



Media Reform going Backward ?

Broadcast media reform: Hope in a nearly hopeless situation*

• The editor •

When the Thai Constitution was amended in 1997, major political and electoral reforms were introduced. This prodded several organizations to campaign for changes in their respective fields. The broadcast media saw this as an opportunity to break free from the grip of the state and other interest groups as sections 39-41 of the Constitution explicitly guarantee both the right of the people to free information and the freedom of those who produce content for the broadcast media.

Now Thailand has six free-to-air television channels, one national subscription TV operator and over 200 local subscription TV operators. (Of the local cable TVs, 78 operators have legal licenses but they have to renew their licenses with the Public Relations Department every year. The rest have no licenses but they have joined the network of the department.) There are 525 radio stations in the country.

The main problem of the broadcast media in Thailand is that frequencies are under the control of certain government agencies and

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state enterprises. Some private companies have received concessions to operate the frequencies as shown in the two following tables:

Details of ownership of radio frequencies

Agencies	Number of frequencies under ownership
Defence Ministry	211
PM's Office (Public Relations Department)	149
Mass Communication Organization of Thailand (A state firm which is later listed as MCOT Plc)	62
Interior Ministry	44
Parliament	16
Commission on Higher Education Office	12
Post Department	12
Transport Ministry	7
Agriculture and Cooperatives Ministry	5
Education Ministry	3
Royal Household Bureau	2
Foreign Affairs Ministry	1
Bangkok Metropolitan Administration	1

Source 1: Kulawadee Wangdeesirikul: 116 "Economy of New Institutions and Frequencies Distributions in Thailand" in Narong Phetprasert (editor), Mass Media on the Course of Capitalism, Political Economy Study Centre, Bangkok: Edison Press Products, 2003



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Details of ownership of TV frequencies and concession of each station (as of 2004)

Stations	Owners	Operators	Concession period	Concession fee (million baht)	Profit sharing
Channel 3	MCOT Plc	Bangkok Entertainment under a concession	50 years (1970-2020)	17.6 to 244 a year Total : 3,207	none
Channel 5	Royal Thai Army	Operated by Royal Thai Army by leasing airtime for programs and commercial advertisements	none	none	none
Channel 7	Royal Thai Army	Bangkok Television and Radio Co Ltd under a concession	56 years (1967-2023)	Total: 4,670	none
Channel 9	MCOT Plc	Operated by MCOT Plc by leasing airtime for programs and commercial advertisements	none	none	none
Channel 11	Public Relations Department	Operated by Public Relations Department, which leases airtime for corporate advertisements and for programs	none	none	none
iTV	The Permanent Secretary's Office of the PM's Office	ITV Plc under a concession	30 years (1995-2025)	230 a year Total: 7,790	6.5 per cent of revenue



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Stations	Owners	Operators	Concession period	Concession fee (million baht)	Profit sharing
UBC (sub scription TV)	MCOT Plc	United Broadcasting Corp and UBC Cable Network Plc under a concession	25 years (1990-2014)	1.5 to 30 a year Total: 420	6.5 per cent of revenue
TTV	Public Relations Department	Nation Group (three channels)/ World Star TV (Thailand) under a concession	(1996-2021)	5 to 27 Total: 400	5.5 per cent of revenue

Source 2: Adapted from **Somkiat Tangkitvanich** and Thanawit Suttharattanukul, “Structures of Radio and Television Media in Thailand” in Narong Phetprasert (editor), *Mass Media on the Course of Capitalism*, Political Economy Study Centre, Bangkok: Edison Press Products, 2003 and Thani Chaiwat “Rent Seeking in Thailand”, thesis for master degree in economics, Chulalongkorn University, 2003, P 149 and 200.

Note: Sources 1 and 2 are referred to in Phasuk Pongphaijit “Media and Democracy: Lessons on the Case of Montesino of Peru” in Ubonrat Siriyuvasak (editor), *Silencing the Media : Rights and Freedom of Expression Under Political Corporate Seized*, Kobfai Publishing Project, 2005, P 25-29.

