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Protecting Consumers in the Digital Age: Role of a Thai Telecoms regulator

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Protecting Consumers in the Digital Age



6 roles

Identify roles of regulators for consumer protection



1

Consumer's right on access to services

2

Consumer's right on information

3

Obligations imposed to operators for better consumer protection

4

Protection of personal information, privacy

5

Consumer's right to seek redress

6.

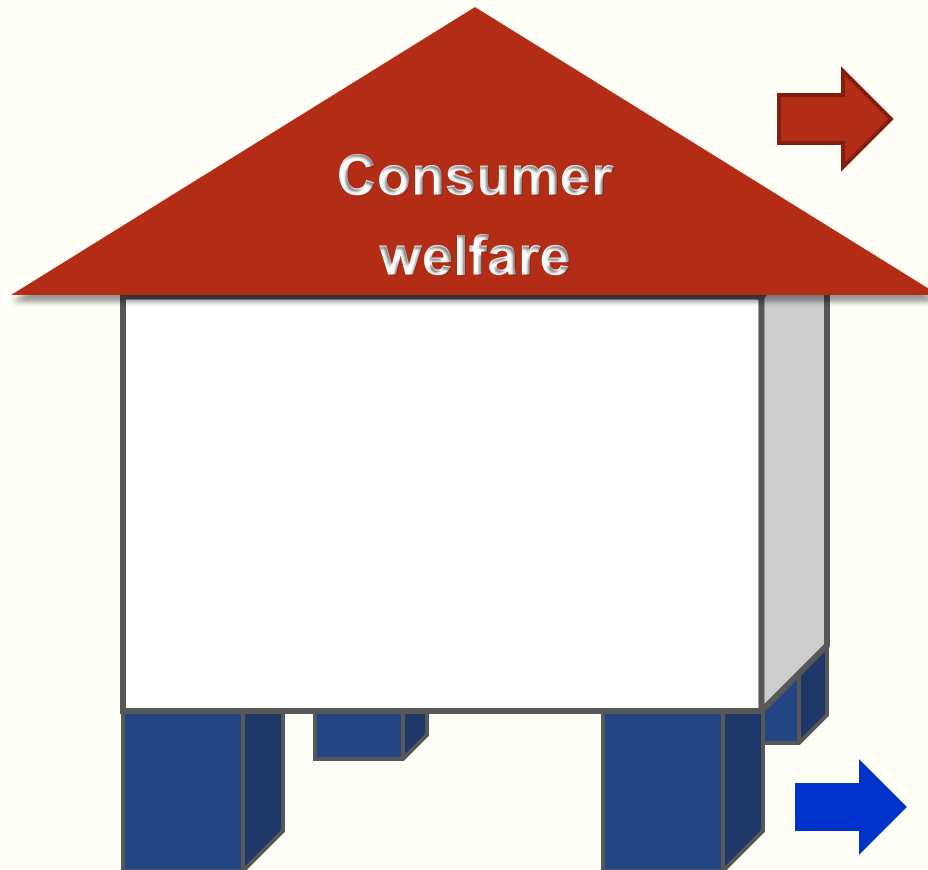
Other measures for better protection of consumers

Primary objective = consumer protection



Effective competition = tool (pillars to maintain the whole house)

Consumer welfare = ultimate goal (roof)



- The ultimate goal is to safeguard consumer welfare.



- The competition serves as “a tool” to achieve the ultimate goal.
- It is not an ultimate goal itself.
- But if competition is abused, it can affect consumer welfare subsequently.

Problematic in Thailand's practice

Thailand as developing country and technology taker

NBTC is newly established to allocate spectrum

- Concession contract
- Transition period
- First time in Thai history 3G auction

Shifting from “traditional” communication to “digital era”

In converging environment, telecoms issues go beyond current regulations

Needs for regulator to step in extra consumer protection due to lack of consumer empowerment

- No concept on spectrum auction before
- No idea on role of NBTC as a regulator

Challenge of regulator

Challenge of regulator



To understand dynamic of convergence from consumer perspective

To balance consumer's demand for unlimited access and content against provider's ability to use bandwidth available efficiently

But if regulation is overly strict, it means barrier to innovation of new services

