REGULATION, REFORM AND THE QUESTION OF DEMOCRATISING THE BROADCAST MEDIA IN THAILAND

UBONRAT SIRIYUVASAK

Abstract

This paper discusses 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 reallocate 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 indica-tions that the state agencies owning radio and television stations are against the re-structuring of their ownership rights. 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 a perilous and exposed position. The liberalising process will bring about a further privatisation of radio and television, since the new commercial licenses are expected to transfer state ownership right or state property into private property. In addition, the television and radio stations operated by the state agencies will be commercialised.

Ubonrat Siriyuvasak is Professor in the Faculty of Communication Arts, Chulalongkorn University, email: subonrat@chula.ac.th.

Introduction

It is evident that economic deregulation is on the reform agenda in Thailand, following the global trend on media deregulation. But the state has up until now been cautious in its proposal to liberalise political and cultural expressions. What is really 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.

Broadcasting in Thailand Has always in the Past Been Closely Tied to the State. At the structural level, Thai radio and television were historically situated within various state agencies. The Broadcasting Act (1955) stipulated that private operators must apply for a broadcast license while state agencies were exempted. But throughout the history of radio and television no private licenses have ever been granted. Therefore, state stations have been the only type of legal operator, and they were able to broadcast without any public rules or regulations. In a sense, the state could operate the broadcast media based on its political power and not by the rule of law. This was particularly true during the regime of the absolute military dictators (1957-1973). However, the absolute control of the broadcast media by the state did not survive the popular upheavals in the 1970s and 1990s. The political regulation of the broadcast media changed when the political leadership was overthrown, as Figure One shows. 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). 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 in radio and television. The board was made up of representatives from the state agencies that 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 useful for maintaining national security and controlling social moral. Over nearly two decades the BEB, was widely known for its censorship role, especially in curtailing political criticism in the news programmes. 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 was blanked out in order to silence any expression of criticism while the programme was on air. The BEB concentrated on political censorship rather than regulating the operation of radio and television in order that it might serve the rights and freedom of the people.

In May 1992 the resistance 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, the news blackout on mass demonstrations on the television networks, and information distortion on the Army radio, sent more people to the street (Kana Kammakarn Yadwera-

Figure 1: The Political Economy and Mediascape of Thai Society

Political Economy		Mediascape	
>1932	Absolute monarchy	>1932 1930	Royal press, foreign press, private pressState radio inaugurated
1932	Constitutional monarchy	1932- 1940	Political press (pro-monarchy vs pro-constitutional government)
1941– 1945	WW II and Japanese occupationThe Free Thai underground Movementmobilized against Japanese occupation	1941	State propaganda via the broadcast mediaChange of the Thai alphabets
1949	Beginning of military influence on national politics (civilian faction lost to the military faction)	1951	Suppression of political dissidents andsuppression of press freedom
		1955	First state television, Channel 4, began its broadcast
1957	Military dictatorship16 years of military rule	1957	Suppression of press freedomPress censorship & Internal Security ActExpansion 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 downBooming press freedomPopular demand for state media reform
1976	Massacre of students and military coupInternational pressure on the Thai state on human rights violation	1976	Total suppression of press freedomJournalists, artists & intellectuals took uparmed 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 state15 years of political transition periodElections and economic growth	1980	Further commercialisation of the broadcast media by the Thai statePrivate press growing in numberTelevision 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 un-constitutional military Prime MinisterRapid economic growth	1992	Radio Thailand burned down (2nd time)Popular demand for state media reformCommercialisation of state media & anindependent 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

chon 2535). 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 Radjadamnern Avenue (Laksana Klaikaew 1994). It was the newspapers who informed the people about the troops and the shooting of demonstrators on Rajdamnern Avenue. 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 strategy to suppress dissidents' voices or to mobilise for violent actions such as the massacre of students in 1976. During the political crises in 1973 and 1992, there were news blackouts, and the government run Public Relations Department was set on fire to demonstrate the anger of the people against the suppression of freedom. Each time, a new body of broadcast regulators was formed at the aftermath of the event.

