

Bitter pill for True, DTAC

NBTC imposes harsh conditions on telecom merger, with lower margins likely

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Despite providing tacit approval for the merger of True Corporation and Total Access Communication (DTAC), the National Broadcasting and Telecommunications Commission (NBTC) has prescribed harsh remedial measures that could mean lower margins for the new firm, according to people associated with the regulator.

The measures are also meant to support reform in the industry, the regulatory sources said.

On Thursday the five-member NBTC board voted 3-2 for the stance that it has no authority to consider approving or rejecting the planned merger, which paves the way for the amalgamation.

It also issued a raft of measures meant to regulate the merger. Despite being seen by some observers as "weak," the sources maintained they are tough enough to rein in True and DTAC.

The measures include the obligation that True Move H Universal Communication (TUC), a mobile business arm of True, and dtac TriNet (DTN), a mobile service unit of DTAC, must have separate brands of service for three years. They cannot pursue frequency sharing, according to related regulations.

The merged firm will also be required to comply with a price ceiling for average service fees and average cost prices.

The regulator can check the merged firm's structure of costs and service fees to determine average cost pricing, which has to be applied to excess usage of both unbundled and bundled packages.

KEY TAKEAWAYS FROM MEASURES TO REGULATE TRUE-DTAC MERGER

true
dtac



Price ceiling of averaged service fees

- A 12% decrease in subscriber-weighted average service fees within 90 days after the merger
- Provide separate prices for each service as choices
- The merged firm must notify users about this information for an audit, with a penalty imposed for failure to do so, such as a fine based on a percentage of revenue or tiers, and revocation of a licence

Average cost pricing

- The merged company must send the information stipulated in an NBTC regulation to the regulator every three months, or upon request, to verify the structure of cost and service fees, which can determine average cost pricing and marginal cost
- Display separate charges for different services, such as voice, data and SMS, or promote unbundled packages. Fees must be determined by average cost pricing

Consumer choice protection

- True Move H Universal Communication (TUC), a mobile business arm of True, and dtac TriNet (DTN), a mobile service unit of DTAC, must have separate brands of service for three years
- TUC and DTN must maintain existing contracts with customers or improve them if they receive consent from users

Mobile virtual network operator (MVNO) promotion

- The merged firm must not refuse to provide services to licensed MVNOs by citing a lack of adequate mobile networks
- The merged firm must support MVNOs using its mobile networks within 60 days after receiving the request
- The rate of wholesale compensation for mobile phone service for MVNOs must be at least 30% lower than the merged firm's retail prices

Source: NBTC

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BITTER PILL

Prawit Leesathapornwongsa, former NBTC commissioner and current advisor to the NBTC chairman, said several conditions in the measures serve as "a bitter pill" for the merging parties.

"It may look weak in terms of blocking the merger procedure, but the conditions are good for regulatory reform of the industry in the long run," said Mr Prawit.

He said various conditions will set a new standard for regulation governing the industry, including Advanced Info Service, the biggest mobile operator.

"The series of measures could dent their margins, while creating benefits for users," Mr Prawit said.

Some important details of the measures could upset the merging parties, he said. The merging parties are obliged to adhere to the NBTC Act's Sections 41 and 44, which mean TUC and DTN cannot engage in frequency sharing, Mr Prawit said.

Additionally, the merger of TUC and DTN requires a future resolution by the NBTC board. The regulator's legal committee was assigned to make suggestions to the board about the issue, he said.

Air Marshal Thanapant Raicharoen, an NBTC board member, confirmed that TUC and DTN cannot pursue spectrum sharing under the related regulation, which states the right to use spectrum is awarded by the NBTC and cannot be shared with others.

The proposed merger also requires forwarding to the NBTC for consideration, he said.

LEGAL CHALLENGES

A source in the telecom industry who requested anonymity said the NBTC



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PRAWIT LEESATHAPORNWONGSA
ADVISOR TO THE NBTC CHAIRMAN

board could be at risk of legal action stemming from Thursday's voting process.

Dr Sarana Boonbaichaiyapruk, chairman of the board, used his power as chairman to cast the deciding vote for the 3-2 decision supporting the stance that the NBTC has no power to approve or reject the merger.

The initial vote was split 2-2, with AM Thanapant choosing to abstain.

The source said because this was an extraordinary meeting, not a general agenda meeting, the chairman was unlikely to have the power to cast a second, tie-breaking vote.

AM Thanapant could also face legal action for opting to abstain from the vote, the source said.

Pisut Ngamvijitvong, senior equity research analyst at Kasikorn Securities, said DTAC and True would now be heading for a voluntary tender offer.

However, a petition to the Central Administrative Court by the Thailand Consumers Council and others could pose a challenge to the deal.

MARKET MONITOR

NUNTAWUN POLKUAMDEE
PORNKAMON TEERAPIBOONKUN

EQUITIES MOVE LOWER BUT SET OUTLOOK STILL GOOD

RECAP: Asian and European stocks moved lower yesterday, as US Treasury yields held at the highest level since the global financial crisis of 2008 and investors weighed risks to Chinese markets.

