

# **Regulation Reform and The Question of Democratising The Broadcast Media in Thailand**

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for  
The International Conference on Democratisation and the media :  
Comparative perspectives from Europe and Asia  
8-12 April 2001  
Bellagio, Italy

This paper attempts to discuss the struggle for the democratisation of the broadcast media in the context of the social and political reform in Thailand during 1997-2000. A new law to set up an independent regulatory body was enacted in March 2000. The gist of the legislation is to restructure state ownership of the broadcasting media and to re-allocate them into three categories of ownership. These are state, commercial and community licenses. The unprecedented change in the law came about after Article 40 of the 1997 Constitution stipulated that radio spectrum for radio and television transmission and radio communications, are national resources to be used for public interests.

Although the new Constitution has effectively brought about legal reform in the media law the actual process of structural and institutional transformation have yet to take shape. There are indications that the state agencies owning radio and television stations are against the re-structuring of their ownership right. On the other hand, large private media operators are eager to become the new player in the industry at all costs. Allying themselves with the influential state agencies they stepped in together to control the selection process of the National Broadcasting Commission (NBC). This leaves the community sector, whose right has been guaranteed by law, in an empty position.

As I argued elsewhere (1999) the liberalising process would bring about further privatisation of radio and television since the new commercial license is expected to transfer state ownership right or state property into private property. In addition, state television and radio stations operated by the state agencies will be commercialised. It is evident that economic deregulation is on the reform agenda following the global trend on media deregulation. But the state was cautious in its proposal to liberalise political and cultural expressions. Hence, what is seriously at stake is the citizens' right to communicate. Our discussion below will take up some of the key issues on the democratisation of the broadcast media structure in this reform moment.

## **State and corporate control over the National Broadcasting Commission**

At the structural level, Thai radio and television were situated within various state agencies. They were able to broadcast without any public rules or regulations. This was particularly true during the regime of absolute military dictators (1957-1973). In a sense, the state could operate the broadcast media based on its political power and not by the rule of law.<sup>1</sup> However, the absolute control of the broadcast media by the state did not survive the popular upheaval in the 1970s and 1990s. The political regulation of the broadcast media must change when the political leadership was overthrown. The following discussion provides some detail on the formulation of the state regulator and how the democratisation of the broadcast media has been neglected.

### The Broadcasting Executive Board - BEB (1974-1992)

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<sup>1</sup> The Broadcasting Act (1955) stipulated that private operators must apply for a broadcast license while state agency was exempted. But no private licensees have been granted since most stations operate under the name of state agencies.

The precursor of the present National Broadcasting Commission (NBC), the Broadcasting Executive Board (BEB), was set up at the aftermath of the student up-rising in 1973. It was the first administrative body on radio and television. The board was made up of representative from state agencies who owned and operated the broadcast media. They laid down policy on radio and television programming and content. It was clear that the government who drafted the first BEB's regulation in 1974 visualised the broadcast media as state instrument on keeping national security and controlling social moral. Over nearly two decades the BEB is widely known for its censorship role especially on curtailing political criticism in the news programme. On the other hand, a pre-censorship system was set up to screen television drama. Hence, political expression on drama programmes was rare. If there happened to be any dialogue that might be interpreted as political or cultural criticism of the government and the state agencies (the military and the police in particular) the BEB sub-committee on drama would censor the script or the voice of a particular actor/actress blanked out in order to silent the expression while the programme was on air. The BEB, therefore, was concentrating on political censorship rather than regulating the operation of radio and television to serve the right and freedom of the people.

In May 1992 the resistant to state control and censorship of news and information erupted again. During the political confrontation between the government of General Suchinda Kraprayoon and the Democratic Movement and mass demonstrators news blackout on the television networks and information distortion on the Army radio sent more people to the street (Kana Kammakarn Yadwerachon 2535). It was the newspapers who informed the people about the troops and the firing of demonstrators on Rajdamnern avenue.<sup>2</sup> The incident showed that in time of political crisis the state was in complete control of the radio and television and used it as part of its warfare strategy to suppress dissidents voices similar to what happened in 1973 and 1976. In 1992, despite the military crackdown of demonstrators General Suchinda was ousted.<sup>3</sup>

#### The National Broadcasting Commission - NBC (1992-2001)

An interim government was set up and a general election was called in September 1992. The interim Prime Minister, Anand Panyarachun, a liberal businessman was quick to respond to the public outcry for more freedom of the information and freedom of expression. His move to set up a new radio and television regulator in 1992, the National Broadcasting Commission (NBC), was well received. Although the bureaucratic position of the new body was similar to the defunct Broadcasting Executive Board (BEB) the composition of the board had a new face lift. Two groups of representative were invited to join the NBC. These were communication academics and the non-governmental organisations on social development, on women and children and on consumers' right. But the majority of the board members were representatives from state agencies who owned radio and television stations and leasing them out to private concessionaires.

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<sup>2</sup> The reporters of a couple of radio stations which attempted to broadcast news about the demonstration were threatened. These stations finally closed down when the military started to shoot demonstrators on Rajdamnern avenue (Laksana Klaikaew, 1994).

<sup>3</sup> During the political crises in 1973 and 1992 there were news blackout and the Public Relations Department were set on fire to demonstrate the anger of the people against the suppression of freedom. Each time, a new body of broadcast regulator was formed at the aftermath of the event.

