



OFFENCES & PENALTY

COMMUNICATION & MULTIMEDIA ACT 1998

JABATAN SIASATAN
BAHAGIAN PEMANTAUAN & PENGUATKUASAAN
SKMM

MINISTERIAN
PENERANGAN
KOMUNIKASI
& KEBUDAYAAN



1 Malaysia



Issues

Among others...

- TVRO/Non-Standard Satellite Dish
- Communication device cloning
- Radio Marine
- Radio line cloning/ walkie-talkie
- Hand phone



Function Of Enforcement Department SKMM

- To conduct investigation upon receiving reports relating to the commission of an offences under CMA and the relevant regulations.
- To ascertain whether or not the offender has committed the offences and to gather sufficient evidences against the offender
- Effective enforcement carried out by SKMM is to ensure the right of the licensees, investors, consumers and the public are always protected and the confidence in communications and multimedia industry are maintained at all times



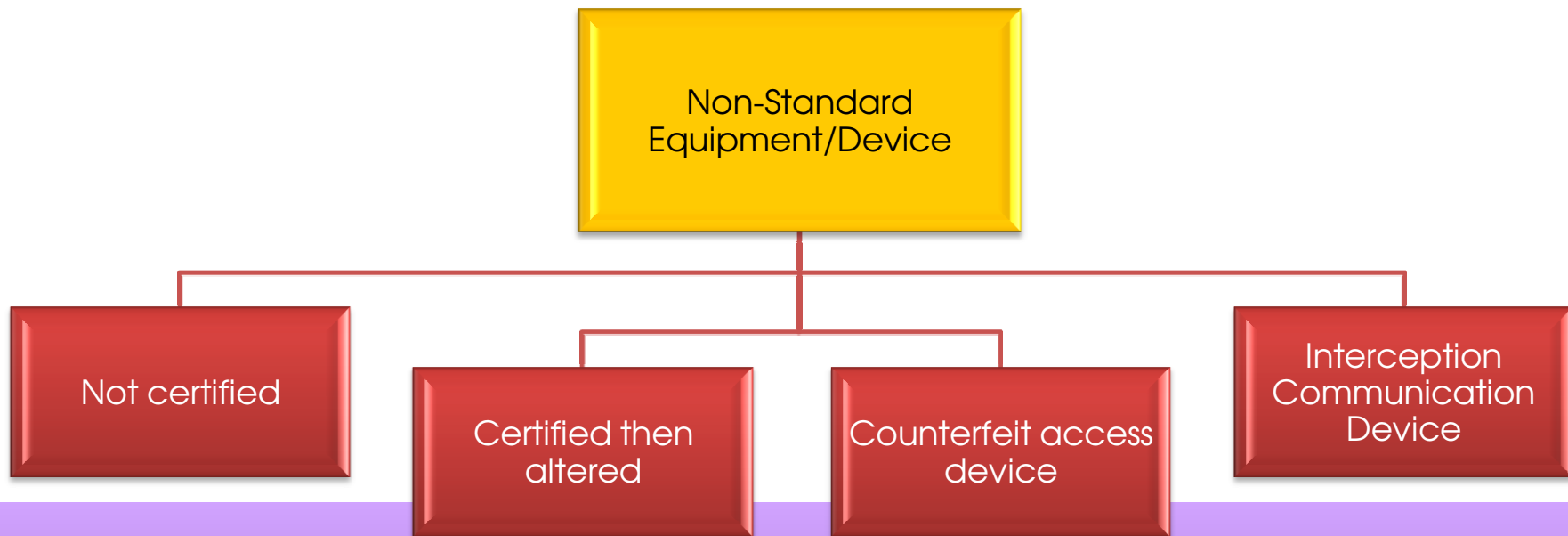
Types of cases investigated under CMA

- Providing network facility, service, application or content without license
- Non-compliance to regulations, ministerial determinations or directions, licensing terms, codes and guidelines
- Unauthorized use, interference of spectrum, frequency
- Unauthorized use of apparatus, stations, radio devices
- Possession, sale, emission from or use of non-type approved apparatus or devices
- Improper use of network facility, service or application