In digital era, activities are likely to fall outside of a national regulatory framework

Before NBTC establishment

After NBTC establishment



~~Concession Regime~~

Licensing Regime

- End of state monopoly
- End of revenue sharing
- 2.1 GHz spectrum left unused

More free and fair competition

More maximization of consumer welfare



Putting consumers at the heart of regulator's decision making



2013 as the Golden year of consumer protection in Thailand

1

Allocating spectrum to serve best interests to consumers (constitutional obligation to the NBTC)

2

Tackling barriers that deter consumers from using new service, product in converging environment

3

Ensuring that consumers are sufficiently informed in service contract, i.e., price, Quality of service, etc.

4

Strengthening public consultation esp. consumer groups, academics, legislators and media to support policy making

5

Ensuring that consumers have right to redress fairly and efficiently
▪ establish Alternative Dispute Resolution (ADR)

6.

Ensuring that consumers can be safe, secured and protected
▪ Stop annoyance by spam , being charged from unsubscribed services

1. Consumer's right on access to services

Thailand's practice

**Allocate
Spectrum**



Allocated available spectrum

- 2100 MHz spectrum left unused before being allocated by the NBTC

- Fulfill roll-out requirement

Nationwide coverage

50% within 2 years

80% within 4 years

Allocate

Regulate

Occupied spectrum under concession

- **Transition period**

- Expiration of 1800 MHz concession in Sep 2013

- Upcoming expiration of 900 MHz in Mar 2015

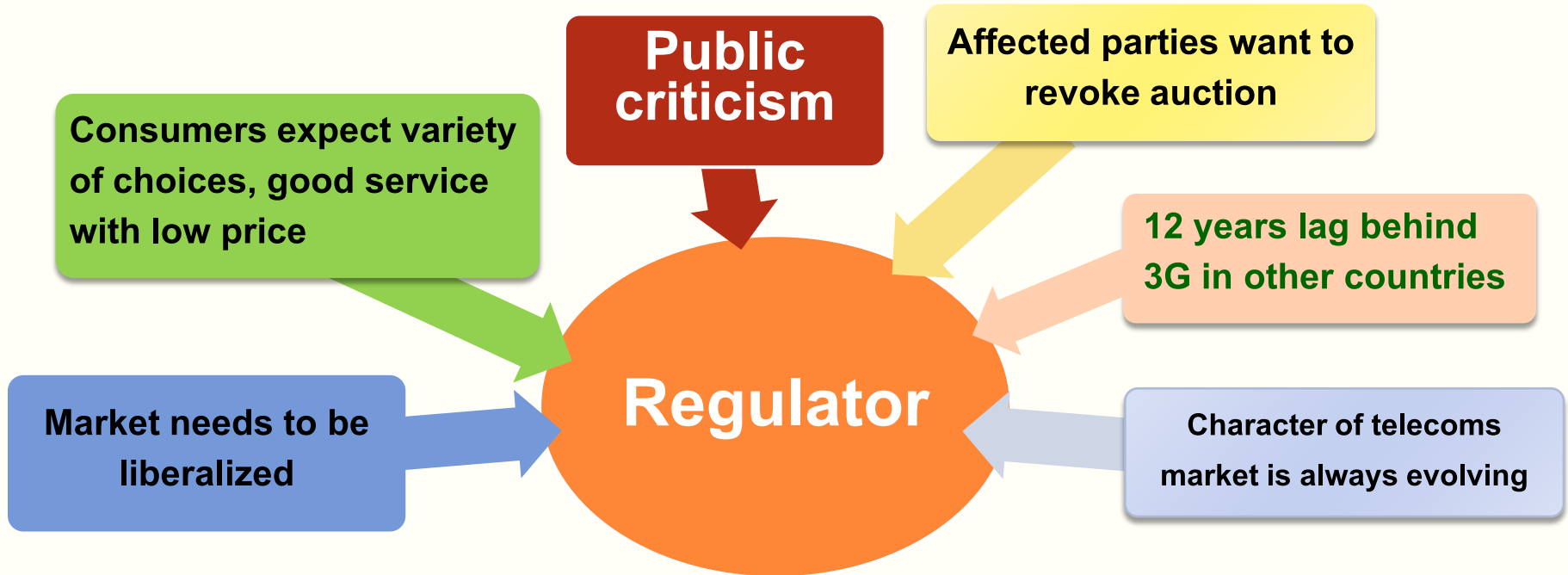
Reserved for sufficient & efficient use

- Consider for future spectrum on ground of efficiency

- 700 MHz spectrum harmonization

Regular legal process is not sufficient

Lack of understanding causing impact



✓ **No absolute regulations like one-size-fits-all model**

Encouraging competition “as a whole”