Inadvertently, the representatives from civic organisations, seen as “*outsiders*”, were placed within the bureaucratic bastion of the NBC.

The National Broadcasting Commission under the political guidance of the interim government of Anand Panyarachun set out a two-prong strategy for media liberalisation. The plan was to initiate some steps towards media liberalisation in parallel with the overall liberalisation of the economy. Firstly, the Anad government took away the censorship authority from the NBC and placed it in the hand of individual station. Secondly, it initiated the project to set up a new UHF television station by means of open bidding instead of the privileged concession practiced in the past. The state agency owning the new television station is the Office Attached to the Office of the Prime Minister. With these moves the government believed that the right and freedom of information and expression would be installed. But to the contrary, radio and television stations, used to the old convention, were restricting freedom of expressions by way of self-censorship. These were carried out by both state stations and private stations. As for the UHF television station, ITV, the high bidding resulted in the take over of the station only after 4 years of operation by Shin Corporation, the telecom conglomerate owned by the present Prime Minister, Thaksin Shinawatra. As a consequent, not much reform has been achieved during 1992 - 2000 either on structural reform or content reform.

Over a period of three decades, the broadcast media have gone through two major phases of regulation reform in conjunction with the political and social up-rising of the people in 1973, 1979 and 1992.<sup>4</sup> But due to the strong resistance to change within the state media agencies and the military who hold the major share of radio and television stations the regulation introduced by the BEB and the NBC were limited in scale. So far, the reform carried out at the administrative level has been ineffective to say the least. On the one hand, the state agencies are politically powerful. When their representatives sit together in the NBC they gather more organisation strength than the Prime Minister or the Minister who chairs the NBC. As a legal body, they could form policy that would not jeopardize their monopoly of the broadcast media. On the other hand, when the ownership structure remains intact this means that these state agencies, not the NBC, also control the rights and freedom of expressions in general. The private concessionaires must abide by the state agencies’ direct/indirect censorship and self-censorship in order to have the privilege right to broadcast. The independent and free expression on the air is a taboo most broadcast journalists take heed of.

#### The un-democratic alliance between the state and the private corporation

Evidently, such a structure as that of the NBC, a regulatory body bounded by powerful state agencies, could hardly be expected to lead the way to reforming the broadcast media. The ineffectiveness of the NBC to regulate state agencies and their radio and television concessionaires occurred frequently. Two recent examples showed how the power to control the operation of television lie beyond the reach of the NBC. The first

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<sup>4</sup> The up-rising of students and the people in 1976 was met with brutal massacre on the campus of Thammasat University and the Pramain Ground. The broadcast media was an important tool of the state on mass manipulation against student demonstrators. The rights and freedom of the media were severely suppressed after 1976. Rightists and conservatives took complete control of the broadcast media.

example is the case of UBC cable television under the Mass Communication Authority of Thailand (MCOT) and the second example is the case of ITV, the newly established UHF television, under the Office Attached to the Office of the Prime Minister.

In 1999, UBC announced an increase in its subscription fee on the gold package. The Foundation for Consumers received complaints from UBC's subscribers that the charge was unfair due to the fact that UBC was a monopoly on cable television service. The new subscription fee was forced upon consumers who have no alternative to turn to. The Foundation for Consumers brought the case to the MCOT with a three points demand. Firstly, that the MCOT take up the petition of the Foundation for Consumers. Secondly, that the MCOT reconsider the new subscription fee, and lastly, that the MCOT arrange a meeting with representative of the Foundation for Consumers, the UBC television and the MCOT to discuss about the quality of its service vis a vis the fee (Smart Buyer Magazine, June-July, 1999). But the MCOT rejected the petition by arguing that UBC television was running at a loss. The new subscription fee was set at a minimum rate to merely cover the loss of the company not for profit-making. The NBC, however, did not provide any ruling on this case. Finally, The Foundation for Consumers brought the case to the Complaint Bureau of the Council of State <sup>5</sup> and the Trade Competition Committee, Ministry of Commerce. The Trade Competition Committee ruled that UBC corporation was not a monopoly in the television industry. Firstly, because there were other cable concessionaires although they have not started to operate. Secondly, consumers can always switch to the terrestrial stations if they find UBC unsatisfactory. The Trade Competition Committee advised that UBC should improve the quality of programmes to supplement the increase in the subscription fee.

The second case in point is the intervention of the editorial independence by the management of ITV station prior to the general election on 6 January 2001. ITV news editor, reporters and newscasters protested against the tampering of their reports. They suspected that the authority behind the station management was the Thai Rak Thai Party, the major political party running for government, and Shin Corporation, the new and would be major shareholder of ITV. Both Thai Rak Thai Party and Shin Corporation are owned by Thaksin Shinawatra who was running for the office of the Prime Minister. After the general election which the Thai Rak Thai Party won a landslide victory 23 ITV staff were fired on February 7 (Mathichon Sudsubda, 12 February 2001). The Office Attached to the Office of the Prime Minister did not investigate into the violation of the editorial independence in the ITV newsroom nor did the NBC provide any ruling to protect the professional ethics of the journalists.

