

COUNTRY: THAILAND

SCORE: 44.01 | RANK: 23/24

Thailand's laws and policies in relation to cloud computing and the digital economy are patchy, with strengths in some areas and significant gaps and weaknesses in others.

Thailand has implemented comprehensive cybercrime legislation, which helps to enhance confidence in ICT. Thailand also has good laws in place for electronic commerce and electronic signatures.

However, Thailand has no privacy laws in place, and this is a major weakness.

Thailand's intellectual property laws also require significant updating and expansion, as they do not currently cover rights management information, technical protection measures, or anti-circumvention.

Additional risks in Thailand include mandatory Internet censorship (some of which is clearly political in nature) and filtering and some technology mandates.

Overall, Thailand's results have not changed significantly between the 2012 and 2013 Scorecards but the country's ranking has slipped one spot to 23rd.

Q THAILAND	RESPONSE	EXPLANATORY TEXT
DATA PRIVACY		
1. Are there laws or regulations governing the collection, use, or other processing of personal information?	✘	Draft legislation (the Personal Data Protection Bill) has been under development for many years, but there is no timetable for implementation.
2. What is the scope and coverage of privacy law?	Not applicable	
3. Is the privacy law compatible with the Privacy Principles in the EU Data Protection Directive?	✘	There is no relevant privacy law in Thailand.
4. Is the privacy law compatible with the Privacy Principles in the APEC Privacy Framework?	✘	Thailand is a member of APEC, but there is no relevant privacy law at this stage.
5. Is an independent private right of action available for breaches of data privacy?	Available	Although Thailand does not currently have any specific data protection or privacy laws, the sale or disclosure of personal information without the consent of the relevant person could be subject to the privacy-related provisions of other laws (e.g., Section 37 of the Constitution and Section 74 of the Telecommunications Business Act). Some breaches could also be subject to restrictions on disclosure of pictures or statements that violate or affect a person's privacy, reputation, or dignity (Section 34 of the Constitution) or restrictions on disclosure of secret information in certain relationships (Sections 323 and 324 of the Penal Code).
6. Is there an effective agency (or regulator) tasked with the enforcement of privacy laws?	None	
7. What is the nature of the privacy regulator?	Not applicable	
8. Are data controllers free from registration requirements?	✔	There are no registration requirements in Thailand.
9. Are cross-border transfers free from registration requirements?	✔	There are no registration requirements in Thailand.
10. Is there a breach notification law?	✘	There are no data breach notification requirements in Thailand.

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SECURITY		
1. Is there a law or regulation that gives electronic signatures clear legal weight?	✓	Chapter 2 of the Electronic Transactions Act 2001 contains the section on electronic signatures (Section 26) The Electronic Transactions Act provides provisions on requirements for reliable electronic signatures and certification service providers. Under the law, there are no licensing requirements for electronic transactions-related service providers. However, as part of the Electronic Transactions Laws (No. 3) package of amendments, a royal decree is expected in 2013 that would require a service provider to notify, register, or obtain a licence before providing electronic transactions-related services. This extends to certification authority services for issuing digital certificates and to certifying the reliability of Certification Service Providers. Thailand has established the Electronic Transactions Development Agency www.etcha.or.th to promote such transactions to the business and public sectors and to support the development of security-related guidelines and monitoring systems.
2. Are ISPs and content service providers free from mandatory filtering or censoring?	✗	A large number of sites, mostly on child pornography or national security grounds, are blocked in Thailand. The Ministry of Information and Communication Technology (MICT) maintains a blacklist, and ISPs are required to block all access to these sites. Parts of the blacklist have been leaked, revealing that many blocked sites are political in nature.
3. Are there laws or enforceable codes containing general security requirements for digital data hosting and cloud service providers?	None	There are no legal security requirements at this stage, although security requirements are likely to be included in the proposed privacy legislation.
4. Are there laws or enforceable codes containing specific security audit requirements for digital data hosting and cloud service providers?	None	There are no legal security requirements at this stage, although security requirements are likely to be included in the proposed privacy legislation. (However, these may not include audit requirements.)
5. Are there security laws and regulations requiring specific certifications for technology products?	No requirements	Thailand is not a member of the Common Criteria Recognition Agreement (CCRA) < www.commoncriteriaportal.org >. Certifications are not required in government procurement opportunities in Thailand.
CYBERCRIME		
1. Are cybercrime laws in place?	✓	On July 18, 2007, the Computer Crime Act B.E.2550 (2007) came into force in Thailand. It contains a mix of general computer crime and cybercrime provisions.
2. Are cybercrime laws consistent with the Budapest Convention on Cybercrime?	✓	The key provisions follow the text of the Convention on Cybercrime, although some of the investigation, enforcement, and data retention provisions were changed by last-minute amendments in the Thai Parliament. Overall, the legislation aligns closely with the Convention.
3. What access do law enforcement authorities have to encrypted data held or transmitted by data hosting providers, carriers, or other service providers?	Unlimited access	Section 18(7) of the Computer Crime Act contains a relevant requirement: decode any person's computer data or instruct any person related to the encryption of computer data to decode the computer data or cooperate with a relevant competent official in such decoding.
4. How does the law deal with extraterritorial offenses?	Comprehensive coverage	Section 17 of the Computer Crime Act states: Any person committing an offence against this Act outside the Kingdom and; (1) the offender is Thai and the government of the country where the offence has occurred or the injured party files a request for punishment or; (2) the offender is a non-citizen and the Thai government or Thai person who is an injured party and the injured party files a request for punishment; shall be penalized within the Kingdom.
INTELLECTUAL PROPERTY RIGHTS		
1. Is the country a member of the TRIPS Agreement?	✓	Thailand became a member of the TRIPS Agreement in 1995.
2. Have IP laws been enacted to implement TRIPS?	●	Thailand has implemented the basic provisions of TRIPS in its local laws, but it has been the subject of regular criticism for failing to impose criminal remedies that are "sufficient to provide a deterrent" (TRIPS Article 61). Substantial delays are also common in investigations and enforcement.
3. Is the country party to the WIPO Copyright Treaty?	✗	Thailand has not signed the WIPO Copyright Treaty.

