

Asian Legal Business



May 2025
ASIA EDITION

Asia IP Rankings 2025

The region's guardians of innovation and creativity



Breaking down
Thailand's Digital
Economy Act

Clients choose
the leading
offshore lawyers

Balancing
technology and
trust in arbitration



MDDI (P) 016/02/2025
ISSN 0219 - 6875
KDN PPS 1867/10/2015(025605)



Digital guardrails

Thailand's groundbreaking Platform Economy Act aims to tame its \$50 billion digital frontier by imposing strict oversight on tech giants while balancing innovation needs. **By Sarah Wong**

Thailand is on the verge of implementing groundbreaking legislation that aims to regulate its rapidly expanding digital platform economy.

In January, the Thai government released the draft Platform Economy Act in response to the Southeast Asian country's booming digital economy, which has experienced remarkable growth in recent years, particularly within e-commerce.

According to the e-Conomy SEA 2023 report, Thailand's digital economy grew at an average rate of 16 percent between 2022 and 2023. It is projected to grow by an additional 17 percent from 2023 to 2025, potentially reaching a gross merchandise value of approximately \$50 billion by 2025.

This explosive growth has created new opportunities but also brought significant challenges. There were 575,507 cybercrime incidents recorded in 2024 alone, according to the Royal Thai Police, resulting in financial losses of over 65.175 billion baht (\$1.8 billion). Furthermore, the market structure remains dominated by a few major players, which restricts consumer options and weakens

users' negotiating position in the digital ecosystem.

As such, the Thai government's objectives with this legislation are multifaceted. According to Koraphot Jirachocksubsin, TMT counsel at Thai law firm Chandler MHM, "The draft act aims to safeguard economic and social stability, enhance trust in the digital ecosystem, and protect users. It also seeks to promote fair market competition by preventing dominant platforms from restricting access and encourages self-regulation among service providers." The end goal, Koraphot adds, is to "ensure a balanced and secure digital economy".

As Thailand increasingly loosens market access to foreign investors as part of the strategy to boost economic growth, the draft act has laid out one of the most significant provisions for international digital platforms. In order to operate in Thailand, these platforms are required to designate a Thai point-of-contact rather than establishing a full local entity.

"Serving as a liaison between the operator and Thai regulatory authorities, the point-of-contact ensures that the operator remains informed of local

laws and regulations," explains Koraphot. "This facilitates more efficient communication and compliance monitoring, thereby enhancing regulatory oversight without imposing excessive operational demands on the platform."

However, this requirement is not without complications. Koraphot cautions that "appointing such point-of-contact for foreign operators could be considered as carrying on business in Thailand by a foreigner, in which case a foreign business license would be required under the Foreign Business Operation Act. The burden would be on the foreign operators to apply for this license, which is granted on a discretionary basis by the Ministry of Commerce (MOC)."

Very large platforms in focus

The draft legislation recognises that not all digital platforms pose the same level of risk to users and the economy. Therefore, it establishes additional requirements for "very large online platforms" (VLOPs).

"The draft act imposes additional obligations on very large online platforms (VLOP), which are platforms that either (i) earn over 1 billion baht annually from Thai users, (ii) have more than 6 million monthly users, or (iii) are designated as high-risk platforms by the Electronic Transactions Development Agency (ETDA)," explains Koraphot. "This imposition is a response to the greater risks VLOPs pose to users."

Hence, these platforms - perceived to carry elevated risks - are required to verify the identity of commercial users; suspend services to users engaged in serious illegal activities; publish annual transparency reports; and notify users in advance of any changes to terms and conditions.

Apart from this particular group of operators, businesses operating digital platforms in Thailand generally are presented with several potential compliance challenges. "One major challenge businesses may encounter is the increased costs associated with developing or modifying systems to comply with new regulations, along with the

Thailand Report: Platform Economy Act



Koraphot Jirachocksubsin
Counsel
koraphot.j@morihamada.com

Chandler Mori Hamada Limited
chandler.morihamada.com

The rapid growth of Thailand's digital economy has prompted the government to introduce the draft Platform Economy Act (Draft Act), aimed at regulating online platforms, enhancing user protection, and promoting fair competition. While the Draft Act seeks to modernize oversight, it brings legal and compliance challenges for both local and foreign operators.

