

Thai shippers warned of illegal software penalties

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Thai exporters risk losing access to markets if they ignore unlicensed software usage, as more countries will likely follow the US's move in issuing legislation to clamp down on illegal software.

Countries such as Canada, Australia and the European Union are likely to implement similar laws to the US's Unfair Competition Act (UCA), says the Federation of Thai Industries (FTI).

The UCA was first enforced in Washington, Louisiana and Massachusetts, and has now expanded to 36 states in the US.

Thai businesses were warned against sitting back and assuming they will not be affected because they only export to regions without UCAs, because goods will eventually find their way across the country, said Suwannee Sirivejchapun, an FTI board member and a member of the legal affairs tax committee.

"We cannot avoid the impact as more entities are likely to pass UCAs. We must prepare," she said.

Small and medium-sized enterprises (SMEs) will find it difficult to shoulder the costs of buying licensed software, she added. To deal with these costs, which could run to millions of baht, Ms Suwannee noted the government could talk to software companies about allowing one software purchase to be used by a pool of businesses. The government can also offer tax incentives for businesses that invest in legal software.

Wiramrudee Mokkhavesa, an attorney with Tilleke & Gibbins International, said the cost of complying is cheaper than the cost of not complying, which would include fines, court and legal payments, and even losing access to certain markets.

The impacts of the UCA will be far-reaching, involving retailers and customers of those companies as well, said Ms Wiramrudee.

"What makes the impact of this law so big is it will have a bearing on the entire supply chain," she said.

If a supplier to an auto parts exporter to the US uses illegal software, the liability also extends to the exporter if it uses more than 30% of the contents for its product from the supplier. To prevent this, companies are encouraged to sign a deal with suppliers that stipulates the use of only legal software, she said.

Meanwhile, the scope of the UCA could be broadened in the coming years.

Peter Fowler of the US Patent and Trademark Office/Foreign Commercial Service at the US Embassy in Bangkok, said California already broadened its UCA to require certification for a wider range of good corporate practices including child labour, prison labour, environmental protection and human trafficking. States such as New York are likely to enforce similar demands.

Companies that strictly follow Thai laws on intellectual property rights should already be compliant with the UCA.

Last year, the PC software piracy rate in Thailand was 72%, due mostly to household usage, down from 80% in 2006.

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