



MVNO.SERVICES Co.,Ltd.
No. 9 Nawamin 74, Lane 3-8-11
Ram Inthra, Khan Na Yao
Bangkok 10230 Thailand

The Office of the Ombudsman

The Government Complex Building B, Floor 5
Chaengwattana Road,
Laksi District Bangkok 10210, Thailand

Bangkok, Thailand, 28-05-2024

Subject: Formal Complaint Regarding the National Broadcasting and Telecommunications Commission (NBTC)'s Failure to Enforce Regulations Ensuring Mobile Virtual Network Aggregator (MVNA) and Operator (MVNO) Access

Dear Esteemed Ombudsman,

We, MVNO Services Company Limited, a registered entity in Thailand, are writing to formally lodge a complaint against the National Broadcasting and Telecommunications Commission (NBTC) for its persistent and prolonged failure to enforce its own regulations designed to secure fair and non-discriminatory access for Mobile Virtual Network Aggregators (MVNA) and Operators (MVNOs).

This systemic inaction, spanning over a decade, has significantly stifled competition in the Thai telecommunications sector, hindered business growth, and unjustly prejudiced companies like ours attempting to operate or invest as MVNA and MVNOs.

Background of the Issue:

The NBTC, as the primary regulatory body for telecommunications in Thailand, is mandated to promote fair competition and ensure the efficient use of spectrum. To this end, the NBTC issued regulations intended to facilitate the entry and operation of MVNA and MVNOs, recognizing their potential to foster innovation, diversify services, and enhance consumer benefits.

These regulations include vital provisions for network access and interconnection, which are crucial for creating a level playing field for MVNOs to secure access and wholesale agreements with the existing Mobile Network Operators (MNOs).

However, despite these regulations being in place since 2013, the NBTC has demonstrably failed to actively monitor, compel, or enforce compliance from the MNOs AIS and TRUE/DTAC. This regulatory dereliction of duty has created an environment where:

- **MVNO Licenses are Rendered Ineffective:** Since 2013, more than 65 entities, have been granted MVNA/MVNO licenses by the NBTC, investing considerable resources into business planning, technology and setup, only to find themselves unable to secure wholesale access agreements with

the MNOs AIS and TRUE/DTAC. This renders these licenses effectively useless and represents a significant economic burden and lost opportunity for investment.

- **Stifled Competition and Innovation:** The absence of a truly competitive MVNO market has prevented the introduction of new services, niche offerings, and pricing innovations crucial for a dynamic telecommunications landscape in Thailand. This directly contravenes the NBTC's mandate to foster competition.
- **Market Distortion:** The continued dominance of a few MNOs, unchecked by effective regulatory enforcement, allows for market distortions and a lack of genuine competition, which ultimately harms both businesses and consumers.
- **Undermining of National Digital Economy Goals:** A thriving MVNO sector is essential for fostering a robust and innovative digital economy. The NBTC's prolonged inaction in ensuring MVNO access directly undermines national efforts to modernize and diversify Thailand's telecommunications infrastructure and services.

Failure of Duty by the NBTC:

Our complaint stems from the NBTC's profound failure to perform its duties in compliance with the law (its own regulations) and its persistent inaction in enforcing existing provisions. This negligence has directly caused significant adverse impacts on our and other business operations and investment prospects within the telecommunications sector.

The NBTC's role extends beyond merely issuing regulations; it encompasses ensuring their effective implementation and enforcement. Its long-standing passive approach regarding MVNO access constitutes a clear case of mal-administration and a dereliction of its fundamental regulatory responsibilities.

Requested Action by the Ombudsman:

We respectfully request that the Office of the Ombudsman conducts a thorough and impartial investigation into the NBTC's failure to enforce its regulations pertaining to MVNO access. Specifically, we urge the Ombudsman to:

1. Investigate the root causes behind the NBTC's prolonged inaction and lack of effective enforcement regarding MVNO access.
2. Compel the NBTC to take immediate and concrete steps to enforce its existing MVNO access regulations, ensuring fair, transparent, and non-discriminatory wholesale agreements are made genuinely available to licensed MVNOs.
3. Recommend remedial actions to address the systemic issues that have allowed this regulatory failure to persist for over a decade, including potential revisions to enforcement mechanisms or legislative frameworks if deemed necessary to ensure future compliance.
4. Monitor the NBTC's compliance with any recommendations or orders issued by the Ombudsman to ensure a genuine and lasting resolution to this critical market issue.

We believe this matter is of significant public interest, as it impacts the competitiveness and development of a critical national infrastructure sector and affects businesses and consumers nationwide.

We are prepared to provide any further information, documentation, or assistance required for your investigation.

Thank you for your time and dedication to upholding fair and just administration in Thailand. We look forward to your prompt attention to this critical issue.

Yours Sincerely,

Allan Rasmussen,
CEO, MVNO.SERVICES Co.,Ltd.

Attachments:

- NBTC Announcement on Virtual Network Mobile Phone Services
- Page 13 | NBTC Announcement on Criteria and Methods for Licensing | <https://spectrumauction.nbt.go.th/Download/Document/54.aspx>
- Thai Post | October 21, 2022 | Specific Measures for NBTC, True, DTAC | <https://www.thaipost.net/hi-light/246902/>
- Post Today | NBTC Fails Call Rate Control | NBTC Dissects 4 Issues That NBTC Must Improve Both frequency management and mobile service charge regulation | April 22, 2016 | <https://www.posttoday.com/biz/gov/427902>
- Bangkok Post | National Telecom sees imminent end to capacity allotment | February 4, 2025 | <https://www.bangkokpost.com/business/general/2953775/national-telecom-sees-imminent-end-to-capacity-allotment>.