The so called "23 rebels" who were fired from ITV took their case to the Lawyer Association of Thailand for legal consultation. Since they just organised a union and elected the first group of union officers two days ago they could fight their case in the Labour Court. But for the infringement of their right to publish freely and without interference by the owner or management of the media corporation guaranteed by Article 41 of the new Constitution (1997) they have no court or any other authority to turn to. These are young journalists who break the taboo on self-censorship and corporate

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<sup>5</sup> The Complaint Bureau took up the petition and heard witness from both the MCOT and the Foundation for Consumers between October 1999 - January 2000. The case now awaits the verdict of the new Administrative Court.

censorship in order to report to the audience in the fullest meaning of journalistic professionalism (Outlook, Bangkok Post, Sat March 3, 2001).

There were public outcry over the firing of 23 ITV staff. Civic groups, labour unions and the Democratic Movement called a boycott on the station as well as a review of the concession given to ITV whose major shareholders are the Siam Commercial Bank and Shin Corporation. But the NBC left the regulatory authority lie in the hand of the state agency who gave out the concession to ITV. The Office Attached to the Office of the Prime Minister in responding to the public outcry issued a statement saying that it could not revoke the concession given to the corporation since it would be violating the terms of the legal contract. On the other hand, the management reiterated its position that it was merely an internal management matter due to the need to streamline its production staff.

In the case of ITV questions were raised about the legitimacy of Shin Corporation in holding the major share in a television station. It is public knowledge that Thaksin Shinawatra who owned Shin Corporation is the founder of the Thai Rak Thai Party. Although he transferred his shares to his son the question of conflict of interest remains. At present, the serious question about ITV is whether the Prime Minister who holds the highest administrative public office should be owning the television station and the largest telecom corporation. It could be seen that the NBC is unable to resolve the problem nor could it regulate the broadcast media to the benefit of the public. The incident also demonstrates how large media corporation such as ITV could influence state agency to open the way for corporate expression in place of democratic expression.

#### The independent broadcasting regulator - the new NBC (2001 > )

The above is a brief historical overview of the role of the previous regulatory body, the Broadcasting Executive Board (BEB) and the National Broadcasting Commission (NBC), whose work has been unaccountable to the public. Furthermore, the bureaucratic bastion couple with the corporate power reflects the close relationship between the state and large corporations in controlling the broadcast media. In due course, however, the present state of the NBC will be dissolved. A new NBC which is an independent regulatory body will take shape in its place according to Article 40 of the new Constitution. The organisation law on the NBC and the NTC enacted in March 2000 has been enforced and new regulators must be set up to regulate both the broadcast media and the telecommunication industry.

But within this kind of socio-political contexts do we foresee a fair and open selection process ? Can we now expect a swift change in the direction of media reform that would break up the whole monopolistic structure of state ownership ? Let us take a close view at the screening process of the NBC selection committee to find out how the new independent regulator is being formulated and whether it differs from the out-going NBC.

By law, the NBC Selection Committee is made up of 17 members; 5 from the state agencies related to the broadcast media, national security, education, science and technology, 4 from the communication institution at the university level, 4 from the media professional organisations and 4 from the non-governmental organisations. Each group must select its own representative to form the 17-member Selection Committee. The media corporations were quick to seize the opportunity to set up their professional

organisations under the auspices of large media entrepreneurs.<sup>6</sup> These hastily set up media associations with the assistance of the military were able to over take all of the 4 seats for the media professional organisations. As for the non-governmental organisations (NGOs) the state patronage associations and the conservatives groups overwhelmed the selection of its representatives. As a result, the seats were split among progressive and conservative NGOs. Representatives from the communication academic come from a range of famous institutions and from a private and a provincial university. The 5 state agencies nominated high official to sit on the Selection Committee. It could be seen that the quota system in the Selection Committee resembles the arrangement of the previous NBC except for the representative from the media profession.

In February 2001, the NBC Selection Committee short listed 61 candidates from 103 applicants. From these candidates 28 were selected after they were interviewed. In April the Selection Committee will select 14 candidates for the Senate's final screening. The 7 finalists who are approved by the Senate will form the independent National Broadcasting Commission. The new regulatory body has an independent status which is contrary to the status of the previous NBC which must work under the direct authority of the government and the state agencies around it. The NBC, according to the organisation law, is responsible for the allocation of frequencies and assigning the 3 categories of licenses - state, commercial and community license. And not least, to draw up the master plan to reform the broadcast media. It is, therefore, powerful and politically equipped to democratise radio and television and the people's right to communicate. But so far, the selection process has been criticised by the media and the Working Group on Monitoring Article 40 for its secretiveness and being overly influenced by the military and the state agencies who owned the broadcast media. The press revealed that among the top 28 short listed candidates were those from the state agencies holding the largest stake in the broadcast media as well as candidates who were closely connected to large media corporations (Prachachart Thurakit, 15-18 March, 19-21 March, 2001).

The relationship between the state agencies and the candidates for the NBC shows the representation of the power bloc within the state that would take over the organising structure of the NBC. There is, however, a new and highly significant composition added to this structure which is the representative from "*the major entertainment conglomerate*". It would appear that at the start of the new phase of deregulation the un-democratic alliance are making every effort to take control of the NBC.

