



Technology, media and telecommunications updates

Industry focus

April 2018

KPMG in Thailand

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Contents

Executive summary	2
Telecom disruption towards e-commerce	3
Mobile auction	5
Digital economy	6

Executive summary: Technology, media and telecommunications

The telecom sector is undergoing huge transformation. It is driven by changing consumer behavior and new mobile opportunities, including disruption towards e-commerce, the upcoming mobile auction and the digital economy.



Telecom disruption towards e-commerce

- The value of e-commerce in Thailand is projected to increase by no less than 10% annually over the next five years.
- Authorities are now working on the draft e-commerce tax law and obtaining comments from stakeholders. It is expected that the law may become effective later this year.
- Based on the second draft of the proposed e-commerce law, a foreign e-commerce operator may be required to register for and be subject to VAT.



Mobile auction

- The National Broadcasting and Telecommunications Commission (NBTC) previously planned to auction 1800 MHz spectrum during May to June 2018. On the other hand, on 19 January 2018, NBTC proposed to its board to consider suspending a planned auction for the 900 MHz license.



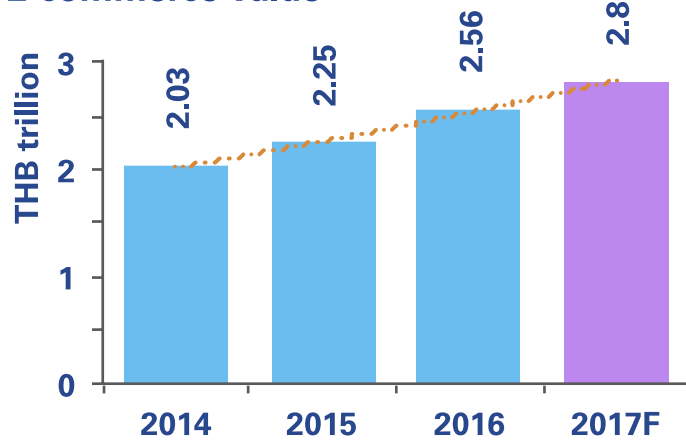
Digital economy

- ASEAN digital economy will grow to USD200 billion by 2025.
- In order to facilitate the development of Thailand's digital economy, there are several digital economy related draft laws:
 - Draft Act on Amendment of Electronic Transaction Act
 - Computer-Related Crime Act
 - Draft Cybersecurity Act
 - Draft Personal Data Protection Act
 - Digital Economy Promotion Agency Act

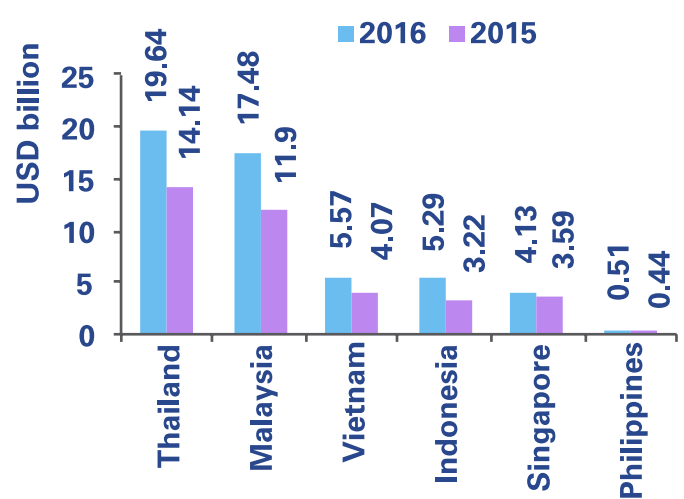
Telecom disruption towards e-commerce

Thai e-commerce value is projected to increase by no less than 10% annually over the next five years. According to ETDA five-year plan for 2017-2021, e-commerce value should double from 2016, which was THB2.56 trillion. ETDA also forecasted that the number of internet users in Thailand will reach 46.48 million by 2021.

