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Sector Focus | Esports and Online Gaming Business

Proposed New Esports and Online Gaming Law Aimed at Addressing Heightened Concerns about Children's Health

Over the past 30 years, the global gaming entertainment industry has experienced a significant and dynamic shift from offline to online gameplay. This shift has given rise to a rapidly evolving global gaming “ecosystem” comprised of multiple stakeholders, including players, game developers and designers, streaming platforms, broadcasters, sponsors, esports tournaments, fans, parents, government regulators, and celebrities. Based on the official website of the International Esports Federation (“**IeSF**”), global esports revenues rose to over USD 1.1 billion in 2019. In the same year, the 2019 Southeast Asian Games officially recognized esports as a medal event.

In Thailand, online gaming has steadily gained in popularity since 2013 with the formation of the Thai Esports Association (later re-named the Thailand Esports Federation (“**TeSF**”)), which regularly sponsors Thai players to compete in overseas esports tournaments arranged by the IeSF. In 2017, the Sports Authority of Thailand officially decreed esports as a type of sport capable of registration as a “sports association” under the Sports Authority of Thailand Act B.E. 2558 (2015). However, despite its increasing popularity, Thailand has not yet enacted any legislation dealing specifically with online games and esports. Currently, the only relevant legislation is the Film and Video Act B.E. 2551 (2008) (“**FVA**”), but its jurisdiction stretches only to video games recorded in physical format (e.g. CD, DVD, cassette, etc.), and does not extend to online games.

The widespread use of online games and esports has led to concerns from parents, teachers, and government agencies about the potential

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harmful impact of online gaming and esports on the health of children. As a result, the National Health Assembly passed Resolution No. 11 B.E. 2561 (2018) (“**Resolution**”) under the National Health Act, the main focus of which was the effect of esports on the well-being of children. The Cabinet considered and passed the Resolution in 2019, and ordered the relevant government agencies and stakeholders to strictly enforce the relevant legislation regarding such matters. However, due to the lack of legislation governing online games and esports, the relevant government agencies and stakeholders, with the support of the Thailand Science Research and Innovation, commenced research on the drafting of legislation concerning the regulation of online and offline gaming in Thailand.

The Draft Regulation of Gaming Business and Supervision for the Protection of Children and Juveniles Act (“**Draft Gaming Act**”) has been prepared by the National Health Commission Office and other relevant stakeholders, with the following three main principles guiding the drafting process:

- (1) **TeSF to set out the safety standards for esports contests** and to protect minors on their gameplay behavior (which includes game rating, if applicable);
- (2) **The Ministry of Social Development and Human Security shall set up a public meeting forum** to conduct research and exchange ideas and knowledge in order to accurately understand the concept of “games” and “esport”; and
- (3) **Surveillance and supervision of the behavior of game players in Thailand** to ensure that game playing does not hinder their health and cause a negative effect to the degree that may cause social problems.

The Draft Gaming Act itself, which will be designed to directly regulate online games and esports, is set to have five main parts, as follows:

The General Provisions	the act’s effective date, definitions (which will include online and offline games), and the relevant parties and stakeholders to the Draft Gaming Act;
Chapter 1	provisions relating to the authorized committee, subcommittee, relevant officers, as well as their authority and forum;

Chapter 2	provisions governing and regulating gaming business operations in Thailand;
Chapter 3	provisions relating to the preventive measures and solutions for issues on gaming-related businesses, e.g. gaming competitions, duties of educational institutions, online gaming and online gaming related licenses, and the prohibitions against gambling; and
Chapter 4	provisions relating to the civil, criminal and administrative penalties for non-compliance under the Draft Gaming Act.

The Draft Gaming Act is still in its early stages of legislative drafting development with no official draft published, and thus is subject to change in the near future.

For more information, please contact the authors.

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Kudun and Partners is at the core of the new economic model “Thailand 4.0”. This forward-thinking attitude is something our team is uniquely equipped not only to help startups, developers and investors navigate the uncharted legal and business territories of pushing new technologies into the market but also companies looking to adopt new technologies into their business cycle whilst ensuring compliance. Our team is equally well versed with various applications with government entities such as applications for investment promotion at the Trade and Investment Support Office (**TISO**) and International Business Center (**IBC**) with the Board Of Investment of Thailand (**BOI**) including application for tax privileges under the IBC scheme with the Revenue Department, share transfer documentation, shareholder agreements, trademark registration, PDPA (Personal Data Protection Agreement), application of the PICO finance license and many others to ensure the successful business operation of our clients.