Two independent organizations working together have been tasked to distribute frequencies and bring about genuine broadcast media reform. They are the National Telecom Commission (NTC), which is to regulate telecom businesses, and the National Broadcasting



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Commission (NBC), which will regulate broadcast businesses. The seven members of NTC have been appointed while those of the NBC has yet to be appointed.

The NBC's main mission is to redistribute radio and TV frequencies so that there would be an equitable distribution of frequencies. The NBC has to provide an opportunity for any individual or group, who wants to produce useful programs, to obtain a license to operate a channel without having to lease airtime or a frequency from a tycoon and without having to pay a huge amount of money in exchange for rights to only short-time operation.

Another key mechanism is the Radio and TV Broadcasting Business Bill, which is to provide working guidelines for the NBC. The bill is now being drafted by the Office of the Council of State. However, it appears that several articles in the draft would favor business tycoons and government agencies, rather than the public.

During the past eight years, media reform has been on a rough road. It has hit snags again and again. Until now, the reform has gone nowhere, dragged down by massive interests in the radio and TV businesses, which prompt various groups to fight to try to control frequencies as long as possible.

This book presents the overall picture of the media reform in the article titled **In reforming the media, the NBC has created more questions than answers** by **Thepchai Yong, The Nation**



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The book also exposes dirty tricks and irregularities in the NBC selection process in the article titled **Inside Story of the NBC Selection which is against the Constitutional Intention** by **Dr Chirmsak Pinthong**, chairman of the Senate special committee, which has scrutinized backgrounds and qualifications of candidates for NBC positions.

The most concrete part of the media reform has been taking place among the people – through community radio stations. They are the clearest example of media reform. The people try to invoke their rights to use media as tools for communicating with the society. But the bureaucratic mechanism is too slow to support the reforms being initiated by the people. Worse, state agencies are trying by all means to check the people's media from growing. Government agencies denounce community radio stations as illegal (because the existing laws do not allow establishment of new stations). The state also tries to interfere in the work of community radio stations through the authority of the Public Relations Department. The department creates conditions to control community radio via a registration requirement and permission for commercial advertisements at the rate of six minutes per hour.

The conditions absolutely go against the original goals of community radio operations, and have become the main cause of destruction of the learning process of the people's sector. Contrary to the spirit of community radio, political groups, large corporations and small investors have jumped on the bandwagon of community radio



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operations. The number of community radio stations surged from 200 in 2000 to over 2,000 as of the middle of this year, less than six months after the Public Relations Department issued the directive to permit commercial advertisements. Now nobody cares about the regulations. Everybody now tries to violate the limit of 30 watts transmission power and expand the area of broadcasting beyond the allowed radius of 15 kilometers. Some have their broadcast antennas higher than the 30-metre limit. All want their broadcasts to cover as wide an area as possible largely for commercial and political purposes, disregarding the very principle of community radio operations.

Some small operators of community radio stations have tried to form groups and want to transform their operations into small and medium-sized broadcast businesses. They do not want their businesses to be overtaken by large corporations but they want breathing space for their small operations. Their voices have not been loud enough to be heard by the government agencies tasked to listen to such calls.

The phenomenon and confusion over community radio operations are explained in the article of **Dr Uajit Wirojtrairat**, titled **Community Radio: Prove of the Public Mind and the People's Spirit of Freedom and Dignity**. The book also provides a comprehensive analysis on how government agencies try to interfere and control the people's media in the article of *Assoc Prof Ubonrat Siriyuvasak, titled A Genealogy of Media Reform in Thailand and Its Discourses*



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Apart from those with state and political power, businesses and large corporations also want to control the media. They use different methods and tools to seek the control of media. The failed attempt by Grammy (a big entertainment media company) Group to buy shares of Matichon and Bangkok Post newspapers was a well-known case which generated strong opposition from every sector in the society. It has been cited as a case study with suggestions to prevent future attempts to control media in the article of **Dr. Somkiat Tangkitvanich**, titled **How to prevent domination of media business listed in the stock market**

