

Thailand: Digital Platform Royal Decree and its sub-regulations are now effective

In brief

Following our [previous newsletter](#), on 21 August 2023, the Royal Decree on the Operation of Digital Platforms, which are Subject to Prior Notification B.E. 2565 ("**Royal Decree**"), came into full effect. Existing business operators are required to comply with certain obligations, such as:

- For full-form notification, platforms are required to notify the ETDA **by 18 November 2023**.
- For short-form notification, platforms are required to notify the ETDA **by 20 August 2024**.
- Revisit the terms and conditions to ensure that it contains the prescribed details (if applicable).
- Designate a local coordinator (if applicable to offshore platforms).

We would like to highlight that a set of sub-regulations under the Royal Decree has also been issued, which could change the analysis based solely on the Royal Decree. Please revisit to determine if your platform would be affected by these sub-regulations. For example, the sub-regulations have listed the type of regulated platforms such as **online marketplace, car sharing, knowledge sharing, labor sharing, space sharing, online communication, communication commerce, social media, social commerce, cloud service, hosting service, online advertising service, maps, web browser, virtual assistance, news aggregators, audio-visual and music sharing, searching tools, operating system, internet service**.

Sub-regulations also cover the notification form, the calculations of average monthly active users, platforms that would be subject to short-form notification (if it has web boards, hyperlinks, banners, etc.), required details of terms and conditions (including changes to the terms and conditions), and remedial measures for cessation of the digital platform business.

The notification system also includes names of onshore and offshore digital platforms as samples of regulated platforms.

As the deadline for full-form notification is approaching, now is a good time to start the preparation of the full-form notification.

In more detail

1. Summary of the Royal Decree

The Royal Decree came into full effect on 21 August 2023. To recap, the Royal Decree was published in the Royal Gazette in December last year and will require both onshore and offshore Digital Platform Services to notify their business operations to the Electronic Transactions Development Agency (ETDA) and comply with the applicable obligations.

In this issue

[In brief](#)

[In more detail](#)

[Contact Us](#)

The Royal Decree defines "Digital Platform Service" as "the provision of intermediary services that connect business users, consumers, or users for the purpose of generating electronic transactions, with or without remuneration but does not include digital platform service, which is for the offering of goods or services of a single operator of a digital platform service or its affiliate acting as its representative, with or without remuneration."

Key obligations under the Royal Decree are summarized below.

Notify the business operation of the ETDA

Digital Platform Services under the Royal Decree could be subject to either of the following notification requirements.

(i) Full-Form Notification

Companies operating online platform services that have a gross income of more than THB 50,000,000 per year or have more than 5,000 monthly active users in Thailand must comply with the full-form notification requirement.

A sample of the full notification information includes the details of the business operator, transaction value, user count, revenue ratio in Thailand, gross revenue, complaint details, the name of the contact person, etc.

Existing onshore and offshore online platform service providers subject to the notification requirement for this Royal Decree are required to notify the ETDA by **18 November 2023**.

(ii) Short-Form Notification

Online platform service providers that do not meet the above criteria, including e-service platforms containing web-boards hyperlinks/banners, are still required to provide information to the ETDA. However, the required information is less than that in the full notification.

This type of online platform service provider must provide the required information (short-form) to the ETDA by **20 August 2024**.

Please note that both full-form and short-form notification information are required to be updated annually.

Offshore operator to designate a local coordinator

Offshore providers could be subject to extra-territorial applicability if they have certain characteristics, e.g., accepting payment in Thai Baht, using ".th" as part of the domain name, using the Thai language on the platform, or having supporting personnel in Thailand. Accordingly, such offshore digital platform services would be required to designate a local point of contact in Thailand to coordinate with the ETDA.

Revisit the terms and conditions of the platform

The Royal Decree also requires certain types of Digital Platform Services and search engines to notify the prescribed details under the Royal Decree to the users in their terms and conditions.