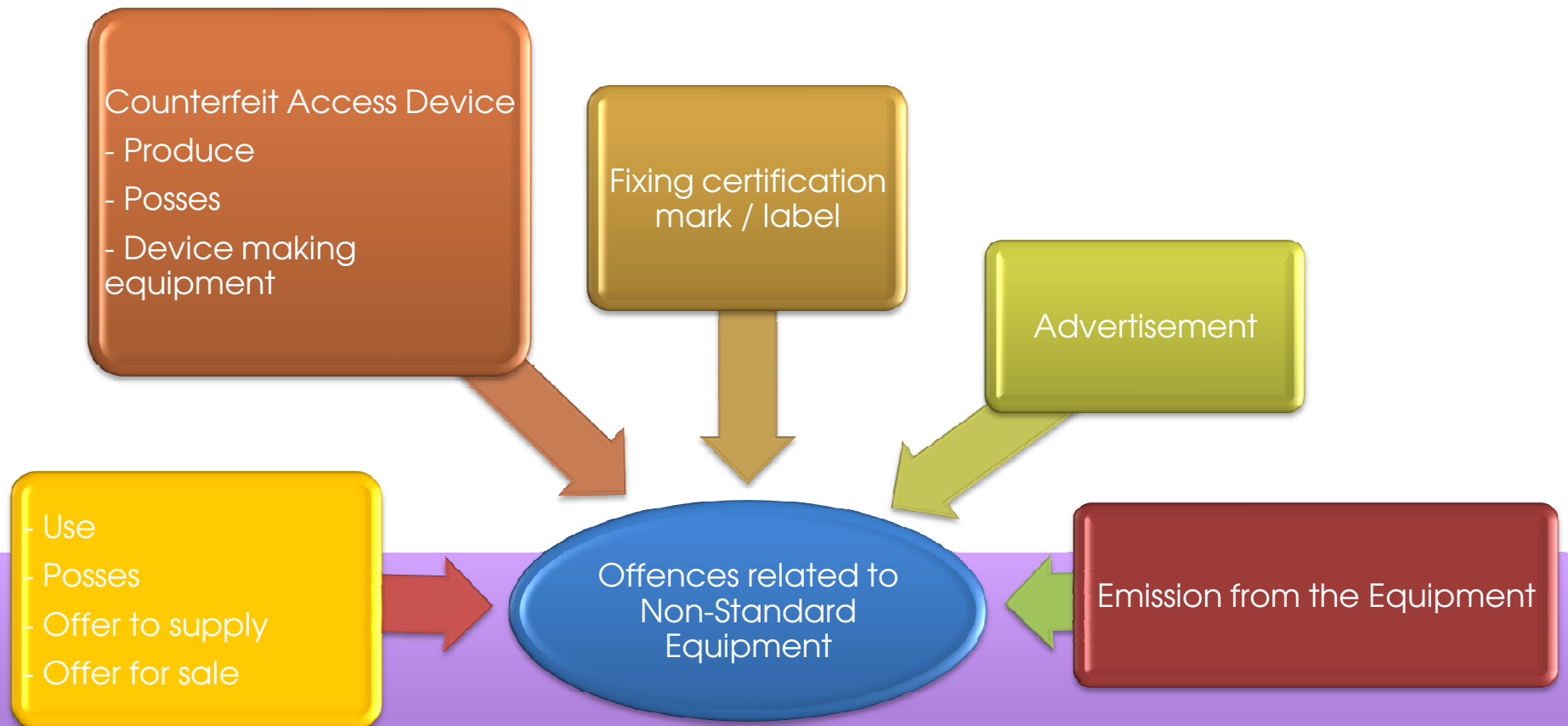
Types of Non-Standard Equipment Under CMA

Among others ...





Offences Related





What is Non-Standard Equipment?

