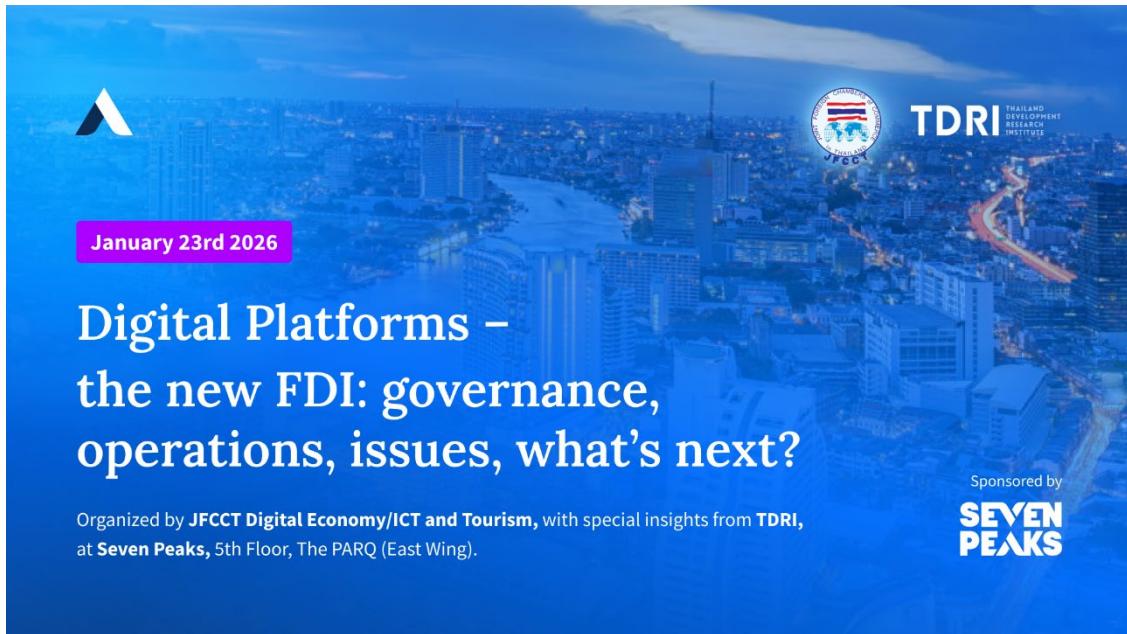


Roundtable on Digital Platforms

Backgrounder v 1.8



Friday 23 January 0900 – 1100 ; Regn 0830

(in person; Zoom exceptionally for those not in Bangkok hybrid - BYOD model encouraged)

What is it? –

- I. not a seminar but way of bringing understanding on current status of law & regulation, proposals and developments
- II. Recommendations for next stages, and engagements

Indicative Agenda

- 1) Welcomes from chair, Digital Economy/ICT Committee, and Chair, Tourism Committee, JFCCT
- 2) Overview of JFCCT engagement on Digital Platforms, major issues; reference to background materials. Outline of key industry issues.
- 3) Description by TDRI.
- 4) Walk through of issues
- 5) Proposed Hotels Act aspects of platform regulation.
- 6) Review of recommendations
- 7) Digital Government developments which are relevant (eg Digital ID, WP&V) if time allows

Invited:

- All Digital Economy/ICT interested people; Tourism Committee interested people
- TDRI - [Dr Saliltorn Thongmeensuk](#)
- Thammasat Business; PS Engage

Next stage post this event, engage with:

- EDTA ED Dr Chaichana
- DGA – Dr Asis

QUICK BACKGROUND

Digital Platforms are a new kind of FDI. If a foreign platform, typically there is no commercial presence (Mode 3 delivery of services); rather Mode 1 is the basis.

A Digital Platform Services law (a Royal Decree) has been in force since 2023. It is loosely modelled on the EU Digital Services Act – about better business and consumer protection.

A Platforms Economy Act (PEA) would include provisions based on the EU Digital Markets Act (DMA) – about competition regulation.

Issues include (a more complete set available at the event)

DPS law and PEA; TCCT proposed Guideline

Regulatory Purpose

What kinds of platforms should the regulation apply to? The DPS Law is broad. Social media platforms become on-line market places for example. The broad scope has in effect been modified by regulation; ETDA must designate which platforms are relevant.

