

## **E-commerce - Taiwan**

### **Amendments to Law on Hackers, Viruses and Spam**

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Taiwan's government has passed modest amendments to the Criminal Code in response to the problems of computer hackers, viruses and spam. The amendments were passed by the Legislative Yuan and promulgated by the president on June 25 2003.

#### **Hacking**

Hackers from Taiwan and China have long waged war across the Taiwan Strait, hacking into websites on the other side particularly in times of political tension. For example, in 1999, when Taiwan's then president Lee Tung-hui made comments about Taiwan's status that enraged Chinese citizens, Chinese hackers damaged more than 72,000 Taiwan websites. Taiwan hackers responded in kind by posting derogatory remarks on Chinese government websites. However, the recent amendments to the Criminal Code were apparently prompted by domestic hacking incidents.

In one such incident, a Taiwan student was arrested for breaking into a local company's computer system in June 2002, stealing its programs for online games and selling them to a firm in China which posted the games on its website. Then in March 2003, a high-school student hacked into the Taiwan Presidential Office's website; the government sought to prosecute the hacker but concluded that he could not be charged with any offence under existing law.

As amended, the Criminal Code now makes it a crime for any person to access another person's computer through unauthorized use of the owner's password or by way of a network flaw. The hacker may be punished by up to three years' imprisonment plus a fine of up to almost US\$3,000. The amendments also make it unlawful for any person to steal, delete or alter data from a computer belonging to another person, company or agency, and thereby cause damage to the computer. Such an act is punishable by up to five years' imprisonment plus a fine of up to almost US\$6,000. Penalties may be increased by 50% for hackers who target government websites.

#### **Damage Caused by Virus**

As amended, Taiwan's Criminal Code also prohibits any person from causing significant property damage to another person or the government by sending a computer virus which is intended to impair a

computer. Such an act is punishable by up to five years' imprisonment plus a fine of up to almost US\$6,000.

#### **Damage Caused by Spam**

Finally, the Criminal Code now makes it a crime to impair the functioning of a computer belonging to another by purposefully flooding that person's inbox with spam. Such an act is punishable by up to three years' imprisonment plus a fine of up to almost US\$3,000. Apparently the amendment will primarily serve to prohibit any sending of spam which causes a delay or denial of service.

#### **Comment**

The amendments are modest in that the fines are far less than the amount of potential damages, and the spam provision barely qualifies as a spam law, as it contains no language prohibiting false headers, subject lines or routing information, and no requirement for an opt-out provision or other standard spam law provisions. However, the amendments are a step in the right direction. Moreover, any person injured by the acts described above has the right to file a supplemental civil action in conjunction with the criminal proceedings. The amendments became effective on June 27 2003.