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4. Have laws implementing the WIPO Copyright Treaty been enacted?	✘	Reform of relevant intellectual property laws in Thailand has been very slow. However, a new draft Copyright Act has been developed by the Ministry of Commerce. It was approved by the Cabinet on October 9, 2012, and should be debated in Parliament in early 2013.
5. Are civil sanctions available for unauthorized making available (posting) of copyright holders' works on the Internet?	✔	Section 15(2) of the Copyright Act 1994 states the communication right that is defined in Section 4 to mean "communication to the public" means making a work available to the public by means of performing, lecturing, preaching, playing music, causing the perception by sound or image, constructing, distributing, or by any other means — which would include posting on the Internet. Section 27(2) provides that it is an infringement to exercise the copyright owner's right of communication to the public. Civil sanctions are also available for unauthorized making available (posting) of copyright holders' work on the Internet according to Section 420 about "tort" of the Commercial and Civil Code.
6. Are criminal sanctions available for unauthorized making available (posting) of copyright holders' works on the Internet?	✔	Criminal sanctions are available in the Copyright Act 1994 under a combination of Section 30(2) and Section 69.
7. Are there laws governing ISP liability for content that infringes copyright?	✘	There are no specific laws covering ISP liability for content that infringes copyright.
8. Is there a basis for ISPs to be held liable for content that infringes copyright found on their sites or systems?	✘	There are no specific laws covering ISP liability for content that infringes copyright.
9. What sanctions are available for ISP liability for copyright infringing content found on their site or system?	Not applicable	
10. Must ISPs take down content that infringes copyright, upon notification by the right holder?	✘	There are no specific take-down requirements for ISPs.
11. Are ISPs required to inform subscribers upon receiving a notification that the subscriber is using the ISP's service to distribute content that infringes copyright?	✘	There are no notification requirements in place.
12. Is there clear legal protection against misappropriation of cloud computing services, including effective enforcement?	Limited protection (criminal activity only)	There is no specific protection for misappropriation of services. The closest provision is Section 30 of the Copyright Act 1994, but this provision is designed to cover only the "rental" of a computer program — so if a person misappropriates services for personal use, it is not specifically covered. Thailand is expected to update its copyright laws in early 2013. A moderate layer of protection is provided under Thailand's cybercrime laws.
SUPPORT FOR INDUSTRY-LED STANDARDS & INTERNATIONAL HARMONIZATION OF RULES		
1. Are there laws, regulations or policies that establish a standards-setting framework for interoperability and portability of data?	✔	The Industrial Products Standards Act B.E. 2511 (1968) established a standards development process in Thailand, and this has included some limited standards development activity in the ICT sector.
2. Is there a regulatory body responsible for standards development for the country?	✔	The Thai Industrial Standards Institute (TISI) <www.tisi.go.th> was established in the Ministry of Industry as the national standards body of Thailand.
3. Are e-commerce laws in place?	✔	The Electronic Transactions Act 2001, which entered into force in April 2002, governs both civil and commercial transactions made electronically, with exceptions only as may be prescribed by royal decree pursuant to the law. It does not override laws and regulations intended for consumer protection.
4. What international instruments are the e-commerce laws based on?	UNCITRAL Model Law on E-Commerce	The Electronic Transactions Act 2001 includes a mix of provisions from several international models, but the key sections follow the UNCITRAL Model Law on E-Commerce. (The electronic signatures sections cover the Model Law on Electronic Signatures.) More recent amendments have attempted to align the law with the UN Convention on Electronic Contracting, which Thailand is considering signing.