In this nearly hopeless state, however, there is a group of people who have pushed for responsible television programming. Their campaign led to a Cabinet resolution, which requires TV stations to set aside a portion of prime time for programs for youths and families. Although there are still obstacles in implementing the Cabinet resolution, the campaign marks a good start and shows how cooperation from several groups with good intentions can make a difference. Moreover, the campaign led to a research for solutions on how to make this dream come true. Details of the research are disclosed in the article of **Associate Professor Wilasinee Phiphitkul**, titled **Where There is a Dream, There are Today and Tomorrow: A Movement to Realize Cabinet Resolution on Children Program on TV**

Finally, there are two concrete examples of two TV programs born out of good intention for producing good content for the audience. They are **Khon Kon Khon (People delving into people) program of**



TV Burapha Co. Ltd. and Khun Phra Chuay (Oh My God!) program of Workpoint Entertainment PLC. These two programs have effectively overcome the notion that TV programs are all good for nothing and useless for the society after they had won both money and praise. Their popularity, as well as several prestigious awards, are testament to the consistently outstanding quality of these programs. The two programs are case studies in the book, which should provide suggestions about techniques and tactics for those wishing to produce good TV programs as to how to blend meaningful content and entertainment perfectly.

As the world has several sides and a coin has two sides, there is always light at the end of a dark tunnel. Although broadcast media reform still has a long way to go, those with the public interest in mind should not lose hope and continue to stay together to fight for meaningful reform.





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!! In reforming the media, the NBC has created more questions than answers

• Thepchai Yong •

Group Editor, Nation Multimedia Group

*M*any people may have prematurely jumped to the conclusion that the Senate's selection of the National Broadcast Commission on September 27, 2005 was another important step in the reform of the broadcast industry. Superficially, it did appear to be an advancement for the long-delayed reform process.

But a closer look at the seven NBC nominees and the process in which they were nominated shatters any hope that the reform will be in line with the spirit of the 1997 reformist Constitution which seeks to liberalize the airwaves.

There is every indication that the majority of the NBC nominees were chosen not because they are seen as representing the interest of the public but because they are proxies of key players in the industry who see the broadcast reform as a threat to their media interest.



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NBC is an independent body whose primary function is to allocate and regulate the airwaves. More importantly, it also has the duty to lay down the groundwork for the protection of the freedom of the broadcast media.

But instead of having reform-minded people sitting in NBC, it's very likely that we will end up having representatives of those with vested interest running the independent body.

The Senate's decision to select the seven came as a big letdown to media advocates and came amid allegations that many senators have come under political influence. There were also charges that many of the senators were provided with the list of the NBC nominees they should vote for from a short list of 14.

The Senate was given a slap in the face by a sub-committee it had earlier appointed to probe the backgrounds and qualifications of the NBC hopefuls. The sub-committee gave the whole selection process a thumbs down for reason of conflicts of interest between some of the selection committee members and some of the nominees.





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The sub-committee also found irregularities in the selection process and recommended that the full Senate declare the whole thing invalid. But the Senate chose to ignore the recommendation and went ahead with the appointment. The prospect that the appointment may eventually be rejected by the Administrative Court was also brushed aside by the Senate.

NBC is the heart and soul of the efforts to reform the broadcast industry which has been a virtual state monopoly. The reform is aimed at ending the monopoly which is the major reason behind rampant corruption at various government agencies owning the airwaves. It's an open secret that private media operators need to make under the table payments and have political connections if they are to win concessions for airwaves.

Problem of transparency is particularly severe in the radio business. Making shady deals which often involve bribes in order to win airtime concessions is a normal practice. It is worse when the concession passes through several rounds or people. Most frequencies are leased through middlemen who in turn act as brokers for government agencies which own them. By the time the contracts or concessions end up in someone's hands, millions of baht might have already changed hands while the official price tags could be worth only a fraction of those amounts.

The practice has created a vicious cycle because programme operators who have to pay exorbitant amounts of money for the



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airwaves are most likely to cut corners when it comes to the quality of their programming. Many have chosen the easy way out by playing music paid for by major record companies. Very few are willing to invest in good programming.

