Legal article

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If Only One Person Sees False Data, Is It Still "Likely to Cause Damage to the Public"?

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> This article is general legal information, not a legal opinion on any specific matter. Each matter must be assessed on its own facts and evidence. The latest online version is at https://eksiamdefamationlaw.com/en/articles/supreme-court-2211-2566-public-damage.html

> Short answer
>
> Yes, but the word "yes" must first be understood correctly. Supreme Court Judgment No. 2211/2566 does not lay down a rule that one viewer always means an offense. What the court answered is this: where the offender brings data into a website in order to present it to the public, and members of the general public can access that data, the fact that only one actual viewer appears does not mean that the element "in a manner likely to cause damage to the public" under Section 14, paragraph one (1), is missing.[2]

The question people ask most often about this judgment is "how many people must see it?" The question is understandable, but it does not fit the wording of the provision, because Section 14, paragraph one (1), does not tie the offense to a number of people. It ties the offense to **the nature of the act**: whether data was brought into a system "in a manner likely to cause damage to the public."

The heart of the case therefore lies not in counting page views but in two quite different questions: to whom did the offender intend to present the data, and to what extent was the system used for publication open to members of the general public?

A case that began with a dietary supplement website

According to the case explanation published by the Office of the Judiciary in its program Dika InTrend Ep.159, the defendant ran a website selling ready-made food products. The injured person came across a dietary supplement that was offered for sale as a product from the United States and decided to order it.[2]

After receiving the product, the injured person checked the code printed on the box lid against the manufacturer's website and found that it was the code of a product copied from the genuine article, and therefore lodged a criminal complaint.

In defending the case, the defendant argued that the charge did not show that anyone else had seen the website or ordered the product; only the injured person had seen and believed the statement. The act therefore had no broad effect on the public and was not the offense charged by the prosecution.

This is the point that requires the greatest care in reading the judgment, because the statement "only one person saw it, so there is no offense" was **the defendant's argument**, not the Supreme Court's ruling. The question of law the court had to answer was whether the number of people who actually saw the data is decisive for the word "public."

Reading the full text of paragraphs one and two

Before turning to the ruling, the wording of the law should be set out in full, because the whole dispute in this case arises from only a few words in the provision.

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> Computer-related Crime Act B.E. 2550 (2007), Section 14, as amended by the Computer-related Crime Act (No. 2) B.E. 2560 (2017), Section 8 (unofficial translation)[1]
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> Paragraph one"Any person who commits any of the following offenses shall be liable to imprisonment for a term not exceeding five years or a fine not exceeding one hundred thousand baht, or both:
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> (1) dishonestly or deceitfully bringing into a computer system distorted or forged computer data, whether wholly or partly, or false computer data, in a manner likely to cause damage to the public, which is not an offense of defamation under the Criminal Code."
> Thai original: ผู้ใดกระทำความผิดที่ระบุไว้ดังต่อไปนี้ ต้องระวางโทษจำคุกไม่เกินห้าปีหรือปรับไม่เกินหนึ่งแสนบาท หรือทั้งจำทั้งปรับ (1) โดยทุจริต หรือโดยหลอกลวง นำเข้าสู่ระบบคอมพิวเตอร์ซึ่งข้อมูลคอมพิวเตอร์ที่บิดเบือนหรือปลอมไม่ว่าทั้งหมดหรือบางส่วน หรือข้อมูลคอมพิวเตอร์อันเป็นเท็จ โดยประการที่น่าจะเกิดความเสียหายแก่ประชาชน อันมิใช่การกระทำความผิดฐานหมิ่นประมาทตามประมวลกฎหมายอาญา
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> Paragraph two"If an offense under paragraph one (1) is committed not against the public but against a particular person, the offender, or the person who disseminates or forwards such computer data, shall be liable to imprisonment for a term not exceeding three years or a fine not exceeding sixty thousand baht, or both, and the offense shall be a compoundable offense."
> Thai original: ถ้าการกระทำความผิดตามวรรคหนึ่ง (1) มิได้กระทำต่อประชาชน แต่เป็นการกระทำต่อบุคคลใดบุคคลหนึ่ง ผู้กระทำ ผู้เผยแพร่หรือส่งต่อซึ่งข้อมูลคอมพิวเตอร์ดังกล่าวต้องระวางโทษจำคุกไม่เกินสามปีหรือปรับไม่เกินหกหมื่นบาท หรือทั้งจำทั้งปรับ และให้เป็นความผิดอันยอมความได้

Note that the wording the law uses is "in a manner likely to cause damage to the public," not "causing damage to the public." The difference between the two expressions is small in wording but very large in terms of the burden of proof, because the word "likely" directs the law at the nature and tendency of the act, not at a result that has already occurred.

Paragraph two, for its part, covers a different situation: where the act under paragraph one (1) is "committed not against the public but against a particular person." The law regards this as less serious, so it reduces the penalty and makes the offense compoundable.

