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Your Excellency:

TELECOMMUNICATIONS: EVOLUTION AND DEVELOPMENT OF THE INDUSTRY – THE ROLE OF STATE-OWNED ENTERPRISES

The Joint Foreign Chambers of Commerce in Thailand (JFCCT) is the umbrella body for 29 foreign chambers of commerce in Thailand. We have had the honour and privilege to have communicated with Your Excellency previously.

We were most encouraged following Your Excellency's appointment as Minister for ICT to read about your Excellency's policy of fair treatment and not favouring any particular operator.

By openly encouraging policies which promote investment (both local and foreign) and skills transfer and development, the JFCCT views itself as a partner in the Thai economy (see www.jfcct.org). For well over a decade the JFCCT has taken a keen interest in the telecoms sector and its progress and development. We view this sector as strategic: a well-functioning, attractive, effective and innovative sector has a positive multiplier effect on the rest of the economy.

We refer now to the many recent press reports on the Ministry's position with respect to the State-Owned Enterprises in the sector wherein as we understand it the Ministry aims to support the continuation of the use by SOEs of spectrum which is currently under concession arrangements. Rather than returning this spectrum to the NBTC, the proposal as we understand it would allow continued use for many years to come. This may be viewed as tantamount to an extension of a concession system or something in substance similar in that both network and spectrum would continue to be with the SOE.

Please allow us to recap on our submissions and recommendations which have been respectfully made over some years.

We have observed that the structure of the industry is critical factor in its overall effectiveness. It is a highly inter-dependent industry which works best via appropriate regulation which both supports sharing of infrastructure on fair terms and encourages competition both at facilities level and most importantly at services level. Thailand, we have observed, is almost unique in the world for an economy of the Kingdom's state of development (upper middle income) in that:

- There is no effective wholesale market yet, thus impeding the cost effective use of base infrastructure and base services
- SOEs continue to be 100% state-owned and continue to have privileges which are not available to the rest of the industry and continue in effect to have a large influence on policy.
- A concession system is still with us.

Historically the SOE evolutionary path in the sector, based on global practice, has been:

- i) Government departments providing monopoly post, telephone and telegraph ('PTT') services
- ii) Corporatisation, often with post restructured to another entity
- iii) At least partial privatisation
- iv) The re-formation or restructuring of the SOE

We may consider the varied development paths of British Telecom (BT), Telstra, Singtel, Telekom Malaysia (TM), PLDT and others. Over some years, all have become listed entities in reasonably to very competitive markets which have strengthened the players in those markets and in most cases enabled the 'PTT' to invest overseas. The TM evolution story in particular is an impressive one (in April 2013 TM won a prestigious regional award for best broadband carrier). The transformations may have come with some pain but they were not ultimately avoided.

These developments have brought benefits to businesses, government and consumers in the home market, strengthened the former 'PTT' added wealth to the home economy (well beyond what it might have enjoyed from an unreformed SOE and the industry with an unreformed SOE) and contributed skills and innovation to the overseas markets in which they have invested. No such development has occurred in Thailand.

In Thailand the evolution away from the concession era has been a long journey. SOE development and resistance from SOEs to various developments has troubled potential and current investors, both local and foreign.

We do not see that the SOEs (being corporatised entities) can themselves necessarily make all of the appropriate decisions about their own strategy and direction. In the context of overall industry development we observe that it requires the political will of their owners and masters.

As will be recalled, following the successful challenge to the proposed 3G auction in 2010, the then government decided to make an SOE the centrepiece of the industry The Bangkok Post editorial of 4 October 2010 read:

“The government has set back national telecommunications policy more than a generation. The cabinet decision to re-engage the TOT-CAT Telecom duopoly marks a retreat in the treatment of taxpayers, consumers and business investment. Far from a step ahead, this decision moves us backwards. “

It is our observation that the sector is not performing in ways which it could and should and is thus not only not providing the levels and range of service to business, government and individual users which are possible but it is also not contributing to the economy in ways which is could.

We see positive developments as:

- The 3G licence issuance whereby operators are licensed directly by the NBTC

- The Frequency Act of 2010 which provides for a structured way in which revenues from concessions will be managed
- The recent issuance of regulations supporting more fair and overall efficient inter-operation in the industry.

As in 2010, we would observe that the currently proposed re-engagement of SOEs in continuing with privileges and continuing to use spectrum would have the same effect as described in the quoted Bangkok Post editorial.

We also note that in the context of impending or current trade negotiations, Thailand has an opportunity to strengthen this sector. The existing GATS terms include provisions on market access and by way of relevant specific commitments, allocation of scarce resources (which would include spectrum). It is to be hoped that any new FTA would build further on that in terms of market access, allocation of scarce resources, supporting fair competition and predictable outcomes, rather than moving backwards.

A stronger sector will also help build Thai companies able to invest and compete overseas.

We thus would like to suggest a different perspective: that the national flag be planted on the industry as a whole (welcoming local and foreign investment, making a field for free and fair competition) rather than on the SOEs on the basis that they are state-owned. We would also respectfully propose that there is a valid role for the companies (or a company) which recognises the strengths, as a fixed-line infrastructure and wholesale network operator, with base fixed line services. A vision is necessary, the transformation may come with some pain and may be unpopular in some quarters. But in the long run our observation is that such evolution and transformation cannot be avoided.

We would welcome the opportunity to discuss these matters in more detail.

With our sincere respects and best regards,

Yours faithfully,



Nandor von der Luehe
Chairman, JFCCT

cc
HE The Minister of Finance
HE The Minister for Commerce
Director-General DTN
NBTC Chairman