Competition “for” the market



Competition “in” the market

Auction

- ✓ **Maximizing state revenue is not the first priority**
- ✓ Many factors must be taken into accounts to promote competition as a whole

- ✓ Encouraging competition among operators
- ✓ No sunk-cost from excessive spectrum price forwarded to consumers
- ✓ Long-term benefits which generate to economic and society as a whole

Assessment by the ITU



- 1. Spectrum licenses were efficiently and fairly assigned.**
- 2. Licenses contain important measures to improve competition.**
- 3. Benefit to consumers is ensured by price reduction of 15% in comparison to 2G services.**
- 4. Principles, objectives, design and outcome are consistent with international best practice.**



Section 47
Thai Constitution

Public and best interest of Thai people

1800 MHz
spectrum

National
resource



- ✓ Free and fair competition
- ✓ Other significant relevant factors

Return when terminated

concessionaires

NBTC

Interim measure for
protecting consumer left
in the 1800 MHz system

Transition period



Spectrum Auction

Winning
bidders



Fulfill roll out requirement



Consumers

Thai Constitution (section 47)
To allocate spectrum, NBTC must take greatest public benefit into account



During transition period

result

Issue the NBTC Notification on consumers protection after termination of the 1800 MHz concession (interim measure)

Prepare for 1800 MHz, 900 MHz auction next year when market is ready

Strengthening public consultation process from all stakeholders at the beginning

- ✓ **Role of NBTC under Thai Constitution**
- ✓ **Role of NBTC to ensure continuity of telecoms service and consumer protection**
 - **prevent sim card's blackout**





Ensure consumers have all information they need to make choices

Educate consumers about role of regulator

Raise awareness about new services and options offered by market in converging environment

Thailand's practice

Regular legal process is not sufficient

- NBTC must strengthen public consultation to optimize the best benefit to consumers
- NBTC's Notification on Public Hearing 2005 (B.E. 2548)

Consumers must be informed in a contract about price, QoS, rights and duties, etc.

- Legal requirement for contract under the Telecommunications Act 2001 (B.E. 2544)
- Legal requirement for standard service contract under the NBTC's Notification on Standard Service Contract 2006 (B.E. 2549)



2. Consumer's right on information



Consumer must be informed in contract



Thailand's practice

Legal requirement in contract under Telecommunications Act



- ✓ **Contract including its amendment require prior approval by the NBTC**
- ✓ **Legal requirement that the contract must contains at least;**
 1. clear and fair provision on duties and responsibilities
 2. standard of service ;
 3. type, scope of the service, expense that is complete and fair, and also guarantee that there must be no charges apart from that specified
 4. no provision which limits the user's utilization without reasonable ground;
 5. no provision causing a discrimination, obstacle or unfairness

Legal requirement under Notification on Standard Service Contract

- ✓ **Operator has a duty to clearly and fairly state in a standard contract at least;**
 1. Name, place and details of operator
 2. Type and scope of service
 3. Quality of service
 4. Price; rate and method of payment
 5. Limitation and Terms & Conditions
 6. Reason for refusal in providing service



2. Consumer's right on information

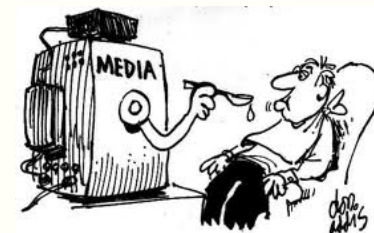
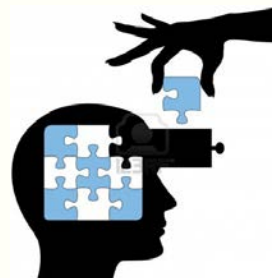
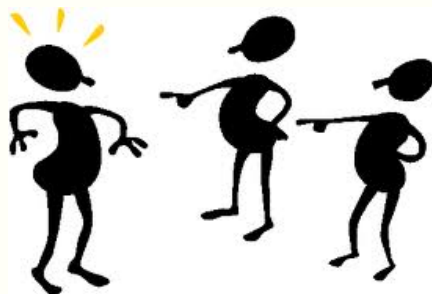


