

NBTC board rejects merger review

Request for Council of State inquiry

KOMSAN TORTERMVASANA

A majority of National Broadcasting and Telecommunications Commission (NBTC) board members have shrugged off a request to seek the Council of State's deliberation as to whether the regulator has the power to consider approving the merger of True Corporation and Total Access Communication (DTAC).

The request was made by board member Prawit Leesathapornwongsa during a board meeting yesterday, according to an NBTC source who requested anonymity. It is the first time such a request has been raised in an NBTC board meeting.

Mr Prawit made the request in response to calls by NBTC management, the source said.

The request was one of three proposals raised by Mr Prawit at the meeting. The others were a request to seek a public hearing on the merger and a demand for a clear time frame for NBTC management and its subcommittee to scrutinise the planned merger.

The source said a majority of the board only agreed to the suggestion that the NBTC management should spell out a clear time frame regarding its scrutiny of the deal and forward its suggestion to the board for consideration.

Five out of six NBTC board members attended the meeting yesterday. Prasert Silphiphat was absent.

So far, four parties have lodged petitions against the merger with the NBTC.

They comprise political activist Srisuwan Janya; Napat Winitchaikul, a member of the committee monitoring the NBTC work performance; the Thailand Consumers Council; and Advanced Info Service, the

country's biggest mobile operator by subscriber base.

The source said the board members indicated the petitions had already been acknowledged by the NBTC subcommittee responsible for keeping tabs on the planned merger and ironing out measures to govern the deal. The subcommittee is chaired by Mr Prasert.

A debate has been mounting as to whether the NBTC has the authority to approve the merger.

NBTC management indicated earlier the regulator has the power only to prescribe measures to govern the deal, but the merger's opponents have claimed the NBTC has the authority to approve or deny the deal.

The opponents base their opinion on a 2006 regulation created by the National Telecommunications Commission (NTC) for measures to prevent acts deemed to cause monopoly or unfair competition in the telecom business, according to the source.

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

Based on the regulation, the practice of holding a business in the same type of service may result in monopoly or limit competition, giving the NBTC the power to ban such a business holding or impose specific measures to govern it, the source said.

The source said the NBTC is seen to have legal power to prohibit mergers or acquisitions of two companies if it deems the move would lead to monopoly, or a reduction or limitation of competition, or cause unfair competition.

"The petitions by the four parties are causing concern about a legal backlash for the NBTC in the future," the source said.

DTAC's mobile arm dtac TriNet holds mobile licences from the NBTC office, while True's subsidiary True Move H Universal Communication operates a mobile business.