

Notification of the Ministry of Digital Economy and Society

Re: The Notice Procedure, the Suppression of Dissemination of Computer Data and the Deletion of Computer Data from the System B.E. 2565

Given the great transformation of technology, it is deemed fit to update the notice procedure, the suppression of data dissemination and the deletion of computer data from the computer system of a service provider to combat the dissemination of the unlawful computer data via computer system or internet network.

By virtue of Section 4 in conjunction with Section 15, Paragraph two of the Computer-Related Crime Act B.E. 2550 (2007) as amended by the Computer-Related Crime Act (No. 2) B.E. 2560 (2017), the Minister of Digital Economy and Society issues the following Notification:

Clause 1 This Notification is called “The Notice Procedure, the Suppression of Dissemination of Computer Data and the Deletion of Computer Data from the System B.E. 2565 (2022)”.

Clause 2 This Notification comes into force upon the expiration of the 60-day period from the date of its publication in the Government Gazette.

Clause 3 The Notification by the Ministry of Digital Economy and Society on “The notice procedure, the suppression of data dissemination and the deletion of computer data from the computer system B.E. 2560” shall be repealed.

Clause 4 In this Notification:

“Computer system” means any device or a group of interconnected or related devices, one or more of which pursuant to a program or instruction or anything else, performs automatic processing of data.

“Computer data” means information, messages, and, concepts or instruction, a program or anything else in a form suitable for processing in a computer system, and shall include electronic data under the law on electronic transactions.

“Content” means any stories or facts, whether appearing in alphabetic, digit, sound, visual or any other format which can be interpretable by its appearance or through any process.

“Service provider” means:

(1) a person who, either in his own name or in the name or for the benefit of another person, provides to other persons with access to the internet or the ability to communicate by other means through a computer system;

(2) Provider of computer data storage services for the interest of another person.

“User” means a user of a service provided free of charge or not.

“Social Media” means media or a channel of communication or exchange of data between individuals through the utilization of information technology or internet intermediary focusing on the creation and exchange of user-generated content or supporting two-way communication or featuring

or disseminating the content by themselves. This may include but not limited to computer program, software, news bulletin, or social media network or media for the dissemination or exchange of content including computer data, electronic data, still picture, audio, video, or data file or cloud services, blog, website (for the creation and editing of content by multiple users), online game, or virtual world with multiple users or electronic media or other identical or similar online media which is made available to enable communication between individuals, groups of individuals or the public.

“Competent official” means an individual appointed by the Minister to execute the duties pursuant to this Notification.

“Location of unlawful data” means related online location including related URL, related IP Address, related Domain Name, related web page, or related electronic address.

Chapter I

Actions or Provisions of Services that are Exempt from Penalties

Clause 5 If the following service provider or social media platform can prove that the service is provided in compliance with Clause 5 and 6 in this Notification in the following manners, such service provider or social media platform shall not be subject to the penalty for the offense of cooperating, consenting or connivance under Section 15 of the Act:

(1) As an intermediary, a service provider which offers services concerning telecommunication, broadcasting and internet as well as the transmission of computer data via computer network or system of the service providers, or facilitate the routing of computer data or the provision of computer services, computer devices, artificial intelligence based computer system or transitory communication (mere conduit) with the following features and has proceeded to completely suppress the dissemination and delete such computer data from the computer system pursuant to this Notification’s Clause 6.

(a) Being a service provider, which exchanges computer data via computer network on a business as usual basis whereby all the services are entirely utilized and operated by the user with no involvement of the service provider;

(b) Being a service provider for the computer data transmission or the facilitation of computer traffic internet network routing for computer data transmission, or the computer system’s connectivity - allowing access to the computer data (Hosting); all of which are technically processed automatically in the computer system (automatic technical process), where the command is instructed by the user or another person, provided that while the service provider does not specify or select the information, or content of information for the transmission or information processing;

(c) Being a service provider for the computer data transmission, who does not select the information or content of information for the transmission in the computer system by itself, and where the service performed is only for processing of data transmitted through the automatic interactive response system via the computer or artificial intelligence;

(d) Being a service provider, which does not retain a copy of the computer data or content or retain a temporary copy for the processing of the transient storage as necessary to enable the provision of services and the service provider does not permanently retain a copy of the computer

data or content of the data in their computer system or keep it in their database or network and make it accessible by the public later;

(e) Provision of computer data transmission through a computer system without any modification to such information or content of information by the service provider;

(f) The services offered by the service provider free of charge and without receiving any benefit, directly or indirectly, from the public dissemination, copying, and adaptation of the unlawful computer data under Section 14;

(g) The services offered by the service provider without being complicit, consenting to or acquiescing to the dissemination of such unlawful data under their control or within their computer system under Section 14.