Means :-

“Any equipment or device that does not comply with the technical or procedural standards prepared or determine under Communication and Multimedia Act 1998”

Section 238(2) CMA 1998

How to comply :-

All communication equipments has to be certify (ie. by the certification agency - SIRIM)

Reg. 14 C&M (Technical Standards) Regulation 2000



Which communication equipments ?

Any network facilities or customer equipment (Reg. 2 C&M (Technical Standards) Regulation 2000)

'network facility' – any element or combination of elements of physical infrastructure used principally for , or in connection with , the provision of network services, but not include costumer's equipment

'customer equipments' - any equipment , whether hardware or software, or device, used on the customer side of the network boundary

-Section 6 CMA 1998



Offences relating to Non-Standard Equipment or Device

- Uses any non-standard equipment or device
- Has in possession
- Offer to supply, supplies or has in his possession with a view to supply

Shall on conviction be liable to a **fine** not exceeding RM 100,000 or to **imprisonment** for a term not exceeding **two years** or **both**

Section 239 CMA 1998



Offences relating to Non-Standard Equipment or Device

- No person shall use, offer for sale, sell or have in possession with a view to sell any communication equipment-
 - Which is contrary to the standard;
 - Which is not certified as required by these Regulations; or
 - Which has been certified but is subsequently altered or modified and no longer complies with the standards

Reg. 16 C&M (Technical Standards) Regulation 2000

Shall on conviction be liable to a **fine** not exceeding **RM 100,000** or to **imprisonment** for a term not exceeding **six months** or **both**

Reg. 37 C&M (Technical Standards) Regulation 2000



Offences relating to Non-Standard Equipment or Device

- Supplier shall ensure all certified communications equipment bears certification mark/label
- No person shall affix a certification mark or label to any communication equipment indicating that it complies with the standards-
 - Unless the communication equipment is certified; or
 - If the person knows or reasonably knows that such an act is false or misleading

Reg. 17 C&M (Technical Standards) Regulation 2000

Shall on conviction be liable to a fine not exceeding RM 100,000 or to imprisonment for a term not exceeding six months or both

Reg. 37 C&M (Technical Standards) Regulation 2000



Access Device

'Access Device' – any card, plate, code, account number, electronic serial number, mobile identification number, personal identification number, or other network service, application service, equipment, or facility identifier, or other means of access that can be used, alone or in conjunction with another access devices, for the purposes of any communication

Section 6 CMA 1998



Offences relating to Counterfeit Access Device

- Produces, assembles, uses, imports, sells, supplies or lets for hire any counterfeit access devices
- Has in possession any counterfeit access device or unauthorized access devices
- Produces, assembles, uses, imports, sells, supplies or lets for hire, or has control or custody of, or possesses any device-making equipment any counterfeit access devices

Shall on conviction be liable to a **fine** not exceeding RM 500,000 or to **imprisonment** for a term not exceeding five (5) years or both

Section 236 CMA 1998



Emission from Non-Standard Equipment or Device

- A person, who knowingly or without reasonable excuses, causes a radio emission from any non-standard equipment or device commits an offence

Shall on conviction be liable to a **fine** not exceeding RM 50,000 or to **imprisonment** for a term not exceeding **one (1) year** or both

Section 238 CMA 1998



Advertisement on Non-Standard Equipment or Device for Interception

- It is an offence for distributing or advertising any communication equipment or device for interception of communication

Shall on conviction be liable to a **fine** not exceeding RM 100,000 or to **imprisonment** for a term not exceeding two (2) years or both

Section 238 CMA 1998



Consequences

- Legal / Enforcement Action
- Frequency interference
- National Security issues
- Moral
- Public Safety
- loses to the legitimate businesses (counterfeiting)



Investigation Power

- AO may exercise all or special powers in relation to police investigation in seizable cases given under CPC – **Sec 246(2)**
- Search of premises & seizure of items by warrant – **Sec 247(1)**
- May detain & keep items seized until the discharge or acquittal of accused
- May intercept any communication, subject to authorization from DPP – **Sec 252**
- May require the production of document etc, attendance and taking statements from suspects, witnesses **Sec 254, 255, 256**