And the last thing holders of these concessions want to do is to offend the power-that-be. Radio and television programmes are often censored. And most choose to avoid politically sensitive issues. Thailand has over 500 AM and FM radio stations and virtually all are owned by government agencies, especially the Public Relations Department, the armed forces and the Mass Communication Organization of Thailand (MCOT).

The expectations have been that NBC as an independent media regulator will put an end to such monopoly. The frequencies will then be redistributed on the basis of fairness and equality.

On the other side of the reform, is the bill on broadcast business which will essentially lay down the legal framework for NBC.

However, the drafting of the bill has been delayed for several years and has been subject to political meddling. All stake-holders in the broadcast business have been trying to shape the legislation to safeguard their interest. They are the same groups of people who want to influence the selection of the NBC candidates.

As media reform is being stalled on its tracks, Thai press freedom has been under unprecedented attacks. The four years under



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the current Thaksin Administration has seen freedom of expressions stifled in ways not seen before.



Thaksin was re-elected last February with an unprecedented mandate. He turned his popularity into a weapon against his critics, especially the media. State-owned broadcast media have been consistently subject to political interference while the privately-owned print media have been put under constant pressure to tone down their political coverage. Defiant newspapers are branded “**unpatriotic**” and denied advertisements from companies owned by the prime minister’s families and state agencies.

The recent introduction of a royal decree that empowers the government to declare a state of emergency is the most obvious attempt by the government to tighten its grip on the media. The decree gives the government the authority to censor the media and ban distribution of newspapers once a state of emergency is imposed. A firestorm of public criticisms failed to stop the government from introducing the decree but was strong enough to force it to suspend specifically the clause that deals with the media for the time being.

The threat against the media was heightened when GMM Grammy of Paiboon Damrongchaitham, an entertainment media mogul with



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strong political connections, attempted a hostile take-over of the Post Publishing and Matichon groups, two of Thailand's leading media groups.

Paiboon was among the media magnates who announced shortly after the Senate endorsed the seven NBC nominees that they were hopeful they would be awarded with new TV licenses once the independent media regulator started functioning.



Paiboon Damrongchaitham

Under the current political circumstances, there is little optimism that the long-awaited reform of the broadcast industry will materialize in accordance with the spirit of the constitution.

It looks very likely that any reform – if there is one at all – will be shaped to suit the interest of major stake-holders.



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The Truth behind the Selection of the National Broadcasting Commission that Contradicts the Constitution*

• Dr Chirmsak Pinthong •

Senator

According to the Constitution, the selection of commissioners to form the National Broadcasting Commission is an important process that will ensure that Commission will be a body with right qualifications of integrity, professional expertise, independence in accordance with the rule of law.

The first selection of the National Broadcasting Commission began four years ago but was declared illegal by the Supreme Administrative Court. This verdict necessitated the second selection that resulted in fourteen candidates being selected, seven of whom would be nominated for consideration by the Senate to constitute the Commission.

A Senate commission was set up to scrutinize the nominees' backgrounds. This commission set up a sub-committee to scrutinize the process of selecting the candidates.

* translated by David Ogan
edited by Dr Charturee Tingsabadh



I was appointed Chair of the above-mentioned sub-committee and took part in the investigation and discovered irregularities in the selection of the candidates that I would like to report to any person who may be interested.

1) Conflict of interest and lack of credibility of the Selection Committee

1.1 The Supreme Administrative Court declared illegal the first selection process of the candidates and revoked the decision of the Selection Committee to nominate the fourteen candidates due to business connections between two members of the Selection Committee and four candidates; namely, General Sunthorn Sponsiri, a Selection Committee member, with business connections with General Thongchai Kuasakul and Supatra Suparb; and Chatchai Thiemthong, a Selection Committee member, with business connections with Arun Ngamdee and Udom Chanopas.

This connection was deemed a serious matter that might affect the impartiality of the selection process.

The Supreme Administrative Court ordered that another selection of the candidates be conducted. But the Court did not deem if another selection committee be set up for the purpose.

