

**Asia Internet Coalition (AIC) Feedback on Draft Notification: New Obligations for
Specific Marketplace Digital Platform Service Operators, Thailand**

2 December 2024

To
Dr. Chaichana Mitrpant
The Electronic Transactions Development Agency (ETDA)

The [Asia Internet Coalition](#) (AIC) is an industry association that promotes the understanding and resolution of internet policy issues in the Asia Pacific region. Our mission is to represent the internet industry and promote stakeholder dialogue between the public and private sectors, sharing best practices and ideas on internet technology and the digital economy. We wish to achieve our aim by collaborating with the Government, industry and all the relevant stakeholders.

In this regard, AIC, would like to extend its gratitude to the ETDA for conducting a multi-stakeholder public consultation on the **Draft Notification: New Obligations for Specific Marketplace Digital Platform Service Operators**. Considering the above, we have taken the opportunity to provide our inputs on the Draft Notification. Our inputs are elaborated (below).

Should you have any questions or need clarification on any of the recommendations, please do not hesitate to contact us directly at Secretariat@aicasia.org. Thank you for your time and consideration.

AIC looks forward to discussing these inputs and working together with ETDA.

Thank you,

Sincerely,

Secretariat
Asia Internet Coalition

Overview

The Thailand Electronic Transactions Committee has proposed a draft notification introducing additional obligations for specific marketplace digital platform service operators under Section 18(2) of the Royal Decree on Operation of Digital Platform Service Businesses Subject to Prior Notification B.E. 2565 (2022). These obligations aim to enhance user protection by regulating online marketplace operations.

As an industry, we are supportive of Thailand's efforts to boost user protection online, and want to work together with the government to ensure that products sold via marketplaces meet relevant safety standards and are authentic. However, the draft notification introduces significant operational costs, compliance costs and financial challenges, all of which present overly burdensome obligations for digital platform operators. We recommend extending timelines, ensuring regulatory alignment, and including safe harbour provisions to foster a collaborative and effective regulatory environment. Further, the intent of certain incremental compliances needs to be clarified. As an example, the draft notification requires specific marketplaces to operate as a Thai juristic person, whereas, the Royal Decree on Digital Platform Service (DPS) allowed for overseas marketplaces to appoint a local representative without the need of local incorporation in Thailand.

We welcome further discussions to ensure the notification achieves its objectives while maintaining the competitiveness and sustainability of Thailand's digital economy. We would like to further request that Thailand's Electronic Transactions Committee extend its consultation period with the private sector to allow for further discussions on the proposed obligations, and for the industry to share best practices from other jurisdictions to ensure that Thailand's e-commerce sector remains competitive and conducive for growth.

We understand that all references to “operators” in the draft notification mean “sellers” who offer their products for sale on a marketplace. Accordingly, the term “operator” and “seller” is used interchangeably in this submission.

Key Concerns and Recommendations

1. Grace Period for Compliance

The proposed 60-day grace period for marketplaces to comply with the new obligations is highly restrictive and unrealistic given the substantial technical and operational changes required. This period should be extended to one year. Developing and implementing the necessary systems, including measures for identity verification, customer experience and product compliance requirements require significant investment, resource planning, and technical development. A 60-day period does not account for the complexities of marketplace operations, especially for large-scale marketplaces. Extending the grace period to one year would allow marketplaces to adapt effectively while minimizing disruptions to their services. This extension would ensure a smoother transition and greater compliance

success. This grace period should also apply to marketplaces that are designated as “specific” marketplaces from time to time, after the issuance of the notification.

2. Local Juristic Entity Requirement (Clause 5)

The draft notification mandates that specific marketplace business operators establish a local juristic entity in Thailand. This requirement creates contradictions and inconsistencies with existing obligations under the Royal Decree on DPS, which accommodates offshore operators by requiring the appointment of a local representative in Thailand. To address this concern, this clause should be removed. As a subordinate regulation, this draft notification should align with and uphold the intent of the Royal Decree on DPS. Separately, requiring overseas marketplace operators to register in Thailand could result in significantly increased costs and could have the unintended consequence of such offshore businesses ceasing to service to Thai customers. A coordinated regulatory approach would help marketplaces efficiently allocate resources while meeting compliance objectives.

3. Provisions for Safe Harbour

The absence of safe harbour provisions in the draft notification raises concerns about potential liability and risks for specific marketplaces, even when they comply with the draft notification requirements. Without explicit protections, marketplaces may be held accountable for non-compliance issues arising from factors beyond their control, such as inaccuracies in seller-provided data. With the growing popularity of online marketplaces in Thailand, a significant number of sellers are onboarded to these marketplaces every day. Consequently, it is impossible to ensure that all sellers fully comply with the prescribed duties implemented by the online marketplace as outlined in this draft notification. Introducing safe harbour provisions would mitigate these risks, incentivize platforms to set up mechanisms per the notification, and foster a cooperative relationship between regulator and platform operators. These provisions would also provide platforms with greater confidence to innovate while ensuring user protection.

