

3G future depends on clarity

Experts warn Thailand could be last nation in bloc to adopt new technology,

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Thailand's telecommunications sector needs greater regulatory fairness as well as clarity in policy from the government on the future of former state enterprises CAT and ToT if Thailand is to secure the huge investment needed for 3G and data services moving into the future.



Dr Duenden Nikomborirak says the biggest problem in Thailand's mobile phone market is the lack of number portability and discriminatory regulation. KAN YUENYONG, SIAM INTELLIGENCE UNIT

LIRNE Asia, the new Siam Intelligence Unit think-tank, conducted a study of the perceptions towards the regulators in eight emerging Asian economies in the second half of 2008 and representatives from the regulator NTC, ToT, the GSM Association and think-tank TDRI were invited to the report's presentation. The event was co-hosted by LIRNE Asia, and was hosted by Chulalongkorn University's Dr Pirongrong Ramasoota, an activist who set the tone of the event by noting that today Thailand is in competition with India to be the last of the eight Asian countries to attain 3G.

Dr Duenden Nikomborirak, research director for economic governance at the Thailand Development Research Institute, which conducted the Thailand study, said that back in 2002, the duopoly of operators meant a lack of competition and it took the introduction of a third player into the market as well as the de-coupling of the sim from the handset, to allow mobile penetration to soar.

As of 2008, mobile penetration stood at 62.5 million in a country of 65 million. In 2010 the number is expected to go beyond 100 percent, with many people carrying more than one handset. Currently, penetration is already more than 100 percent in Bangkok, but only 65 percent outside of Bangkok, thus there is still room for growth.

The fixed line regime is inefficient and opaque, with no clear rules on right of way and no clear distinction between type 2 and type 3 licenses, with certain operators that provide public services being granted a type 2 license, which has less fees and universal service obligations attached.

The biggest problem with mobiles is the lack of number portability and discriminatory regulation.

Portability should be mandatory by law in three months from now, but it is still unclear if the companies can implement it overnight.

Dr Duenden cited AIS's permission to upgrade its 2G network to 3G HSPA, while competitors were initially not allowed to, as an example of discrimination.

Dr Duenden said that while most people think of frequency when speaking of scarce resources, another that is more problematic is right of way.

While the NTC has given out fixed line licenses, it took until this month to issue rules on right of way where cables could be laid.

Thailand scored lowest in terms of interconnection, as these are part of the concession contracts rather than the NTC rules. When the concessions were handed out in 1990 there was no interconnection and instead they had an access charge, which is inconsistent with the NTC's interconnection rules. The question is whether operators have the right to stop paying access charges and pay interconnection instead. In other words, whether they should play by the concession contract or the NTC's rules.

Furthermore, interconnection should by law be cost-based, yet the figure of 1 baht a minute is arbitrary.

Similarly, Thailand scored low for tariff regulation. The NTC simply took the highest market prices and set them as a limit without any calculations or questions about those price ceilings which are ineffective anyway as they are now higher than the actual prices charged.

Universal Service Obligation fund management is also a concern without clear rules. The current contribution rate of 4 percent is one of the highest in the world, though the NTC has indicated it wants it revised down to 1.75 percent, but with private operators paying as well as implementing USO projects.

Dr Duenden said that many people had thought that having the NTC as an independent regulator would be a panacea but in reality, independence does not solve all our problems. It is clear that competition goes a long way to lifting the responsibility of regulators. Thailand enjoys low mobile prices but this has nothing to do with the NTC's performance.

Later, Dr Somkiat Tangkitvanich, vice-president and research director of the information economy at the Thailand Development Research Institute, spoke of how broadcast spectrum demand has been on the increase since the 1997 constitution promised citizens access to express their views while at the same time large swathes of spectrum were held by government agencies such as the Mass Communications Organisation of Thailand and the Public Relations Department, as well as the military. This has led to alternatives such as satellite TV or the use of non-spectrum constrained models such as cable or IPTV.

