

The Amended Computer Crimes Act of Thailand Finally Comes into Force

The Computer Crimes Act (No. 2) B.E. 2560 (A.D. 2017) enacted to amend the Computer Crimes Act B.E. 2550 (A.D. 2017) of Thailand (“**Amended CCA**”) finally comes into force on **24th May 2017**.

The Amended CCA changes the ministry in charge from the Ministry of Information and Communications Technology to the Ministry of Digital Economy and Society (“**MDES**”).

The Amended CCA introduces new offences committed using computer systems, computer data, or equipment for storing computer data. Importantly, the Amended CCA explicitly addresses the issues of spam emails. Any person who sends computer data or an electronic mail to another person without allowing the recipient a chance to easily deny reception or express intent not to receive the data or electronic mail and if such data or electronic mail disturbs the receipt, the sender can be subject to a fine not exceeding THB200,000.

The Amended CCA also introduces new sections on the liability and exception of liability of services providers. Any service provider who cooperates, consents or acquiesces to a computer crime offender shall face the same penalty as the offender unless the provider can prove his/her compliance with the ministerial procedural regarding notification and suppression of the dissemination and the removal of data from a computer system.

A Computer Data Screening Committee (the “**Committee**”) is established to approve requests of competent officials for a court order to block or destroy any data which is contrary to the national security or the good morals of the Thai people.

Section 20(3) of the Amended CCA allows the competent officer to ask the Court for an injunction against websites that publish an online IP-infringing content, provided that he must first obtain approval from the MDES Minister. But in an urgent case, the officer may file a motion with the court before obtaining approval from the MDES, but he must report the matter to the MDES Minister as soon as possible after the motion has been filed with the court.

As of May 2017, the MDES is drafting and reviewing five Ministerial Notifications to be enacted to govern

1. the nature and method of sending and volume of computer data or electronic mail, not nuisance to recipient
2. the procedural steps of the notification, the suppression of the dissemination of computer data, and the removal of such data from a computer system
3. the appointment of settlement committee

4. the appointment of computer data screening committee
5. the criteria, duration, and procedure to suppress the dissemination or to remove the computer data, for the competent officials and service providers

The Ministerial Notification must be completed within **23rd July 2017**; otherwise, the Minister of MDES must report the reasons for the delay with Cabinet.

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