



May 21, 2015

Electronics Transactions Development Agency (Public Organization)
The 9th Tower, Grand Rama 9 Building (Tower B), Floor 21
33/1, Rama 9 Road, Huay Kwang,
Bangkok
Thailand

Dear Sir/Madam,

The Asia Internet Coalition (“AIC”) is an industry association formed by Apple, eBay, Facebook, Google, Salesforce, LinkedIn, Yahoo! Incorporated, and Twitter that seeks to promote understanding of Internet policy issues in the Asia-Pacific region.

The AIC commends the Kingdom of Thailand for recognizing the importance of the digital economy to economic growth. We wish to recognize and express support for Deputy Prime Minister Pradiyathorn Devakula’s plan to provide Internet access to “every single village in Thailand” by end 2016 and to reach every household the following year.¹ As he explained, “with this digital network, a more effective use of ICT for economic and social developments across Thailand will result in greater productivity and more equity in terms of opportunities.”

The Internet drives growth. The 2014 G20 e-Trade Readiness Index by The Economist² notes that the Internet adds value beyond the technology sector, with companies in traditional industries capturing as much as 75% of the benefits. It also points out that from 2004-2009, the Internet contributed up to 21% of GDP growth in the developed world and that developing countries should position themselves to derive more growth from the Internet. Moreover, another recent study by McKinsey³ shows that countries that are connected to global networks of flows experience larger benefits in terms of GDP growth than countries that are less connected. For example, the Internet doubles the export share of sales of Small and Medium-Sized Enterprises (SMEs).

AIC members provide some of the platforms and tools that contribute to an increasingly digital global economy, and we offer our knowledge and insights on ways in which countries can foster and protect an innovative and dynamic digital sector.

¹ <http://thailand.ahk.de/en/business-info/news/single-view/artikel/remarks-by-mr-pridiyathorn-devakula-on-thailand-moving-forward-economic-reforms-under-the-interim-government/?cHash=5fa5d41821421e5c9017afa7e57d917f>.

² *The G20 e-Trade Readiness Index*, The Economist (2014), <http://www.economistinsights.com/countries-trade-investment/analysis/g20-e-trade-readiness-index-0>.

³ *Global Flows in a Digital Age*, McKinsey & Company (2014), http://www.mckinsey.com/insights/globalization/global_flows_in_a_digital_age.

Role of Internet Intermediaries

Services that help people and businesses interact with one another online are considered Internet intermediaries, which include the members of AIC. Intermediaries help economies to grow - an OECD report⁴ found intermediaries stimulate employment and economic growth, lower barriers for small businesses and reduce costs for consumers.

A conducive regulatory environment is critical to the viability of intermediaries. A report⁵ on the economic impact on start-ups of liability limitations for Internet intermediaries concluded that clear and cost-efficient requirements for intermediaries could increase start-up success rates in Thailand by 24%. Examples of vibrant Thai intermediaries include Ookbee, Thailand's largest e-book store with market share of over 85%; Blisby, an online marketplace that promotes Thai crafts and connects Thai craftspeople with the rest of the world; and Local Alike, an online tourism company that aims to secure at least 10% of the tourism income for local Thai communities.

Keeping the Internet Safe

With technological advances rapidly creating new opportunities but also new vulnerabilities, our experience has been that it is technology itself that allows us to develop solutions that can keep pace with the speed of the Internet. For example, the tremendous increase in information and interactions that the Internet makes possible has rendered traditional ways of identifying illicit content and activities unfeasible. Instead, our member companies have developed dynamic reporting tools that harness the power of technology and the collective efforts of Internet users in our communities to flag and take down illicit material. When we receive a valid takedown notice concerning an infringing material found on our platforms or services, we remove the material quickly.

To maintain the trust and safety of users and customers, AIC members take their responsibilities under the law seriously, and proactively employ technology to identify and stop criminals and criminal activity. For example, copyright owners on YouTube can use a system called "Content ID" to stop copyright infringement as soon as a video is uploaded, by scanning it against a database of files that have been submitted by other content owners. Additionally, eBay uses FADE (Fraud Automated Detection Engine) to spot signs of fraudulent auction activity before money changes hands. These are just some examples of the algorithms and data analysis that allows AIC members to stay one step ahead of criminals in a rapidly evolving technological landscape.

It is therefore important that any legislation regarding cybersecurity takes into account the availability of non-judicial redress provided by intermediaries, which may be more expedient, effective, and appropriately tailored to current technologies and trends.

Given the importance of these issues, we propose that the Kingdom of Thailand should have a series of open consultations to develop a global best practices law that will strengthen security and support economic growth.

⁴ *The Economic and Social Role of Internet Intermediaries*, OECD (2010), <http://www.oecd.org/internet/ieconomy/44949023.pdf>.

⁵ *How Are Internet Start-Ups Affected by Liability for User Content?*, Oxera (2015), <http://www.oxera.com/Latest-Thinking/Publications/Reports/2015/How-are-Internet-start-ups-affected-by-liability-f.aspx>.

Comments on Draft Cybersecurity Bill

We recognize that the Internet can be used for adverse purposes, making it vital for authorities to respond to illicit activities in both the online and offline worlds. We advocate shaping regulations that take cutting edge tools developed by Internet platforms into account and that give innovators the flexibility and predictability to continue creating solutions tailored to new and emerging technologies.

We would like to take this opportunity to share our observations on the proposed Cybersecurity Bill, which has implications for Internet platforms and user privacy.

Article 3: We urge the Government to consider clarifying the scope of what constitutes “Cybersecurity,” particularly what would be considered a threat to “domestic peace and order” and “economic security,” as the current ambiguity on what constitutes a cybersecurity threat creates uncertainty over the range of activities that can be circumscribed by authorities.

Article 35.3: This would give officials, without judicial review, “access to communication data, post, telegram, telephone, telex, computer, tool, or electronic communication equipment, or any information technology media for the benefit of the implementation of cybersecurity.”

This runs contrary to norms, user expectations, and legal requirements around privacy that many global Internet platforms are dedicated or obligated to respect and follow.

We understand that the ETDA has informed the public that this provision has been amended and that the bill will not allow third parties to access such data without a court order. We commend the stated intention to bring this bill in line with international norms requiring judicial review for access to these types of data, and look forward to seeing updated text.

We would welcome the opportunity to discuss these points with you directly.

The member companies of the Asia Internet Coalition (AIC) remain at your disposal to discuss the matters above in more detail.

Kind regards,

A handwritten signature in grey ink, appearing to read 'Hans Vriens', with a stylized flourish at the end.

Hans Vriens
Secretariat
Asia Internet Coalition