(2) A service provider of storage or system caching with the following features which has proceeded to completely suppress the dissemination and delete such computer data from the computer system pursuant to this Notification's Clause 6

(a) Offering system caching under the control of computer system or artificial intelligence and all the data and content has been transferred in its entirety by the user or a third party (without the involvement of the service provider);

(b) Offering the data exchange service within a computer network or artificial intelligence network, and as such technical feature are needed to provide for system caching;

(c) Provision of the service of computer data storage through computer devices or artificial intelligence systems where the service provider is not involved in, nor has any control of such computer data collection.

In the provision of the caching service for intermediate or temporary storage of computer data service, the service provider shall:

(a) Not modify the computer data or content of information, whether in part or in whole;

(b) Not be able to access the computer data in order to modify the data or content of such data;

(c) Having no intent to cooperate, consent and acquiesce to the dissemination of the unlawful computer data under Section 14.

(3) A service provider for the storage of computer data or network, wherein the information is stored on the user's computer system, where the user itself manages and administers its own computer data (Information Residing on systems or network at direction of users), and has the following characteristics, on the condition that the service provider has suppressed the dissemination of or deleted the computer data in accordance with Clause 6:

(a) Being a service offered by a service provider without cooperating, consenting, acquiescing, or involving with, or being aware of any wrongful act of the user or another person;

(b) The service provider does not receive any remuneration or benefits, whether directly or indirectly, from such commission of offense under Section 14 of the Computer-Related Crime Act;

(c) Upon obtaining the notification about the dissemination of unlawful information stated under Section 14 of the Act, the service provider shall act expeditiously to block the

dissemination or to delete such unlawful computer data from the computer system which such service provider has control or owns in accordance with Clause 6 of this Notification.

(4) A service provider who provides technical tools for locating or temporarily storing information (Information Location Tools), and has the following characteristics, on the condition that the service provider has proceeded in accordance with Clause 6:

(a) The service provider by itself, must not provide another person with a link (linking) to access to unlawful information;

(b) The service provider has no intent and involvement, and does not know of a wrongful activity of the user or another person;

(c) The service provider does not receive any remuneration or benefits, whether directly or indirectly, from the dissemination of the unlawful computer data under Section 14;

(d) Upon obtaining the notification about the dissemination of unlawful information stated under Section 14 of the Act, the service provider shall act expeditiously to block the dissemination or to delete such unlawful computer data from the computer system which such service provider has control of or in accordance with Clause 6 of this Notification.

(5) Social media, which serve as a medium or intermediary for communication or exchange of data between individuals using the information technology or internet network with the following features, has proceeded to completely suppress the dissemination and delete such computer data from the computer system pursuant to this Notification's Clause 6

(a) Being a service provider, which provides a social media platform on a business as usual basis, whereas all the posting, alteration, and dissemination of computer data is carried out by the user or another person, who is not the service provider themselves;

(b) Being a service provider of a social media platform for an exchange of computer data without involving with the screening of data or content transmitted via their computer system by themselves, or offering such services through a platform or an auto response service via computer or artificial intelligence only;

(c) Offering an exchange of computer data via computer system without the service provider being involved with the alteration or the data or the content.

(d) Not receiving any remuneration or benefits, whether directly or indirectly, from the dissemination of the unlawful computer data under Section 14;

(e) Having no intent to cooperate, consent and acquiesce to the dissemination of the unlawful computer data under Section 14

(6) A service provider other than those specified in (1) (2) (3) (4) and (5) who provides another person with access to the internet or the ability to communicate by other means through a computer system, which performs in compliance with Clause 6.

Chapter II

The Suppression of Dissemination of Computer Data and the Deletion of Computer Data from the System

Clause 6 Any service provider or social media platform under Clause 5 who can prove that he/she has prepared the following measures in order to notify and to block the dissemination or to delete computer data from the computer system (Notice & Takedown Policy), shall not be subject to the penalty under Section 15 of the Act:

(1) The notice procedure

A service provider or social media under Clause 5 is required to adopt notification measures concerning the procedure to suppress the dissemination and delete the unlawful computer data under Section 14 from the computer system through the adoption of a Notice & Take Down Policy or a Take Down Notice made available in written form and in advance to the public. It can be implemented via a technical method or other methods through which the user or another person may notify the service provider or the social media in order for the service provider or the social media to suppress the dissemination or delete the unlawful computer data from the computer system under their charge. The Take Down Notice issued by the service provider or the social media must contain at least the following information;