1.2 Changes in the composition of the original Selection Committee.



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Six members of the original Selection Committee resigned. Three of these were part of the Selection Committee that represented academic institutions; namely, Associated Professor Jumpol Rodkamdee, Assistant Professor Sitichai Thevatheerarat and Associated Professor Oranuch Lertchanyarak. The one remaining member of the academic composition of the Selection Committee who did not resign was Associated Professor Aruneeprapa Homsethi.

In addition, three members of the original Selection Committee that represented non-government organizations resigned; namely, Anand Panyarachun, Amnuay Inthaputi and Montien Buntan. One person who did not was Somporn Thepsitha.

Finally, all five members of the Selection Committee that represented the civil service were replaced.

To conclude, eleven members of the original Selection Committee were replaced and only five original members of the Committee remained. Of these five, two of whom had business connections with the four candidates which had led to the Supreme Administrative Court's verdict of invalidity of the first selection. These two members did not resign from the Selection Committee. In addition, the four applicants were included in the list of fourteen candidates to be considered for nomination.

1.3 The Office of the Permanent Secretary of the Prime Minister's Office as agency responsible for administrative functions of the Selection Committee referred the matter to the Office of the



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Council of State for consultation whether the status of the one remaining member of the academic representation and of the non-governmental organization representation was still legally valid.

The special committee of the Council of State stated deemed that the original Selection Committee still had the duties to continue with the selection process. However, a minority voice of the Council, Professor Amorn Chandarasomboon who was also Chair of the fourth committee of the Council of State, advised that a new Selection Committee be formed.

In Professor Amorn's view, in this case, the government (the Prime Minister as legal caretaker) must begin a new selection process by setting up an entirely new 'NBC Selection Committee' since this case was a problem incurred by the delay in the selection process during which many changes occurred that affected the status of the original Selection Committee with regard to their personal backgrounds, qualifications and their credibility in the eye of the general public. All these changes had led to the resignation of a number of the Selection Committee. The question of the Committee continuing with its responsibilities would depend on how seriously these changes would affect the working of the Committee. Should the impact be serious, the legal validity of the status and of the Committee, and the discharge of their responsibilities would be then be jeopardized.

There are two problems to be considered. The first is '**personal backgrounds and qualifications**'. One of the many changes that



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occurred was that Somporn Thepsitha, one of the six remaining original Selection Committee members who was also Chair of the Selection Committee, completed his tenure as vice-president of the National Council on Social Welfare. This was the position he used when he was selected by the non-government organizations to represent them on the Selection Committee.

The second is 'credibility'. After the Supreme Administrative Court gave its verdict on the conflict of interest of the two Committee members, the Selection Committee made no decision regarding this matter. This seriously called into question the credibility of the Committee and led to the resignation of six members of the Committee. This affair underlined the failure of the Committee to discharge their responsibility and cast doubt over their legal status and power.

Given these two problems, Professor Amorn viewed that the severity of the matter was such that called into question the credibility of the Committee and resulted in the termination of the legal status of the Committee according to the rule of law.

The important issue then is that, given the Supreme Administrative Court's verdict on the two Selection Committee's members' conflict of interest and their failure to inform the Committee so that the it could deliberate and decide whether they should be allowed to take part in the consideration of the four candidates' nomination, this procedural irregularity was a breach of The Act on Government Administrative Practices, B.E. 2539 (1996). It also raised a serious question regarding



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the Committee's impartiality and transparency. This question resulted in the resignation of six original members of the Committee, which, when added to the number of resignations from the civil service representation group, then raised the number to eleven members who resigned from the total seventeen members of the whole Committee.

These irregularities considered, **it is difficult to credit the original Selection Committee's performance with any confidence. Besides, in principle, the Committee was only an *ad hoc* committee, not a permanent committee where new members are selected to replace those who resign. With the mishandling of the process by the original committee and the sheer high number of resignations, a new Selection Committee should then be formed**, in accordance with the opinion of Professor Amorn Chandrasomboon, the minority voice of the Council of State.