From our analysis of the formulation of the NBC it is left to be seen if the new independent regulatory body would function to reallocate the electromagnetic spectrum fairly among the state and the private sector whilst 20% of the airwaves must be allocated to the people's sector. The path to media reform depends largely on who get selected and how it is being restructured. But at this particular juncture it would seem that reform from the legal aspect alone might not be sufficient to move the old structure towards a more democratic broadcast system.

## **Social movement and public participation**

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<sup>6</sup> There were few journalist professional organisations in the industry. The Association of Radio and Television Professionals of Thailand is closely connected to the military.

During the intense struggle for the legal reform of the broadcast media in 1999-2000 the civil society organised itself and participated actively throughout the entire process. They begin to form what White (1995) saw as the social movement in the process of democratising communication. There were groups which campaigned for reform at the policy and institutional level as well as those who worked on a broad basis to mobilize public change in attitudes. This is to enable citizens to have greater control over the processes of public communication. The participatory process would, hopefully, lead to political self-determination in opposing the existing institutional and hierarchical structure of communications in the Thai society.

To begin with, Article 40 of the new Constitution spelled out that *“the electromagnetic spectrum is a national resource that must be shared and used for national and local interests”*.<sup>7</sup> This has been the key ruling concept that would change the ownership structure of the state monopoly and the private patronage concession developed over five decades. In early 1998, a joint committee was set up by the Government to draft the laws in accordance with Article 40. From the start, the joint committee did not take up the agenda on media reform but discussed the guideline on how an independent regulatory body should be set up. After 8 months, the proposal was to draft a bill for 2 independent regulators. One regulating the broadcast media and one on telecommunication. The guideline on the number of commissioner, the functions and responsibilities of the regulators was sent to the Council of State to be written up into a full draft bill.

However, the draft did not follow the joint committee’s guideline. It proposed a singular independent regulator embracing both the broadcast media and telecommunication. The Council of State took up the line of argument of the Post and Telegraph Department that there would be technological convergence and that the US model of its FCC (Federal Communications Commission) and the Canadian model of CRTC (The Canadian Radio-Television & Telecommunications Commission) were both good examples of successful regulatory body that Thailand should model itself on.

At this point, the non-governmental organisations who work on alternative media took up the media reform issue as part of a larger social movement on social and political reform. The Working Group on Monitoring Article 40 was formed with 25 organisations as its founding member. It wedged a battle against the alteration of the draft bill and the legislation processes of the NBC and NTC Act (Supinya, 2000). Together with the academics, the Working Group on Monitoring Article 40 were opposed to the Government’s draft bill. They asked that the central organising of the bill should follow the proposal of the joint committee (on two independent regulators) instead of the proposal of the Council of State (on one independent regulator). In March 1999, the Cabinet confirmed the draft bill and was ready to channel it to the House of Parliament. The

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<sup>7</sup> Article 40 read as follow;

*“The radio frequencies for radio and television transmission, and in radio communications are national resources to be used for public interests*

*An independent state regulatory agency must be set up to supervise the assignment and licensing of frequencies for radio and television broadcasting and for telecommunications stipulated in clause one of this article*

*The objectives of clause two must take into consideration the highest public interests at the national and local levels, in the area of education, culture, security and public safety and other public benefits, including free and fair competition.”*

academics and the Working Group on Monitoring Article 40 asked the Government to delay the legal process and to change the content of the draft bill back to the original draft. But the Government went ahead with its plan. Nonetheless, it agreed to put the alternative draft under the Democrat Party platform and sent it in parallel with the Government's own draft. There were, then, two draft bills on the setting up of the NBC and NTC channeled to House of Parliament on 7 April 1999.

When the House of Parliament debated on whether to set up a single regulator or two separate regulators the argument on the different nature of each of these sectors was raised. While content is at the heart of the matter for the broadcast media technology and the infrastructure of the telecommunication network are crucial to the efficiency of its services. In addition, there were questions on the absolute power of this new body if the broadcast media and the telecommunication sector were regulated under a single body. Too much economic interest was at stake if everything was put together. Members of the Opposition Party working with the academics in the House Ad Hoc Committee were able to convince the committee to agree to the two regulators model. However, the committee proposed that the two regulators must work jointly to manage the spectrum.

The counter argument from the academics and the NGOs on why there should be two independent regulatory body was clearly a social and cultural argument. It was based on the guaranteed of freedom and rights of expression and communication of individuals and community as opposed to the proposal on one independent regulator model which employed economic logic as its main driving force for regulating the electromagnetic spectrum. If there is one single regulator the rationale of the telecommunication sector in managing the spectrum would easily dominate the broadcast media sector. Furthermore, the socio-cultural orientation of the broadcast media would completely be subsumed under the technological orientation of the telecommunication sector (Krungthep Thurakit, 7 April 1999).

If that should happened the discussion on media reform would be dropped from the legislative forum while the concentration would be geared towards the notion of technological abundance and economic growth (of telecommunication corporations). The public would be robbed of their communication rights regarding the broadcast media. Hence, the question of media reform (for public interests) would be left to experts and state agencies to decide among themselves. Public participation would come to a sudden close. The important notion of public ownership of the airwave will be lost in this kind of manipulation. What is at stake, then, is the nullification of the ownership right of the public sector that would provide the balance between the state and private sector. And here is the key to the entire democratisation of the broadcast media under the joint monopoly of the state and private sector.