The National Broadcasting Commission — NBC (1992-2001). An interim government was set up after General Suchinda was deposed. 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 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 the state agencies who owned radio and television stations and who made their income from leasing them out to private concessionaires. 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 Anand government took away the censorship authority from the NBC and placed it in the hand of individual stations. Secondly, it initiated the project to set up a new UHF television station by means of open bidding, instead of the privileged concessions practised 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 rights 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, which was carried out by both state stations and private stations. As for the UHF television station, ITV, the high bid and low revenue were used by successful bidder, Siam Infotainment, to legitimise its inability to pay the first year concession fee of 300 million baht. In addition, Siam Infotainment requested that the Government alter the Terms of Reference in the concession. They wanted it to lift the 10% limit for each shareholder, so that a new major shareholder could be invited to salvage ITV. In early 2000, after only four years of operation, Shin Corporation, the telecom conglomerate founded and owned by the present Prime Minister, Thaksin

Shinawatra, became one of the major shareholders, along with the Siam Commercial Bank. Despite loud public criticism of the political motive of Shin Corporation, neither the NBC nor the Office Attached to the Office of the Prime Minister was able to regulate the cross ownership of broadcasting and telecommunications by Shin Corporation. Nor did they investigate the close relationship between the leading political party and both ITV and Shin Corporation. As a consequence, not much has been achieved during 1992 – 2000, especially in the structural reform of the broadcast media.

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 uprisings of the people in 1973 and 1992. 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 regulations introduced by the BEB and the NBC were limited in scope and effect. So far, reforms 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 have more organisational strength than the Prime Minister or the Minister who chairs the NBC. As a legal body, they could formulate policies that did not jeopardise their monopoly of the broadcast media. On the other hand, while the ownership structure remains intact, these state agencies, not the NBC, also control the rights and freedom of expression in general. The private concessionaires who run the stations must abide by the state agencies' direct/indirect censorship and utilise self-censorship in order to have the privilege to broadcast. Independent and free expression on the air is a taboo area that most broadcast journalists must always observe.

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 was frequently demonstrated. Two recent examples show how the power to control the operations of television lie beyond the reach of the NBC. The first example is the case of UBC cable television, operating under the Mass Communication Authority of Thailand (MCOT), and the second example is the case of ITV, the newly established UHF television, operating 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 had a monopoly in cable television services. The new subscription fee was forced upon consumers who had no alternative to turn to. The Foundation for Consumers brought the case to the MCOT, with 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-ŕ-vis the fee.[1] 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, sufficient merely to cover the losses 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 and the Trade Competition Committee of the Ministry of Commerce. The Complaint Bureau took up the petition and heard witnesses from both the MCOT and the Foundation for Consumers between October 1999 and January 2000. But due to the organisational changes to the Complaint Bureau, the case has been transferred to the new Administrative Court, and is still awaiting due process of the Court at the time of writing. On the other hand, the Trade Competition Committee ruled that UBC Corporation was not a monopoly in the television industry. Its reasons were, firstly, because there were other cable concessionaires, although they have not yet started to operate. Secondly, consumers can always switch to the terrestrial stations if they find UBC unsatisfactory. Nonetheless, the Trade Competition Committee advised that UBC should improve the quality of programmes, to justify the increase in the subscription fee.

