

DIGITAL PLATFORM SERVICES

Key Legislations

- The Royal Decree on the Operation of Digital Platform Service Businesses That Are Subject to Prior Notification B.E. 2565 (2022) (“**DPS Law**”) effective on 21st August 2023.
- The Regulations issued by the Electronic Transactions Commission (“**ETC**”) and the Electronic Transactions Development Agency (“**ETDA**”) under the DPS Law.

Digital Platform Service (“DPS”)

DPS means the provision of electronic intermediary service which manages data to facilitate the connection through computer networks between business users, consumers or users, with a view to concluding an electronic transaction, regardless of whether a fee is charge or not. DPSs who offer only their own goods or services or goods or services of their affiliate companies are not subject to the DPS Law.

Required Actions for DPS Operators

DPS Operators having (a) earnings of local income before deduction of expenses exceeding THB1.8 million/year in case of individual operators or THB50 million/year in case of corporate operators; or (b) more than 5,000 monthly average users in Thailand are required to submit the followings with ETDA:

- **Prior Notification:** A notification with the details prescribed under the DPS Law (e.g. types of DPS, transaction value on DPS, local revenue, number and type of local users, user complaints) prior to commencing operation in Thailand.
- **Annual Notification:** An annual notification with the same details as the Prior Notification within 60 days from the end of year for individual operators or 60 days from the end of fiscal year for corporate operators.
- **Notification of Change:** A notification upon the occurrence of any change of certain details of operations (e.g. name, service type or channels of availability of DPS, or details of DPS operators) within 30 days of the change.

Small DPS Operators that do not have characteristics specified above are also subject to the Prior Notification, the Annual Notification requirements, and the Notification of Change, albeit a more simplified one with less required details.

Terms and Conditions of Use (“T&C”)

In addition to the required actions above, DPS Operators that are (a) intermediary DPS operators contracting with business users for the provision of goods or services to consumers with fee charged; or (b) search engine operators, are required to submit the followings with ETDA:

- **T&C Announcement:** An announcement of the T&C containing the details prescribed by the ETDA (“**Prescribed Matters**”) prior to or at the time of service use by users.
- **Annual T&C Notification:** An annual report on compliance with the T&C announcement requirements within the same deadlines as the Annual Notification.

- **Notification of T&C Amendment:** A prior notification to users for a period of 15 days or longer depending on amended matters, is required upon amendment to the T&C unless the amendments fall under any of the prescribed exceptions.

Special Actions for Large Scale DPS Operators and Particular DPS Operators

The DPS Operators listed below are also subject to special requirements such as conducting risk assessment, implementing risk management measures, and other measures prescribed by the ETC (“**Special Actions**”):

- (1) **Large Scale DPS Operators:** having (a) annual income before deduction of expenses from providing the DPS in Thailand of more than THB300 million for each type of services or more than THB1 billion in total for all types of services; or (b) users in Thailand of more than 10% of the Thai population; or
- (2) **Particular DPS Operators:** having particular characteristics prescribed under the DPS Law with high risks and impacts on financial security, national security, reliability in electronic system, telecommunications, etc.

The Large Scale DPS Operators and the Particular DPS Operators are also required to do the followings:

- **Annual Compliance Notification:** Filing an annual report on actions taken for compliance with the Special Actions with the ETDA.
- **Hearing and Notification of T&C Amendment:** Conducting hearings to collect feedback from users and notify the ETDA prior to amending their T&Cs, unless the amendments fall under any of the prescribed exceptions.

Extraterritorial Effect

The DPS Law has extraterritorial effect. DPS Operators located outside Thailand with certain characteristics that include displaying content in the Thai language, using Baht as payment currency are deemed as having operations in Thailand (“**Regulated Foreign DPS**”) resulting in being subject to the DPS Law.

Regulated Foreign DPS Operators are also required to notify the ETDA prior to its operation in Thailand and appoint a local coordinator in Thailand.

Cessation of DPS Operation

To cease DPS operation in Thailand, the DPS Operators must notify the ETDA before the effective date of their cessation of operation in accordance with the terms and conditions prescribed by the ETDA. In case of the DPS Operators that are subject to the T&C and the Special Actions, a plan and measures for taking care of users as a result of cease of DPS operation must also be notified to the ETDA.

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