

Thailand's Cyber Security Law A Potential Though Possibly Exaggerated Threat

Executive Summary

New data retention laws as prescribed under Thailand's Computer Related Crime Act (CCA) have caused concern among multinational corporations operating within and through Thailand that sensitive commercial and personal data could be subject to government review. While the provisions of the law are far-reaching, there is little evidence to date that government officials are monitoring electronic data transmissions by foreign corporations in Thailand. Further, given the intensive resource demands of widespread electronic data monitoring compared to the very limited government resources available to undertake such an effort, it is very likely that only limited, focused monitoring against a few select targets is occurring. The single greatest IT threat to foreign corporations in Thailand was and remains criminal enterprises geared towards obtaining sensitive customer data and not government monitoring.

Thai Cyber Security Law Criminalizes Noncompliance with Archiving Requirements

Thailand's cyber security law will come into force for all businesses that provide Internet access or Internet-related content to employees or customers from August 24, 2007. Under the CCA businesses, must retain and maintain records for a minimum of 90 days. The law prescribes criminal penalties, including prison and fines, for noncompliance. Such requirements have been in place for Internet Service Providers since February.

Thailand's Computer-Related Crime Act took effect on July 19, 2007. As authorized by the CCA, the Ministry of Information and Communications Technology (MICT) issued a Notification on August 21 2007 detailing the various categories of Internet service and content providers as recognized by the CCA and provided examples of the archiving required.

Archiving requirements under Section 26 of the CCA became compulsory for different categories of service providers as stipulated in the MICT Notification as follows:

- 22 September 2007 – Telecommunications and Broadcast Carriers
- 19 February 2008 – Public Network Service Providers or ISP
- 24 August 2007 – All other service providers

Section 26 of the CCA states that a service provider must store computer traffic data for a minimum of ninety days. However, "competent officials" are empowered by the law to instruct a service provider to store data for anything up to one year. Failure to comply is punishable by a fine of not more than 500,000 baht.

Also of note is that the CCA states that the law has extraterritorial application to any Thai citizen operating outside Thailand, and non-Thai citizens operating outside of Thailand but whose actions affects either the Thai government or any person within Thailand.

Analysis

In many ways, the CCA is similar to cyber laws in other countries, and prohibits and provides criminal penalties for the unauthorized access, interception and spoofing of computer systems and their emails and other data. However, Section 26, as detailed above, appears to include archiving requirements that go beyond cyber crime laws in other countries.

There is no evidence, however, that Thai authorities have, or plan to, implement monitoring on a wide scale. The law was enacted in 2007 by the military-appointed national assembly, and may have been motivated by the coup-appointed government's short-term political insecurity over the extra-constitutional removal of former Prime Minister Thaksin Shinawatra.

There is no evidence that multinationals and other businesses operating in Thailand have been or will be targeted through these new laws. Nevertheless, PSA reminds clients to maintain appropriate Internet practices as prescribed under the CCA.

The biggest threat to businesses remains Internet crime and not unreasonable government monitoring of electronic communications.

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