The second case in point is the intervention into the editorial independence of news programming by the management of the ITV station prior to the general election on 6 January 2001. The ITV news editor, reporters and newscasters protested against management tampering with 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 major shareholder of ITV. Both the Thai Rak Thai Party and Shin Corporation were founded by Thaksin Shinawatra, who was running for the office of the Prime Minister. After the general election, which the Thai Rak Thai Party won with a landslide victory, 23 ITV staff were fired on February 7.[2] The Office Attached to the Office of the Prime Minister did not investigate this 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 self-organisation of the journalists in ITV was an unprecedented move that broke with the taboo on self-censorship and corporate censorship, in order to report to the audience in the fullest meaning of journalistic professionalism.[3] The so called "*23 rebels*" who were fired from ITV took their case to the National Council of Lawyers of Thailand for legal consultation. Since they had just organised a union and elected the first group of union officers two days before, they can fight their case in the Labour Court. But as to the infringement of their right to publish freely and without interference by the owner or management of the media corporation, which is guaranteed by Article 41 of the new Constitution of 1997, the Council was at a loss to advise them, for there is no court or any other authority to turn to that might take up the case.

There was a public outcry over the firing of 23 ITV staff. Civic groups, labour unions and the Campaign for Popular Democracy called a boycott of the station, as well as demanding a review of the concession given to ITV, whose major shareholders are the Siam Commercial Bank and the Shin Corporation. But the NBC left these regulatory issues in the hands of the state agency that gave 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 of ITV reiterated its position that the sackings were merely an internal management matter, due entirely to the need to streamline its production staff.

In the case of ITV questions were raised about the legitimacy of Shin Corporation in holding a major stake 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 own, albeit indirectly, both a television station and the largest telecom corporation. It can be seen that the NBC is unable to resolve the problem nor can it regulate the broadcast media to the benefit of the public. The incident also demonstrates how large media corporations such as ITV can influence the action of a state agency in order 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 have been unaccountable to the public. The bureaucratic bastion coupled 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 NBC will be dissolved. A new NBC, which is intended as an independent regulatory body, will take shape in its place, following the provisions of Article 40 of the new Constitution. The organisational law on the NBC and the NTC, enacted in March 2000, is now in force, and new regulators must be set up to regulate both the broadcast media and the telecommunication industry. (For a chronology of Thai broadcasting reform, see Figure Two.)

But within this kind of socio-political context 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 look at the screening process of the NBC selection committee, in order to find out how the new independent regulator is being formulated and whether its composition differs significantly from that of the out-going NBC.

By law, the NBC Selection Committee is made up of 17 members: five from the state agencies related to the broadcast media; four from the communication institutions at the university level; four from the professional media organisations; and four from the non-governmental organisations. In the case of the state agencies, their representatives come from the Office Attached to the Office of the Prime Minister, the Ministry of Defence, the Ministry of Education, the Ministry of Science, Technology and the Environment, and the National Security Council. For each of the other three groups, their representatives must select among themselves the people who will form the 17-member Selection Committee. In the process, large broadcast media corporations seized the opportunity to set up their own "professional organisations," since there were few professional organisations already existing in the industry, especially for broadcast journalists. These hastily set-up media associations, with the assistance of the military, were able to over take all of the 4 seats for the professional media organisations. Their powerful influence has barred the print journalists and the Association of Journalists of Thailand from participating in electing representatives for this group. As for the non-governmental organisations (NGOs), the state patronage associations and the conservatives groups dominated the selection of its representatives. As a result, the seats were split among

Figure 2: Chronology of 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

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 five state agencies nominated high officials to sit on the Selection Committee. It can be seen that the quota system in the Selection Committee resembles the arrangement of the previous NBC except for the representative from the media professions.

In February 2001, the NBC Selection Committee short-listed 61 candidates from 103 applicants. From these candidates 28 were selected after interview. The Selection Committee then selected 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 NBC, according to the organisational law, is responsible for the allocation of frequencies and assigning the three categories of licenses - state, commercial and community license. In addition, it must draw up the master plan to reform the broadcast media. It is, therefore, a highly powerful and politically influential organisation, which could act to democratise radio and television and enhance 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 being overly influenced by the military and the state agencies who owned the broadcast media, as well as by large media corporations. The presses revealed that among the top 28 short listed candidates were those from the state agencies holding the largest stake in the broadcast media, and candidates who were closely connected to these large media corporations.[4]