The central question in the House Ad Hoc Committee was on how to democratisise the ownership right of the broadcast media.<sup>8</sup> There were several suggestions on how the public and the community could have access to the broadcast media. The first one was on assigning an alternative radio station to each province. The second one was on the allocation of 20% of airtime to community programmes. The third suggestion from the academics was to allocate 20% of the radio and television frequencies to the ‘*people sector*’. Representatives from the Army and the Post and Telegraph Department in the Ad Hoc Committee asked if the ‘*people sector*’ actually existed. Do they have professional media skills to operate a station? And finally, are they qualified to have the ownership right in an equal manner with the state agencies and the private sector?

The outcome of the debate was a reluctant confirmation of the allocation of 20% of the radio and television frequencies to the ‘*people sector*’ in addition to the provincial station for development. Article 26 of the NBC and NTC Act stipulated that

*“..in drawing up the master plan for radio and television broadcasting and in the licensing of stations the NBC must take into consideration the appropriate ratio between operators in the state sector, the private sector and the people sector. By this, the NBC must allocate no less than 20% of the frequencies to the people sector. In the case that the people sector is not ready, the NBC must provide sufficient support so that the people sector could have access to the appropriate ratio of the frequencies.... And that the people sector must operate for public interests and not for profit.”*

Throughout the legislative process there were efforts against the restructuring of the monopoly of ownership right of state agencies. The general mood of the debate was that deregulation was acceptable but public/community ownership of radio and television license was unjustified. The proposal on allocating 20% of the broadcast airtime to the community along with the pilot project for “*community programme*” was used as a strategy to divert the demand on the restructuring of ownership right. But state manipulation has, inevitably, failed in the House debate. Otherwise, the legislation for media reform for the people would only be a euphemism.

In order for the citizen and the community to actually gain access to radio and television as owner and producer of programmes civic groups in regional towns were networking with one another to form local committee to campaign for reform. In some areas, the civic groups were able to have access to Radio Thailand local stations.<sup>9</sup> They produced current affairs, talk and cultural programmes in a style accessible to the community (Ubolratchathani, Nakorn Rachasima and Nakorn Si Thammarat, for example). For those programmes which local vernacular were spoken, the popularity of the programme were rated highly by the audiences.

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<sup>8</sup> For the telecommunication sector the plan to privatise the state telecommunication operators and to liberalise the entire industry has been proposed by the Ministry of Transport and Communications earlier.

<sup>9</sup> In 1999, the Public Relations Department allocated 1-2 hour/day to active civic groups in certain provinces to produce programmes according to the Dept’s pilot project on public participation in local radio.

The phone-in programmes familiar to urban Bangkok audiences after 1992 were being introduced to the regional audiences by these civic media producers. They talked about local concerns and daily issues such as government services. Gradually, state agencies must respond to these questions or face the issues on the programme. They felt uncomfortable having to answer to public scrutiny. The stations were up-tight in a situation whereby some dialogue and communication took place. This kind of open line is starkly different from the one-way and propagandistic format employed by the state stations.

An independent Children and Youth News Agency was created in 1999. It linked up with a network of children and youth radio in 15 provinces. Media reform for this group meant direct access of radio and television production by children and youth. Their goal is to have their own voices expressed in the broadcast media. Based on Article 13 of the Convention on the Rights of the Child (1989)<sup>10</sup> the Eyes of the Pineapple who is the organiser of the Children and Youth News Agency sought airtime from Radio Thailand and financial support from UNICEF. With the endorsement of the Government, the Eyes of the Pineapple was allotted airtime from Radio Thailand, 918 AM, initially on the weekend afternoon slot. Later, this was extended to the afternoon slot between 3-6 and 8:30-9:00 on Monday through Friday.

The above are some examples on how the civic groups were actively preparing themselves to gain access to the broadcast media once forbidden to public participation. The demand for more public access and better quality programming along with the legal stipulation on media reform have put certain amount of pressure on the government and the state broadcast media. Both the Public Relations Department (PRD) and the Mass Communication Organisation of Thailand (MCOT) devised its version of “*community programme*” to demonstrate their positive attitude towards reform. The Public Relations Department launched a pilot project in 1999 on community radio programme in 30 provinces through Radio Thailand provincial radio stations. Local committee comprised of station administrators, production staff and members of civic group was set up to form the programming policy and the operation of the community airtime. The MCOT, on the other hand, organised workshop for its staff on media reform and the meaning of public and community participation.

But the institutional structure of both of the state media networks were inflexible for this kind of openness and sharing of resources with the public. They find it difficult to accommodate “*outsiders*” into the stations as programme producers. More over, the production staff were conscientious of their station identity as state public relations media. When the civic group criticised the state or government policies the station felt uneasy and stepped in to censor the programme. In some stations, the programmes were terminated due to its hard-hitting commentaries on local issues. But in Nakorn Rachasima its community programme which broadcast the local district meeting was able to halt the misconduct of some of the committee members. These are examples of civic programming that gain popularity over a short period of time after launching the programme. But the

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<sup>10</sup> Article 13 of the Convention on the Rights of the Child said that “*The child shall have the right to freedom of expression; this right shall include freedom to seek, receive and impart information and ideas of all kinds, regardless of frontiers, either orally, in writing or in print, in the form of art, or through any media of the child’s choice.*”

staff of the stations were fearful that these programmes would get out of their control. It could be seen, then, that there is a large gap on the structural and conceptual understanding of the state media and the civic groups on what is news worthy or what is the concerned agenda of the community.

