

– Unofficial Translation –

**Notification of the Ministry of Digital Economy and Society**

**Re: Characteristics and Method of Sending, Characteristics and Size of Data, and  
Frequency and Method of Sending Without Disturbing the Recipient**

**B.E. 2560 (2017)<sup>1</sup>**

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Whereas, it is expedient to prescribe the characteristics and method of sending, characteristics and size of data, and frequency and method of sending computer data or electronic mail which shall be considered as not disturbing the recipient.

By virtue of Section 4 in conjunction with Section 11, Paragraph three 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 has issued the following notification:

**Clause 1** This Notification is called the “Notification of the Ministry of Digital Economy and Society Re: Characteristics and Method of Sending, Characteristics and Size of Data, and Frequency and Method of Sending Without Disturbing the Recipient B.E. 2560 (2017)”.

**Clause 2** This Notification shall come into force as from the day directly following the date of its publication in the Government Gazette.

**Clause 3** In this Notification:

“**computer data**” means information, messages and concepts or instructions, 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.

“**electronic address**” means: (1) destination address for receiving electronic mail (e-mail address); or (2) destination address on the internet for receiving the computer data (IP Address of computer data), which may consist of username, recipient’s name or inbox (e-mail box) e-mail of the recipient, including telephone number or address on the internet (IP address) of the recipient; whereby such address can refer to the destination domain name or destination address of the computer network or computer device used for receiving the computer data, regardless of whether or not such address is visible.

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<sup>1</sup> Government Gazette, Volume 134, Special Part 188 Ngor / Pages 1-5 / 22 July B.E. 2560 (2017)

**“recipient”** means a person, to whom a sender of information sends computer data or an e-mail, and has received such computer data or e-mail, excluding a person who is an intermediary for such computer data or e-mail.

**“sender”** means a person who has an intent to send computer data or an e-mail for commercial benefits, either by offering goods or services, investment or any land/property, including the website hosting service provider, an application service provider or online social media service provider who advertises or supports such sending of information data or e-mail; excluding the telecommunications service provider who is the intermediary for the transmission of such data or e-mail.

**“State agency”** means Ministry, bureaucracy, department, government agency called by another name and ascribed the status of a department, regional administration, local administration, State enterprise which is established by an official Act or Royal Decree, including a juristic person or a person entrusted with the power and duty to carry out any administrative acts.

**“electronics”** means application of the operation of electron, electricity, electromagnetic wave or any other similar operation including the application of optical operation, magnetic operation or devices related to the application of such various operations.

**Clause 4** Sending of computer data or e-mails to other persons in the following manners shall not be considered as disturbing the recipient:

(1) Sending of computer data or e-mail to communicate or to be evidence of contract making (transactional), to which both parties agree on, or sending of information that the recipient and sender have sent to comply with the law, or to legally express the relationship or legal relationship between both parties, which are the acts possessing the following characteristics:

(a) sending of computer data or e-mail for verifying the payment of debt or any other action that is a part of the legal composition of a commercial transaction which the recipient and the sender had already agreed to enter into.

(b) sending of computer data or e-mail to be a factor in exercising the right to legal claims or legal settlement of debt, or sending of information for entering into a legal transaction in accordance with the forms or any conditions required by law, and in which the recipient and the sender have already agreed to enter into.

(c) sending of computer data or e-mail for providing a warranty, recalling products or service due to a defect, or if such product fails to meet the industrial standard, safety standard or standard of products and services, as well as data relating to security for products and services.

(d) sending of computer data or e-mail relating to the amendment or revision of, and addition to, the previous conditions of sale and purchase of products and services, services for members, registration for receiving services, or revision and addition regarding the legal transactional relationship, in any aspects under the laws.

(e) sending of computer data or e-mail relating to the legal relationship derived from the employment agreement, hire of work agreement or any other benefits which are related to and agreed upon between the recipient and the sender.

(f) delivery of goods and services in accordance with the agreement between the sender and the recipient, such as membership or subscription for becoming a user of any legal services, for which the recipient and sender have agreed upon in advance.

(g) sending of computer data or e-mail in compliance with the laws.