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

From our analysis of the formulation of the NBC, it remains an open question whether the new independent regulatory body will function to reallocate the electromagnetic spectrum fairly between the state and the private sector, whilst at the same time ensuring that the legal provision for 20 per cent of the airwaves be allocated to the people's sector is implemented. The path to media reform depends largely on who get selected and how the NBC 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 Movements and Public Participation

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 began to form what White (1995) saw as the social movement necessary in the process of democratising communication. There were groups that campaigned for reform at the policy and institutional level as well as those who worked on a broad basis to mobilise a change in public attitudes. The objective was to enable citizens to have greater control over the processes of public communication. The participatory process was, it was hoped, designed to lead to political self-determination in opposing the existing institutional and hierarchical structure of communications in the Thai society.

Participation in Regulatory Reform

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*."[1] This has been the key ruling concept that has the potential to change the ownership structure of state monopoly and private patronage concession developed over the past 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 guidelines on how an independent regulatory body should be set up. After 8 months, the proposal was to draft a bill for two independent regulators. One was intended to regulate the broadcast media and one telecommunication. The guideline on the number of commissioners and 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 eventual draft did not follow the joint committee's guideline. It proposed a single independent regulator, embracing both the broadcast media and telecommunication. The Council of State took the line of argument of the Post and Telegraph Department, namely that there would be technological convergence and that the US model of an FCC (Federal Communications Commission) and the Canadian model of CRTC (The Canadian Radio-Television & Telecommunications Commission) were both good examples of successful regulatory body. Thailand should model itself on these.

At this point, the non-governmental organisations that work on alternative media took up the media reform issue as part of a larger movement of social and political reform. The Working Group on Monitoring Article 40 was formed, with 25 organisations as its founding members. It waged a battle against the alteration of the joint committee's original plan for the bill, and called for it to be incorporated into the NBC and NTC Act (Supinya, 2000). Together with the academics, the Working Group on Monitoring Article 40 opposed the Government's draft bill. They asked that the central organisation of the bill should follow the proposal of the joint committee (with two independent regulators) instead of the proposal of the Council of State (with one independent regulator). In March 1999, the Cabinet confirmed the draft bill and was ready to channel it to the House of Parliament. The 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 proposal. But the Government went ahead with its plan. Nonetheless, with a great deal of public pressure, it reluctantly 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 channelled to House of Parliament on 7 April 1999.

When the House of Parliament debated whether to set up a single regulator or two separate regulators, the arguments about the different nature of each of these sectors were raised. The pro-two separate regulatory body line of argument was that it is media content and the right of the people to communicate which is at the heart of the matter for the broadcast media, and not the telecommunication network per se, although it must be recognised that the telecommunication infrastructure and modern production and communication technologies are crucial to the efficiency of these 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. The fear was that the economic interests that would be at stake if everything were put together in one regulator would be to great to be resisted. In the end, 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 House Ad Hoc Committee proposed that the two regulators must set up a joint committee in order to manage the spectrum together.

The argument from the academics and the NGOs on why there should be two independent regulatory bodies was clearly a social and cultural argument. It was based on the guarantee of freedom and rights of expression and communication for individuals and communities, 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 were to be one single regulator, the needs of the telecommunication sector in managing the spectrum would easily dominate the needs of 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). What might follow would be the change of direction of the debate. The media reform agenda could easily be dropped from the legislative forum, while the focus of the discussion 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, and public participation in this process would come to a sudden close. Hence, the question of media reform (for public interests) would be left to the experts and state agencies to decide among themselves. The important notion of genuine 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.

During the legal debate, the central question in the House Ad Hoc Committee was on how to democratise the ownership right to the broadcast media. [2] 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 and 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 House 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 ownership right in an equal manner with the state agencies and the private sector?