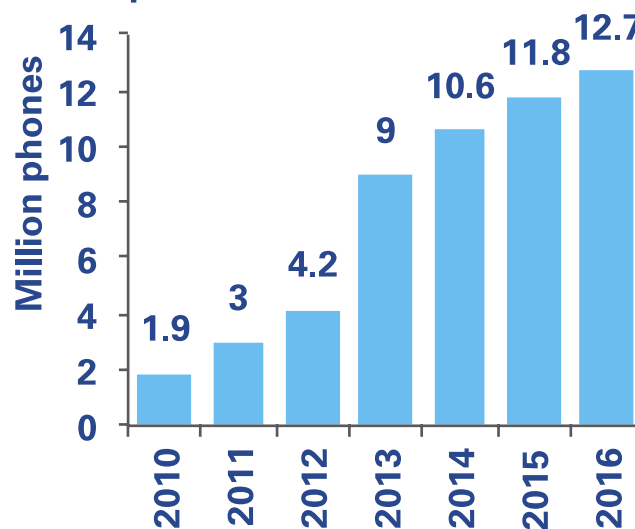
E-commerce value



B2C e-commerce value in key ASEAN countries



Smartphone sales in Thailand



Source: Electronic Transactions Development Agency, Digital Advertising Association of Thailand (DAAT)

Second draft of the e-commerce taxation law

Last year, tax authorities moved to include e-commerce business operators into the Thai tax system. The draft was under public consultation during 21 June-11 July 2017. After the public consultation, the authorities worked on the feedback from the first draft of the e-commerce taxation law and fine-tuned the second draft (released on 17 January 2018) for public consultation during 17 January-9 February 2018. The draft focused on VAT registration and VAT collection mechanism for digitized services supplied by an overseas supplier. Withholding tax at 15% of income from a business using electronic media, such as Facebook, Google, YouTube and LINE, was not addressed in the second draft. For updates on the e-commerce draft, please follow [KPMG Tax & Legal News Flash](#).

Source: www.rd.go.th/publish/277770.html and www.rd.go.th/publish/27682.0.html

Type of business	Tax rate
A foreign company that provides services through electronic media to a non-VAT registered person must register and will be subject to VAT in Thailand if its annual VAT-able income exceeds THB1.8 million and provided such services are consumed within Thailand. The registration must be done within 30 days from the date its VAT-able income exceeds the threshold.	The company is required to register for value-added tax (VAT) and will be subject to 7% VAT. The registration is completed via TRD's website and via electronic submission. No tax invoice is required to be issued by the foreign business operator registered for VAT in Thailand while its input VAT is not claimable with no input VAT and inventory report requirement.
A non-VAT registered person who pays a service fee to a foreign company operating its business through electronic media is not required to administer VAT by way of self-assessment.	There is no VAT on reverse charge remittance for non-VAT registered person.
Where a foreign company provides services through a foreign platform.	The platform owner may be required to register for VAT if the THB1.8 million registration threshold is reached. The relevant test income for this purpose is the VAT-able income derived by the foreign operator.

Source: KPMG Thailand Tax Updates (as of January 2018)

"This proposed e-commerce law is likely to have significant consequences for foreign players operating in the Thai market. There are still several uncertain aspects regarding the proposed law as well as its practical application. It also remains uncertain whether VAT registration would create a taxable presence in Thailand for corporate income tax purposes for such foreign companies."

Tatiana Besselova
Partner, Tax & Legal
KPMG in Thailand



Mobile auction

On 14 February 2018, National Broadcasting and Telecommunications Commission (NBTC) resolved to put the brakes on the NBTC's move to auction 900MHz and 1800MHz licenses, pending the Council of State's reply to it on whether it has authority to call for bids as an acting regulator. The board also resolved that if the Council of State does not reply with its opinion on the matter within the next few months, the board would press ahead with holding the auctions.

NBTC previously planned to auction the 900 and 1800 MHz spectrum in May-June 2018, both of which are currently being operated by DTAC until their concessions end in September 2018¹. However, as of 19 January 2018, NBTC had proposed to its board to consider suspending the planned auction for the 900 MHz license due to concerns over possibility of the 900 MHz causing signal interference with the proposed high-speed train.

