

TRUE - DTAC Merger

On 22 November 2021 True Corporation Public Company Limited (TRUE) and Total Access Communication Public Company Limited (DTAC), owners of two major telecommunications operators, disclosed to the Stock Exchange of Thailand the possibility of their amalgamation, including the comparative valuations of their respective businesses.

Although, at this stage, the transaction is subject to due diligence and agreement on certain commercial terms and how the amalgamated business would be managed in the future, the National Broadcasting and Telecommunications Commission (NBTC) has requested that both companies formally report the necessity, structure, details, and timeline of the merger, as well as impact on and remedies for consumers and the market.

As the merger may impact competition in the industry, and accordingly consumers, the NBTC has also required notification of developments for consideration of appropriate regulatory measures.

Cooperation of the Trade Competition Commission and Energy Regulatory Commission

On 22 November 2021, the Office of the Trade Competition Commission (OTCC) and Office of the Energy Regulatory Commission signed an MOU, providing for cooperation between them in regulating competition among energy business operators.

Update on Trade Competition Commission Rulings

The OTCC has recently published rulings concerning some of the fastest growing industries, e-commerce platforms and logistics.

Rounding of Transaction Fee by E-Commerce Platform Operator

The TCC explained that for the rounding of transaction fees to constitute a breach of the Trade Competition Act (TCA), there should be reasonable grounds to believe that the platform sought excessive benefits or unfairly took advantage of vendors through using market dominance or market power.

In this case, the platform operator explained that its rounding of amounts of THB 0.5 or above to THB 1 and THB 0.49 or below to THB 0, was to increase efficiency in managing, calculating, and collecting transaction fees. The TCC found this to be a legitimate business reason.

The rounding mechanism has also been in place since 2019, and rates are notified in advance, according to usual practice. Therefore, the TCC did not consider the conduct an unfair trade practice.

Introduction of New Policies by Logistics Franchisor After Signing of Franchise Agreement

The TCC ruled that an express delivery franchisor can introduce policies imposing penalties on franchisees after the signing of franchise agreement if the policies can be justified by business reasons or are necessary for the preservation of the franchise's reputation, quality, and standard of business.

Some of the 27 policies imposed by the franchisor and considered justifiable by the TCC were as follows:

1. A service complaint penalty, which penalizes franchisees for complaints relating to service, after a warning has been issued.
2. A penalty for return of undelivered parcels, which is reduced if the franchisees delay the return. After a certain number of days, franchisees are not penalized for returning undelivered parcels to the originating station, to incentivize successful delivery.
3. An announcement of options for seal locks needing to be used on delivery containers, intended to inform franchisees of options, without requiring purchase from listed sources.

New Post-Merger Notification Form

The OTCC recently published a new post-merger notification form, which will be used from 1 February 2022. The revisions to the form are intended to address practical issues which have arisen on submissions of the current form, and to increase clarity for business operators. The revised form also allows officers reviewing the form on the date of submission to list missing documents or incomplete information and specify a reasonable period for the business operator to remedy the position.



To read more about Thailand's merger control, please visit our website at www.weerawongcp.com.



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