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5. Is the downloading of applications or digital data from foreign cloud service providers free from tariff or other trade barriers?	✓	No import tariffs are imposed on the download of software from foreign sources, as a download is not considered to be an importation. However, withholding tax applies to downloads by companies based on the price of the download. The rate of withholding tax ranges from 5% (where the foreign source is the US) to 15%.
6. Are international standards favored over domestic standards?	✓	Thailand has signed the WTO Technical Barriers to Trade (TBT) Code of Good Practice for the Preparation, Adoption and Application of Standards, and therefore considers international standards carefully.
7. Does the government participate in international standards-setting process?	✓	Thailand participates in relevant ISO and IEC standard-setting processes and is a full member of the ISO.
PROMOTING FREE TRADE		
1. Are any laws or policies in place that implement technology neutrality in government?	✗	There are no specific laws or policies promoting technology neutrality in government procurement in Thailand.
2. Are cloud computing services able to operate free from laws or policies that mandate the use of certain products (including, but not limited to, types of software), services, standards, or technologies?	✓	There are no laws or policies on mandatory product requirements in Thailand.
3. Are cloud computing services able to operate free from laws or policies that establish preferences for certain products (including, but not limited to, types of software), services, standards, or technologies?	✓	There are no laws or policies on product preferences in Thailand.
4. Are cloud computing services able to operate free from laws that discriminate based on the nationality of the vendor, developer, or service provider?	✗	Numerous government policies encourage domestic procurement. The 1992 Prime Minister's Office Regulation on Procurement (as amended) provides a preference for domestic goods and services by using a range of initiatives in the Thai government procurement market. These include a price preference margin for all local suppliers of Thai goods in the range of 3% to 7% and the requirement of having a Thai leading firm for services contracts and if that is not possible, 50% Thai personnel to be engaged on the project. Thailand is not a member of the WTO plurilateral Agreement on Government Procurement
ICT READINESS, BROADBAND DEPLOYMENT		
1. Is there a national broadband plan?	<ul style="list-style-type: none"> • By 2020, extend broadband coverage to 95% • By 2020, provide broadband Internet access of at least 100 Mbps in economically important provinces 	<p>Thailand does not have a cohesive, comprehensive, and funded National Broadband Plan. It has established a policy and set targets.</p> <p>In November 2011, the National Broadband Policy was approved by the Cabinet, in which the following goals were set:</p> <ul style="list-style-type: none"> • Extend broadband coverage to 80% of the population by 2015 • Extend broadband coverage to 95% of the population by 2020 • Provide broadband Internet access of at least 100 megabits per second in economically important provinces by 2020 <p>Following acceptance of the policy, the National Information and Communication Technology Committee has been instructed to develop the policy into an action plan. This was further supported by a memorandum of understanding among Thailand's six major telecommunication service providers to support the National Broadband Policy by seeking ways to promote infrastructure and network sharing as well as fair network management and network usage fees.</p>