*Somporn Thepsitha, Prasit Buthrsri, Aruneeprapa Homsethi,
The NBC Selection Committee*



2. Irregularities in the selection process

2.1 Conditions of application for the second selection.

The investigation found that

2.1.1 The Selection Committee voted with a majority of 9:7 (one absentee who agreed with the minority votes) not to have a new application process that was open to all, but to restrict application only to the original applicants who must confirm their reapplications formally by completing new application forms. Their reason was that an open-to-all application process would be to reduce the right to fair consideration of the original applicants since there would be more competitors some of whom might be better qualified. They also viewed that to have a restricted application would reduce the risk of their being persecuted by the original applicants.

2.1.2 Of the original 103 applicants, a number of whom had since died, changed their mind, or failed to qualify due to their being over the age limit of 70 years old. As a result, only 37 applicants reapplied, 20 original applicants withdrew, and 46 applicants did not reply.

2.1.3 The decision not to have an open-to-all application contradicted the principle of public law that holds the benefits of the general public to be more important than those of private individuals. Besides, an open-to-all application should not reduce the rights of the original applicants since they had not yet been selected and had not been selected by the Senate to be members of



the National Broadcasting Commission. Whether the Selection Committee was to be persecuted or not was then not a valid legal point.

The point to be considered regarding these irregularities is whether to have a larger number of applicants should mean a larger opportunity for the Selection Committee to select well-qualified candidates for the NBC than to restrict their choice to the original applicants.

Many changes had occurred since the first selection four years ago in 1990. Some applicants were almost 70 years old (the retirement age for the NBC is 70). Others did not wish to reapply, or had since died. As a result, only 37 reapplied, a big reduction from the original number.

Conversely, with an open-to-all application, there should have been more applicants who were not qualified at the time of the first application or who were then prevented from applying by their work obligations. Not to have an open-to-all application was then not a suitable decision that resulted in the restriction of the opportunity to find well-qualified candidates.

2.2 Double standard in the voting rules

The investigation revealed that the Selection Committee applied two sets of rules in selecting the fourteen candidates out of the twenty-one candidates. For the first five rounds of the selection, the candidates must obtain **no less than two-thirds** of the entire



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Committee's votes. However, if after five rounds there were not enough candidates who were selected according to this rule, then another rule applied for the next round: the selected candidates must obtain **no less than half** of the entire Committee's votes. In other words, this was a lowering of the selection standard. Three candidates were selected according to this second rule.

The point to be stressed is that, although the Selection Committee was entitled to determine the rules for the voting, these rules should have been determined **before** the selection process began. In the event, these rules were determined **after** the Committee had decided not to hold an open-to-all application. This suggested that the Committee had already seen the names of the applicants.

Furthermore, the Committee had the option of holding a new application process should not enough candidates were selected according to the first voting rule. This option would have resulted in better-qualified candidates being selected and therefore it would have been better than lowering the voting criterion as actually happened.

2.3 The candidates' expertise as stipulated in Article 7 of The Frequencies Distribution, Radio and Television Broadcasting and Telecommunication Business Supervision Agency Act, B.E. 2543 (2000)

The investigation revealed that

2.3.1 The Committee selected the candidates by considering the information provided in the application forms and from the documents



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the candidates provided, as well as their performances during a 30-minute interview for each candidate during which the candidate was required to present his/her ideas and answered the Committee's questions. The Committee then cast their votes without discussing the candidates' knowledge, expertise and experience. In addition, the Committee did not classify the candidates into different groups according to their expertise so as to come up with fourteen candidates with the qualifications stipulated by the law.

2.3.2 During the investigation, Somporn Thepsitha, Chair of the Committee, was questioned. It was then revealed that the reason why there had been no discussion as to the candidates' expertise was that the Committee was afraid that this might occasion some maneuvering of opinion.