4. Seller Verification (Clause 8 and 9)

Clause 8 requires platforms to implement seller identity verification processes. While such measures aim to enhance trust and transparency, prescriptive seller verification processes and standards could create inefficiencies as they overlap with procedures already carried out by other stakeholders (e.g., banks, which are mandated under AML laws to perform KYC during account opening). Further, building a verification system (such as IAL2) or verification through open databases of relevant government agencies not only demands considerable capital investment but also necessitates extended timelines for technical development and deployment. In fact, given the global nature of seller-base for marketplaces, in some source countries where sellers may be established, it may even be infeasible to verify seller information through open databases, as many countries may not have accessible databases. Smaller or newer businesses and sellers, in particular, may struggle to comply,

thereby affecting market competition. To address this issue, the regulator should consider a principles-based requirement on seller identity verification. Various marketplaces implement their own mechanisms for verifying seller information and there should be flexibility for marketplaces to continue using their own mechanisms as long as they can share seller identity information with the relevant government agencies, if the seller engages in legal violations on the marketplace.

5. Display Seller's Information on the Marketplace (Clause 10)

We support collection of relevant information from seller before they can start selling on the marketplace but displaying all seller information (including contact information) to customers could result in creating a confusing customer experience without any incremental benefit for the customer. This will be particularly confusing for marketplaces with unified product detail pages where multiple sellers may offer the same product and the same page will have different sellers' offers. Instead, we recommend that the regulator focus on ensuring that customers have access to the sellers' details, when necessary and such access can be provided through dedicated seller contact pages. Even for seller contact pages, providing all contact information should not be mandated as it could result in privacy concerns, personal safety concerns (for sellers who are individuals) and also in sellers' information being used by bad actors for fraudulent activities and inappropriate use. Connecting a buyer directly to the seller for all purchase issues should not be mandated as it could, in some cases, significantly degrade the customer experience and marketplaces may have higher standards for customer protection.

6. Providing Seller Information to Government Agencies (Clause 11)

We support Option 2 in Clause 11, which states that marketplace operators must cooperate with relevant stage agencies by providing the required seller information depending on legal violations by sellers. Option 1 seems overly burdensome for the ultimate outcome, which is for the marketplace to cooperate with the government agency for sharing information and can be adequately addressed by Option 2. Option 1 is also significantly costly, will require tech investments and will be operationally difficult to compile in a timely and effective manner. Further, this option will also create inefficiencies for the government agencies in sieving through the relevant information.

7. Database Readiness and Licensing Requirements (Clause 13)

Clause 13 states that marketplaces must require sellers to submit relevant certificates and licenses for compliance with Product Standards (as defined in the draft notification). Further, marketplaces are required to verify the accuracy of these documents against the databases of the Industrial Product Standards Office and the Food and Drug Administration before allowing such products to be sold or advertised on their marketplace. This obligation demands substantial resources for developing necessary features and potentially requires extensive tech integration work with databases (where such databases currently do not exist). Therefore, we strongly recommend removing the obligation on marketplaces for conducting product information verification. We believe the requirement to collect

compliance documents from the sellers along with a robust notice and take-down mechanism will adequately address the non-compliant product related risks. Further, product compliance verification procedures could also lead to inordinate delays in listings, reducing the product selection for customer and slowing business for sellers (which includes a large cohort of small and medium enterprises).

8. Display of Product Information (Clause 14)

In principle, we are supportive of providing adequate product information to customers to help them make the right decisions about their purchase. Having said this, there are certain requirements under Clause 14 which could result in significant customer confusion and result in below-par customer experience. Specifically, information such as contact information of importer/manufacture on product detail page may be unnecessary and duplicative as this information is typically anyway available on the product packaging. Further, details on the location of production and storage are not relevant to a customer and could also create unnecessary confusion. It is also possible that a product may have moved multiple locations of storage in its lifecycle and therefore, location of storage may be hard to define. Similarly, the criteria for defining the 'country of origin' also needs further clarification to ensure consistency and avoid potential misunderstandings. We recommend further industry consultation on this clause.

9. Impractical Timeframe for Complaint Handling (Clause 18)

The 24-hour timeframe for resolving complaints (by notifying the user and the operator of the result of the complaint) or three days for the seller to contest a complaint resolution is neither practical nor feasible for marketplaces with a large number of sellers and users. Further, Thailand has other laws (such as the Computer Crimes Act) which control removal of illegal/prohibited content. Therefore, compliance with the existing laws is sufficient to address consumer risks arising out of illegal or prohibited content. Accordingly, we recommend for this notification to adopt a principles-based approach for complaint resolution, i.e., marketplaces should be required to have a robust complaint resolution process coupled with a notice and take-down procedure in compliance with applicable laws. Any requirement for time period and or processes for resolving complaint should be left to the operational discretion of the marketplace.

10. Actions against Business Users who violate or fail to comply

Generally, most marketplaces already have policies in place to suspend or terminate sellers who violate terms or sell illegal goods. However, the current approach provided in this draft notification is overly prescriptive and should be modified to adopt a more principles-based framework rather than detailing specific procedures. The exact mechanisms for termination or other actions should be left to the discretion of the marketplace.