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2. Are there laws or policies that regulate the establishment of different service levels for data transmission based on the nature of data transmitted?	No regulation and limited public debate	There has been no formal or public consideration of net neutrality regulation in Thailand at this stage.
3. Base Indicators		
3.1. Population (2011)	69,518,555	In 2011, the population of Thailand increased by 0.6%. [International Telecommunication Union (ITU), World Telecommunication/ICT Indicators Database (Dec 2012) < www.itu.int/ITU-D/ict/publications/world/world.html >]
3.2. Urban Population (%) (2011)	34%	[United Nations, Department of Economic and Social Affairs, Population Division (2012). World Urbanization Prospects: The 2011 Revision, < esa.un.org/unup/CD-ROM/Urban-Rural-Population.htm >]
3.3. Number of Households (2011)	19,238,000	In 2011, the number of households in Thailand increased by 2.6%. [International Telecommunication Union (ITU), World Telecommunication/ICT Indicators Database (Dec 2012) < www.itu.int/ITU-D/ict/publications/world/world.html >]
3.4. Population Density (people per square km) (2010)	135	[World Bank, Data Catalog, Indicators, Population Density (2012) < data.worldbank.org/indicator/EN.POP.DNST >]
3.5. Per Capita GDP (US\$ 2011)	\$4,972	In 2011, the per capita GDP for Thailand increased by 0.1% to US\$4,972. [World Bank, Data Catalog, Indicators: GDP per capita, current US\$ (2012) < data.worldbank.org/indicator/NY.GDP.PCAP.CD > and GDP growth, annual % (2012) < data.worldbank.org/indicator/NY.GDP.MKTP.KD.ZG >]
3.6. Public Cloud Services Market Value (2011) (Billions of US\$)	—	Thailand is not included in this Gartner forecast. [Gartner, Forecast Overview: Public Cloud Services, Worldwide, 2011-2016 (August 2012 Update) < www.gartner.com/id=2126916 >]
3.7. Personal Computers (% of households) (2011)	25%	In 2011, 24.7% of households in Thailand had personal computers. This is a 8% increase since 2010 and ranks Thailand 101 out of 182 countries surveyed. The growth from 2010 is below the five-year compound annual growth rate (CAGR) from 2006 to 2011 of 9.7%. [International Telecommunication Union (ITU), World Telecommunication/ICT Indicators Database (Dec 2012) < www.itu.int/ITU-D/ICTEYE/Indicators/Indicators.aspx >] Note: In some jurisdictions this is an estimate and subsequent editions of the ITU ICT Indicators Database may update this indicator for prior years.
4. ICT and Network Readiness Indicators		
4.1. ITU ICT Development Index (IDI) (2011) (Score is out of 10)	3.41	Thailand's ITU ICT Development Index (IDI) for 2011 is 3.41 (out of 10), resulting in a rank of 92 (out of 161 economies). The 2011 IDI for Thailand has increased by 3.6%, and the IDI ranking has declined by three places from a rank of 89 since 2010. [International Telecommunication Union (ITU), Measuring the Information Society (2012) < www.itu.int/ITU-D/ict/publications/idi/2012 >] Note: In some jurisdictions this is an estimate and subsequent editions of the ITU ICT Indicators Database may adjust this indicator, both for 2011 and prior years.
4.2. World Economic Forum Networked Readiness Index (NRI) (2012) (Score is out of 7)	4.52	Thailand has a Networked Readiness Index (NRI) score of 4.52 (out of 7), resulting in a rank of 39 (out of 142 economies) and a rank of 4 (out of 39) in the upper-middle income grouping of economies. The 2012 NRI for Thailand has increased by 16.2% and improved from a rank of 59 since 2011. [World Economic Forum, Global Information Technology Report (2012) < www.networkedreadiness.com/gitr >]
4.3. International Connectivity Score (2011) (Score is out of 10)	3.68	Thailand has a Connectivity Score of 3.68 (out of 10), resulting in a rank of 11 (out of 25) in the resource-driven grouping of countries/economies. [Nokia Siemens, Connectivity Scorecard (2011) < www.connectivityscorecard.org >]
4.4. IT Industry Competitiveness Index (2011) (Score is out of 100)	30.50	Thailand has an IT Industry Competitiveness Index Score of 30.5 (out of 100), resulting in a rank of 50 (out of 66 countries/economies included in the index). The 2011 index score is a 3.2% decrease on the 2009 score. Thailand has moved down the ranking by one place since 2009. [Business Software Alliance (BSA) / Economist Intelligence Unit (EIU), IT Industry Competitiveness Index (2011) < globalindex11.bsa.org >]

