

Critics want to stop telecom merger

Deal would hurt consumers and hinder the country's journey to a digital economy



Logos of True Corporation and DTAC are seen at a department store in Bangkok on Nov 22, 2021.

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The planned merger between Total Access Communication Plc (DTAC) and True Corporation Plc should be suspended because it would scale up mobile market dominance, jeopardising consumers and hindering the country's journey towards a digital economy, according to academics and consumer advocates.

They shared their views at an online seminar on the proposed merger between the two carriers and the role of the board of the National Broadcasting and Telecommunications Commission (NBTC).

The seminar was organised yesterday by the Thailand Consumers Council.

NO MERIT

Somkiat Tangkitvanich, president of

the Thailand Development Research Institute, said the planned merger of DTAC and True caused no reaction from rival Advanced Info Service (AIS), the country's biggest mobile operator by subscriber base.

According to academic principles, if the rival opposed the merger, this would be good and the merger deal should be given the nod, he said.

"In this case, there is no opposition from the competitor at all," Mr Somkiat said.

Following the announcement of the merger, share prices of the three carriers have shot up, benefiting all the operators, he said.

The merger would result in a duopoly with only two major players in the market, heightening market concentration with consumers paying the price.

With only two major operators, mobile phone and tech developers

would have fewer options, said Mr Somkiat.

"It is clear the merger yields no merits. It should be suspended or the country's transition towards a digital economy would be hampered at every step," he said.

Business sectors and tech developers relying on internet infrastructure will face rising costs caused by a limited market, said Mr Somkiat.

"Thailand would be unable to compete in the digital economy," he said.

Mr Somkiat said the regulator must be brave enough to stand firm for the benefit of the public.

He made three proposals he sees as beneficial to customers.

The best option is to prohibit the merger, said Mr Somkiat. If DTAC wants to exit the Thai market, it should sell its business to firms other than True and AIS, he said.

"To support market competition, efforts must be made to reduce the cost of telecom infrastructure," said Mr Somkiat.

If the merger is approved, some spectrum ranges may need to be taken back for reallocation, bringing the number of operators back to three, he said.

Another option if the merger is approved is for the regulator to find ways to promote mobile virtual network operators (MVNOs), which is a mobile service operator that rents a cellular network from others, said Mr Somkiat.

SUPPORT NEW PLAYERS

Saree Aongsomwang, secretary-general of the Thailand Consumers Council, said she opposes the planned merger as it would reduce service options for customers and users could end up bearing higher service fees.

Citing an overseas study, Ms Saree said the reduction of mobile operators from four to three players led to a 20% jump in service fees.

With the merger, consumers' right to switch operators would diminish and a curb in service fees would be unlikely, she said.

The regulator must find ways to prevent the merger while supporting the emergence of MVNO players in the market, said Ms Saree.

"The NBTC must think about finding ways to prevent the reduction of mobile operators," she said. "It should ease obstacles to enable new operators to enter the market."

SUITABLE NUMBER

Dr Prawit Leesathapornwongsa, an NBTC board member, said the regulator cannot prejudice the merger deal. It requires thorough consideration, either by an independent body or the NBTC itself, he said.

A House committee has been set up to look into the merger and the NBTC regularly holds talks with the panel about it, said Dr Prawit. The committee agreed state authorities have the power to govern the merger deal, he said.

Dr Prawit recommended a study to determine how many mobile operators would be optimal in Thailand and how to maintain that number of carriers.

To ensure there is a competitive market, efforts must be made to allocate frequencies or cellular towers to new players, he said.

Dr Prawit said he is aware the prime minister submitted the list of new NBTC commissioners for royal endorsement, which could be carried out within 1-2 weeks, meaning the existing six commissioners would be unable to scrutinise the deal.

UNFAIR COMPETITION

Sarinee Achavanuntakul, a writer and social critic, said the regulator appears to be neglecting the importance of the deal, allowing a merger and the exchange of secret business data that could enable unfair competition.

"Even though the deal may eventually falter, the exchange of necessary data has already occurred," Ms Sarinee said.

The NBTC has the authority to scrutinise dominant players or unfair competition, she said.

Even though the NBTC board is in transition, the existing board can direct the formation of an independent consultancy to study the deal and propose a result to the new NBTC board, said Ms Sarinee.

A 2010 regulation created by the National Telecommunications Commission (NTC) provided strong oversight of mergers, with such deals requiring approval from the regulator, she

said. The NTC was the former telecom regulatory body before the NBTC was established.

The current NBTC regulation from 2018 has no provision for approval of a merger, only requiring those wishing to merge to report their merger plan to the NBTC, said Ms Sarinee.

NTC RULE

Kamolvan Chiravisit, a lecturer from Thammasat University's Centre for Commercial and Business Law, said less competition as a result of a merger would take a toll on consumer welfare, allocation of resources and innovation.

The planned merger can be scrutinised by both the NBTC and the Office of Trade Competition Commission, she said.

Based on Section 27 of the NBTC Act, the regulator can devise measures to prevent market dominance or unfair competition, while Section 21 of the Telecommunications Act enables the NBTC board to usher in measures preventing telecom licensees from pursuing monopoly or driving down market competition, including owning the same type of business or pursuing unfair competition.

An NTC rule sets a clear standard that those wishing to own the same business need to seek permission or approval before they can merge.

The NBTC can use this NTC rule to prevent the merger, but the relevant operators may appeal to the Administrative Court, said Ms Kamolvan.

The NBTC regulation from 2018 only requires operators wishing to merge to report to the regulator, then they can proceed with the merger 90 days later, she said.