

**Notification of the Ministry of Digital Economy and Society
Re: Process of the Notification, Blocking Dissemination
and Deletion of Computer Data from Computer System
B.E. 2560 (2017)¹**

Whereas, it is expedient to specify the process of the notification, as well as blocking dissemination and deletion of computer data from the computer system of a service provider.

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 “Notification of the Ministry of Digital Economy and Society Re: Process of the Notification, Blocking Dissemination and Deletion of Computer Data from Computer System 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 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.

¹ Government Gazette, Volume 134 / Special Part 188 Ngor / Pages 6-11 / 22 July B.E. 2560 (2017)

(2) a person who stores computer data for the benefit of other persons.

“**user**” means a person who uses the service of the service provider regardless of whether with or without pay.

Clause 4 If the following service provider can prove that the service is provided in compliance with this Notification in the following manners, such service provider shall not be subject to the penalty for the offence of cooperating, consenting or connivance under Section 15 of the Act:

(1) An intermediary service provider (intermediary), whose service consists of computer data transmission in the service provider’s communication network or computer system, the facilitation of computer traffic internet routing for computer data transmission or the provision of computer, computer equipment or computer network system for the intermediate transit of computer data communication (transitory communication – mere conduit), and has the following characteristics, on the condition that the intermediary service provider has proceeded in accordance with Clause 5:

(a) being a service provider for computer data transmission in its usual course of services, where the transmission is conducted or controlled by the user or any third party who is not 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;

(d) being a service provider for the computer data transmission without keeping such computer data or content of information as merely an intermediary for temporary transmission of information, or for temporary storage of transmitted computer data (transient storage), to the extent necessary for making the information be transmittable; provided that the service provider does not save a copy of the computer data or content of information in the service provider’s computer system, or network in a manner where the public may later access to such information;

(e) provision of computer data transmission through a computer system without any modification to such information or content of information.

(2) A service provider for intermediate or temporary storage of computer data (system caching) in the computer system, and has the following characteristics, on the condition that the service provider has proceeded in accordance with Clause 5:

(a) provision of the service of receiving - sending computer data, where the transmission of information content is totally monitored and controlled on the computer system by the user or another person without any involvement of the service provider;

(b) provision of the service of computer data transmission between computer networks for enabling the storage of information;

(c) provision of the service of computer data storage through computer devices 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;

(b) not be able to access in order to modify computer data or content of information.

(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 proceeded in accordance with Clause 5:

(a) the service provider has no intent and involvement, and does not know 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 offence under 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 5 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 5:

(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 such commission of offence under the Computer-Related Crime Act;

(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 5 of this Notification.

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

Clause 5 Any service provider under Clause 4 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, shall not be subject to the penalty under Section 15 of the Act:

(1) Notice procedure

The service provider shall carry out the reporting notification measures by preparing a written Take Down Notice, available to the public either by technical measure or any other measure, for notifying the service provider to block the dissemination or to delete unlawful computer data from the computer system which is under the control of the service provider. The said Take Down Notice of the service provider shall include, for the general public's knowledge, the following information:

(a) name, address, telephone number or e-mail address of the service provider, or the service provider's representative;

(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 offence as stated under Section 14 of the Act;

2) detailed information of the commission of offence stated under Section 14 of the Act;

3) details and contact address of the service provider, i.e. service provider's name, address, telephone number, facsimile number, e-mail address (or other method or channel for contacting the service provider);

4) details of damage incurred to the user or another person;

5) statement certifying that such notified information is truthful.

(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, the user may notify the service provider, 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 Act, 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 offence and other related evidence to the inquiry official or police officer;

(b) to inform the service provider of the details relating to the dissemination of unlawful computer data stated under Section 14 of the Act by filling in the form according to Paragraph (1)(b), as well as to submit to the service provider evidence according to Paragraph (2)(a); including the evidence showing the commission of offence or any other relevant evidence.

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

When a service provider receives a complaint in accordance with the form under Clause 5(1)(b) and the relevant evidence thereof, the service provider 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;

(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, but not later than the following specified duration for speedily remediating the damages and suppressing the offence:

1) 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, provided that in any event of delay, the action must be taken within 7 days from the date on which the complaint is received;

2) 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, provided that in any event of delay, the action must be taken within 24 hours from the date on which the complaint is received;

3) 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, provided that in any event of delay, the action must be taken within 3 days from the date on which the complaint is received.

(4) Objection

The owner of the computer data of which the dissemination has been blocked may object against the blockage to the service provider by requesting for cancellation of the blockage, in accordance with the following procedures:

(a) to report and have the police record in the diary report, or to complain or file a complaint to be evidence thereof, to an inquiry official or a police officer - by informing the details relating to the computer data whereto the dissemination has been blocked under Section 14 of the Act, as well as details of the service provider, details of damage incurred to the owner of computer data and submitting the evidence showing the ownership and the legality of such computer data, together with other related evidence to the inquiry official or the police officer.

(b) to notify the details relating to his/her computer data in which the dissemination is blocked under Section 14 of the Act to the service provider, and to submit the evidence under Paragraph (4)(a), including the other related evidence to the service provider.

(c) After the service provider receives an objection under Paragraph (b) above, the service provider shall proceed to cancel the blockage of dissemination according to the informed objection, provided that it is appropriate and depending on the type of service.

Clause 6 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, the Permanent Secretary of the Ministry of Digital Economy and Society may appoint a committee, comprising of representatives from relevant government and private sectors, in order to jointly consider and proceed in compliance with this Notification.

Announced on the 21st day of July B.E. 2560 (2017)

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Minister of Digital Economy and Society