Requirement for in-country representatives. Or is support and service more important? Unintended Permanent Establishment (PE) consequences

Ten principles– which will be reflected?

‘Trusted Flagger’ issue which could be open to misuse and could support corrupt practices.

Hotel Act

Tourism sector and OTA’s – avoiding anti competitive practices but maintaining ease of doing business. Hotel Act changes

CHRONOLOGY

Mid 2021	Platforms Economy principles released by STO assisted by Dr. Somkiat Tangkitvanich (TDRI) and his team.
2021 - 2022	Seminars, workshops, 'unidirectional public hearing' etc
30 Sep 2021	 <p>The Future of Thailand's Digital Economy</p> <p>An exclusive webinar hosted by Asia Group Advisors and the Faculty of Law, Thammasat University</p> <p>September 30, 2021 at 10:00-11:30 AM (ICT)</p> <p>Distinguished speakers: Dr. Chaichana Mitpan, Thitirat Thipsomikitkul, Robert Fox, Assoc. Prof. Munin Pongsapan, Nathabhorn Juengsanguansit</p> <p>One such event organised by AGA and Thammasat Law</p>
2022 and 2023	<p>The Royal Decree on the Operation of Digital Platform Services Subject to Prior Notification B.E. 2565 (2022), commonly known as the DPS Law, was Gazetted on December 23, 2022 and came into full force after 240 days (effective August 21, 2023). To date (2026), there are 26 sub-regulations issued under this Decree.</p> <p>ETDA says the DPS law and regulations are not a licence, but it requires notification / registration. It has been argued that if, once registered, conduct is regulated and the ability to function can be withdrawn, it is in effect a licence.</p> <p>Operators must notify ETDA before commencing business if they meet specific threshold (Revenue exceeding 1.8 million THB for individuals or 50 million THB for entities (Section 8(1)) ; or more than 5,000 monthly active users(Section 8(2)). Failure to comply can result in an administrative order to cease operations until the notification is corrected (Section 13, paragraph 3), and continued non-compliance can lead to the revocation of the notification (Section 13 (4)).</p>
Late Jan 2024	<p>A draft Platforms Economy Act (PEA) is released to a small group. The PEA would:</p> <ul style="list-style-type: none"> • Repeal and replace existing DPS law • Include Platform Economy Principles • Include Competition aspects modelled on EU DMA (Digital Markets Act)
Feb 2024	JFCCT questions and submission
Feb 2024	At Feb 2024 – 1,600 registrations under DPS law – lots more than expected
1 April 2024	Baker McKenzie editorial in Bangkok Post
25 Apr 2024	Update from Gov't House OPM (Khun Jack) in person small group also with ED ETDA about proposed PEA
17 Jul 2024	"Competition and Consumer Protection Policy Frameworks in the Age of Digital Economy: Overcoming Regulatory Barriers and Finding a Balance Between Policy

	and Innovation." at Thammasat Law; DE/ICT Chair provided an industry perspective. See Concept Note in Compendium
26 Aug 2024	NUS and Thammasat Law 1230: "Digital Economy and Platform Regulations: Regulatory approaches for the Development of the Digital Economy in Southeast Asia". DE/ICT Chair spoke on self regulation. See Concept Note in Compendium
Late 2024	7 Nov - review of a PEA idea from existing DPS law perspective. 8 Nov review of a PEA from 'DMA' status. 3 Dec – in person hearing See TDRI background information document
Nov 25, 2024	ETDA releases draft platform economy Principles https://www.tilleke.com/insights/thailand-seeks-comments-on-principles-of-draft-platform-economy-act/ ; comments open to 15 Dec, extended to 31 Dec.
15 Jan 2025	ETDA releases draft PEA for comment until 15 Feb 2025. https://www.tilleke.com/insights/thailand-releases-draft-platform-economy-act-for-public-comment/2/?utm_source=chatgpt.com
2025	Industry groups have escalated their engagement, including direct dialogue with the Prime Minister's Office. The Secretary-General to the PM, Dr. Prommin, has since urged the Office of the Council of State (OCS) to suspend the bill's development. On 17 March, the OCS formally requested Cabinet approval to pause the draft, citing misalignment with investment promotion policies and the need for further study by STO, TCCT, and ETDA.
8 April 2025	Cabinet resolution: 1. Confirmation of the earlier Cabinet position (24 May 2022): Cabinet reaffirmed that Thailand should not rush into enacting a Digital Platform Economy Act. Instead, the drafting of such legislation should be treated as a preliminary or exploratory step, with further assessment required before any formal submission to the Cabinet for approval. 2. Assignment of responsibilities for further study: The Cabinet instructed relevant agencies, including: <ul style="list-style-type: none">the STOMDES, andTCCT to jointly study, review, and design appropriate approaches for regulating digital platforms in Thailand. This includes both regulatory measures and supporting mechanisms, ensuring they are suitable for Thailand's economic and social context. 3. OCS is tasked with studying legal options and regulatory models for governing digital platforms and must report its findings to the Cabinet within one year. 4. Consideration of economic impacts and regulatory overlap: The Cabinet emphasized that the review must carefully consider: <ul style="list-style-type: none">Risks and opportunities for Thai businesses, particularly SMEs, arising from platform regulation.