In a broad sense, the social movement has demonstrated how it attempted to renovate and democratise virtually all aspects of the communication process. As White (1995) argued what is central to the question of democratisation is,

*“the insistence that ordinary citizens should participate in the administration, policy-making and government of public communication, and that members of the social movement may participate in all phases of the collective communication decision-making process, that members may engage in ‘horizontal’ communication between individuals and groups without being vetted by authorities, that communication be dialogical in the sense that members have a right to reply and expect a direct reply.”*

(White, 1995, p.93)

But by mid-2000 the Government lifted its endorsement of the pilot project on “community programme” as well as on the children’s programme allotted to the Eye of the Pineapple group. The experiences revealed the conflictual relationship between the state media and civic groups in their style of production and programming. For the part of the civic groups the project was, nonetheless, a great learning experience. They imagined that it would lay the ground for the future operation of community radio guaranteed by the National Broadcasting Commission (NBC) and National Telecommunications Commission (NTC) Act of 2000.

## **Communication rights and the future for a democratic broadcast media system**

Our discussion, so far, analysed how the state perceived regulation reform of the broadcast media vis a vis the social movement. The intervention by popular groups such as the Working Group on Monitoring Article 40, community media groups and children media, has opened the question on regulation reform for public debate. As McChesney (1998) pointed out that “*the extent to which there is non-elite participation into communication policymaking may be a barometer for the level of democracy in a society.*” The on going legal process would seem to be a good sign towards a more democratic system only that the question on the purpose of reform has not been debated thoroughly. We might, therefore, find a push towards the opposite direction on media reform and communication rights of the people. That is deregulation purely for the interests of the big businesses.

First and foremost, the main interests of the state as we have demonstrated were to set up a new independent regulator, the National Broadcasting Commission (NBC), and to

control the reform process through members of the NBC. The resistance to the structural reform on the ownership of the broadcast media of the major state agencies, the Public Relations Department, the Mass Communication Organisation of Thailand (MCOT) and the military, has been evident. In effect, the attempt to step in to control the '*independent regulator*' could be seen as part of the move to reassure that ownership reform is kept intact. Whilst on the other hand, these state agencies are planning to either increase the degree of commercialisation or to privatise its organisation. Obviously, there is a lack of political will to put serious effort into the democratisation of the broadcast media which we shall discuss in more detail.

The Public Relations Department proposed in its White Paper that its plan is to re-organise the functions of the department into 3 major areas, the public relations function, the media function and the training function. The latter two will become state independent agency differed from its previous organisation status of a bureaucracy. This means that Radio Thailand's national and local radio and television networks will be legally opened to state and private sponsorship and advertisement.<sup>11</sup> But the main source of income is to be drawn from the subsidy provided by the NBC.

As for the Mass Communication Organisation of Thailand (MCOT) it has already announced the plan to privatise the organisation in early 1999 (Krungthep Thurakit, 2 February 2000, The Nation, April 10, 2000). The aim was to open the way for more private partnership in its hope to compete with the leading television channels. Similar to the MCOT, Army Television Channel 5 was quick to launch its privatisation scheme since 1997. It attempted to set up several companies for marketing and production while expanded its broadcast coverage in its experiment with the Global Network project. In 1998, Channel 5 gave the evening slot to a private consortium, Telefive, to produce a range of entertainment programmes in order to compete for a larger share of audience. Nonetheless, the project failed to draw enough advertising revenue during the economic crisis (The Nation, January 25, 2000). Most of the projects carried out by Channel 5 were economically unsound and the programmes were unable to compete with the private channels.

Army Television Channel 5 and Channel 9 of the MCOT are small television stations compared with Channel 3 and Channel 7, both operated by private concessionaires. The audience share of Channel 3 and 7 combined is 85% whilst Channel 5 and Channel 9 coupled with Channel 11 and the newly established ITV command a 15% share of the total audience. For radio, private operators are also far ahead in terms of audience share. Looking at the present structure, it is clear that the core of the system is the private commercial media not the state media. Commercialism is the dominant force by far. When the state media agencies start to launch their privatisation plan in full we could expect a system that is completely dominated by commercialism. Thus, the trend is a regulation reform that leads to privatisation of the state media and commercialism of the whole broadcast system. The non-profit and non-commercial sector of the state is on the

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<sup>11</sup> At present, Radio Thailand national network and Channel 11 national network are barred from advertisement. But Local Radio Thailand and local Channel 11 are opened to advertisement. The re-organisation would permit a new source of private income for Radio Thailand and Channel 11. It would also legalise concession of airtime to private producers (Interviewed with the Deputy Director of the Public Relations Department, 25 March, 2001).

decline whereas the non-profit and non-commercial sector of the people's media has not got off the ground.