In telecommunications, the main concern is 3G is simply going to be used not to provide 3G services but to avoid paying high concession revenue share fees.

Kittipong Tameyapradit, Senior Executive Vice President for enterprise efficiency at ToT, said that his company is now focused on data, rather than the declining voice market and is rolling out a series of upgrades to exchanges with fibre to the exchange so they can support higher speeds with VDSL 2+.

"[We provide] 12 MB in Pattaya already, but lack content; when we sell 12 MB ADSL, [users] don't need it and the price is too high [at] 1,700 Baht a month," he said, a gasp of disagreement clearly rising from the audience.

He said that the government has instructed ToT to become a network provider and roll out networks for others to sell through an MVNO (Mobile Virtual Network Operator) model.

He also complained that 4 percent USO contribution was too high in light of the fact that competitors DTac and TrueMove did not have to pay it.

However, the biggest commotion from the audience came with regard to ToT's current stance against the 3G auction. Kittipong said that the company does not understand why it has been excluded from the 3G auction, not that it matters for 3G as TOT has spectrum anyway, but he is afraid that the NTC will also use the same reason for the upcoming WiMAX auctions that TOT does want. "We are not against 3G, but we are protecting the interests of the country," he said, bluntly.

ToT argues that 3G will mean that its current concessionaire, AIS, will move its customers away from the

revenue share agreement on its current network to the 3G network where the fees will be much less, around six percent. Currently, AIS pays ToT 12 billion baht a year, so with six years left on the concession, the state will lose 72 billion baht from ToT alone if the 3G auction is allowed to continue, he argued.

"We support competition; what the media is saying of us is not true. But we are government officials, we have to do by the contract. If the government gives us a clear structure, we are happy to follow it," he said.

Supot Tirawut, director of the Telecommunications Research Industrial Development Institution, Office of the National Telecommunications Commission, spent his time defending the NTC from the barrage of criticism levelled at it from the other panellists.

He said it was not the duty of the regulator to be loved, rather the regulator has to be working against the operators to ensure a good deal for the consumer. He attributed the growth of the mobile phone market to the NTC's numbering regime change that allowed many more numbers and the move to prepaid and to interconnection rather than access charges.

The legal question mark over the NTC's jurisdiction in 3G and WiMAX is about to be clarified as the NTC will ask the Council of State again if it has jurisdiction to carry out the auctions under the 2007 constitution.

He also said the courts recently dismissed ToT's legal challenge (regarding interconnection versus access charges) and said the 2 billion baht collected in USO contributions may sound like a lot, but is not enough to roll out any major project.

Supot also said that the NTC was to be thanked for Thailand's faster Internet now that the international gateway has been deregulated under a military-installed government.

View from inside the think-tank

Rohan Samarajiva is Chairman and CEO of LIRNE Asia, a think-tank that has a mission to understand the laws, policies and regulations that enable people to use technology and reform those laws that stand in the way of such understanding. He explained that the basic issue of regulation is to provide confidence for investment. If there is investment, then there is network roll-out, people have access, increased quality of service and greater choice. Pre-reform, government monopolies starved the sector of investment.

His organisation looks at regulatory risk; how attractive the regulatory regime is for investors and how one company would be treated differently to others, and has come up with a series of questions that have been applied to developing countries to assess the effectiveness of their regulatory regimes.

While he cautioned against using the tool as a comparative measure between countries and rather urged the score to be used to look internally and identify areas to improve, Pakistan did come out favourably in the survey which also included Bangladesh, India, Sri Lanka, Maldives the Philippines, Indonesia and Thailand.

Pakistan has had a clear regulatory framework since 2003. Its license renewal is clear, without arbitrary factors, and will be decided two years before the license is up. Fixed line licensing is unbundled, meaning entrants can offer services in their area of choice. Mobile portability has been in place since 2007, which has helped new entrants compete and the country now has the fastest growing mobile telecoms sector in the world.