It was also revealed that after the fourteen candidates were selected for consideration by the President of the Senate, the Committee did not want to state the candidates' qualifications as required by The Frequencies Distribution, Radio and Television Broadcasting and Telecommunication Business Supervision Agency Act, B.E. 2543 (2000)

However, officials of the Office of the Permanent Secretary of the Prime Minister's Office pointed out to the Committee that Article 10 (1) of this Act stipulates that they were required to declare clearly or provide evidence of the candidates' expertise, knowledge and experience as well as written authorization by the candidates. **Only then did the Committee discussed what area of expertise should be attributed to**



each candidate and this was done only to spread the candidates out to fit the required categories of expertise.

2.3.3 The Chairman of the Committee admitted that, after the nominees were ‘fitted’ with expertise, **the Committee did not ask them if they agreed to be nominated for the categories of expertise attributed to them. Of course, some nominees had not declared that they were experts in the areas ascribed to them. Worse still was that some nominees had not even declared what expertise they had, but had been described as experts in economics.**

The point to be stressed is that the Committee’s failure to consider the applicants’ knowledge, expertise and experience as stipulated by Article 7 of The Frequencies Distribution, Radio and Television Broadcasting and Telecommunication Business Super Vision Agency Act, B.E. 2543 (2000) resulted in many nominees being attributed with areas of expertise, knowledge and experience which they did not possess. These nominees, whose qualifications were incompatible with those required by law, were then submitted to the Senate for consideration.

The selection-by-voting process whereby no categories of expertise were clearly defined prior to the selection of candidates to fulfil the requirements of the law, the subsequent ‘fixing’ of the nominees and the failure to obtain all the nominees’ written authorization as required by Article 10 (1) is comparable to a flower arrangement where fourteen flowers were picked at random regardless of colour, then painted as required.



As a result, this selection then cannot be deemed as complying with Article 7 and Article 10 (1) of this.

3. Representation of the Broadcasting professions in the Selection Committee.

The investigation revealed that

3.1 The representatives of professionals from broadcasting and television legal bodies as required by Article 9 (3) of this Act were all representatives of operators from Radio and Television Broadcasters' Association, Television Programmers' Association, Television Actors' Association, and Territorial Guards' Radio Broadcasting Association.

3.2 The Council of State recommended that the consideration of whether any of these associations qualified as associations of broadcasting and television professionals? be solely based on the purposes of the associations and their membership.

The point of concern is that: in the case of operators of radio and television businesses who must be by law supervised and controlled according to the rules and criteria stipulated by the National Broadcasting Commission being selected as the Selection Commission to select members of the NBC themselves, was it possible to find members of the NBC who would be able to exercise their duties in regulating and supervising with neutrality and transparency?



4. Conflict of Interest

4.1 The Case of One Nominee

In considering the applicants, the Selection Committee only looked at the information provided in the application forms without any further probing into the applicants' backgrounds. It transpired that one candidate failed to provide complete information about himself, especially regarding his business that might have led to further investigation into his connection with certain members of the Selection Committee. Besides, the information that he failed to provide was that which he had provided the first time he applied. This irregularity resulted in the Supreme Administrative Court's judgment that the application was invalid.

The point to be considered is that the candidate concerned had already a problem of conflict of interest with one member of the Selection Committee and had avoided giving the information in the application form that he had been a member of a committee in a business company that might have led to the discovery of the business connection. **This malpractice was an indication of the lack of transparency which, it must be stressed, is an important requirement for performing the duties of the NBC. The problem was particularly grave since the information that the candidate failed to provide was that which had been judged by the Supreme Administrative Court to be the case of conflict of interest with the result that his application had been revoked.**



4.2 The case of a member of the Selection Committee

4.2.1 The Supreme Administrative Court had deemed that, according to the Act on Government Administrative Practices, B.E. 2539 (1996), in the case of the circumstances of a member of the Selection Committee that might lead to biased selection, that member could not exercise his authority in the issue of concern. In other words, the verdict forbade the member of the Selection Committee with a conflict of interest or a close relationship with the candidate from voting.

4.2.2 This member of the Selection Committee had previously been found guilty of a conflict of interest with a candidate in the first selection by the Supreme Administrative Court which had consequently revoked the selection. Nonetheless, in the second selection, the same member cast his vote for the same candidate by claiming that he had already retired and, as a result, had no conflict of interest with the candidate and could accordingly cast his vote.