Existing spectrums available (as of Jan 2018)	AIS		TRUE		DTAC	
	Amount	Expiration	Amount	Expiration	Amount	Expiration
850 MHz			15 MHz	2026	10 MHz	Sep 2018
900 MHz	10 MHz	2031	10 MHz	2031		
1800 MHz	15 MHz	2033	15 MHz	2033	45 MHz	Sep 2018
2100 MHz	30 MHz	2025/ 27	15 MHz	2027	15 MHz	2027
2300 MHz			15 MHz		60 MHz ²	2025
Total existing spectrums³	55 MHz		55 MHz		15 MHz	

Source: Company Data, Prachachart Biz News

¹ 10 MHz of 850 MHz spectrum that NBTC recalled from DTAC will be restructured to 900 MHz spectrum. Only 5 MHz will be used in the future auction, while the other 5 MHz will be resolved for the State Railway of Thailand's high-speed train project.

² On 27 December 2017, NBTC had initially approved a partnership deal between TOT and DTAC to provide service for the 2300 MHz spectrum after the draft was submitted for approval in September 2017. As of January 2018, DTAC has not signed an official MoU with TOT.

³ Total spectrum after DTAC's concession of 850 MHz and 1800 MHz are expired and before TOT-DTAC partnership is signed.

Details of upcoming 900 and 1800 MHz spectrum auction

Details	900 MHz (15 years)	1800 MHz (15 years)
Bandwidth	5 MHz per license (1 license)	15 MHz per license (3 licenses) ⁴
Starting price	THB37.988 billion	THB37.457 billion
Terms of payment	4 installments: 1 st : THB4.020 bn, 2 nd : THB2.010 bn, 3 rd : THB2.010 bn, 4 th : remaining	3 installments: 50%, 25%, and 25% of winner's highest bidding price for 1 st , 2 nd , and 3 rd installment
850 MHz	Network must cover more than 50% and 80% of the people within four and eight years respectively	Network must cover for more than 40% and 50% of the people within four and eight years respectively
850 MHz	Confiscate auction collaterally 5% of starting price and implement a monetary fine of 5% of starting price	

Source: National Broadcasting and Telecommunications Commission (NBTC)

⁴ As of 19 January 2018, NBTC had proposed to its board to adjust the bandwidth to auction nine 1800 MHz license at 5 MHz per license

Operator comparison analysis (previous auction)

Mobile operator	Previous auction fee (THB million)		CAPEX (THB million)	EBITDA margin
	900 MHz	1800 MHz	FY17	3Q17
AIS	75,654 ⁵	40,986	40-45	45.70%
TRUE	76,298	39,792	48	27.00%
DTAC	0	0	17-20	37.00%

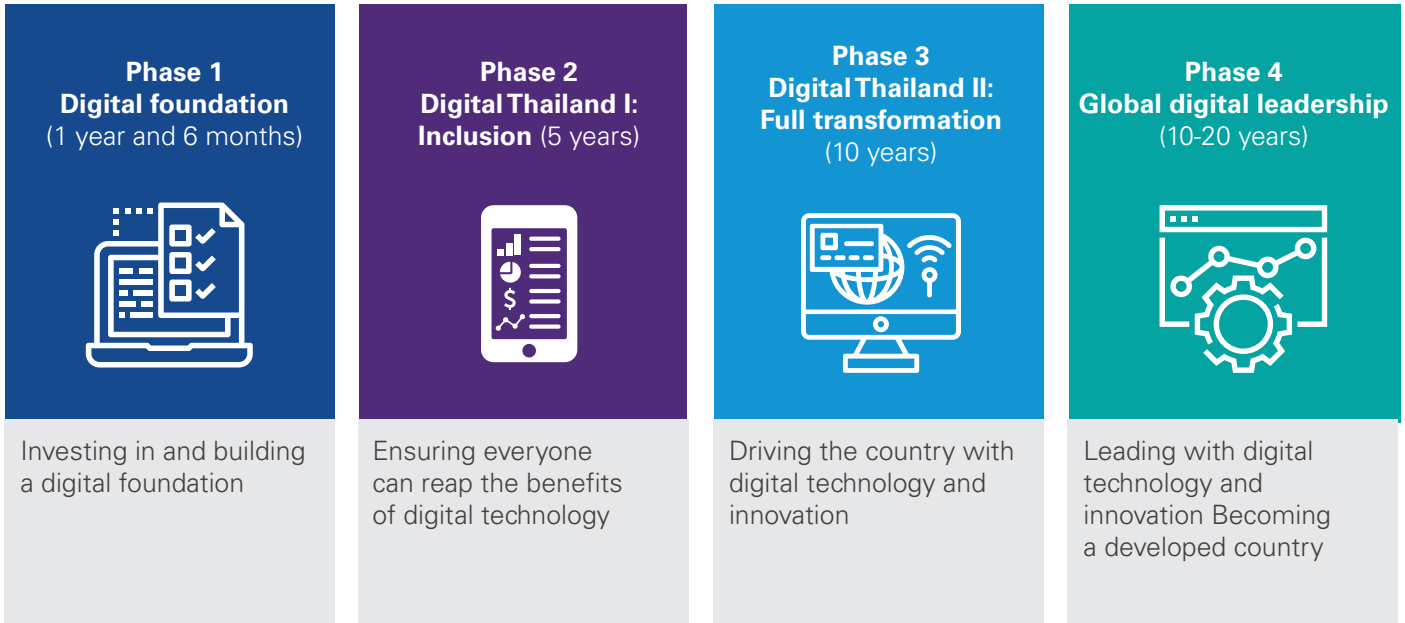
⁵ AIS paid the previous 900 MHz auction fee instead of JAS via its subsidiary, Advance Wireless Network (AWN) after JAS failed to pay.