The future of the communication rights of the people hinges very much on the legislation of a 20% share of the airwaves for non-profit and non-commercial media to be allocated by the new NBC. There is, however, no guarantee for success at this formulative stage. For the most part reform was initiated from above packaged within the Constitutional reform agenda. Secondly, the experience of regulation reform of the broadcast media in the Thai society although stemmed from the discontent with misinformation, distortion and bias reporting of controversial issues, silencing of dissident voices and the rise of commercialism and consumerism it differed from a number of societies. Compared with the experience of Britain, for example, pirate radio took the airwaves in the 1960s before the government start to reform the content of the BBC. These pirate radio broadcasted black music, political and community programmes and some eccentric programmes from small roof top transmitter (Hind and Mosco, 1985). They must play hide and seek with the radio authority since they were illegal broadcast. In 1984 the new Telecommunications Act was enacted and the Home Office used this to charge illegal pirate broadcasters with a serious offence instead of a minor misdemeanour. Apart from this kind of direct action there were lobby group for community radio such as Community Communications (COMCOM). This was formed to raise public awareness and to lobby for the granting of experimental licenses on community radio so an alternative to the state broadcasting service could come into existence. COMCOM lobbied the Committee on the Future of Broadcasting chaired by Lord Annan to recommend the establishment of a Local Broadcasting Authority (LBA) that would encourage new types of radio stations while taking over BBC local radio stations. But the Home Office, the Independent Broadcasting Authority (IBA) and the BBC objected to the recommendation on the lack of regulation and the availability of frequencies. The experimental license on community radio, thus, failed to materialise (Barbrook, 1985).

The US experience is also a valuable learning lesson. McChesney (1998) analysed that the broadcast media reform movement in the US disintegrated after the passage of the Communications Act of 1934. This was the Act that established the Federal Communications Commission (FCC). In fact, the commercialisation of the airwaves had mobilised civic groups on education, religion, labour, women's issues, journalism, and farmers' groups, civil libertarians and intellectuals to form the reform movement. This was to establish a dominant role for the non-profit and non-commercial sector in the US broadcasting industry. These reformers argued that if private interests controlled the medium and their goal was profit, no amount of regulation or self-regulation could overcome the bias built into the system. Despite the legal ban on non-profit radio community radio grew rapidly in the 1960s led by Free Radio Berkeley. And the National Federation of Community Broadcasters representing over 50 community radio stations was formed in 1975. The FCC, however, tried to confiscate these pirate radio stations particularly after the new Telecommunication Act of 1996 was passed. But the pirate operators defended themselves on the ground of the right to freedom of speech on the air guaranteed by the First Amendment. Hence, micropower broadcasting became a campaign of electronic civil disobedience (Dunifer, 1998). The court case goes on and the legal campaign for the right of micropower broadcasting spearheaded by the National Lawyers Guild's Committee on Democratic Communications is moving from strength to strength. This is an example of the reform movement from below fighting against the exclusion of

its freedom to put its own voice on the air. The essential problem now is for legalisation to take the form where the possibilities of community radio can be realised.

From the above experiences of Britain and the US we could see that the problem lies with how to link the legal lobbying and direct action such as pirate radio and community radio together to form a realistic social movement that would bring about democratic reform. Within the Thai society there is little direct and independent action on the ground. Pirate radio is unheard of except for the People's Voice of Thailand operated by the Communist Party of Thailand (CPT). The station was broadcasting from the south of China and was relinquished in 1980 when the CPT was gradually dismantled. Although the social movement has put pressure on how the broadcast media system should be liberalised and distributed fairly among the state, the private and the people sector the resistance to reform remains prevalent. Direct access to the airwaves by the people is a global problem shared by community groups, political dissidents, cultural eccentrics, ethnic minorities, migrant groups, women, children and youth of the under-privileged class. The threat from the direct access and participatory media to the capitalist system and the mainstream media within such a system might come from the subversive characteristic of community radio that;

*“it can challenge the division between broadcasters and consumers in our society. A community radio station seeks to adopt an organisational form which allows a wide variety of people to broadcast - i.e., it can attempt to transcend the capitalist labour process.”*

(Barbrook, 1985, p.72)

The new legislation for the direct access and self-management of the airwaves of the people sector is a significant legislation for the communication rights of the Thai people. In order to move this legal provision forward the Working Group on The People's Agenda for Independence (2000) has now taken up the question of the people's media as one of its main agenda. This was put forth to the public in December 2000 prior to the general election in January 2001. If lessons from comparative experiences are taken heed of the next logical step to democratise the broadcast media depends largely on the direct action of the people to start to put their own voices on the air soon. This could well be an integral part of the general transformation of the bourgeois society.