	<ul style="list-style-type: none"> • Potential regulatory gaps, duplication, or overlap with existing sectoral and competition laws. • The burden of compliance on businesses and the broader economic impact of imposing new regulatory obligations. <p>5. TCCT was specifically requested to examine:</p> <ul style="list-style-type: none"> • How regulation of digital platforms would affect competition in digital markets, and • Whether new regulatory rules could unintentionally distort market development or negatively affect consumer welfare. <p>6. The resolution highlighted the need for broad and continuous stakeholder consultation at every stage, particularly with affected businesses and platform users, before any legislative proposal proceeds further</p>
21 May 2025	TCCT press release about imminent issuance of guidelines (PR talks of progress on drafting new guidelines)
24 June 2025	<p>Cabinet resolution:</p> <ol style="list-style-type: none"> 1. Take note of the approach to enacting legislation for the regulation of digital platforms to enhance consumer and user protection, to improve regulatory enforcement, to promote a level playing field, and potentially support negotiations concerning United States tariff measures. 2. The Cabinet further emphasized the need for market studies, personnel capacity building, and effective inter-agency coordination with clearly defined roles and responsibilities to ensure readiness and avoid regulatory overlap. 3. To assign the MDES (Electronic Transactions Development Agency: ETDA) and the Trade Competition Commission of Thailand (TCCT) to expedite reaching a conclusion on appropriate approaches and measures for the promotion and regulation of the digital platform economy suited to the Thai context.
4-5 Sep 2025	<p>ASEAN Workshop on Regional Recommendations for Digital Platform Regulation</p> <p>ASEAN seeks a common hand on digital platforms - TDRI: Thailand Development Research Institute</p>
11 Sep 2025 press	<p>ETDA is expected to propose an amended draft of the Computer Crimes Act to MDES in October as part of efforts to regulate content delivered via over-the-top (OTT) platforms in Thailand”</p> <p>“Some clauses of the National Broadcasting and Telecommunications Commission (NBTC) Act may have to be amended to help govern the OTT domain, ...</p> <p>NBTC has authority over TV broadcasting and spectrum utilisation, while the MDES is responsible for content under the Computer Crimes Act”</p>
12 Sep 2025 press	“TCCT is set to launch guidelines for assessing unfair trade practices and actions that constitute a monopoly, reduction or restriction of competition in multi-sided platform businesses, specifically for digital e-commerce.” The Guidelines are in the form of a Notification (see next)
Sep 2025	TCCT proposed draft Notification (which are in substance a Guideline) under consultation. Hearing period 19 August to 18 September