NBTC



Strengthening public consultation & consumer empowerment

Thailand's practice



Problem

- Lack of public understanding

Cause

- First time in Thai history auction
- Complexity
- Distort information from interest groups
- Critic from one aspect

Solutions

- Strengthen public consultation apart from regular legal requirement
- Consumer empowerment

ITU's recommendation

Thailand's practice



Regular legal requirement

- Not sufficient
- Result is lawful, legitimate but not always satisfied

Strengthening Consultation process

- ✓ Throughout the whole process
- ✓ From the beginning until the end
- ✓ Optimize the result for policy making
- ✓ Achieve greatest public benefit

2. Consumer's right on information

Thailand's practice



Strengthening public consultation & consumer empowerment

- ✓ The NBTC's Notification on public hearing 2005 (B.E. 2548)



Academics

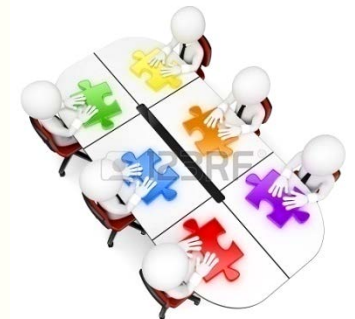
Consumer groups

Public sectors

Interest groups

Affected parties

Press



Obligations imposed to operators for better consumer protection

Telecoms regulations in the interest of consumers



Thailand's practice

Consumer Protection Plan as 2.1 GHz license condition

NBTC initiates license condition that requires operators to submit CSR that must cover

- ✓electronics waste management,
- ✓user's health
- ✓risk management plan for changing technology



Corporate Social Responsibility (CSR) as 2.1 GHz license condition

Consumer Protection Plan that must include

- ✓mechanism to handle improper services without charge
- ✓procedure to develop understanding among public about radiocommunications stations.

Requirement of prior approval of standard service contract

Adjustment of the requirement on no expiry date in prepaid-card phone

3 regulations in implementing 3G Infra sharing, MVNO, National Roaming

15% Price reduction

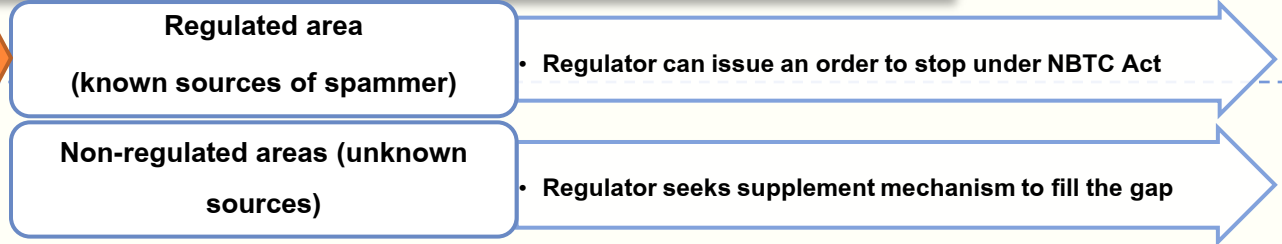
Faster and cheaper Mobile Number Portability (MNP)

Mandatory Interconnection rate

4. Protection of personal information, privacy



Thailand's practice



The NBTC Act

✓NBTC has a power under the NBTC act to **order the operator to stop spamming**, advertising causing annoyance

The Notification on Standard Service Contract

✓NBTC has a power to order the operator to **return money** to consumers that are charged by spamming (advertisement, gambling, etc.)