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## Appendix

### The political economy and media scape of the Thai society

#### Political economy

#### Media scape

>1932	Absolute monarchy	>1932 1930	Royal press, foreign press, private press State radio inaugurated
1932	Constitutional monarchy	1932- 1940	Political press (pro-monarchy vs pro-constitutional government)
1941- 1945	WW II and Japanese occupation The Free Thai underground Movement mobilized against Japanese occupation	1941	State propaganda via the broadcast media  Change of the Thai alphabets
1949	Beginning of military influence on national politics (civilian faction lost to the military faction)	1951	Suppression of political dissidents and suppression of press freedom
		1955	First state television, Channel 4, began its broadcast
1957	Military dictatorship  <b>16 years of military rule</b>	1957	Suppression of press freedom Press censorship & Internal Security Act Expansion of state broadcast media Privilege private concession of TV and radio
1973	Popular up-rising and end of military dictatorship, civilian government in power, worker union & peasant organisations emerged	1973	Radio Thailand burned down Booming press freedom Popular demand for state media reform
1976	Massacre of students and military coup International pressure on the Thai state on human rights violation	1976	Total suppression of press freedom Journalists, artists & intellectuals took up armed struggle with the Communist Party of Thailand (CPT) Underground radio broadcast of the Voice of the People of Thailand (VOPT)
1980	Armed struggle with the CPT defused by the Thai state  <b>15 years of political transition period</b>  Elections and economic growth	1980	Further commercialisation of the broadcast media by the Thai state  Private press growing in number  Television news format changed
1991	Military coup installing an interim government with a civilian as its Prime Minister	1991	Press uncertain of political change
1992	Popular up-rising (2) against unconstitutional military Prime Minister  Rapid economic growth	1992	Radio Thailand burned down (2 <sup>nd</sup> time) Popular demand for state media reform  Commercialisation of state media & an independent television station set up
1996	Economic collapse along with other ASEAN countries	1996	Economic collapse of the media
1997	Constitutional reform (parliamentary reform, electoral reform)	1997	State media reform in progress New law on the independent broadcast media regulator and the telecom regulator enacted
2001	General election with Thai Rak Thai Party winning a landslide victory, telecom tycoon becomes the Prime Minister	2001	Trend on telecom and broadcast industries convergence

## Chronology of the broadcast media reform (1997-2001)

February 1998	The Government (Democrat Party coalition) set up a joint committee to draft the bill on the broadcast media reform
9 March 1999	The Cabinet passed the draft bill on establishing a national communication regulatory body
5 April 1999	The Non-governmental organisations and media academics proposed a parallel draft bill to the Government  The essence of this alternative draft was to set up 2 independent regulators, one for broadcasting and one for telecommunication, rather than a single regulator  The Government rejected the alternative draft but asked the Democrat Party to send the draft to the House of Parliament along with the Government's draft
7 April - Oct 1999	Legislative procedure on the draft bill in the House of Parliament  Debate on one regulator vs two separate regulatory body
Oct 1999 - February 2000	Legislative procedure on the National Broadcasting Commission (NBC) and the National Telecommunication Commission (NTC) bill in the Senate
8 March 2000	The enactment of the law on the National Broadcasting Commission (NBC) and the National Telecommunication Commission (NTC)
August 2000	The entertainment corporations launched a campaign to seek control of the NBC selection committee
September 2000	The military and the entertainment corporations took control of the NBC Selection Committee
October 2000	The NBC Selection Committee, made up of 17 members, was set up
January-February 2001	103 applications were screened and 60 applicants selected for interview by the NBC Selection Committee
February 2001	The bribery scandal of the Senate's advisor on the selection process of the NTC broke out
March 2001	14 applicants expected on the Selection Committee shortlist  Controversy arose on the question of 'conflict of interests' of these applicants
May 2001	The Selection Committee will select 14 candidates for the Senate final selection of 7 commissioner

### The Number and Types of Mainstream Mass Media in Thailand 2000

	Number	Ownership	Operation	Audience
<b>Television</b> <u>9</u>				
VHF	5	state	4 commercial 1 non-commercial	Mass audiences in urban & rural areas Limited - elderly, Open U students
UHF	1	state	commercial	Well-educated, urban audiences
Cable	1	private	commercial	BKK upper & well-educated audiences
<b>Radio *</b> <u>523</u>				
FM	317	state	commercial	Urban listeners
AM	206	state	commercial	Rural, lower income listeners
<b>Newspaper **</b> <u>26</u>				
Thai	20	private	commercial	Tabloid papers are more popular
English	4	private	commercial	Upper & well-educated readers
Chinese	2	private	commercial	Ethnic Chinese readers
<b>Magazine ***</b> <u>103</u>				
weekly	23	private	commercial	Comic, sports, entertainment & women magazines have the largest readership
bi-weekly	22	private	commercial	
monthly	54	private	commercial	
bi-monthly	4	private	commercial	
<b>Cinema</b> <u>520</u>				
Bangkok	250	private	commercial	Teenagers aged 12-19, 20-29 are the major movie-goers
Outside BKK	270	private	commercial	

\* most radio stations are operated by private operator on a commercial basis except for Radio Thailand central station.

\*\* these are national papers produced in Bangkok and the major readers are men there are approximately 20 provincial/regional papers

\*\*\* among these there are 22 women magazines (the largest number of magazines), 3 children magazines, 5 health magazines, 2 of which are aimed at women and family readers

Source : **The Advertising Book 1997-1998**, pp. 187-203.

By comparison, television is the most popular and influential medium among the major media in Thailand. 82% of the Thai household own a television set and television has a 90% coverage area. It is the medium with the second largest media reach. Radio which is the most

accessible medium has a 95% coverage area and the majority of the 9.6 million households has more than 1 radio receiver.

Among the popular media women make up about 50% of the total audiences. On prime-time television, 19.00-22.00 hrs., the daily Thai drama serial are broadcasted on most channels right after the main evening news bulletin. The intended audience for these dramas are women - housewives, working women and students. On radio, women listen to music and radio dramas.

Children's programmes are broadcasted in the late afternoon and early morning weekend slot. They make up about 6% of total programme time on television. There are only a handful of radio programme for children and 3 children's magazines available. Most children enjoy comic books and Japanese cartoons. Youth prefer music programmes on radio and television and some dramas.