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Issue	Section 14, paragraph one (1)	Section 14, paragraph two
Recipients of the message	Committed against the public	Committed against a particular person
Penalty	Imprisonment of up to 5 years, or a fine of up to THB 100,000, or both	Imprisonment of up to 3 years, or a fine of up to THB 60,000, or both
Compounding	The law does not make it a compoundable offense	A compoundable offense
Key point to prove	Why the act is likely to cause damage to the public	Why the act was directed at a specific individual

To illustrate by comparison, the difference between the two paragraphs is like the difference between putting up a sign in front of a shop for passers-by to read and writing a letter addressed to one particular person. Even if only one person actually stops to read the shop sign that day, the sign was still made to communicate with people in general.

This analogy helps to show the structure of the law, but it is not a legal formula. A ruling in a real case still requires an examination of intent, the method of publication, and the conditions of access on the facts of each matter.

The Supreme Court did not treat the number of viewers as decisive

The Supreme Court rejected the defendant's argument on this point, holding in substance that Section 14, paragraph one (1), requires only that false data be brought into a computer system in a manner "likely to cause damage to the public"; it does not require that actual damage to the public at large must first occur before the elements are satisfied.[2]

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The Office of the Judiciary summarized the effect of the judgment to the effect that what must be considered is whether the offender intended to bring distorted, forged, or false data into the system in order to present it to the general public, and that once the data is in a state where members of the general public can access and view it, the act is of a kind likely to cause damage to the public as the law requires.

For this reason, even though only one person in the case actually saw the website and ordered the product, the element of damage to the public was not missing. The court therefore found that the defendant's act satisfied the elements on the issue the defendant had raised.

> The principle derived from the judgment
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> The number of people who actually saw the data is not a conclusive test for distinguishing "the public" from "a particular person." If the offender intended to present the data to the public and placed it in a system that members of the general public can access, the fact that only one person actually saw it does not mean that the element under Section 14, paragraph one (1), is missing.
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> The statement above summarizes the principle from the Office of the Judiciary's case explanation; it is not a quotation from the full text of the judgment.

Academic note: "likely to cause damage" is not the same as "several people already harmed"

In the author's view, the weight of the reasoning in this case rests above all on the words "likely to cause damage." Legal practitioners are already familiar with wording of this kind in many provisions; it means that the law targets acts that carry a risk of causing damage, without waiting for the damage actually to materialize.

Applying this wording to the facts of the case, a website selling products by its very nature presents information to internet users at large. The fact that the evidence in the case file could identify only one buyer or viewer is merely a limitation in proving who had already accessed the data. It does not turn the website from a channel open to the public into a private communication between two people.

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In other words, two questions must be kept strictly apart:

1. **Who has already seen the data**, a factual question about access that has already occurred, often limited by the evidence available in the case file.
2. **To whom did the offender intend to present the data, and could members of the general public access it?** a factual question used to assess the nature of the act against the elements of the law.

Judgment No. 2211/2566 gives weight to the second question and does not turn the number of actual viewers into a ready-made formula for other cases.

Where the line between paragraphs one and two lies

What this judgment helps to clarify is that having only one identifiable injured person does not necessarily mean the case falls under Section 14, paragraph two. If the offender intended to present the data to the public and the data was in a system that members of the general public can access, the act may still fall under paragraph one (1).

Conversely, if the data was sent only to specific recipients, for example a private message sent directly to a designated recipient, the question of paragraph two immediately gains weight. Even so, the conclusion in each case still depends on an examination of intent, access settings, the method of transmission, and the other elements taken together. No platform and no number of recipients can serve as a fixed formula.

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Type of communication	Starting issues to examine
A product page on a website that members of the general public can view	Whether the offender intended to present the data to the public, and how far members of the general public could in fact access it
A public post or advertisement accessible to users at large	The scope of access and the likelihood that the act will cause damage to the public
A private message sent to a specific recipient	Whether it amounts to an act against a particular person under paragraph two
Closed groups, membership systems, or links with restricted access	Intent, the conditions of access, and the actual group of recipients must be examined case by case

This table is the author's analytical framework, drawn from the structure of Section 14 and the effect of the judgment; it is not a test laid down by the Supreme Court as a ready-made formula.

This judgment does not make every false statement an offense

Although this case confirms that having only one viewer does not mean the element of "the public" is missing, the prosecution must still prove all the other elements of Section 14, paragraph one (1), namely:

1. The offender brought the data into a computer system.
2. The data was distorted or forged, whether wholly or partly, or was false.
3. The offender had the specific intent, that is, acted dishonestly or deceitfully.
4. The way the data was brought in was likely to cause damage to the public.
5. The act is not an offense of defamation under the Criminal Code.

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The popular saying “one viewer is enough for an offense” is therefore only a shorthand description of one issue in the case. It is not a conclusion that every publication of an erroneous statement is an offense under the Computer-related Crime Act.

The line with online defamation cases

Section 14, paragraph one (1), states expressly that the act must be one “which is not an offense of defamation under the Criminal Code.” This wording is not surplus. It is a limitation the drafters included so that the provision would not be invoked merely because a defamatory statement was posted on the internet.