Thai shares moved up this week, and Finasia Securities has a bullish view on the local market. Thailand's economic recovery, the broker says, should help the SET index outperform peers. In the short run, the focus will be on banks' third-quarter earnings and real sector earnings previews.

The SET Index moved in a range of 1,553.80 and 1,597.93 points this week before closing yesterday at 1,591.32, up 2% from the previous week, in daily turnover averaging 55.9 billion baht.

Retail investors were net sellers of 4.92 billion baht. Institutions were net buyers of 4.12 billion, foreign investors bought 530 million and brokers bought 269.11 million baht worth of shares.

NEWSMAKERS: US Treasuries have entered the longest sustained slump in 38 years, as policy makers signal their determination to keep raising interest rates until they are sure inflation is under control. The yield on benchmark 10-year notes jumped 23 basis points this week to 4.26% on Friday.

The Chinese yuan resumed its weakening trend yesterday, approaching lows hit during the global financial crisis of 2008. The Vietnamese dong also fell to a record low as other emerging Asian currencies remained on the back foot against a resilient dollar.

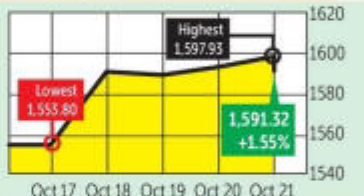
Chinese President Xi Jinping is poised to win a precedent-breaking third five-year term as General Secretary of the ruling Communist Party when the 20th Party Congress wraps up this weekend.

The London stock market and the pound bounced on Thursday after British Prime Minister Liz Truss announced her resignation after weeks of market anxiety about a disastrous economic plan. Uncertainty remains, however, about whether the Conservative Party can survive in power once it selects a new leader next week.

- UK inflation accelerated to 10.1% in September, piling more cost-of-living misery on households.
- Core consumer inflation in Japan rose to a fresh eight-year high of 3.0% in September, exceeding the central bank's

2% target for the sixth straight month as the yen passed 150 to the dollar, a 32-year low, and pushing up import costs.

- The Japanese Trade Union Confederation says it will seek the biggest pay raise for union members in nearly three decades, as the country feels the bite of inflation.
- Hedge funds focussed on emerging Asia posted their biggest monthly losses in years in September, at 7.7%, and are set for the



* From the previous week

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worst year since the 2008 financial crisis, the data provider HFR said.

- Indonesia's central bank raised its benchmark interest rate by 50 basis points for a second straight meeting, as authorities sought to arrest a slump in the rupiah and check inflation.
- The global smartphone market had its worst third quarter since 2014, with shipments falling 9% year-on-year, as economic headwinds pushed consumers to delay discretionary purchases like personal electronics.
- Thailand's telecom regulator declined on Thursday to halt a merger that will create the country's largest network operator. After an 11-hour meeting, the National Broadcasting and Telecommunications Commission (NBTC) board voted 3-2 to "acknowledge" the merger of True Corp and Total Access Communications (DTAC) into a new company that will command 54% of the mobile market. It will be subject to a number of conditions to protect consumers.
- The global economy will grow at 3.2% this year, a substantial drop from 6% last year, with an even gloomier outlook for next year, Finance Minister Arkhom Termpittayapaisith said at an Apec finance ministers' meeting on Thursday.

- Cooking gas prices will remain unchanged until the end of this year, even though world prices for liquefied petroleum gas (LPG) have fallen by 11% in the past month, as authorities seek to shore up the heavily indebted Oil Fuel Fund. The retail price of cooking gas will stay at 408 baht per 15kg cylinder.
- The new phase of the domestic tourism subsidy programme is expected to cover between 3 million and 4 million hotel rooms, double the number in the fourth phase that ends this month. The fifth phase of "We Travel Together" will

continue to offer a 40% subsidy on hotel rooms to domestic tourists, along with a voucher worth 600 baht a night for food and shopping.

- The Commerce Ministry plans to ask the cabinet to approve a price guarantee scheme for palm oil farmers for the 2022-23 harvest season, while pledging to support crude palm oil exporters.
- Advanced Info Service's plan to acquire the fixed broadband provider Triple T Broadband (TTBB) and invest 19% in Jasmine Broadband Internet Infrastructure Fund (JASIF) faces uncertainty after JASIF unitholders rejected AIS's proposed amendments to optical fibre cable rental agreements.
- SET-listed CK Power Plc (CKP), the energy arm of the contractor Ch. Karnchang Plc (CK), plans to acquire additional shares worth 21.5 billion baht in Luang Prabang Power Co, which is planning a third hydropower dam in Laos.
- The cabinet on Tuesday agreed to waive personal income tax for foreign actors for five years, which supporters say could generate as much as 3.5 billion baht in revenue from investments in foreign film productions.
- The government plans the usual array of "New Year gifts" at the end of the year, including an extension of the "Khon La Khrueng" co-payment scheme and the "Shop Dee Mee Khuen" tax rebate, to



Unit: baht

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TOP 5 GAINERS AND LOSERS

Gainers				Losers			
Securities	Closing price	Change	Securities	Closing price	Change		
• TSR	4.08	19.30%	• IRI	12.50	-7.41%		
• CPL	3.10	16.54%	• INGRS	0.63	-7.35%		
• TEAMG	17.50	13.64%	• STARK	3.50	-6.91%		
• PRM	6.50	13.04%	• TAE	1.64	-6.82%		
• CPH	39.00	13.04%	• BROCK	1.64	-5.75%		

As of Thursday

*New Listing

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encourage consumer spending to drive economic recovery.