The outcome of the debate was the reluctant confirmation of the third option, involving the allocation of 20% of the radio and television frequencies to the '*people's sector,*' in addition to provincial stations for development purposes. 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's sector. In the case that the people's sector is not ready, the NBC must provide sufficient support so that the people's sector could have access to the appropriate ratio of the frequencies…. And that the people's sector must operate for public interests and not for profit.*

Throughout the legislative process there was resistance against the restructur-

ing of the monopoly ownership rights of the state agencies. The general thinking was that deregulation was acceptable, but public/community ownership of radio and television licenses was unjustified. One of the attempts to prevent ownership reform was the proposal on a pilot project for "*community programmes*" organised by state agencies in the broadcast media. In their hope to keep their tight grip on the operation and ownership rights, the state agencies used the proposal for allocating 20% of broadcast airtime to the community, along with the pilot project for "*community programmes*," as a strategy to divert demands for restructuring. Although state manipulation failed in the House debate, the resistance to media reform still loomed large, as will be discussed below.

Participation in Community Programming

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 networked with one another to form local committees to campaign for reform. In some areas, the civic groups were able to have access to Radio Thailand local stations through the new "*community programmes*" slot. Both the Public Relations Department (PRD) and the Mass Communication Organisation of Thailand (MCOT) have devised their version of "*community programmes*" to demonstrate their "positive attitude" towards reform. The Public Relations Department launched its pilot project in 1999 with community radio programmes in 30 provinces through Radio Thailand provincial radio stations. Local committees comprised of station administrators, production staff and members of civic groups were set up to form the programming policy and the supervise operation of community airtime. The MCOT, on the other hand, organised workshop for its staff on media reform, and on public and community participation in the broadcast media. These one or two hour broadcast slots were opened to active civic groups to produce current affairs, talk and cultural programmes in a style accessible to the community (Ubolratchathani, Nakorn Rachasima and Nakorn Si Thammarat, for example). Audiences rated those programmes in which local vernaculars were spoken as highly popular.

The popular current affairs format adopted by most programmes was the phone-in. Such programmes became familiar to urban Bangkok audiences after 1992. Civic media producers talked about local concerns and daily issues, such as the deficiencies of government services in their communities. Gradually, state agencies are forced to respond to these questions or face continuing criticism over the issues on the programme. They felt uncomfortable having to answer to public scrutiny. On the other hand, the stations themselves were concerned by a situation where some dialogue and communication took place, because this kind of open line is starkly different from the one-way and propagandistic format long employed by the state stations. In Nakorn Rachasima, for example, the civic producers took the programme a step further, by broadcasting a controversial local district meeting. The opening to public scrutiny of the meeting was sufficient to halt the misconduct of some of the local district members. These types of civic programming gained popularity over a short period of time. But the staff of the stations was fearful that these programmes would get out of their control.

During this experimental period, 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 to 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 UN Convention on the Rights of the Child (1989) [3], "Eyes of the Pineapple," the organisers 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 in 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 of how the groups were actively preparing themselves to gain access to the broadcast media once forbidden to public participation. It is clear that the demand for more public access and better quality programming, along with the legal stipulations on media reform, have put a certain amount of pressure on the government and the state broadcast media. But the institutional structure of both the state media networks were too inflexible for this kind of openness and the sharing of resources with the public. They found it difficult to accommodate "*outsiders*" in the stations as programme producers. Moreover, the production staff was conscious of their stations' identity as state public relations media. When the civic groups 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 their hard-hitting commentaries on local issues. It can be seen, then, that there is a large gap between the structural and conceptual understanding of the state media and the civic groups as to what is newsworthy and what agenda concerns the community.

In a broad sense, the social movement has demonstrated how it wishes to renovate and democratise virtually all aspects of the communication process. As White 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, 93).

