COUNTRY: **THAILAND**

SCORE: 48.85 | RANK: 21/24

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 information technology (IT). Thailand also has good laws for electronic commerce and electronic signatures.

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

In January 2015, two Copyright Amendment laws were approved: the Copyright Act (No. 2) B.E. 2558 (A.D. 2015),

and Copyright Act (No. 3) B.E. 2558 (A.D. 2015). These two new laws implement many of the key provisions of the WIPO Copyright Treaty. They also introduced a rudimentary Internet service provider (ISP) liability scheme for copyright infringements.

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 improved since 2013, and the country's ranking has risen two places to 21st. This result was built on significant improvements in both intellectual property protection and IT infrastructure.

Q THAILAND	RESPONSE	EXPLANATORY TEXT
DATA PRIVACY (SCORE: 3.5/10 | RANK: 23/24)		
1. Are there laws or regulations governing the collection, use, or other processing of personal information?	✖	A draft 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 Asia-Pacific Economic Cooperation (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 of 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.

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10. Is there a breach notification law?	✖	There are no data breach notification requirements in Thailand.
SECURITY (SCORE: 1.6/10 | RANK: 24/24)		
1. Is there a law or regulation that gives electronic signatures clear legal weight?	✔	Chapter 2 of the Electronic Transactions Act 2001 contains a 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, a royal decree is expected that would require a service provider to notify, register, or obtain a license before providing electronic transactions-related services. This extends to certification authority (CA) services for issuing digital certificates and to certifying the reliability of certification service providers. Thailand has established the Electronic Transactions Development Agency <www.etda.or.th> to promote electronic transactions to the government, enterprise and public sectors and to support the development of guidelines and monitoring systems related to security in electronic transactions.
2. Are ISPs and content service providers free from mandatory filtering or censoring?	✖	Internet filtering has increased considerably since the coup that occurred in Thailand in 2014. Websites seen to be critical of the royal family or the government have been temporarily or permanently blocked, including access to entire social media networks. Material deemed disruptive to civil order has also been targeted. In addition, the government has historically heavily filtered pornographic and explicit content. The Ministry of Information and Communication Technology (MICT) maintains a blacklist, and Internet service providers (ISPs) are required to block all access to these sites.
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, 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 participant in the Common Criteria Recognition Agreement (CCRA) <www.commoncriteriaportal.org>. Certifications are not required in government procurement opportunities in Thailand.
CYBERCRIME (SCORE: 7.4/10 | RANK: 16/24)		
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 varied 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 to "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 offense against this act outside the kingdom and; (1) the offender is Thai and the government of the country where the offense 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.

Q THAILAND	RESPONSE	EXPLANATORY TEXT
INTELLECTUAL PROPERTY RIGHTS (SCORE: 10.6/20 | RANK: 22/24)		
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.
4. Have laws implementing the WIPO Copyright Treaty been enacted?	◑	In January 2015, two Copyright Amendment laws were approved: the Copyright Act (No. 2) B.E. 2558 (A.D. 2015), and Copyright Act (No. 3) B.E. 2558 (A.D. 2015). These two new laws implement many of the key provisions of the WIPO Copyright Treaty.
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?	✔	In January 2015, the Copyright Act (No. 2) B.E. 2558 (A.D. 2015) and the Copyright Act (No. 3) B.E. 2558 (A.D. 2015) were approved. These new laws contain a regime for governing ISP liability for copyright infringement. The regime is based on court processes and is fairly rudimentary, but it represents a significant improvement on previous practice.
8. Is there a basis for ISPs to be held liable for content that infringes copyright found on their sites or systems?	✔	The new Copyright Act (No. 2) B.E. 2558 (A.D. 2015) includes provisions relating to ISP liability.
9. What sanctions are available for ISP liability for copyright infringing content found on their site or system?	Civil and criminal	The new Copyright Act (No. 2) B.E. 2558 (A.D. 2015) includes provisions relating to ISP liability. Sanctions are relatively weak unless commercial gain can be proved.
10. Must ISPs take down content that infringes copyright, upon notification by the right holder?	◑	The Copyright Act (No. 2) B.E. 2558 (A.D. 2015) and the Copyright Act (No. 3) B.E. 2558 (A.D. 2015) establish a limited takedown regime. However, the laws require a petition to the court and include onerous evidentiary requirements. Their use in practice is likely to be limited.
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?	✘	The Copyright Act (No. 2) B.E. 2558 (A.D. 2015) and the Copyright Act (No. 3) B.E. 2558 (A.D. 2015) establish a limited takedown regime. However, the laws do not include a requirement for notice to subscribers.
12. Is there clear legal protection against misappropriation of cloud computing services, including effective enforcement?	Comprehensive protection	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 had updated and amended its copyright laws in early 2015. However, Thailand still has significant gaps in copyright protection, and it has no privacy laws at all. A moderate layer of protection is provided under Thailand's cybercrime laws.