Examples of cases:

1. Never subscribed but charged by unsubscribed service
2. Per-time subscription but continuously charged monthly

Penalty

Violation under the Telecoms Act NBTC acts 2001

1. Fine
2. License suspension
3. License revocation

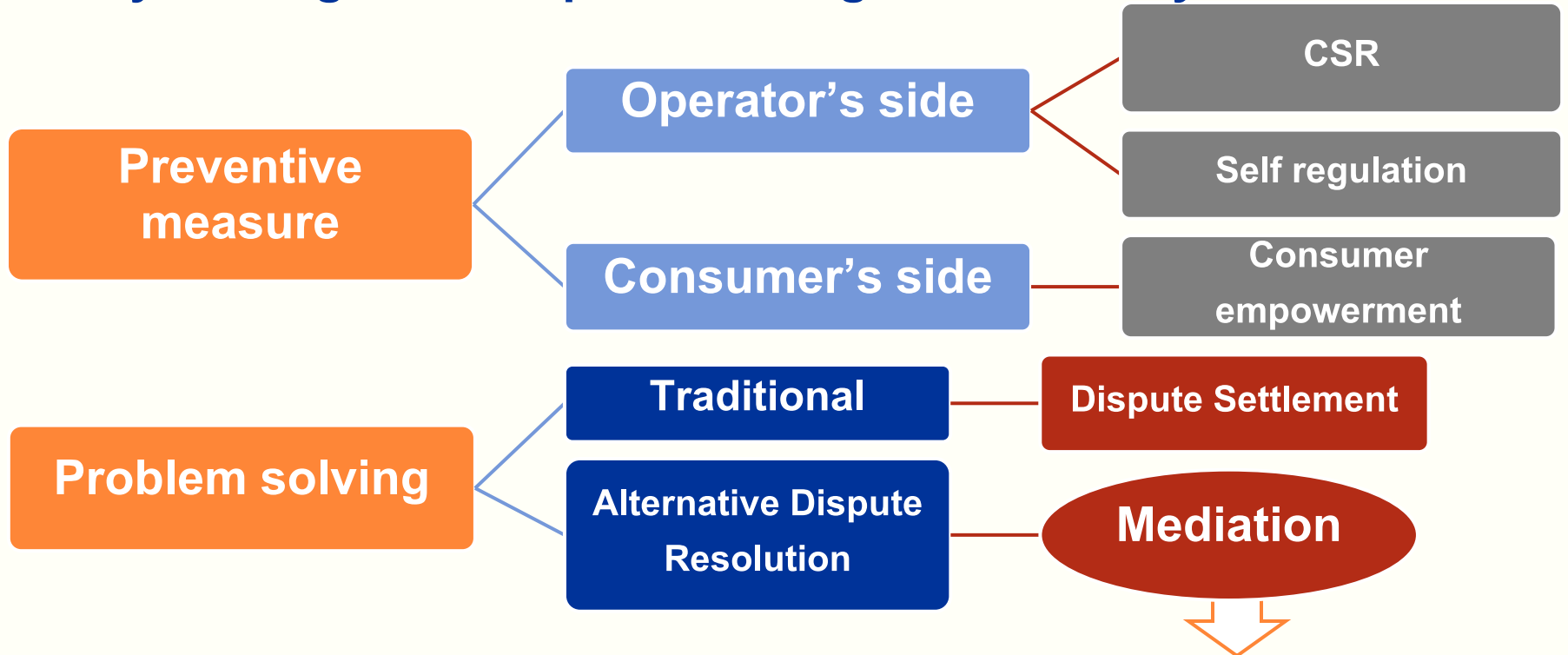
4. Protection of personal information, privacy

Thailand's practice



- ❑ **Joint responsibility between network operator & content provider**
- ❑ **NBTC's preparation for issuing new regulations**
 - ✓ Revising Regulation on **privacy consumer right**
 - ✓ Issuing new regulation on **unfair treatment to consumer**
- ❑ **More cooperation with ICT Ministry in the same direction**
- ❑ **MOU with Consumer Agency for collaborative protection**
- ❑ **Proposed future solution with help of technology advancement**
 - ✓ Filtering, firewall
 - ✓ Right to opt in, opt out

- ✓ Ability to seek redress when their rights have been infringed.
- ✓ Beyond “right to complaint” is “right to a remedy”



- ✓ remove bottleneck-problem in complaints receiving process
- ✓ more efficient system for consumers