But by mid-2000, the Government ended its endorsement of the pilot project on "*community programmes,*" as well as of the children's programme allocated to the Eyes of the Pineapple group. The experiences had revealed the conflictual relationship between the state media and civic groups, both in their style of production and programming. On 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 regulatory reform of the broadcast media vis-à-vis the social movement. The intervention by popular groups, such as the Working Group on Monitoring Article 40, the Voice of the Voice-

less, community media groups, and children media, has opened the question of regulatory reform to public debate. As McChesney (1998) pointed out that "*the extent to which there is non-elite participation in communication policymaking may be a barometer for the level of democracy in a society*." The ongoing legal process would seem to be a good sign of progress towards a more democratic system, except that the question on the purpose of reform has not been debated thoroughly. We might, therefore, find a push from the opposite direction on media reform and the communication rights of the people. That is: deregulation purely for the interests of the big businesses.

Commercialism and Privatisation of the State Media

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 of the ownership of the broadcast media by 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 a move to ensure that the ownership rights of state agencies are kept intact. On the other hand, these state agencies are planning either to increase the degree of commercialisation, or to privatise their organisations. 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 a plan for reform that 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 independent state agencies, differing from the previous organisational status of a part of the bureaucracy. This means that Radio Thailand's national and local radio and television networks will be legally opened to commercial advertising. At present, Radio Thailand's national network and national television Channel 11 are barred from carrying advertisements. But Local Radio Thailand and local Channel 11 are opened to advertisements. The re-organisation would permit a new source of commercial revenue for Radio Thailand and Channel 11. It would also legalise concession of airtime to private producers. However, the main source of income is to be drawn from the subsidy provided by the NBC (Interview with the Deputy Director of the Public Relations Department, 25 March 2001).

As for the Mass Communication Organisation of Thailand (MCOT), it already announced its plan to privatised the organisation in early 1999.[5] The aim was to open the way for more private partnerships, in order to compete with the leading television channels. Similar to the MCOT, Army Television Channel 5 was quick to launch its own privatisation scheme in 1997. It attempted to set up several companies for marketing and production, while it expanded its broadcast coverage with its experiment with the Global Network satellite 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. This project failed to draw enough advertising revenue during the economic crisis.[6] Most of the projects carried out by Channel 5 were economically unsound, and the programmes were unable to compete with the other 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 approximately 85% whilst Channel 5 and Channel 9 coupled with Channel 11 and the newly established ITV command no more than 15% share of the total audience. For radio, private operators are also far ahead in terms of audience share (For details of Thai

Figure 3: The Number and Types of Mainstream Mass Media in Thailand (2000)

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

* 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.

media consumption, see Figure Three). Looking at the present structure, the core of the broadcast media system is the private commercial media and 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 can expect a system that is completely dominated by commercialism. Thus, the trend is for a regulatory reform that would lead to liberalisation of the present structure, especially of the privileged private concessions operating under license from the state agencies. This would also bring further privatisation of the state media and commercialism of the whole broadcast system. Hence, we are witnessing the erosion of the non-profit and non-commercial sector of the state while the non-profit and non-commercial sector of the people's media has not got off the ground.

Regulation Reform and Direct Action for the Future of Communication Rights of the People

The future of the communication rights of the people hinges very much on the legislation that a 20 per cent share of the airwaves for non-profit and non-commercial media to be allocated by the new NBC. There is, however, no guarantee of success at this formative stage. For the most part, reform was initiated from above, packaged within the Constitutional reform agenda. Secondly, the experience of regulatory reform of the broadcast media in the Thai society, although it stemmed from the discontent with mis-information, distortion and biased reporting of controversial issues, silencing of dissident voices, and the rise of commercialism and consumerism, differed from a number of other societies. The experience of Britain, for example, was that pirate radio took to the airwaves in the 1960s before the government starts to reform the content of the BBC. These pirate radios broadcast black music, political and community programmes, and some eccentric programmes, from small roof top transmitters (Hind and Mosco 1985). They had to play hide and seek with the Post Office, since they were broadcasting illegally. 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 simple misdemeanour. Apart from this kind of direct action, there were lobby groups 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 that an alternative to the state's public 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. 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 effort to experiment with a new type of community radio, thus, failed to materialise (Barbrook 1985).