2. Sub-regulations

Recently, the ETDA and the Electronic Transactions Commission (ETC) issued sub-regulations under the Royal Decree, which are summarized below.

Sub-regulations effective from 21 August 2023	Details
<p>1. The Notification of the ETC re: Characteristics of the Digital Platform Services Subject to Brief Notification B.E. 2566.</p>	<p>This notification prescribes the characteristics of digital platform services that are exempted from full-form notification and only subject to short-form notification annually.</p> <p>It is interesting to note that this notification prescribes web boards and hyperlinks/banners on the website or application, which exclusively offer goods or services solely for the owner of the platform or its affiliated companies, are to be exempted from full-form notification and subject to short-form notification.</p> <p>This means that any platform not considered a digital platform service under the Royal Decree because it exclusively offers goods or services solely for the owner or affiliates may still be</p>

	subject to short-form notification if they provide a web board or hyperlinks/banners on their platform.
2. The Notification of the ETC re: the Criteria, Methods, and Conditions for the Operator to Compensate or Remedy the Service User who Suffers Damage from Using the Service or Other Activities Necessary to Protect the Service Users.	<p>This notification outlines rules and criteria for compensation and provides remedies to service users that are applicable to certain types of digital platforms when they wish to cease digital platform operation.</p> <p>The key details of such measures include:</p> <ul style="list-style-type: none"> • Measures must at least be made in Thai and in easily understandable language. • Details on measures, procedures, and timelines in taking care of service users prior to business cessation.
3. The Notification of the ETDA (no. 1/2566) re: Criteria for Calculation of Average Monthly Active Users in the Kingdom B.E. 2566 (AMAU Notification).	<p>This notification prescribes a method of calculation for average monthly active users. The AMAU amount is used for the purpose of:</p> <ul style="list-style-type: none"> • Determining whether the platform will be subject to the Notification requirements. • Determining whether the platform will be considered a large digital platform service (i.e., more than 6.6 million users per month). • To be included in an annual report to the ETDA.
4. The Notification of the ETDA (no. 2/2566) re: the Form for the Notification Prior to Operating Digital Platform Services Business Subjected to Notification (Section 8 par. 1) and the Form for the Brief Notification.	<p>This Notification prescribes the details that are required to be notified prior to the operation of the digital platform under the Royal Decree.</p> <p>It is interesting to note that the form is already pre-filled with certain types of digital platforms that are unlikely to be considered digital platform services under the Royal Decree, such as:</p> <ul style="list-style-type: none"> • Online marketplace, car sharing, knowledge sharing, labor sharing, space sharing, online communication, communication commerce, social media, social commerce, cloud service, hosting service, online advertising service, maps, web browser, virtual assistance, news aggregators, audio-visual and music sharing, searching tools, operating system, internet service.
5. The Notification of the ETDA (no. 3/2566) re: the Form for Annual Notification of the Digital Platform Services Business Operation and Notification of Changes to Information.	This notification prescribes the details that are required to be notified annually under the Royal Decree.
6. The Notification of the ETDA (no. 6/2566) re: the Criteria, Methods, and Conditions for Notifying the Cessation of the Business Operation of Digital Platform Services.	This notification prescribes requirements for digital platform providers when they wish to cease the operation of a digital platform.
Sub-regulations effective from 3 January 2024	Details

