

The Draft Digital Platform Economy Act: New Regime for Digital Platforms



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In recent years, digital platforms have become integral to various sectors of the economy, facilitating transactions, communication, and information exchange. The proliferation of these platforms has brought significant benefits, including increased efficiency, innovation, and access to markets. However, it has also given rise to concerns about economic stability, consumer protection, and fair competition. Recognizing the need for a regulatory framework to address these issues, the Government of Thailand has drafted the Digital Platform Economy Act (the “Draft Bill”) to respond to the growing influence of digital platforms on the economy and society.

The Draft Bill is designed to enhance economic development, protect consumers, and ensure fair competition within Thailand’s digital economy. It aims to create a balanced regulatory environment that fosters innovation, while at the same time ensuring that the interests of

consumers and smaller businesses are protected. The Draft Bill has been developed through extensive consultations with stakeholders, including digital platform service providers, users, and regulatory bodies. It was opened for public comments on 15 January 2025 and feedback can be given until 15 February 2025.

The primary objectives of the Draft Bill are to:

- **Promote Economic and Social Development:** Support sustainable economic growth and social progress by regulating digital platforms.
- **Enhance Competitiveness:** Create a level playing field for all market participants, encouraging fair competition and innovation.
- **Protect Consumers and Users:** Ensure that digital platform users are safeguarded against unfair practices and have access to transparent information.
- **Ensure Fair and Open Competition:** Prevent monopolistic practices and promote a diverse and competitive market environment.
- **Prevent Illegal Activities:** Establish mechanisms to detect and prevent illegal activities being conducted using digital platforms.

The Draft Bill aims to balance the public interest with individual rights and freedoms, ensuring non-discriminatory regulation of the digital platform economy. It empowers the Cabinet, at the recommendation of the Digital Platform Economy Committee, to issue specific regulations for the oversight and promotion of digital platform businesses.

Highlights of Certain Key Concepts

1. Responsibilities of Digital Platform Service¹ Providers

Digital platform service providers are categorized into three types, each with specific responsibilities:

- 1) **Mere Conduit Services:** Providers that transmit data without altering it are not liable for any illegal activities conducted using their services, provided they do not initiate the communication, select the recipient, or modify the data.
- 2) **Caching Services:** Providers that store data temporarily to improve transmission efficiency are not liable for illegal activities if they do not alter the data, and provided that they comply with access conditions, and adhere to service standards.

¹“Digital Platform Service” refers to intermediary services provided over computer networks, the internet, or telecommunications networks that facilitate interactions or transactions between users. These services include data transmission, temporary data storage, and permanent data storage.

3) Hosting Services: Providers that store data permanently are not liable for illegal activities if they are unaware of the illegal nature of the data and remove or block access to it upon becoming aware that it is illegal.

2. Duties of Digital Platform Providers

To ensure transparency and fairness, and protect the rights of consumers, digital platform providers must:

- **Inform Users of Their Legal Rights and Obligations:** Providers must clearly communicate the legal rights and obligations of users², including the risks associated with transactions carried out on the platform.
- **Provide Clear Channels for Complaints:** Providers must establish accessible electronic channels for users to file complaints or report illegal activities, with an acknowledgment of receipt within 24 hours and a resolution within 60 days.
- **Disclose Advertising Information:** Providers must clearly distinguish advertising content from other content and disclose the identity of advertisers.
- **Publish Clear Terms and Conditions:** Providers must make their terms and conditions easily accessible, including details of service fees, algorithms used for content ranking, and complaint handling mechanisms.

3. Significant Digital Platform Providers (VLOPs)

Providers that are classified as Very Large Online Platforms (VLOPs) have additional responsibilities. A VLOP is defined as a provider that:

- Generates over THB 1 billion in annual revenue from services in Thailand.
- Has more than 6 million monthly users in Thailand.
- Poses a high risk to economic or social stability.

VLOPs must:

- **Provide Detailed Information:** VLOPs must submit comprehensive reports to the regulatory office, including data on their services, user demographics, and financial performance.
- **Implement Mechanisms to Track Users:** VLOPs must have systems in place to track users engaged in commercial activities on their platforms.

²“Users” refers to all individuals, groups, and entities that utilize digital platform services, including both end-users and business users who engage in commercial activities through the platform.

- **Suspend Services for Serious Illegal Activities:** VLOPs must immediately suspend services to users involved in serious illegal activities that threaten public safety or national security.
- **Publish Annual Transparency Reports:** VLOPs must release annual reports detailing their efforts to ensure transparency and compliance with the Draft Bill.
- **Give Advance Notice Before Changing Terms and Conditions:** VLOPs must inform the regulatory office at least 30 days before making significant changes to their terms and conditions.

4. Gatekeepers

Gatekeepers are core platform service providers with significant control over access to their services. They must:

- **Allow Free Communication and Contracting:** Gatekeepers must enable business users to communicate and contract freely with end-users without imposing additional charges.
- **Disclose Advertising Costs and Fees:** Gatekeepers must provide transparent information on advertising costs, fees, and calculation methods to advertisers and publishers.
- **Avoid Using Non-Public Data:** Gatekeepers must not use non-public data obtained from business users to compete against them.
- **Permit Uninstallation and Configuration Changes:** Gatekeepers must allow end-users to uninstall or change default settings of applications.

5. Regulatory Oversight

The Digital Platform Economy Committee, comprising government officials and experts, will oversee the implementation of the Draft Bill. The Electronic Transactions Development Agency ("ETDA") will serve as the central coordinating body, with the authority to request information, access systems, and issue compliance orders.

6. Penalties for Non-Compliance

The Draft Bill imposes administrative fines and criminal penalties for violations. Fines are based on a percentage of global revenue, with higher penalties for more severe infractions. Criminal penalties focus on protecting trade secrets and confidential information obtained during regulatory activities.

Preparing for the New Regime

Business operators should consider taking the following proactive steps to monitor the development of the Draft Bill.

The Draft Bill, if enacted, will come into effect 180 days after its publication in the Royal Gazette. The Ministry of Digital Economy and Society and the Ministry of Commerce will oversee its implementation and have the authority to issue relevant ministerial regulations.

The development of the Draft Bill represents a significant step towards regulating the digital economy in Thailand. By establishing clear responsibilities and robust oversight mechanisms, the new law aims to foster a fair, transparent, and competitive digital marketplace. Stakeholders are encouraged to review the draft and provide feedback during the consultation period.

Chandler Mori Hamada will closely monitor these legal developments and keep you updated once they are enacted. If you have any questions in relation to the topic raised in this briefing, please contact the authors listed above.