Thailand's practice

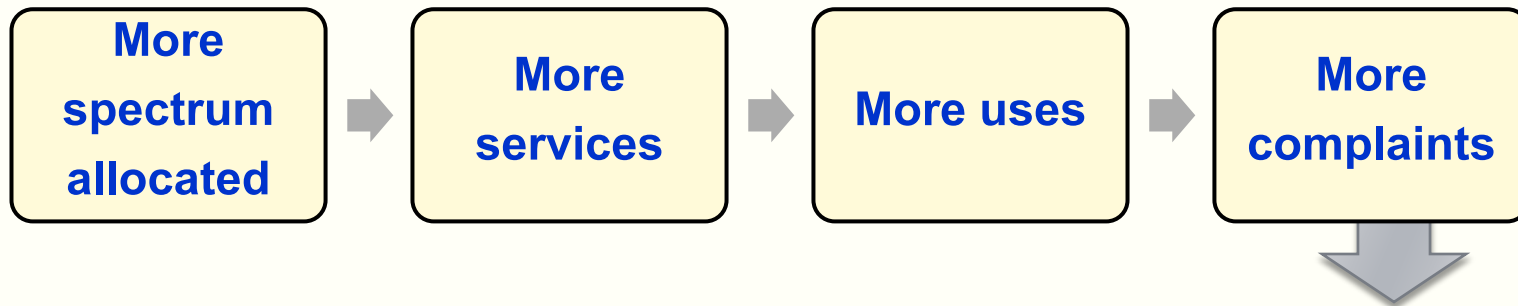


2.1 GHz is allocated (3G auction)

1800, 900 MHz (4G auction) next year

Way toward 700 MHz
harmonized spectrum

Way toward
ASEAN
Economic
Community
(AEC)



- In digital era, activities are likely to fall outside of a national regulatory framework
- Need of efficient ADR system

6. Other measures for better protection of consumers



✓ Consumers must be informed about unauthorized works, copyright infringement



Public
interest

IP Right
owner
protection

BALANCE



Digital content

Area of protection

Private content

Privacy Safety

Information
Content

Copyright
Piracy

Entertainment



6. Other measures for better protection of consumers

Thailand's practice

Who should be responsible for implementation?
Out of scope of telecoms regulator?

Global level



Domestic level

Court

Telecoms
Regulator

IP
authority

Competition
authorities

Problem on institution concerned with different authorities

Fragmentation in implementing

6. Other measures for better protection of consumers

Thailand's practice

What regulator can do in time of disaster?

1. Establishing NBTC disaster prevention plan

- Setting up plan and committee to deal with disaster management

2. Allocating spectrum used for disaster situation

- Allocating fixed band using for disaster management (central band for disseminate news about disaster)
- Ensuring multiple routes for information with help of amateur radio

3. Cooperating with relevant organizations responsible for disaster management

- Gathering and sharing information
- Timely warning



Consumer Benefit



Benefit from spectrum

- Efficient utilization of public scarce resources
- Wider range of consumer choices - more services provided by usage of spectrum (2G, 3G, 4G LTE)



Benefit from regulation

- Elevate standard of living through better consumer protection
- Reasonable price
- Better Quality of Service
- Better data protection
- Better dispute resolution mechanism



Benefit from converging market

- More convenient from new platform
- Emerging of new technology enables more business activities



Benefit from Nation

- Nationwide coverage 50% (2 years) and 80% (4 years)
- More accessibility, less disparity in rural areas
- National competitiveness, productivity and GDP growth enhancement



Recommendations on regulations policies for protecting consumers in the digital age 7 Musts

- ✓ **must understand dynamic of convergence from consumer perspective**
- ✓ **must strengthen public consultation to optimize consumer benefit**
- ✓ **must ensure that sufficient & suitable spectrum is made available for encouraging competition and generating public benefit**
- ✓ **must balance rights of all stakeholders to ensure best benefit to innovations to consumer and business**
- ✓ **must turn impractical and out of date regulations into practical and enforceable ones**
- ✓ **must integrate with consumer protection authorities in the same direction**
- ✓ **must cooperate with regional and international counterparts by exchanging information and sharing experience of converging environment for better consumer protection**

감사합니다.

Thank you

ขอบคุณครับ/ค่ะ

