

MIXED SIGNALS

The DES Ministry plans to petition the Central Administrative Court to revoke the arbitration ruling on Thaicom's satellites. **B3**

DES Ministry seeks to revoke satellite ruling

Thaicom told SET of finding on Oct 6

KOMSAN TORTERMVASANA

The Digital Economy and Society (DES) Ministry plans to petition the Central Administrative Court to revoke the arbitral ruling that Thaicom 7 and 8 satellites are not part of the agreement between the ministry and SET-listed Thaicom.

Thaicom notified the Stock Exchange of Thailand about the ruling by the tribunal arbitrators on Oct 6.

Citing the ruling, the company said it is not obligated to comply with requests by the ministry, such as the transfer of ownership and assets, payments of overdue revenue sharing and property insurance.

The company indicated the two satellites fell under the scope of a licence scheme obtained by the National

Broadcasting and Telecommunications Commission (NBTC).

DES Minister Chaiwut Thanakamansorn said the ministry acknowledged the ruling and has a division preparing a legal response.

"The arbitration ruling is not the end of dispute and we have time to prepare a further move," Mr Chaiwut said.

The ministry and the Office of the National Digital Economy and Society Commission (NDESC) will play a key role in pushing for further legal challenges, he said.

The amended NBTC law passed in 2018 makes the NBTC the sole agency governing satellite businesses in the country.

"Although the company cites the two satellites are under the single licence of the NBTC which require only 5.75% licence fee payment to the regulator, the ministry has accountability to fight to the end from a legal angle," Mr Chaiwut said.

Thaicom 7 was launched into orbit

in 2012 and began operating in 2014. Thaicom 8 was launched into orbit in May 2016.

Pudchapon Nodthaisong, secretary-general of the NDESC, said his agency has begun talking with related units to work out how to deal with the issue following the ruling.

On Oct 5, 2017, Thaicom received a letter from the DES Ministry stating the two satellites fall under the operating agreement on domestic communication satellites dated Sept 11, 1991, between its parent Intouch Holdings and the ministry.

The letter asked Thaicom to fully comply with the terms of the agreement.

As Thaicom considered the two satellites to be under the NBTC's licence scheme, unlike the Thaicom 4 and 6 satellites that are governed under the DES Ministry's concession under a build-transfer-operate agreement, the company submitted the dispute to the Thai Arbitration Institute on Oct 25, 2017.



Satellite dishes at Thaicom's headquarters in Nonthaburi province. PATTARAPONG CHATPATTARASILL



The ministry and the Office of the National Digital Economy and Society Commission will play a key role in pushing for further legal challenges.

CHAIWUT THANAKAMANUSORN

DES Minister

There is another dispute still in arbitration between Thaicom and the ministry related to the Thaicom 5 satellite, which was taken out of orbit in February 2020 before the concession expired.

The ministry demanded Thaicom build and deliver a replacement satellite for Thaicom 5, or pay compensation of around 7 billion baht if it cannot do so.

Thaicom argues the ministry was informed in advance about the satellite's lifespan, which was due to end in 2018, before it was approved for launch.

Moreover, the company compensated the DES Ministry by making the revenue sharing in respect of customers affected by Thaicom 5 incident and by negotiating with the insurer in order to obtain compensation for the ministry.