	<p>2025 https://www.law.go.th/listeningDetail?survey_id=NTY5N0RHQV9MQVdfRIJPTIRFTkQ=</p> <p>Hearing name: "Hearing on the Draft Notification of the Competition Commission Re: Guidelines for Considering Unfair Trade Practices and Acts that Monopolize or Reduce Competition or Limit Competition in Multi-sided Platform Business Category Digital Services and E-Commerce"</p> <p>Problem: business operations or transactions between business operators are complex, linked to each other in various aspects, creating a network effect, which affects the commercial behavior of business operators with specific characteristics, which changes significantly according to market dynamics and technological advancements.</p> <p>Explanation It is appropriate to prescribe guidelines for practice to ensure free and fair trade competition without the characteristics of monopoly. This includes collective agreements or other legal acts in the operation of multi-sided platform business between digital service providers of e-commerce platforms and/or with any other business operators with interconnected business operations. For the benefit of supervision in accordance with the Competition Act, B.E. 2560 (2017) and related laws.</p> <p>Related parties Business operators, trade institutions, trade associations, government agencies, legal advisors, related parties, and the general public.</p> <p>No such Notification has been finalised or published, or gazetted. The proposed draft Notification under consultation (EN) are in the compendium. Summary only of key obligations:</p> <p>General duty of fair conduct: E-commerce and multi-sided digital platforms should operate fairly and reasonably, without practices that exclude, coerce, discriminate, or distort competition, and must be able to justify their conduct on economic or business grounds.</p> <p>Restrictions on pricing and fees: Platforms should not impose unfair pricing practices (e.g. below-cost or predatory pricing, resale price maintenance, parity clauses) or charge excessive, discriminatory, or newly introduced fees without reasonable justification or prior notice.</p> <p>Limits on platform power and self-preferencing: Platforms should not unfairly advantage their own services or affiliates (including through algorithms), restrict visibility of sellers, force the use of in-house logistics/payment/advertising services, impose exclusive dealing, or misuse sellers' data to gain competitive advantage.</p>
Sep 2025	Proposed Hotels Act aspects of platform regulation. https://www.nationthailand.com/business/economy/40054809

	"Digital Platform Regulation: In a major move, the new act will introduce measures to regulate digital platforms like Airbnb, Agoda, and Booking.com. This is intended to protect consumers, ensure fair competition between small and large businesses, and encourage previously unregulated accommodations to join the formal system."
20-22 Oct 2025	ASEAN-UNESCO Multistakeholder Forum on the Governance of Digital Platforms . Athenee Hotel. ASEAN multistakeholder forum on the governance of digital platforms, 20-22 October 2025

Currently relevant instruments and background papers - select files in the Digital Economy/ICT Compendium about p.17 under heading B. Other Topics 2025

<https://docs.google.com/document/d/1CDw2TLrlJILINTMhQ7XqGqAwpqyrf5LV041GEJCMH5E/edit?tab=t.0>

DPS law

- i) DPS Law EN (2022, in force 2023)

At Feb 2024 – 1,600 registrations. Once registered there are obligations, it is like a licence (ETDA says the Decree is not a licence, but it requires notification / registration; but if regulated and the ability to carry on business can be removed, why is it not like a licence?)

- ii) Instruments (regulations as Notifications) under DPS law
 - Initially 12; see chart in Compendium of all sub regulations now about 25; including:
 - 11 June 2024: No. THOR POR DOR 3/2567 Guideline on the Supervision of Advertisements on Digital Platform Services
 - hearing Nov/Dec 2024 about draft Notification – “Additional duties with special characteristics under s. 18 DPS law” – issue about local entity – contra WTO principles – cross border trade should not mandate Mode 3 (Commercial presence),
 - 15th ride hailing, eCommerce platforms
 - ‘Trusted Flagger’ concept

Platforms Economy Act

- (iii) Platform Economy Principles (10)
- (iv) TDRI paper EN
- (v) AIC / Thammasat / NUSpaper 1 July 2024 – recommends caution with a PEA.

- (vi) Current draft PEA – cabinet issued underlying principles (10) of the draft in Nov 2024 and a draft PEA in January 2025 (see T&G story in chronology link above 15 Jan 2025)
- (vii) TDRI background paper in connection with hearings Nov and 3 Dec 2024. (TH version , is there an EN version?)

TCCT Notification as Guideline

- (viii) TCCT proposed draft Notification as a Guidelines (Aug, Sep 2025) EN
- (ix) Some comments about draft Notification

Hotel Act

- (x) Hotel Act 2004
- (xi) Proposed Amending Act to Hotel Act - October 2025.
<https://www.nationthailand.com/business/economy/40054809>
A proposed Hotels Act amendment includes regulation of platforms.

ETA

- (xii) Electronic Transactions Act 2001 (ETA)
- (xiii) Proposed changes to ETA