The US experience is also an invaluable learning lesson. In the early years of radio, in the mid-1920s, there were 125 non-commercial stations among a total of 450 radio stations or approximately one quarter of the whole system. But as McChesney (1998) showed in his analysis of the political economy of US radio, 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 Com-

munications Commission (FCC). In fact, the struggle against the commercialisation of the airwaves had mobilised civic groups on issues of 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. Their effort was lost to the influential network broadcasters.

The resurgence of the non-profit community radio went on in earnest after World War II. The war resistance movement and the pacifists in the bay area of San Francisco founded the Pacifica Foundation, and were able to secure a radio license in 1948 to express their concerns about the war and its aftermath (Land, 1999). KPFA led the way in a new era of alternative radio, and expanded to New York on WBAI in the 1970s. These were early models of listener sponsorship stations. In 1975, with the organisation of the National Federation of Community Broadcasters, community radio stations in the US began to spread out in the east and the mid-western states. In order to survive in a highly competitive environment, these stations fought for financial support from the Federal grant channelled through the Public Broadcasting Corporation. With audience subscription and Federal grant as the bulk of their revenue, the alternative broadcasts of these community radio could provide access to a wide range of political and cultural expressions.

Nonetheless, the existing community radio set-up has been unable to accommodate to all the needs of the citizens in the community. There are groups that still find themselves excluded from the airwaves. Small, low-power radio stations were set up to provide voice for blacks, gays, etc. This was led by the micropower station Free Radio Berkeley. The FCC, however, tried to confiscate the micropower 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. 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 destruction of its freedom to put its own voice on the air. The essential problem now is for legislation to allow the possibilities of micropower community radio to be realised.

From the above experiences of Britain and the US, we can see that the problem lies in how to link the legal lobbying together with direct action initiatives, like pirate radio and community radio, in order to form a realistic social movement that can bring about democratic reform. Within 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 broadcast from the south of China and was wound up in 1980, when the CPT was gradually dismantled. Although the social movement has exerted pressure about 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 dominant. 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, in 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, 72).

The new legislation for the direct access and self-management of the airwaves of the people's 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 items. This was put forth to the public in December 2000, prior to the general election in January 2001. If the lessons from comparative experiences are heeded, 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 bourgeois society.

Notes:

1 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 intersts 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."

2 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. The plan was to begin internal liberalisation in 2000 and full liberalisation would follow in 2006.

3 Article 13 of the UN 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 inprint, in the form of art, or through any media of the child's choice*."

References:

Barbrook, Richard. 1985. *Community Radio in Britain*. In The Radical Science Collective (ed.), *Making Waves: The Politics of Communications*. London: Free Association Books.

Hind, John and Stephen Mosco. 1985. *Part I: Who's on the Air.... Rebel Radio*. London: Pluto Press.

Land, Jeff. 1999. *Active Radio: Pacifica's Brash Experiment*. Minneapolis: University of Minnesota Press.

McChesney, Robert. 1998. The Political Economy of Radio. In R. Sakolsky and S. Dunifer (eds.), *Seizing the Airwaves: A Free Radio Handbook*. Edinburgh: AK Press.

Supinya Klangnarong. 2000. Article 40 and the Discourse of Media Reform. Unpublished MA thesis. Faculty of Journalism and Mass Communication, Thammasat University.

The Working Group on the People's Agenda for Independence. 2000. *The People's Agenda on the People's Media*. Bangkok.

The Public Relations Department. 2001. The Changing Role of the Public Relations Department. Executive summary of the White Paper for the re-organisation of the Public Relations Department.

White, Robert. 1995. *Democratization of Communication as a Social Movement Process*. In P. Lee (ed.), *The Democratization of Communication*. Cardiff: University of Wales Press.