

AIS withdraws lawsuit against NBTC as merger crystallises

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Advanced Info Service (AIS) recently withdrew its lawsuit in the Central Administrative Court against the National Broadcasting and Telecommunications Commission's (NBTC) resolution last October that acknowledged the merger between True Corporation and Total Access Communication (DTAC).

The lawsuit asserted the resolution tacitly approved the merger deal of its two rivals, with the NBTC board refusing to exercise its power to strictly govern the deal through related regulations.

An AIS executive who requested anonymity said the lawsuit was withdrawn because management believes the merger procedure has gone too far to be reversed.

Management decided to withdraw the lawsuit over the last two weeks, said the executive.

On Oct 20, 2022, the NBTC board voted 3-2 to take the position it has no authority to consider approving or rejecting the planned True-DTAC merger, which in essence allowed the amalgamation.

The board acknowledged the planned merger and issued consumer remedy measures by citing the 2018 regulations, which state the NBTC can only govern mergers, not approve or



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reject them.

True and DTAC completed the merger of their operations and management structure earlier this year to become True Corporation.

Their subsidiaries TrueMove H Universal Communication (TUC) and DTAC Trinet (DTN) also registered with

the Department of Business Development on Aug 3 under the merger scheme, with DTN ceasing to be a juristic person.

DTN's assets, debt, rights and responsibilities were also transferred to TUC from Aug 3.

The two telecom operators will continue to serve their customers under the existing True Move and DTAC brands for at least three years after the completion of the merger, in accordance with the NBTC's remedy measures.

The AIS source denied the lawsuit's withdrawal is meant to pave the way for the NBTC to approve the takeover of Triple T Broadband (3BB) by AIS.

The takeover deal is being scrutinised by NBTC management.

The source said the takeover of 3BB differs significantly from the True-DTAC merger.

NBTC chairman Dr Sarana Boonbai-chaiyapruk told the *Bangkok Post* he already knew of the withdrawal, though it will not affect the regulator's consideration of the AIS-3BB deal.

Dr Sarana again insisted the NBTC board has no legal power to prohibit mergers or acquisitions, including for True-DTAC or AIS-3BB, but it has the authority to impose specific measures to prevent acts or behaviours that monopolise, reduce or limit competition.

An NBTC source who requested



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anonymity said previously Dr Sarana and some NBTC commissioners were concerned the AIS lawsuit would create difficulties for the board considering the takeover deal of 3BB.

The commissioners believed the lawsuit might imply that AIS disagrees with the amended measures for business mergers in the telecom sector that took effect in 2018, according to the source.

The NBTC board said it plans to consider the AIS deal by referring to the same 2018 regulations it used for its decision regarding the True-DTAC merger.

The 2018 regulations replaced 2010 measures that empowered the NBTC board to determine whether to allow or reject a merger deal.

The 2018 regulations state the NBTC board only has the authority to impose specific measures to prevent licensees from creating a monopoly or reducing or limiting competition in the telecom sector.

In November 2021, Charoen Pokphand, the parent company of True Corporation, and Telenor Group, parent of DTAC, announced the merger deal between True and DTAC.

The merger deal was widely criticised in the media by several opponents, including academics, consumer advocates and economists.

True and DTAC jointly submitted a report of the amalgamation procedure to the telecom regulator on Jan 25, 2022.

The NBTC then assigned management to set up four subcommittees to scrutinise the deal.