Q THAILAND	RESPONSE	EXPLANATORY TEXT
SUPPORT FOR INDUSTRY LED STANDARDS & INTERNATIONAL HARMONIZATION OF RULES (SCORE: 8.8/10 | RANK: 16/24)		
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 IT 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.
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 World Trade Organization (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 International Standards Organization (ISO) and International Electrotechnical Commission (IEC) standard-setting processes, and is a full member of the ISO.
PROMOTING FREE TRADE (SCORE: 3/10 | RANK: 18/24)		
1. Are there 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 became an observer of the WTO plurilateral Agreement on Government Procurement in 2015.

Q THAILAND	RESPONSE	EXPLANATORY TEXT
IT READINESS, BROADBAND DEPLOYMENT (SCORE: 13.9/30 | RANK: 18/24)		
1. Is there a national broadband plan?	• By 2020, extend broadband coverage to 95% • By 2020, provide broadband Internet access of at least 100 Mbps in economically important provinces	Thailand does not have a cohesive, comprehensive and funded national broadband plan, though it has established the National Broadband Policy which includes set targets. The National Broadband Policy <www.mict.go.th/assets/portals/1/files/Broadband_ENG_edit.pdf> was approved by the Cabinet In November 2011, and the following goals were set: • 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. Following acceptance of the policy, the National Information and Communication Technology Committee developed the policy into an action plan. The plan has developed five targeted programs that involve coordination with the relevant ministries. There are e-government, e-agriculture, e-healthcare, e-education, and e-disaster management. The action plan 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.
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 (millions) (2014)	67	In 2014, the population of Thailand increased by 0.3%. [International Telecommunication Union (ITU), World Telecommunication/ICT Indicators Database (Dec 2015) <www.itu.int/ITU-D/ict/publications/world/world.html>]
3.2. Urban Population (%) (2014)	49%	[World Bank, Data Catalog, Indicators, Urban Population (2015) <data.worldbank.org/indicator/SP.URB.TOTL.IN.ZS>]
3.3. Number of Households (millions) (2014)	19	In 2014, the number of households in Thailand increased by 0.3%. [International Telecommunication Union (ITU), World Telecommunication/ICT Indicators Database (Dec 2015) <www.itu.int/ITU-D/ict/publications/world/world.html>]
3.4. Population Density (people per square km) (2014)	133	[World Bank, Data Catalog, Indicators, Population Density (2015) <data.worldbank.org/indicator/EN.POP.DNST>]
3.5. Per Capita GDP (US$ 2014)	$5,519	In 2014, the per capita gross domestic product (GDP) for Thailand increased by 0.7% to US $5,519. [World Bank, Data Catalog, Indicators: GDP per capita, current US$ (2015) <data.worldbank.org/indicator/NY.GDP.PCAP.CD> and GDP growth, annual % (2015) <data.worldbank.org/indicator/NY.GDP.MKTP.KD.ZG>]
3.6. IT Service Exports (2014) (billions of US$)	9.62	In 2014, the value of IT service exports for Thailand increased by 12.7% to US $9.62 billion. The five-year compound annual growth rate (CAGR) from 2009-2014 was 5.7%. [World Bank, Data Catalog, Indicators: ICT Service Exports US$ (Dec 2015) <data.worldbank.org/indicator/BX.GSR.CCIS.CD>]
3.7. Personal Computers (2014) (% of households)	34%	In 2014, 33.9% of households in Thailand had personal computers. This is an increase of 18.2% since 2013 and ranks Thailand 104 out of 183 countries surveyed. The growth from 2013 is above the five-year CAGR from 2009 to 2014 of 10.8%. [International Telecommunication Union (ITU), World Telecommunication/ICT Indicators Database (Dec 2015) <www.itu.int/en/ITU-D/Statistics/Pages/publications/wtid.aspx>]

