 150 investors for its IPO.

Two days later, Alibaba's IPO price topped at US$68 per share, setting the highest record in the US-

listed IPO history and garnering US$22 billion capital for the conglomerate. No experienced business leaders will disregard Alibaba's moves in the region. E-business opportunities in Southeast Asia in fact have tempted big firms to jump on board to reap the benefits of the global value chains.

Like the private sector, ASEAN states have noticed a shining future in e-commerce and undertaken measures such as developing Information and Communications Technology (ICT) to foster economic growth and integration and bolster the region's competitiveness. The governments also came up with schemes to govern the "cloud" (a metaphor for the Internet) in the region. For instance, in November 2002, the ASEAN Leaders signed the e-ASEAN Framework Agreement, with Article 5 contributing to the facilitation of the growth of e- trade.

The 2008 AEC Blueprint incorporated e-commerce as a core element of the Pillar 2 (a competitive economic region) and planned to establish "policy and legal infrastructure for electronic commerce and enable on-line trade in goods". The Blueprint also envisioned a full harmonisation of legal infrastructure for e-commerce by 2015. Additionally, the ASEAN ICT Masterplan 2015 endorsed in January 2010 aimed to grow ASEAN economies via ICT and enhance regional integration further.

Towards a region-wide institutional framework?

Despite progress made, institutional gaps remain. According to a 2013 UNCTAD study, ASEAN has no binding e-commerce legislation at a region-wide level. Differences among national legislations persist in areas such as privacy and consumer protection laws. Insufficient expertise was cited as a main obstacle to the crafting of effective legal frameworks. This reflects the public sector's struggle to keep up with a rapidly changing nature of ICT and e-commerce.

Take a look at "cloud computing", a storage system enabling sharing and accessing data within online networks. In its simplest form, cloud computing can involve using the Internet to access others' software operating on the latter's hardware in data hubs situated abroad. As connections in an extensive network of information sharing provide opportunities for new players to emerge, determining the future Internet landscape which e-commerce embeds within is indeed a daunting task.

Institutional frameworks, once put in place, may be obsolete or inapplicable to the new environment as technology and markets hasten forward. Hence, to fulfill the AEC's objectives, the challenge is not only about creating a region-wide legislation for e-commerce, but also about coining one which will remain relevant in the future.

How can we build the institutional frameworks which continue to be feasible in the years to come? Fortunately, there exist some solutions. First, the private sector needs to be highly involved in providing the governments with information such as business outlooks. Creating effective regional e-commerce legislation requires vision and foresight; the private sector's inputs are crucial as businesses tend to know the markets better than public officials. Second, capacity building on the government side is also required.

The political factor

Training must be offered to ASEAN personnel responsible for developing the frameworks to get them to gain expertise on technical and legal issues related to ICT and e-trade. Experimental projects should be conducted in the process of developing final frameworks.

An effective way to know whether the frameworks are functional is to test draft protocols in real-world scenarios. Experiments do not necessarily have to be carried out on a large scale and need involve only a few sectors and subsectors. Results from these pilot projects can be used to refine the final frameworks to enhance their practicability.

Building such comprehensive and practical frameworks is not easy. Politics looms large. For governing international issues in general, each state has to face a classic tension between maintaining national sovereignty and security on the one hand, and reaping benefits of the open system on the other. In the realm of e-commerce, security concerns, such as fear of online foreign espionage, prompt countries to refrain from sharing with one another certain information.

Unsurprisingly, ASEAN governments which jealously guard their sovereignty have put up domestic rules to ensure that particular data are stored by governments within their own borders. The cloud's murky environment further complicates international cooperation in this area. What one considers "safe" data sharing may be perceived as an unacceptable security breach by others.

So, what does it mean to the governance of the Internet and e-commerce? Technological sophistication has made it cloudy, but political sensitivities are making it cloudier. This is the price to pay in the world of sovereign states.

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