A notable requirement is for all digital platforms, regardless of where they are based, to appoint a Thai point-of-contact to liaise with the regulatory authorities. Although this avoids the need to establish a local entity, it raises concerns over whether such appointment could be viewed as a foreigner "carrying on business" under the

Foreign Business Act, potentially triggering the licensing obligations thereunder. This ambiguity may deter new foreign entrants or increase compliance burden for existing operators.

The Draft Act also imposes enhanced obligations on "very large online platforms" (VLOPs) which earn over THB 1 billion annually from Thai users, have more than 6 million monthly users, or are deemed to pose a high-risk to users. These platforms must verify commercial users, publish annual transparency reports, suspend any illegal activities, and notify users of any major changes. While intended to mitigate risks, these obligations may give rise to significant operational and legal costs for large platforms. Startups and smaller platforms, although not subject to VLOP-specific duties, could still be affected by vague obligations around algorithm transparency, data handling, and reporting. The cost of compliance may limit their capacity to innovate or scale.

Enforcement of these new measures raises additional concerns. Unclear safe harbour protections and liability thresholds may prompt over-compliance, such as excessive content moderation that risks stifling free expression. Moreover, the lack of clarity on the protection of trade secrets when regulators require algorithm transparency could discourage cooperation.

Currently under review by the Office of the Council of State, the Draft Act is moving through the legislative process. While it marks a significant step towards shaping Thailand's digital future, it also introduces legal uncertainty and operational risks.

Ultimately, the Draft Act may become a game changer - not only for platform providers, but also for regulators, who must strike a balance between creating and maintaining an organized regulatory environment and preserving space for creativity. Achieving that balance will be key to sustaining innovation and driving Thailand's digital economy forward.

ongoing operational expenses," notes Koraphot.

There are also concerns about the practical implementation of some requirements. "The complexity of service terms and conditions can lead users to provide consent without fully understanding the implications, resulting in uninformed consent or misuse of consent," he notes.

Technology-related challenges also loom large, including the lack of control over interface design when using algorithmic systems and artificial intelligence. "This can hinder a business's ability to adjust or understand them," Koraphot notes. "Moreover, efforts to monitor and remove illegal content may expose the workings of these systems, making them vulnerable to exploitation and potentially undermining the enforcement of content regulations."

Civil liberties concerns have also been raised regarding the act's impact on freedom of expression. "Over-regula-

tion or unclear guidelines could lead to censorship and stifle legitimate expression," says Koraphot.

Putting it to work

At the moment, the draft Platform Economy Act is still moving through the legislative process, currently under review by the Office of the Council of State (OCS), following a public hearing in February.

"The OCS is currently reviewing the feedback received during the hearing, after which the draft act will be submitted to the cabinet and, subsequently, to parliament for consideration. The overall timeline could span several years, depending on how urgently the government views the legislation," notes Koraphot.

Peering into the legislation's future, Koraphot unveils a landscape potentially fraught with concerns about the act's practical impact. Regarding compliance requirements, he notes that platforms designated as VLOPs or gatekeepers face substantial regulatory burdens.

"The thresholds - 7 billion baht in revenue, 15 million monthly end users, and 10,000 business users - are significant as they target a small but influential group of major players in the digital economy in an attempt to ensure they operate with transparency and fairness," he explains.

Koraphot also warns about unintended consequences: "High-risk levels may lead to over-compliance or excessive content moderation, potentially stifling freedom of expression and hindering innovation."

Beyond these issues affecting larger platforms, Koraphot expresses particular concern for smaller entities and unintended impact on market competitiveness.

"Smaller startups may struggle with the compliance burdens imposed by the draft Act, potentially restricting their growth and innovation, thus affecting the overall competitiveness of Thailand's digital economy," adds Koraphot. ●