

THAILAND DIGITAL PLATFORM SERVICES LAW – COMPLIANCE REQUIRED BY 18/11/2023

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Thailand has introduced a new law to regulate digital platform services providers and protect consumer interests. The Royal Decree on the Operation of Digital Platform Service Businesses that are subject to Prior Notification B.E. 2565 (2022) (the “Royal Decree”) came into effect on 21 August 2023.

"The Royal Decree applies to offshore platform operators that provide services to users in Thailand if they have any one of the qualifications listed in the Royal Decree."

ARE YOU REGULATED?

The Royal Decree imposes obligations on businesses who operate digital platforms (i) acting as intermediaries between merchants/service providers, consumers or users in Thailand; and (ii) allowing the parties to conclude an electronic transaction (regardless of whether the digital platform charges fees or not). This does not include digital platforms purporting to provide goods or services from a single digital platform operator, or of its affiliate companies acting as its representative. Examples of this include, but are not limited to, to the platforms providing following services:

- online marketplaces;

- sharing economy;
- online communication;
- social media;
- advertising service;
- audio-visual and music sharing;
- searching tools;
- news aggregators;
- maps;
- web browsers;
- virtual assistants;

- operating systems;
- hosting services;
- cloud services; and
- internet services.

"Platform operators are required to provide its platform information as prescribed in the Royal Decree to the Electronic Transactions Development Agency."

EXTRATERRITORIAL EFFECT

The Royal Decree also applies to offshore platform operators that provide services to users in Thailand if they have any one of the qualifications listed in the Royal Decree (e.g. part or all of the platform's content is displayed in Thai; users can use Thai currency to pay for goods or services; the platform pays service fees to search engine providers to target users in Thailand; or the platform operator has an office, organisation or customers service personnel in Thailand).

WHAT TO DO BY 18 NOVEMBER 2023?

Platform operators are required to provide its platform information as prescribed in the Royal Decree to the Electronic Transactions Development Agency ("ETDA") annually. The required information varies depending on whether platform operators meet certain thresholds.

The platform operators required to provide full form information are as follows:

- corporate platform operators who have a gross income from services provided to users in Thailand of more than THB50m per year or individual platform operators who have a gross income from services provided to users in Thailand of more than THB1.8m per year; or
- platform operators who have more than 5,000 monthly active users in Thailand.

"Platform operators operating their platform before the effective date of the Royal Decree shall provide their platform information to the ETDA by 18 November 2023."

The platform operators who are required to provide short form information are as follows:

- platform operators who do not exceed both thresholds set out above;¹ or
- platform operators who operate websites or applications which purport to provide goods or services of a single service provider, or of its affiliate companies acting as their representative, provided that such platforms are e-service platforms containing web-boards for users help desk or hyperlinks/banners².

According to the transitional provision of the Royal Decree, platform operators operating their platform before the effective date of the Royal Decree shall provide their platform information to the ETDA by 18 November 2023 (full form) and 21

August 2024 (short form).

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Failure to provide such information to the ETDA within the timeline could lead to imprisonment for a term of up to one year, a fine of up to THB100,000 or both.

In addition to the above requirements, there are key obligations to highlight as follows:

- offshore platform operators must appoint a coordinator in Thailand; and
- certain types of platforms shall ensure that its users' terms and conditions meet minimum requirements under the Royal Decree and notify such terms and conditions to users.

We will be exploring the Royal Decree and its requirements in further articles going forward.

[1] Notification of the Electronic Transaction Commission re: characteristics of digital platform services which are subject to a brief notification requirement dated 29 June 2023

[2] Notification of the Electronic Transaction Commission re: characteristics of digital platform services which are subject to a brief notification requirement dated 29 June 2023

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