<p>1. The Notification of the ETC re: the Rules, Process, and Period for the Notification of the Terms and Conditions Changes.</p>	<p>This notification prescribes requirements to notify changes to the terms and conditions for digital platforms that are obligated to notify terms and conditions to the users.</p> <p>Upon notifying the changes, digital platforms are also required to notify the rights of users to terminate the service or the rights of business users to terminate the contract within 15 days before such changes to the terms and conditions become effective.</p>
<p>2. The Notification of the ETDA (no. 4/2566) re: the Details of the Terms and Conditions Notified to the Platform Users.</p>	<p>This notification prescribes the details of the terms and conditions that digital platform services that are subject to the obligations are required to notify their users.</p> <p>Key details include:</p> <ul style="list-style-type: none"> • Terms and conditions must be made in Thai language. • Main parameters used in the ranking and recommendation of contents (e.g., price, keyword, user demographic, quality of sellers, user reviews, stocks, and product information). • Access and usage of data. • Assistant channel, complaint-handling system, dispute resolution, and the timeframe. • Actions to be taken with illegal goods, services, and contents (notice and takedown mechanisms). • Requirements to notify the temporary suspension of service.
<p>3. The Notification of the ETDA (no. 5/2566) re: the Notification Form of the Terms and Conditions Announced to the Users.</p>	<p>This notification prescribes the form for notification of the terms and conditions according to the Royal Decree.</p>

It is interesting to note that the sub-regulations extend the definition of Digital Platform Service to cover certain services that could fall outside the original definition under the Royal Decree. For example, the notification form now includes cloud service as a type of Digital Platform Service that needs to be notified. However, it is not clear whether this includes cloud service that does not connect users on the platform. While the ETDA has not officially provided any clarification on this matter, Digital Platform Service operators should review if their services fall under any of the types specified in the notification form for self-preparation.

These sets of sub-regulations are non-exhaustive, and more sub-regulations are expected to be issued. We will keep you updated once more sub-regulations are issued.

3. The notification system is ready

Recently, the ETDA launched an online system for Digital Platform Service operators to notify their businesses on the ETDA's official website. The system includes a list of Digital Platform Services that could be subject to notification requirements under the Royal Decree. The notification system also includes names of onshore and offshore digital platforms as samples of regulated platforms. Therefore, please check if your platforms are included in the list.

Key takeaways

The existing Digital Platform Services have until **18 November 2023** to submit the full-form notification to the ETDA. Now is a good time to start the preparation of the full-form notification and for compliance with other obligations under the Royal Decree. As the Royal Decree is the first law to specifically regulate the operation of onshore and offshore digital platform services, platform operators should closely monitor the interpretation and enforcement of the Royal Decree.

For more details, please contact us.

Contact Us



Pattaraphan Paiboon

Partner

pattaraphan.paiboon@bakermckenzie.com



Kritiyanee Buranatrevedhya

Partner

kritiyanee.buranatrevedhya@bakermckenzie.com



Yada Visewongsa

Associate

yada.visewongsa@bakermckenzie.com



Teetouch Dilokgomon

Associate

teetouch.dilokgomon@bakermckenzie.com

© 2023 Baker & McKenzie. **Ownership:** This site (Site) is a proprietary resource owned exclusively by Baker McKenzie (meaning Baker & McKenzie International and its member firms, including Baker & McKenzie LLP). Use of this site does not of itself create a contractual relationship, nor any attorney/client relationship, between Baker McKenzie and any person. **Non-reliance and exclusion:** All information on this Site is of general comment and for informational purposes only and may not reflect the most current legal and regulatory developments. All summaries of the laws, regulation and practice are subject to change. The information on this Site is not offered as legal or any other advice on any particular matter, whether it be legal, procedural or otherwise. It is not intended to be a substitute for reference to (and compliance with) the detailed provisions of applicable laws, rules, regulations or forms. Legal advice should always be sought before taking any action or refraining from taking any action based on any information provided in this Site. Baker McKenzie, the editors and the contributing authors do not guarantee the accuracy of the contents and expressly disclaim any and all liability to any person in respect of the consequences of anything done or permitted to be done or omitted to be done wholly or partly in reliance upon the whole or any part of the contents of this Site. **Attorney Advertising:** This Site may qualify as "Attorney Advertising" requiring notice in some jurisdictions. To the extent that this Site may qualify as Attorney Advertising, PRIOR RESULTS DO NOT GUARANTEE A SIMILAR OUTCOME. All rights reserved. The content of the this Site is protected under international copyright conventions. Reproduction of the content of this Site without express written authorization is strictly prohibited.