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5. Internet Users and International Bandwidth		
5.1. Internet Users (2011)	16,475,898	[calculated from 8.3.1. and 8.5.2.]
5.2. Internet Users as % of Population (2011)	24%	In 2011, 24% of the population in Thailand used the Internet, resulting in a ranking of 127 out of 199 countries surveyed. This is a 5.8% increase since 2010. The growth from 2010 is below the five-year CAGR from 2006 to 2011 of 6.7%. [International Telecommunication Union (ITU), World Telecommunication/ICT Indicators Database (December 2012) < www.itu.int/ITU-D/ICTEYE/Indicators/Indicators.aspx >] Note: There may be some variations as to how countries calculate this. Some countries base this upon all or part of the population, such as between 16 and 72 years of age. Note: In some jurisdictions this is an estimate and subsequent editions of the ITU ICT Indicators Database may adjust this indicator, both for 2011 and for prior years.
5.3. International Internet Bandwidth (bits per second per Internet user) (2011)	10,622	Thailand's International Internet Bandwidth (per Internet user) has increased by 4% since 2010. [International Telecommunication Union (ITU), Measuring the Information Society (2012) < www.itu.int/ITU-D/ict/publications/idi/2012/ >]
5.4. International Internet Bandwidth (2011) (total gigabits per second [Gbps] per country)	175	Thailand has increased its International Internet Bandwidth by 10% since 2010 to 175 Gbps and is ranked 33 out of 188 countries surveyed. The growth from 2010 is below the five-year CAGR from 2006 to 2011 of 110.1%. [International Telecommunication Union (ITU), World Telecommunication/ICT Indicators Database (Dec 2012) < www.itu.int/ITU-D/ict/publications/world/world.html >]
6. Fixed Broadband		
6.1. Fixed Broadband Subscriptions (2011)	3,496,000	Thailand has increased the number of fixed broadband subscribers by 10% since 2010, to 3,496,000, and is ranked 23 out of 182 countries surveyed. The growth from 2010 is below the five-year CAGR from 2006 to 2011 of 31.4%. [International Telecommunication Union (ITU), World Telecommunication/ICT Indicators Database (Dec 2012) < www.itu.int/ITU-D/ict/publications/world/world.html >] Note: In some jurisdictions this is an estimate and subsequent editions of the ITU ICT Indicators Database may adjust this indicator, both for 2011 and for prior years.
6.2. Fixed Broadband Subscriptions as % of Households (2011)	18%	[calculated from 8.3.3. and 8.6.1.] Note: This may be skewed by business usage in some countries (refer to OECD comments about this).
6.3. Fixed Broadband Subscriptions as % of Population (2011)	5%	Thailand has increased its fixed broadband subscriptions (as a share of the population) by 9% since 2010, which is below the five-year CAGR from 2006 to 2011 of 30.5%. This ranks Thailand 23 out of 187 countries surveyed. [International Telecommunication Union (ITU), World Telecommunication/ICT Indicators Database (July 2011) < www.itu.int/ITU-D/ICTEYE/Indicators/Indicators.aspx >]
6.4. Fixed Broadband Subscriptions as % of Internet Users (2011)	21%	[calculated from 8.5.1 and 8.6.1]
7. Mobile Broadband		
7.1. Mobile Cellular Subscriptions (2011)	77,604,738	In 2011, Thailand increased the number of mobile cellular subscriptions by 8.2% and is ranked 18 out of 195 countries surveyed. The number of subscriptions account for 112% of the population. [International Telecommunication Union (ITU), World Telecommunication/ICT Indicators Database (Dec 2012) < www.itu.int/ITU-D/ict/publications/world/world.html >] Note: This figure may be inflated due to multiple subscriptions per head of population, but excludes dedicated mobile broadband devices (such as 3G data cards and tablets).

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7.2. Active Mobile Broadband Subscriptions per 100 inhabitants (2011)	0.14%	<p>Thailand did not have any recorded active mobile broadband subscriptions in 2010 but has grown to 0.14% (as a % of the population) by 2011. This ranks Thailand 137 out of 144 countries surveyed.</p> <p>[International Telecommunication Union (ITU), World Telecommunication/ICT Indicators Database (Dec 2012) <www.itu.int/ITU-D/ict/publications/world/world.html>]</p> <p>Note: This refers to the sum of standard mobile-broadband and dedicated mobile-broadband subscriptions to the public Internet. It covers actual subscribers, not potential subscribers, even though the latter may have broadband-enabled handsets.</p> <p>Note: In some jurisdictions this is an estimate and subsequent editions of the ITU ICT Indicators Database may adjust this indicator, both for 2011 and for prior years.</p>
7.3. Number of Active Mobile Broadband Subscriptions (2011)	97,000	<p>Thailand did not have any recorded active mobile broadband subscriptions in 2010 but in 2011 was ranked 137 out of 145 countries surveyed.</p> <p>[International Telecommunication Union (ITU), World Telecommunication/ICT Indicators Database (Dec 2012) <www.itu.int/ITU-D/ict/publications/world/world.html>]</p>