(a) Name, address, telephone number or e-mail address, or other methods or channels for contacting the service provider or the representative of the service provider

(b) Complaint Form for the user or another person to notify the service provider to block the dissemination or to delete unlawful computer data. The Complaint Form must at least comprise of the following details:

- 1) Details of name, family name, address of the complainant, including the signature of complainant or complainant's representative who has complained that there is a commission of an offense as stated under Section 14 of the Act;
- 2) Detailed information of the commission of offense stated under Section 14 of the Act;
- 3) Details and contact address of the service provider or social media platform, i.e. service provider or social media platform's name, address, telephone number, facsimile number, e-mail address (or other method or channel for contacting the service provider or social media platform);
- 4) Details of damage incurred to the user or another person;
- 5) A statement to certify that the Take Down Notice to suppress the dissemination and delete the unlawful computer data from the computer system is authentic.

(2) Notice procedure for user

In the event that the user finds that the service provider disseminates the unlawful computer data stated under Section 14 of the Act and the amendment, the user or any person may notify the service provider or social media platforms, requesting the dissemination or deletion of such unlawful computer data to be blocked by proceeding with the following procedures:

(a) To report and have the police record in the diary report, or to complain or to file a complaint to be evidence thereof, to an inquiry official or a police officer - by informing the details relating to the dissemination of unlawful computer data stated under Section 14 of the Computer-Related Crime Act B.E. 2550 (2007) and the amendment, as well as details of the service provider, details of damage incurred to the user or another person; and as to submit the evidence

showing such commission of offense and other related evidence to the inquiry official or police officer;

(b) Disclosing to a service provider or social media detail of the dissemination of unlawful data under Section 14 of the Computer-Related Crime Act B.E. 2550 (2007) and its amendments by filling out the form under (1) (b) plus documents proving the commission of the offense and other relevant documents for the service provider or social media

(3) Process for blocking or deletion of computer data from computer system

When a service provider or social media platform receives a complaint in accordance with the form under Clause 6(1)(b) and the relevant evidence thereof, the service provider or social media platform shall proceed as follows:

(a) To promptly remove or modify the computer data in order that the dissemination is suppressed;

(b) To make a copy of the complaint, including the details of the complaint, and promptly send such to the user, member or related person who is under the supervision of the service provider or social media platform;

(c) To block the dissemination of such computer data as soon as possible and in the manner that is suitable depending on the nature of the responding type of service in order to speedily remediate the damages and suppress the offense.

Except when there is a force majeure or other inviolable reasons which make such action impossible immediately, and once such force majeure or other inviolable reasons cease, a service provider or social media is required to immediately suppress the dissemination and delete the unlawful computer data from the computer system, not exceeding 24 (twenty-four) hours since receiving the complaint.

Chapter III

The suppression of dissemination and deletion of computer data from the computer system as instructed by competent official

Part I

The order of the competent official

Clause 7 Upon detecting an offense under Section 14 or upon receiving from an injured party, public official, stakeholder or any individual the information, complaint, document or evidence that there exists the unlawful computer data under Section 14 under the control of a service provider or social media, the designated competent official with approval from the Permanent Secretary of Ministry of Digital Economy and Society or the designated Deputy Permanent Secretary may issue an order pursuant to the annexed form of this Notification to a service provider or social media to have them proceed to suppress the dissemination and delete the unlawful computer data under Section 14 from the computer system.

The order issued by the competent official under paragraph one shall be primarily sent electronically.

Clause 8 When a service provider or social media who has received the order of the competent official under Clause 7 and other relevant documents and when such order is entered into the system of the service provider or social media, except if the date and time coincides with non-working days of the service provider or social media, it shall be supposed that the service provider or social media has received it on the nearest working day. Upon receiving the order from the competent official, a service provider or social media is required to act as follows;

1) Suppress the dissemination and delete the unlawful computer data under the control of the service provider or social media from the computer system to immediately terminate its dissemination through the application of any technical measures on par with the standards and commensurate to each type of the services to ensure the execution of the order of the competent official;

2) To make a copy of the complaint, including the details of the complaint, and promptly send such to the user, member or related person who is under the supervision of the service provider;

(3) The suppression of the dissemination and deletion of unlawful computer data must occur no later than the following specified duration for speedily remediating the damages and suppressing the offense:

(a) In case of the dissemination of computer data stated under Section 14(1) of the Act, the dissemination shall be blocked as soon as possible, except when there is a force majeure or other inviolable reasons which make such action impossible immediately, and once such force majeure or other inviolable reasons cease, a service provider or social media is required to immediately suppress the dissemination and delete the unlawful computer data from the computer system, not exceeding 7 (seven) days since receiving the complaint.