- Energy Absolute (EA) has launched an electric mini truck as the company continues to expand its business in the commercial EV category. The company earlier introduced an electric boat and an electric bus.

COMING UP:

The Ministry of Commerce will announce

September trade figures on Tuesday and the Ministry of Finance will release its regional economic index. From Oct 26-29, Thailand will host the Asia-Pacific Parliamentary Forum. The Bank of Thailand Digital Finance Conference 2022 will take place from Oct 27-29.

Elsewhere, the updated EU Business Sentiment Index will be released on Tuesday and US new home sales on Wednesday, along with weekly oil stockpile reports.

STOCKS TO WATCH: Capital Nomura Securities recommends the investment strategy for a long-term portfolio is to hold 70% in stocks, 15% in bonds, 5% in gold and 10% cash or money market funds.

Recommended stocks are those related to domestic consumption and spending such as banks and insurance, retail and communication. The brokerage's picks include SCB, BBL, TLI, MAKRO, BJC, CRC, ICHI, BEB, BEC, ERW, SCGP and GPSC.

Yuanta Securities recommends stocks of firms with a strong financial position with good resistance to inflationary pressures and rising interest rates, including AH, BBL, BDMS, CPALL, GULF, GFPT, III, KISS, PLANB, SC, SNNP and WHA.

Kasikorn Securities advises investors to look at stocks that could benefit from the relaxation of Covid measures by China. They include tourism plays such as AOT, AAV, CENTEL, ERW, SPA and EKH, property developers like SIRI and ANAN, industry and logistics firms SCGP, JWD and PSL, industrial estate firms WHA and AMATA, food and beverage players TKN and SNNP, and cosmetics firms including DDD and BEAUTY.

TECHNICAL VIEW: Thanachart Securities sees support at 1,580 points and resistance at 1,610. Capital Nomura Securities sees support at 1,576 points and resistance at 1,609.

Court urged to halt merger

Activists, MFP seek to axe telecom tie-up

POST REPORTERS

The Thailand Consumers Council (TCC) and the opposition Move Forward Party (MFP) will ask the Administrative Court to issue an injunction against the planned merger between telecom operators True Corporation and Total Access Communication (Dtac), citing monopoly concerns.

They said they will also ask the National Anti-Corruption Commission (NACC) to look into whether there was any dereliction of duty by the National Broadcasting and Telecommunications Commission (NBTC) regarding the merger.

Saree Aongsomwang, TCC secretary-general, expressed disappointment yesterday with the NBTC's decision to not shoot down the merger.

She said the NBTC merely acknowledged the planned merger and did not exercise its power.

The board of the telecom regulator has been divided over whether it has the legal authority to block the merger, or whether it can only set certain

conditions to ensure fairness.

However, Ms Saree said the Administrative Court and the Council of State have ruled that the NBTC has the legal authority to block the merger, but the majority of NBTC members voted otherwise.

"This could be deemed as a dereliction of duty," she said.

She said the TCC will seek an Administrative Court injunction and seek a ruling. It will also ask the NACC to investigate, she said.

"Apart from the TCC and the MFP, other damaged parties, including customers of True and Dtac, can join petitions if they have receipts," she said.

Sirikunya Tansakun, deputy leader and a list-MP of the MFP, said the NBTC has in this case failed to protect consumers and prevent a monopoly from forming.

The party plans to join pro-consumer groups by petitioning the Administrative Court and the NACC, she said.

She said the party will wait to hear the opinions of all NBTC members and use them as evidence to file a petition asking the NACC to look into the matter.

A source at the NBTC said after emerging from the meeting room that a decision was reached whereby it has

no authority to consider approving or rejecting the planned merger.

The mega deal was announced by Norway's Telenor, the parent of Dtac, and conglomerate Charoen Pokphand (CP) Group, the parent of True, at a joint press conference last Nov 22.

The regulator was expected to make a call on the deal on Thursday that consumer rights groups said would reduce market competition.

The merger would result in a duopoly with only two major players in the market and consumers paying higher service fees, they said.

While consumer rights groups called on the regulator to reject the merger, True and Dtac stressed the NBTC only has the legal authority to prescribe specific measures to govern the deal.

The regulator was expected to impose tough measures to govern the merger.

If it goes ahead, it would create the country's largest mobile operator with a market share of about 56%, versus 44% for the current market leader, Advanced Info Service Plc (AIS).

Reports commissioned by the NBTC recommended it be "prohibited".

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