Accordingly, if the core of the dispute is an imputation against another person, made to a third person, that is likely to impair that person’s reputation or expose them to contempt or hatred, the analysis must begin with the elements of Section 326 or Section 328 of the Criminal Code, together with the exemption from liability and the exemption from punishment under Sections 329 and 330. That is a different matter from a case such as this one, where false data was used as a tool of commercial deception, see the full explanation in How defamation differs from the Computer-related Crime Act (Thai)

Reading three judgments together gives a clearer picture than reading them one by one

The following three judgments each address a different element of Section 14 (1). Reading them together helps prevent any one of them from being applied beyond its scope.

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Judgment	Element at issue	Effect of the ruling
2778/2561	The defamation exception at the end of subsection (1)	Where the same act is already an offense of defamation, it is not an offense under Section 14 (1)[3]
5764/2562	The specific intent "dishonestly or deceitfully"	Even if the data brought in is false, the elements are not satisfied if specific intent is not shown[4]
2211/2566	The words "likely to cause damage to the public"	The law sets no number of viewers. Where the data is presented to the public in a system that members of the general public can access, a single actual viewer does not mean the element is missing[2]

Evidence that carries weight after Judgment 2211/2566

For the accusing party, trying to prove the number of page views alone is no longer the heart of the case. What should be preserved is evidence that shows the content, the intent, and the manner in which the data was disclosed, all at once, such as:

- The full web page or post, with the URL and the date and time it was recorded
- Settings showing that members of the general public could access the data
- Advertising text, target audiences, and the channels used for publication
- Order, payment, and delivery records
- Evidence from the product owner or an authority confirming that the data or product is false or counterfeit
- Computer traffic data and information on the account or website administrator obtained lawfully

For the accused party, the defense that "only one person saw it" no longer fits this line of rulings. The issues that deserve serious examination are who brought the data into the system, whether the data was in fact false, whether there was dishonest or deceitful intent, whether the

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offender intended to present the data to the public or directed it at a specific individual, how far members of the general public could in fact access the data, and whether the charge describes all the elements, see also the guide to preserving digital evidence.

About the author

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If you have a dispute over false data or online accusations

Classifying whether your facts fall under Section 14, paragraph one (1), Section 14, paragraph two, the offense of fraud, or the offense of defamation directly affects the elements to be proven, the penalty, the right to lodge a complaint and its time limit, and the approach to preserving evidence. **If your matter sits between publication to the public and a message sent to a specific individual**, the content, intent, access settings, publication path, and the complaint should all be reviewed before the charge is determined.

> This article is general information, not a legal opinion on the facts of any particular case.

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Frequently asked questions

If only one person sees the false data, can it still be an offense under Section 14, paragraph one (1)?

Yes. According to Supreme Court Judgment No. 2211/2566, the law sets no minimum number of viewers. If the offender intended to present the data to the public and placed it on a website that members of the general public can access, the fact that the evidence confirms only one actual viewer does not mean that the element of damage to the public is missing.

How many people must see the data before the act counts as one against the public?

This judgment sets no minimum number. What must be considered is whether the offender intended to present the data to the public and whether the data was accessible to members of the general public, not the number of views alone.

If there is no evidence that anyone viewed the data at all, can this judgment be used to conclude that an offense was committed?

No such conclusion can yet be drawn. On the facts of this case, one person actually saw the data, so the judgment confirms only that a single viewer does not cause the element to be missing. It does not answer every case in which no viewer is shown at all, and the prosecution must still prove all the other elements of Section 14, paragraph one (1).

Does a website that is open to general access automatically make the act an offense under the Computer-related Crime Act?

No. General accessibility is only one fact used to assess the element of damage to the public. The prosecution must still prove that the data was distorted, forged, or false, that the offender acted dishonestly or deceitfully, and that the act is not an offense of defamation under the Criminal Code.

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Where there is only one injured person, must Section 14, paragraph two, always apply?

Not always. A distinction must be drawn between having only one injured person who can be identified and an act that was confined to a particular person. If the offender intended to present the data to the public and members of the general public could access it, the case may still fall under paragraph one (1) even though only one injured person is identified. Paragraph two carries weight where the act was committed not against the public but against a particular person.

Footnotes

1. Computer-related Crime Act B.E. 2550 (2007), Section 14, as amended by the Computer-related Crime Act (No. 2) B.E. 2560 (2017), Section 8, Royal Gazette, Vol. 134, Part 10 Ko, page 24 (24 January 2017 (B.E. 2560)). The quotations of Section 14 are unofficial translations; the Thai text is reproduced beneath each paragraph.
2. Supreme Court Judgment No. 2211/2566; Office of the Judiciary, *Dika InTrend Ep.159: How many people must see false data brought into a computer system for an offense to be committed?*, COJ Channel and Court of Justice media.
3. Supreme Court Judgment No. 2778/2561, Supreme Court judgment database.
4. Supreme Court Judgment No. 5764/2562, Supreme Court judgment database.

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