Request By Authorized Officer

Section 254 - Additional powers

An authorized officer shall, for the purposes of the execution of this Act or its subsidiary legislation, have power to do all or any of the following:

(a) to require production of records, computerized data and document kept by the licensee or other person and to inspect, examine and download from them, make copies of them or extracts from them;



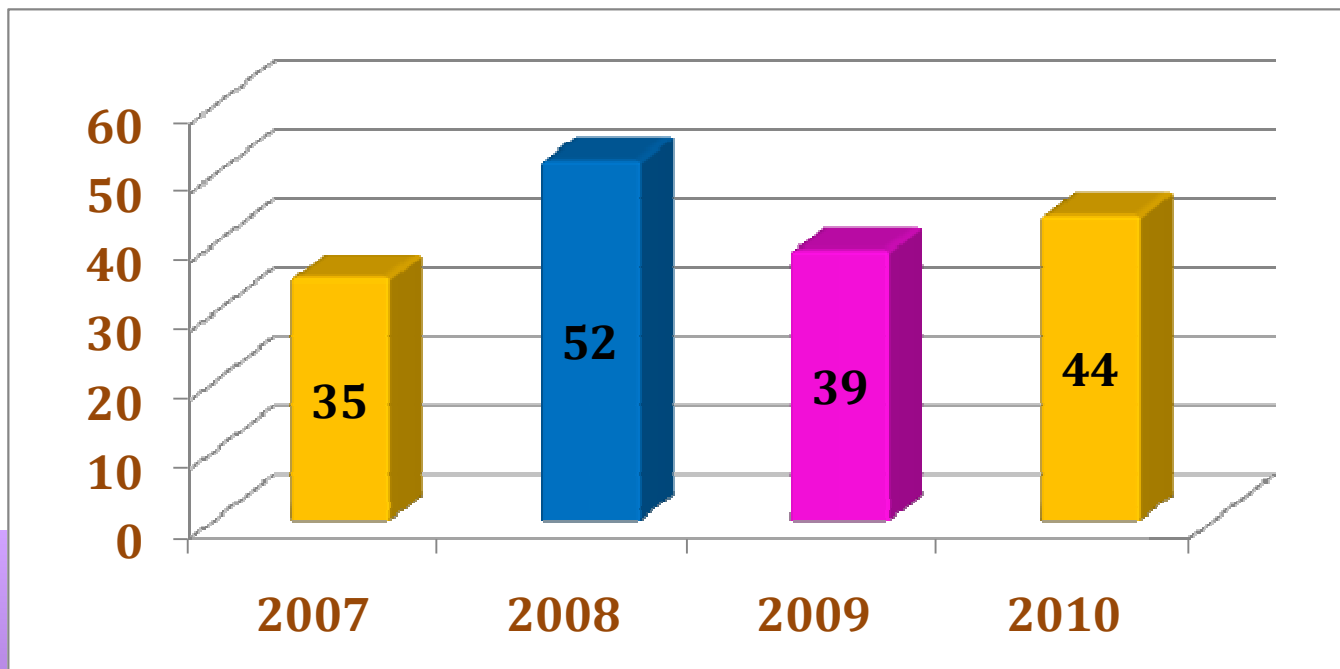
(b) to require production of any identification document from any person in relation to any case or offence under this Act or its subsidiary legislation;

(c) to make such inquiry as may be necessary to ascertain whether the provision of this Act or its subsidiary legislation have been complied with.



Statistics

Action taken against Non-Standard Equipments :-





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Thank You

IZAMI BIN NAZURI
Jabatan Siasatan
Suruhanjaya Komunikasi Dan Multimedia Malaysia
Off Persiaran Multimedia
63000 Cyberjaya, Selangor
Tel. 03-86888346 HP. 019-2869648