(2) Sending of computer data or e-mail by the government, the National Assembly, a court or any State agency in charge of the execution of the law, for notification of the prescriptions, regulations, laws, orders or a result of any administrative transaction, without any commercial purpose or pursuit of profits for business.

(3) Sending of computer data or e-mail by an educational institution, agency or charitable organisation that does not have a commercial purpose, or pursuit of profits for business.

(4) Sending of computer data or e-mail which in its character is not unlawful, does not infringe on privacy rights and does not have any commercial purpose.

**Clause 5** In the case of sending of computer data or e-mail for commercial use, besides in the ways as stated under Clause 4, to an e-mail address in the following manners after obtaining consent from the recipient, shall not be considered as disturbing the recipient:

(1) a sender must include the following message in the computer data or e-mail sent to each individual recipient:

(a) clearly expressing or showing signs or details and a method in which the recipient can easily terminate or refuse the receipt of computer data or electronic mail (Opt-Out) from the sender;

(b) method that gives the recipient a chance to notify of their desire to terminate, refuse or decline the receipt of information, shall consist of the following details:

1) any technical measure enabling the recipient to easily respond to the sender in order to terminate, refuse to receive the information or decline to receive the information, such as to include an e-mail address, phone number, facsimile number or contact address of the sender, in order to send to and cause the sender to stop sending computer data or electronic mail to the recipient; or

2) any method of computer operation by providing the URL, a form or any computer command for enabling the recipient to make a command to decline the receipt of such information or to promptly unsubscribe.

(2) After the sender receives a command to cancel, terminate or decline the receipt of computer data, or to unsubscribe from the e-mail correspondence from the recipient, the sender must promptly proceed to stop sending information to the recipient. In the event that there is a justified reason to not be unable to cancel promptly, the sender must cancel the sending of information without delay, provided that the process must be completed within 7 days as from the date on which the command from the recipient is received.

(3) In expressing the method or specifying the form for terminating, cancelling or declining the receipt of such computer data or e-mail, the sender or any person relevant to sending of information is prohibited to do as follows:

(a) to demand the recipient to pay or give any benefits in return (pay a fee);

(b) to ask for any additional information from the recipient, except to request information for supporting the cancellation of sending such computer data;

(c) to proceed with any additional actions for commercial purposes, such as being required to click a command button (click) for any business benefits, or to enter a website or any other channel of a service provider, or selling additional goods or services.

(4) In the event that the recipient sent a command to the sender to terminate, cancel or decline the receipt of information, and it appears that the sender still fails to follow the command and sends additional computer data or e-mail; the recipient shall resend the command to terminate, cancel or decline the receipt of information to the sender by sending a notice via e-mail and registered mail with a record of delivery, or any methods that could verify that the sender has received such command. If it appears that the sender still violates and sends the additional computer data or e-mail, the sender shall be deemed to be guilty in accordance with Section 11, Paragraph two of the Act and shall be subject to a fine not exceeding two hundred thousand Baht.

**Clause 6** A sender who is a website service provider, an application service provider or an online social media service provider - who advertises or supports such sending of information or e-mail - must provide a measure or channel for terminating, cancelling or declining receipt of the above-mentioned information or e-mail to the user of its website, application or online social media platform. In this regard, the website service provider, application service provider or social media service provider shall inform the details of the measure(s) or channel(s) for terminating, cancelling or declining the receipt of information or e-mail to the users; and such measure or channel must be the measure or channel that the users can easily understand and access.

In the event that a website service provider, an application service provider or an online social media service provider fails to perform in accordance with Clause 5, such web service provider, application service provider or online social media service provider shall be deemed liable to the same penalty as the sender under Section 11 of the Act.

**Clause 7** The Permanent Secretary of the Ministry of Digital Economy and Society shall have charge and control of the execution of this Notification, as well as have the power to interpret and decide any issue arising from the execution of this Notification.

In interpreting and deciding any issue, the Permanent Secretary of the Ministry of Digital Economy and Society may establish a working group consisting of representatives from the relevant public and private sectors to jointly consider and proceed in accordance with this Notification.

Announced on the 21<sup>st</sup> day of July B.E. 2560 (2017)

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Minister of Digital Economy and Society