



CORPORATE COUNSELLOR

The amended Computer Crimes Act: important changes for business operators

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The Act Governing Commission of Offences Relating to Computers (generally known as the Computer Crimes Act) was enacted in 2007. Over the last decade, several high-profile cases have attracted attention, especially when celebrities or models lodged criminal charges under the Act. Its application in criminal defamation cases has also been the subject of a lot of comment.

But the Computer Crimes Act is not only relevant to celebrities; it's important to all businesses that use computers in their operations. This article discusses how certain recent amendments to the Act that are now in force have important implications for business owners in Thailand.

Spam emails: Under the amended Act, a business may face criminal punishment if it sends computer data or emails that cause trouble or annoyance to recipients without an option to allow the recipient to easily cancel, unsubscribe or inform the sender to cease sending further emails or computer data. The penalty for such actions is a maximum fine of 200,000 baht.

From now on, if business operators send any emails or e-bulletins to their customers and fail to provide an easy way for recipients to cancel or unsubscribe, the business operators will be criminally liable if the emails or e-bulletins are deemed to have caused trouble or annoyance.

Greater penalties for hackers: Businesses that use computer systems that involve national security, public safety, national economic security or infrastructure that concerns the public interest are now more protected from hackers, due to an increase in criminal penalties for offenders who use a computer in crimes against these systems.

Offenders will face more severe criminal penalties compared with those for offences against a computer system used by normal business owners, with fines from 20,000 to 140,000 baht and imprisonment from one to seven years. More severe penalties may also be imposed if the crime results in damage or other impacts to protected systems, or if the crime unintentionally results in the death of a person.

False information: An offender who dishonestly or deceitfully brings false, distorted or forged information or data into a computer system in such a way that is likely to cause damage to the public will face imprisonment of up to three years and/or a fine of up to 60,000 baht. For the law to apply to such an offence, it must not be a defamation offence under the Penal Code and must be targeted at an individual. This offence is compoundable, which means both parties can settle.

Service providers: Any service provider that cooperates with, consents to, or connives in certain offences under the amended Act, such as dishonestly or deceitfully bringing false, distorted or forged information or data into a computer system under the service provider's control, will face criminal penalties.

The digital economy and society (DE) minister has the authority to issue an announcement to determine the processes for issuing a warning, termination of the circulation of the data, and removal of the data from the computer system. A service provider will be waived from criminal penalties if it can prove that it has complied with such an announcement.

Altered images: It is a crime to alter, edit or modify another person's image or to place it onto a computer system that the public can access, in a manner likely to cause the person to suffer damage to his or her reputation, to be insulted, to be detested or to suffer humiliation.

The owner of the altered image and other offenders will face more severe criminal penalties under the amended Act, with imprisonment of up to three years or a fine of up to 200,000 baht. The amended law also includes an offence related to pictures of deceased persons.

Expanded court authority: The court has new authority pertaining to computers and can order the destruction of data. The court can also publish a judgement wholly or partially through electronic media, broadcast radio, broadcast television, newspapers or other media that it deems appropriate. It also has the authority to order other actions deemed necessary to remedy injury arising from an offence.

Settlement: Some offences, such as the unauthorised access of a computer system, disclosure of preventive measures for accessing a computer system, or bringing false information into a computer system, can be settled by a committee appointed by the DE minister.

Computer data screening: The minister has the authority to appoint a computer data screening panel, which may assign an officer to request that the court order the circulation of computer data to cease, or the deletion of the data, if such circulation constitutes a crime under the Act, affects the security of Thailand, or conflicts with peace and order or good morals.

The amended Act also addresses other important issues, and business owners should therefore be aware of potential criminal implications when their operations involve computer data or a computer system.

This article was prepared by Chusert Supasitthumrong, a partner in the Dispute Resolution Department at Tilleke & Gibbins. Please send any comments or questions about the content of this article to Andrew Stoutley at andrew.s@tilleke.com

About the author

Writer: Tilleke & Gibbins