

TELECOMMUNICATION

Cambodia accuses Malaysian-owned telco of 'illegal' cable-laying

Regulator warned of possible legal action against German CEO of Smart Axiata



Smart Axiata stores in Phnom Penh. The telecom operator has come under fire in Cambodia over 16km of fiber-optic cable that regulators say was laid without proper approval.

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PHNOM PENH -- Cambodian regulators have sent shivers through the telecom industry with a threat to launch criminal proceedings against the German head of Smart Axiata, a Malaysian-owned telecommunications company that they accuse of "illegally" laying fiber-optic cable.

Experts say the move, which comes as regulators have ramped up auditing of the telecom sector, could have major repercussions for foreign investment in the country.

The Telecommunication Regulator of Cambodia (TRC) last week requested that the country's judiciary launch criminal proceedings against CEO Thomas Hundt. On Tuesday, Axiata announced that Hundt, who sources say is currently in Germany, would be giving up his responsibilities in Cambodia and joining its Malaysian operations.

In a response to questions from Nikkei Asia, Cambodia's Ministry of Posts and Telecommunications on Thursday appeared to have softened its stance, saying its court complaint had been filed but later "withheld" after Axiata employees agreed to cooperate with regulators' investigation.

"It should be noted that no criminal proceedings have been initiated against any person at this time," the ministry wrote.

In a letter dated Oct. 22 and seen by Nikkei Asia, the TRC requested a "prosecutor to summon and take legal action against Thomas Hundt the CEO of Smart in accordance with criminal procedures."

In a statement released on its website, the TRC detailed its claims against Smart, one of Cambodia's largest mobile and internet service providers. The company is owned by Axiata Group, a publicly traded Malaysian conglomerate.

The statement says a "special audit" done with the Ministry of Posts and Telecommunications' General Inspectorate had uncovered "illegal laying of fiber-optic cable" by the company in three rural areas totaling 16 km. "As a result, evidence has been seized and retained for further legal procedures, which may lead to possible arrests of related individuals and actions against Smart Axiata."

In its response to Nikkei, the MPTC said Smart had been cited for "avoiding the payment of some of its microwave license fee obligations," laying fiber-optic cable without a license, and possessing "unapproved radiocommunication and telecommunication equipment."

The agency said Smart's technicians had initially refused to cooperate with officials, prompting the TRC to file a complaint.

"TRC filed a complaint with the Prosecution Department attached to the Court of First Instance of Takeo Province but has subsequently withheld such a complaint following Smart's technicians' cooperation," the MPTC said.

The ministry added that it had issued "numerous" compliance warnings and taken similar measures against other operators in the sector.

"MPTC and TRC will continue to inspect legal and technical compliance, and action will be taken against noncompliant operators in order to protect consumer rights and benefit compliant operators in line with the principles of fair and equal competition, and transparency," they wrote.

Smart Axiata did not respond to requests for comment.

In a statement on its website, Axiata Group said Hundt had been appointed group chief strategy and technology officer, effective immediately, and would step down as CEO of Smart and relocate to Kuala Lumpur. The statement does not mention any legal issues in Cambodia.

It notes Hundt began as CEO of Smart Mobile in 2008, steering the company through mergers with Star-Cell in 2011 and Hello Axiata in 2013.

"Under his capable stewardship, Smart Axiata grew rapidly to eventually become the No. 1 player in the country," group president and CEO Dato' Izzaddin Idris said in the statement.

The investigation into Smart comes amid a broader crackdown by the telecom ministry that experts warn could undermine the industry and the economy.

Stephen Higgins, managing partner of investment management firm Mekong Strategic Partners, said the sector's opaque regulatory environment meant companies have long faced uncertainty over compliance issues.

"That a company CEO can be threatened with prosecution for something like this would put a chill up the spine of anyone thinking about doing business in Cambodia," he said.

The enforcement of regulatory violations ramped up after Chea Vandeth was installed as minister for posts and telecommunications in April 2020. Prior to his appointment, Vandeth was a lawmaker in Cambodia's parliament overseeing a committee on planning, investment, agriculture and environmental issues. He is also the founder of a private university and former chairman of a company that managed Cambodia's "Killing Fields" genocide memorial site.

The ministry has since audited telecom operators and re-evaluated the amount they owe authorities under long-standing revenue-sharing arrangements. The ministry has also begun demanding businesses abide by provisions set out in a sweeping yet inconsistently enforced 2017 sub-decree.

The decree stipulates a range of activities for which individuals and businesses must obtain certificates and licenses, including broad categories such as providing "online services" or "charged consultation and technical services."

Mike Gaertner, co-founder of media company Sabay Digital, said the shift surprised most businesses, who now must adjust. "Existing regulations had not been strictly enforced," he said, "leading to business practices not in compliance with existing laws."

"MPTC is now working towards strengthening the licensing regime, which could force businesses to reevaluate previous business practices, and require changes within the business," he said. "Dialogue is needed between the industry and TRC to clarify the application of the law and its execution with additional [official proclamations]."

The ministry's increasingly heavy-handed tactics may end up hurting the sector, others warned.

One telecom industry insider who requested anonymity said the new minister's "aggressive" approach would freeze -- or even reverse -- progress in the sector.

"There's no consultation, no transparency," the person said. "All the telco companies are worried. ... If he doesn't back off, it's going to hold back a dynamic economy."

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