Foreigner operators may not participate in the upcoming auction because the auction's starting price is relatively high, due to it being the winning price of the previous auction. Moreover, Thailand has no clear infrastructure sharing system, foreign operators might not take part in the auction. It is expected that only key three operators – AIS, TRUE, and DTAC – will participate in the auction. The high cost of the license may also lead to more burden on the customers.

Source: National Broadcasting and Telecommunications Commission (NBTC), Setsmart, Company Data

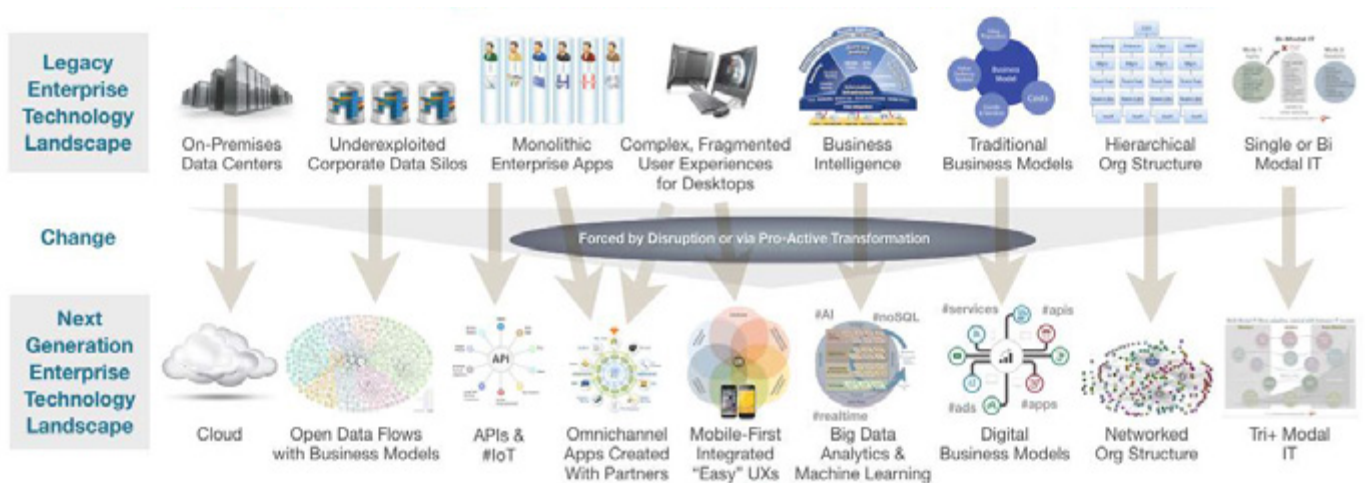
Digital economy

Digital economy: 20-year Thailand digital landscape

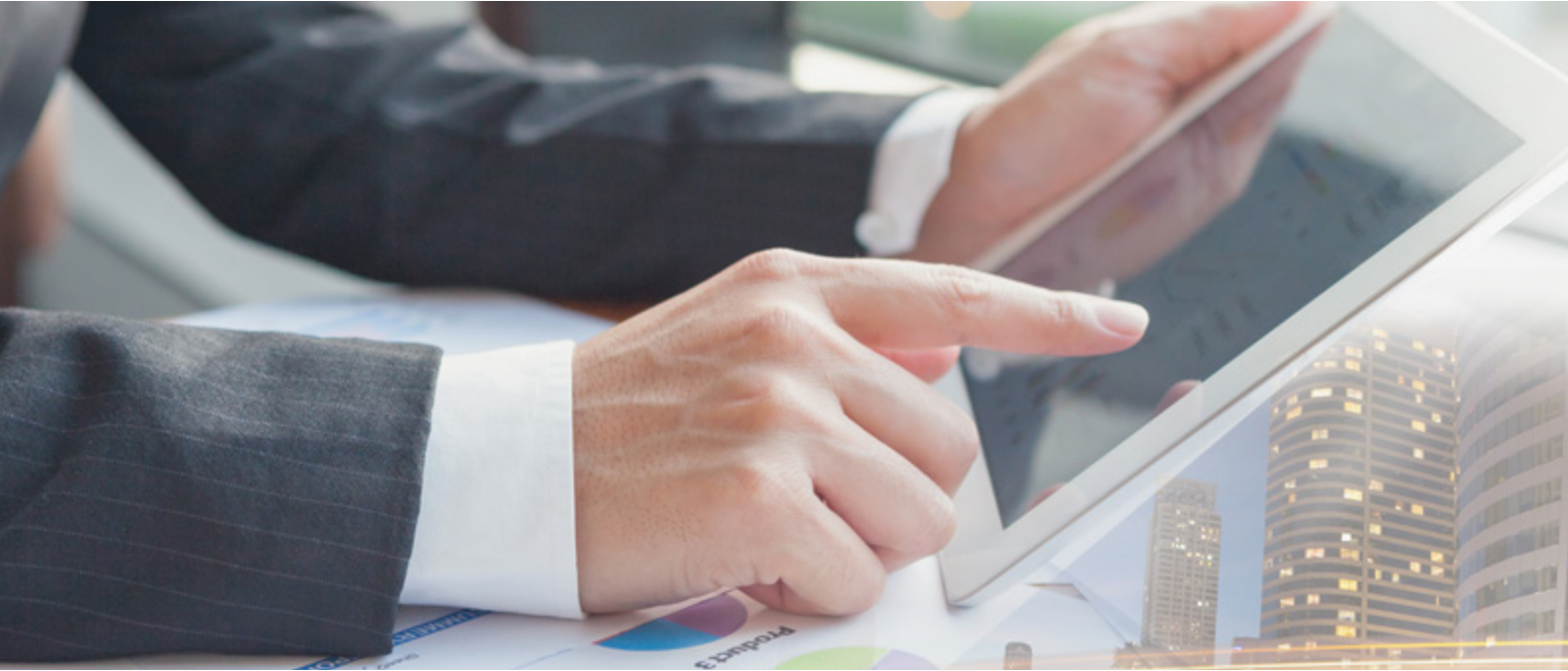


Source: International Telecommunication Union (ITU); Thailand Digital Economy and Society Development Plan (2016-2036)

The top technology shifts that businesses must confront today in the digital economy