Asked if the European regulators did a better job, he said that the situation was very different as there was a common European framework with pages and pages of documentation. For Thailand and the region, the idea should be to keep things simple and transparent. One country that tried to import the European framework was South Africa and all it did was deadlock the system.

Rohan added that history has shown the last five years of long-term concessions of any kind are always the worst in quality of service as there will be no new investment unless the contract is renewed well in advance.

He also said that, in his opinion, universal service obligation funds were simply a tax on the poor and

should be done away with entirely.

Economists' views are crucial to success

Kristin Due Hauge, Director for Spectrum at the GSM Association, said that experience has shown that there is no "one size fits all" when it comes to regulation but her experience from very mature markets shows that it is best to listen to the really clever economists.

She said that while one of the Nordic countries is poised to launch LTE on 2.6 GHz next year, 3G will probably be the cheapest for quite a while.

GSMA's 750 members include vendors who of course do have an interest in seeing 3G roll out in Thailand. Today, people already have 3G smart phones but without the networks to take full advantage of them, likening it to people buying HD TV sets without HD content to show on them.

However, she warned that today's frequency worries were just the tip of the iceberg. Once operators move from a voice to a data market offering more and more Internet-based services, they will need greater spectrum when the real uptake happens. The solution means to license out 2.6 GHz as well as re-farming analogue UHF TV frequency if the economic growth and expansion is to happen.

Due Hauge warned that no operator would be making the kind of investments needed without the prospect of at least 10 to 12 years' return.

They are not in the business to be nice. They need to be professional and present a case to their investors. Don't forget that capital is the most free movement group these days.

Asked how many operators would suit a country the size of Thailand, she simply said that there is no straightforward answer. Two would be too little, six to eight too much. In this industry, the economies of scale are huge and it takes big investors to deliver that scale.

Spectrum allocation lessons from India



Assoc Prof Payal Malik of the Delhi School of Economics at Delhi University. KAN YUENYONG, SIAM INTELLIGENCE UNIT

India is a case study of the worst in spectrum allocation, according to Payal Malik, Associate Professor of Economics at Delhi University and research fellow LIRNE Asia.

Structurally, India is different from Thailand with its department of telecommunications and ministry of ICT playing a very important role in setting policy.

Like Thailand, market entry is very liberal, but what they have learned is that if they do not allow the operators spectrum to work with, market entry is useless.

Spectrum is a public resource and the allocation mechanism is through the regulatory body. Artificial

scarcity can be created through the hoarding of spectrum and thus restrict the operation of new players. The government is a custodian and needs to allocate it for optimal revenue generation for the public exchequer, competition and ensuring public service.

The "first come, first served" principle has been abused, leading to an inefficient, even corrupt, mechanism.

The lesson learned from India, which is now in competition with Thailand to be the last to roll out 3G, is that a purely administrative approach to spectrum allocation has resulted in hoarding of spectrum. India has decided to give out spectrum linked to usage numbers. This has led to perverse incentives with the number of users misreported and locking spectrum in low-value voice rather than for high-value data services.

Dr Malik said that of the 110 MHz recognised for 2/2.5G, only 35 MHz has been allocated with a lot still used by the ministry of defence. In each circle the regulator has up to 12 players, meaning that while entry to the market is very easy, quality is poor and the spectrum is fragmented.

India's road to 3G is almost as tumultuous as Thailand's. In September 2007, the regulator identified 2.3-2.4, 2.5-2.69 and 3.3-3.4 GHz as bands for broadband wireless access. The auction has been delayed twice, first by the finance ministry demanding a higher reserve price and then by the regulator deciding no new entrants will get access to 3G space.

The auction was most recently scheduled for December 7 but this has been postponed again because the instruction manual has not been prepared, said Dr Malik.

The administrative approach was fine for a infant telecommunications market, but now what is needed is a market-based approach, in particular a secondary market where spectrum can be traded. A regulator is also needed to allow mergers and transfers of spectrum, she added.

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