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Q THAILAND	RESPONSE	EXPLANATORY TEXT
4. IT and Network Readiness Indicators		
4.1. ITU ICT Development Index (IDI) (2015) (Score is out of 10 and covers 167 countries)	5.36	Thailand's ITU ICT Development Index (IDI) for 2015 is 5.36 (out of 10), resulting in a rank of 74 (out of 167) countries. The 2015 IDI for Thailand increased by 12.6%, and the IDI ranking improved by seven places from a rank of 81 since 2013. [International Telecommunication Union (ITU), Measuring the Information Society (Dec 2015) <www.itu.int/en/ITU-D/Statistics/Pages/publications/mis2015.aspx>]
4.2. World Economic Forum Networked Readiness Index (NRI) (2015) (Score is out of 7 and covers 143 countries)	4.05	Thailand has a Networked Readiness Index (NRI) score of 4.05 (out of 7), resulting in a rank of 67 (out of 143) countries, and a rank of 15 (out of 40) in the upper middle income grouping of countries. The 2015 NRI for Thailand increased by 1%, and the ranking has remained the same since 2014. [World Economic Forum, Global Information Technology Report (2015) <reports.weforum.org/global-information-technology-report-2015>]
4.3. International Connectivity Score (2014) (Score is out of 10 and covers 52 countries)	3.69	Thailand has an International Connectivity Score of 3.69 (out of 10), resulting in a rank of 20 (out of 26) in the resource-driven grouping of countries. [International Connectivity Scorecard (2013) <www.connectivityscorecard.org>]
5. Internet Users and International Bandwidth		
5.1. Internet Users (millions) (2014)	19	[International Telecommunication Union (ITU), World Telecommunication/ICT Indicators Database (Dec 2015) <www.itu.int/ITU-D/ict/publications/world/world.html>]
5.2. Internet Users as Percentage of Population (2014)	29%	In 2014, 29% of the population in Thailand used the Internet, resulting in a ranking of 128 out of 199 countries surveyed. This represents an increase of 9.4% since 2013.The growth from 2013 is below the five-year CAGR from 2009-2014 of 9.7%. [International Telecommunication Union (ITU), World Telecommunication/ICT Indicators Database (Dec 2015) <www.itu.int/en/ITU-D/Statistics/Pages/publications/wtid.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.
5.3. International Internet Bandwidth (2014) (bits per second per Internet user)	46,826	The International Internet Bandwidth (per Internet user) of Thailand has increased by 27% since 2013. The growth from 2013 is below the five-year CAGR from 2009-2014 of 42.9%. [International Telecommunication Union (ITU), World Telecommunication/ICT Indicators Database (Dec 2015) <www.itu.int/ITU-D/ict/publications/world/world.html>]
5.4. International Internet Bandwidth (2014) (total gigabits per second [Gbps] per country)	1,098	Thailand has increased its International Internet Bandwidth by 54% since 2013 to 1,098 Gbps, and is ranked 33 out of 215 countries surveyed. The growth from 2013 is below the five-year CAGR from 2008-2013 of 60%. [International Telecommunication Union (ITU), World Telecommunication/ICT Indicators Database (Dec 2015) <www.itu.int/ITU-D/ict/publications/world/world.html>]
6. Fixed Broadband		
6.1. Fixed Broadband Subscriptions (millions) (2014)	5	Thailand has increased the number of fixed broadband subscribers by 13% since 2013 to 5 million, and is ranked 23 out of 215 countries surveyed. The growth from 2013 is below the five-year CAGR from 2009-2014 of 18.9%. [International Telecommunication Union (ITU), World Telecommunication/ICT Indicators Database (Dec 2015) <www.itu.int/ITU-D/ict/publications/world/world.html>]
6.2. Fixed Broadband Subscriptions as % of households (2014)	25%	[International Telecommunication Union (ITU), World Telecommunication/ICT Indicators Database (Dec 2015) <www.itu.int/ITU-D/ict/publications/world/world.html>] Note: This may be skewed by business usage in some countries.
6.3. Fixed Broadband Subscriptions as % of population (2014)	8%	Thailand has increased its fixed broadband subscriptions (as a % of the population) by 9.3% since 2013, which is below the five-year CAGR from 2009-2014 of 16.4%. This ranks Thailand 101 out of 215 countries surveyed. [International Telecommunication Union (ITU), World Telecommunication/ICT Indicators Database (Dec 2015) <www.itu.int/ITU-D/ict/publications/world/world.html>]
6.4. Fixed Broadband Subscriptions as % of Internet users (2014)	25%	[International Telecommunication Union (ITU), World Telecommunication/ICT Indicators Database (June 2014) <www.itu.int/ITU-D/ict/publications/world/world.html>]

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7. Mobile Broadband		
7.1. Mobile Cellular Subscriptions (millions) (2014)	97	In 2014, Thailand increased the number of mobile cellular subscriptions by 3.5% and is ranked 15 out of 215 countries surveyed. The number of subscriptions account for 145% of the population. [International Telecommunication Union (ITU), World Telecommunication/ICT Indicators Database (Dec 2015) <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, tablets, etc.).
7.2. Active Mobile Broadband Subscriptions per 100 inhabitants (2014)	80	Thailand has increased the number of active mobile-broadband subscriptions (as a % of the population) by 53% since 2013. This ranks Thailand 26 out of 215 countries surveyed. [International Telecommunication Union (ITU), World Telecommunication/ICT Indicators Database (Dec 2015) <www.itu.int/ITU-D/ict/publications/world/world.html>] 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.
7.3. Number of Active Mobile Broadband Subscriptions (millions) (2014)	54	In 2014, Thailand has increased the number of active mobile-broadband subscriptions by 53% and is ranked 10 out of 215. [International Telecommunication Union (ITU), World Telecommunication/ICT Indicators Database (Dec 2015) <www.itu.int/ITU-D/ict/publications/world/world.html>]