(b) In case of the dissemination of computer data stated under Section 14(2) and (3) of the Act, the dissemination shall be blocked as soon as possible, except when there is a force majeure or other inviolable reasons which make such action impossible immediately, and once such force majeure or other inviolable reasons cease, a service provider or social media is required to immediately suppress the dissemination and delete the unlawful computer data from the computer system, not exceeding 24 (twenty-four) hours since receiving the complaint.

(c) In case of the dissemination of computer data stated under Section 14(4) of the Act, the dissemination shall be blocked as soon as possible, except when there is a force majeure or other inviolable reasons which make such action impossible immediately, and once such force majeure or other inviolable reasons cease, a service provider or social media is required to immediately suppress the dissemination and delete the unlawful computer data from the computer system, not exceeding 3 (three) days since receiving the complaint.

(d) In case of the dissemination of computer data stated under Section 14(4) of the Act, and the data falls under child pornography, which is an offence under Section 287/1 and 287/2 of the Criminal Code, the dissemination shall be blocked as soon as possible, except when there is a force majeure or other inviolable reasons which make such action impossible immediately, and once such force majeure or other inviolable reasons cease, a service provider or social media is required to immediately suppress the dissemination and delete the unlawful computer data from the computer system, not exceeding 24 (twenty-four) hours since receiving the complaint.

Clause 9 A service provider or social media who fails to act fully as ordered by the competent official under this Chapter within the deadline, it shall be assumed that the service provider or social media cooperates, supports or consents to the commission of the offense under Section 15.

Part II

The appeal and repeal of order

Clause 10 An appeal shall not cause a suspension of the execution of order and shall not be invoked by the person receiving the order as an excuse or a reason to refuse to act in compliance with the order of the competent official under this Chapter.

Clause 11 A service provider or social media and those directly affected by the order of competent official used pursuant to this Notification may appeal the order by filing a motion with the Permanent Secretary of Ministry of Digital Economy and Society or the person designated by the Permanent Secretary of Ministry of Digital Economy and Society within thirty days since receiving the order or since the day the person is supposed to be aware or should be aware of the order as the case may be in order to request for a repeal, revision or alteration of the order of competent official.

The appeal motion has to be in written form and contains the appellant's signature together with their relevant arguments and facts or legal provision

The person receiving the appeal motion shall issue to the appellant a receipt with the date and time when it was received and a signature of the person who received it.

Clause 12 The person who reviews the appeal motion shall perform their duties promptly but within thirty days since the day the appeal motion was received. If concurring with the appeal motion, partially or entirely, an order shall be issued to repeal the previous order or to alter the previous order as deemed fit within the aforementioned deadline.

If disagreeing with the appeal, an order shall be issued to dismiss the appeal and to notify the appellant within seven days since the order has been issued.

In a necessary circumstance whereby the review of the appeal motion cannot be completed within the deadline, the person who reviews the appeal motion shall inform the appellant by letter before the deadline. The extension of the deadline can be made, but not exceeding thirty days since the previous deadline.

Clause 13 For the review of the appeal motion, the person who reviews it shall examine the order based on facts, legal provisions, or its propriety, and may issue an order to repeal the previous order or to alter the order or may impose a different condition on it as deemed fit.

Clause 14 The competent official who issues the order or the Permanent Secretary of Ministry of Digital Economy and Society may alter or repeal the order any time within or beyond the deadline for submitting the appeal motion pursuant to this Notification although the order for the repeal or alteration of the order has to be made in a written form and sent to the person who received the order based on the following circumstances;

- (1) The order contains trivial mistakes or errors.

(2) New evidence emerges, and it may materially alter the conclusion which has previously been reached

(3) If an order has been made based on certain facts or legal provisions, but later such facts or legal provisions have materially shifted to favor the parties.

