



DAVID DUNCAN
Consultant
david.d@tillekeandgibbins.com

TELECOMMUNICATIONS REGULATION UPDATE

As deliberations over the Frequency Allocation Bill are set to continue, the Government is making other important plans for wireless telecommunications in Thailand. The Bill has now passed both the House and Senate, though in different forms. Differences in the two versions are expected to be considered in Joint Committee when Parliament reconvenes in August, though the House's version will be enacted if differences are not settled. The Bill would establish the National Broadcasting and Telecommunications Commission (NBTC) and would transfer the authority to grant spectrum from the National Telecommunications Commission (NTC) to the NBTC and, importantly, would mandate that spectrum be allocated by auction. The new NBTC would have eleven commissioners with a variety of different areas of expertise: one would have expertise in television broadcasting, one in radio broadcasting, two in telecommunications, two in economics, two in law, two in consumer issues, and one in culture/education.

Many have expressed concerns that spectrum auctions will be delayed as Thailand awaits enactment of the Bill and subsequent appointment of commissioners, before the NBTC could take the steps necessary to hold spectrum

auctions. Some estimates have suggested that the earliest the NBTC could hold auctions would be the first quarter of 2012. This, added to the time necessary for network build-out, would present significant further delay to the availability of new services. To expedite matters, the NTC has decided to hold auctions for licenses in the 2.1 GHz spectrum in September of this year. To this end, it has submitted auction rules for publication in the *Royal Gazette*.

To create a level playing field for 2G and 3G operators, the Government has also proposed that the current 2G mobile phone concessions, each held by AIS, DTAC, and True, should be converted to 15-year 2G licenses, each with an annual fee of 12.5 percent of operator revenues, and also to raise the 3G license fees to the same level. However, some in the industry have raised concerns that current law requires that relevant spectrum revert to the NTC at the end of a concession, thus legally allowing other operators to seek rights to it. Indeed, if this were to happen after enactment of the Frequency Allocation Bill, auctions would be required. However, others have suggested that there are legal solutions to this problem.

Additional concerns were raised with respect to the different expiry dates of each current 2G concession, and how these terms will work with 15-year licenses that would all run for the same dates. AIS's concession from TOT is due to expire in 2015, while True's and DTAC's concessions from CAT are due to expire in 2013 and 2018, respectively. Converting all three concessions to 15-year licenses as of the same date would mean that some carriers would gain more than others. For this reason, it will be necessary to adjust license fees or take similar actions, to ensure that each carrier is treated fairly.

To work out the details, the Ministry of Finance and the Ministry of Information and Communication Technology are establishing a working group. 🧑🏻💻