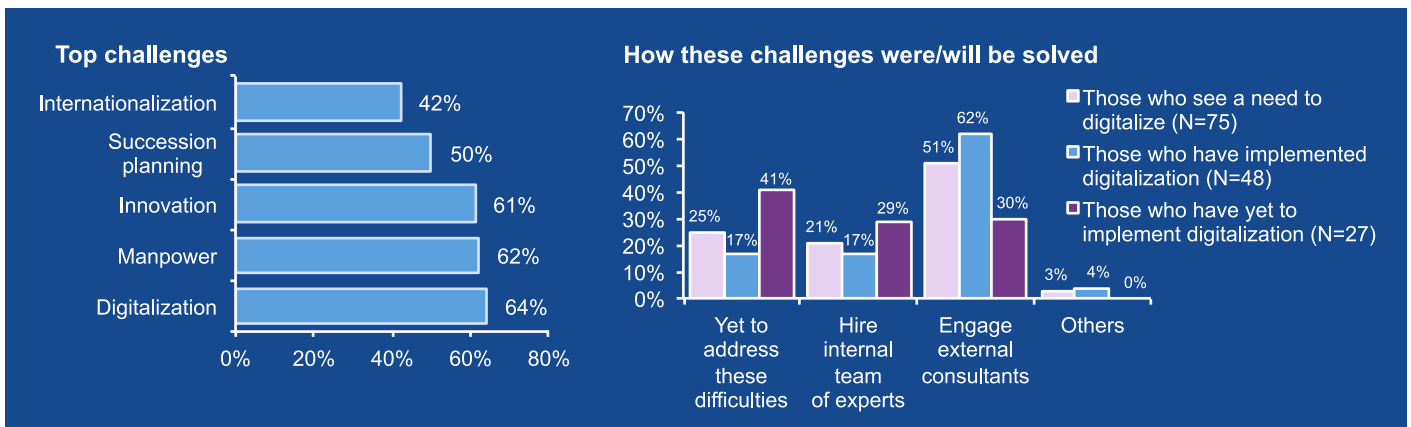


Source: KPMG Publication: How to turn Digital Disruption into Opportunity; 16 August 2016



Top challenges and solutions in the digital economy

Based on the KPMG family business in the digital economy publication, the digital economy in ASEAN has the potential to grow to USD200 billion by 2025. Research by the Massachusetts Institute of Technology (MIT) Sloan shows that companies that adapt to a digital world are 26% more profitable than their industry peers. However, organizations might need to confront the top challenges based on the survey of 100 local family-owned businesses across eight different sectors, conducted by Converging Knowledge on behalf of KPMG.



“With an open platform that is convenient for customers to integrate, there is great opportunity for the innovator to disrupt the traditional business. Many organizations start their business model transformation to enhance revenue via innovative products with flexible platforms. This can connect with business partners and drive culture changes. To tackle challenges, they use an agile transformation approach that will allow their organization to swiftly react to the changing market conditions and customers’ needs. However, driving the changes could take much time, effort and investment. Therefore, organizations need to plan ahead, monitor results, and continue adapting to the changes of customer behaviors.”

Siraporn Chulasatpakdy

Head of Technology, Media and Telecommunications
KPMG in Thailand



Digital economy related laws

In order to facilitate the development of Thailand’s digital economy, there are several digital economy related draft laws:

Laws	Recent updates (as of December of 2017)
Draft Act on Amendment of Electronic Transaction Act	<ul style="list-style-type: none"> The draft has been proposed to amend the current Electronic Transaction Act with the aim to promote the reliability of electronic transactions – especially for transactions through the e-automated system – and effectiveness of legal implementation. Recently, the draft was reviewed by the Council of State.
Computer-Related Crime Act	<ul style="list-style-type: none"> The Amendment of the Computer-Related Crime Act has been effective since 2017. It gives the Ministry of Digital Economy and Society more responsibilities and power to implement the law.
Draft Cybersecurity Act	<ul style="list-style-type: none"> In October 2017, the ad hoc National Cyber Security Committee was established by the Thai government to formulate the national strategic cybersecurity policies and conceptual framework of the draft Cybersecurity Act that will be used to address the cyber threats against national cybersecurity.
Draft Personal Data Protection Act	<ul style="list-style-type: none"> Under the draft of the Personal Data Protection Act, collection, utilization and disclosure of personal information are prohibited unless obtained with the owner’s consent. Recently, the draft Act had already been reviewed by the Council of State.
Digital Economy Promotion Agency Act	<ul style="list-style-type: none"> Under the draft of the Personal Data Protection Act, collection, utilization and disclosure of personal information are prohibited unless obtained with the owner’s consent. Recently, the draft Act had already been reviewed by the Council of State.

Source: Library of Congress, Ministry of Digital Economy and Society (DE), Digital Economy Promotion Agency (DEPA), Electronic Transactions Development Agency (ETDA), National Legislative Assembly (NLA), National Broadcasting and Telecommunication Commission (NBTC)

“At a general level, these laws are intended to promote economic growth in Thailand by increasing internet access and encouraging the use of digital and automated systems involving emerging technology such as blockchain. The laws also attempt to strengthen cybersecurity protections.”



Tatiana Bepalova
Partner, Tax & Legal
KPMG in Thailand

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