Chapter IV

Prosecution procedure

Clause 15 A service provider or social media who after properly receiving from the competent official an order under Clauses 7 and 8, has failed to take action to suppress the dissemination or to delete the unlawful computer data under Section 14 from the computer system under their control within the deadline imposed by the competent official or the Notification, and has failed to appeal the order of competent official, in such case, the competent official shall act as follows;

(1) Compile evidence concerning the offense committed by the service provider or social media invoking Section 18 (1) (2) and (3) of the Computer-Related Crime Act B.E. 2550 (2007) and its amendments and other relevant laws;

(2) Report the case to the police to take action against the service provider or social media for cooperating, consenting and acquiescing to the commission of the offense under Sections 14 and 15 of the Computer-Related Crime Act B.E. 2550 (2007) and its amendments;

(3) Prepare a legal opinion concerning the evidence related to the commission of the offense within sixty days since the deadline under Clause 8 in order to furnish the in-charge inquiry official the information concerning the commission of the offense to have a legal action taken against the service provider or social media;

(4) Coordinate with the Office of The National Broadcasting and Telecommunication Commission (NBTC) or other regulatory bodies to have an order issued to suppress the dissemination of the unlawful data or to have the regulatory bodies take legal action against the service provider or social media based on relevant laws.

Clause 16 If the service provider or social media continue to stay complacent and continue to consistently commit the offense, the competent official may coordinate with the Office of The National Broadcasting and Telecommunication Commission (NBTC) or regulatory bodies to take action to revoke the license or to take other action as deemed fit within the scope of the laws which vest powers and duties to the Office of The National Broadcasting and Telecommunication Commission (NBTC) and the regulatory bodies in order to remediate the damage from such unlawful data.

Chapter V

Miscellanies

Clause 17 The implementation pursuant to this Notification shall be carried out by a competent official carefully and commensurate to the circumstance taking into account all relevant evidence, circumstantial evidence, professional ethics and legal principles to which a service provider or social media shall adhere in order to execute their duties as required by relevant laws.

Clause 18 The Permanent Secretary of the Ministry of Digital Economy and Society shall have charge and control of the execution of this Notification.

In interpreting and determining any problematic issue or for the coordination to ensure effective implementation of this Notification, the Permanent Secretary of the Ministry of Digital Economy and Society may appoint a committee, composed of representatives from relevant government and private sectors, in order to jointly consider and proceed in compliance with this Notification.

Manushya Foundation

The Order for the Suppression of Dissemination and Deletion of Data from Computer System

Pursuant to the Computer-Related Crime Act B.E. 2550 (2007)

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As there exists the unlawful computer data under to Section 14 of the Computer-Related Crime Act B.E. 2550 (2007) pursuant to the complaint filed on.....to suppress the dissemination or to remove from the computer system the computer data pursuant to the Computer-Related Crime Act B.E. 2550 (2007) and its amendments as indicated in the list of computer data or the target online location including target URL, or target IP Address or target Domain Name and target web page as the sources of the unlawful data or the relevant target electronic address;

In total, the unlawful data is found in..... items as follows;

1. (URL or details of the unlawful computer data).....
2. (URL or details of the unlawful computer data).....
3. (URL or details of the unlawful computer data).....

Etc.

Therefore, invoking the Notification of the Ministry of Digital Economy and Society on the Notice Procedure, the Suppression of Dissemination of Computer Data and the Deletion of Computer Data from the System B.E. 2565 issued by virtue of Section 4 coupled with Section 15, paragraph two of the Computer-Related Crime Act B.E. 2550 (2007) as amended by the Computer-Related Crime Act (No. 2) B.E. 2560 (2017), the competent official therefore issues an order foras service provider/social media under this Notification to take action to suppress the dissemination or to delete computer data from the computer system. The specific computer data is indicated in the list of computer data or the Target Online Location including Target URL, Target IP Address or Target Domain Name as well as Target web page as the sources of the unlawful data or the relevant Target Electronic Address which are related to the said unlawful data immediately upon receiving the order, but not longer than..... A copy of the complaint and relevant evidence is attached to this order. Should there be any necessary reason which makes it impossible to execute the order, please inform the competent officials at the address or phone number or email indicated at the end of this order.

Ordered on date.....month..... B.E.

(Signed)

(.....)

Position.....

Competent official pursuant to the Computer-Related Crime Act B.E. 2550 (2007)

Name of agency and affiliation, for example the Office of Permanent Secretary of the Ministry of Digital Economy and Society, Division of Legal Affairs

Phone 0 2141 6763

Fax 0 2143 8013

Email: xxx@xxx.xxx

Note: Cross out the phrase “suppress the dissemination” or “delete computer data from the computer system” as the case may be to correspond to detail of the complaint and to attach at least the following documents to the order;

1. Detail of name, last name, and address of the complainant about the commission of the offense or a police daily record, or a written complaint filed with the inquiry official or the police to certify the existence of the offense pursuant to Section 14
2. Detail of the target online location and detail of the unlawful data being disseminated and under the control of the service provider or social media under Section 14
3. Other documents and evidence concerning the commission of the offense with certification of the copy based on the template annexed to this Notification