The question to be raised is, if this member of the Selection Committee's retirement from active civil service meant that there was no longer any conflict of interest, should the same reason have disqualified him from his position as member of the Selection Committee? In particular, this same member was also a member of the Radio and Television Broadcasting Operators since he was director of a television station and executive of a company. As a result he was chosen representative of the Association of Radio and Television Operators while still a civil servant and subsequently a member of the Selection Committee.



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4.3 The Connections between two members of the Selection Committee and two candidates who were included in the final list of fourteen.

The Supreme Administrative Court had passed a verdict which acted as a guidance in its judgment of the first selection that members of the Committee with a conflict of interest or a close connection with candidates could not cast their votes for those candidates. Nonetheless, in the second selection, two members of the Committee did not follow the legal procedure since they had a business connection with two candidates by holding shares and acting as consultants in the same company.

In addition, they chose to declare that they had a business connection with only one candidate. Accordingly, the Selection Committee made a decision not to cast their vote for this candidate. The other candidate, whose connection with the two members of the Committee had not been declared, was voted in. This irregularity showed that some members of the Committee deliberately withheld important information that was relevant to the selection of the candidates and, as a result, made the selection lacking in transparency.



Conclusion

The in-depth investigation into the background of the current Selection Committee and its findings raises important questions: whether the irregularities in the selection for the NBC were a breach of the rule of law and the Constitution, whether its actions were unjustified and contrary to the public interest, and whether the Committee had lost all credibility.

The hope for the realization of total reform of the media as stated in the People's Constitution, for a strict adherence to and observance of the spirit of the Constitution, depends on the question whether or not the standard exercised in the selection process by the Selection Committee was acceptable.

Each person can have his own opinion, depending on his personal standard of judgment.

Yet, in the rule of law, there is only one standard. And in this case, it cannot be said that the selection observed the rule of law.

July 1, 2005.



Update

Although the investigation found that there was clear evidence of malpractices in the selection process to select seven candidates out of the list of fourteen, the majority of the Senate chose to ignore the findings and insisted on proceeding with the nomination. Of course, the nominees included those whose credibility was in doubt. Furthermore, the number of voting cards that marked the choice of nominees was surprisingly high: eighty-three cards out of the total of 198. This number indicated the Senate's lack of transparency and cast doubt on its credibility as an independent institution.

Non-government organizations, the Associations of Broadcasters and academics are disappointed with the Senate's decision and had called for the people concerned to take responsibility for their decision but to no avail. Later, Dr. Chirmsak Pinthong prepared a summary report of all the information, the results of the investigation and submitted it to the President of the Privy Council and members of the Privy Council and His Majesty's Principal Private Secretary. Almost at the same time, Pramut Sutabutr also submitted a letter to all of them. As a result, His Majesty's Deputy Principal Private Secretary who was acting for His Majesty's Principal Private Secretary, sent a letter to The Secretariat of the Cabinet for details of the matter. Therefore, the list of nominees has not been submitted to His Majesty the King for royal endorsement.



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Later on November 23, the Central Administrative Court had passed its judgment on the case brought by Mr. PraMut Sutabutr against Office of The Permanent Secretary and the Selection Committee, that the fourteen candidates' selection be revoked as if they had not been nominated to the Senate for selection, and ordered a new selection to begin. The principle reasons for the Court's verdict were the irregularities of the selection process; firstly, the composition of the Selection Committee (the disqualification of Somporn Thepsitha) secondly, the legal invalidity of the entire process of selection, including the Committee's decisions and orders, on the grounds of some candidates' conflict of interest involving some members of the Committee; and thirdly, the improper attribution of expertise to certain candidates who did not in fact possess the expertise stated.

The latest update on this episode is that the Selection Committee is appealing against the Administrative Court's judgment amidst the call from all sections of society for the entire Committee to resign to take responsibility for their handling of affair. Meanwhile, Deputy Prime Minister Wissanu Krea-ngarm, – the adviser to the NBC selection committee proposed that Article 80 of The Frequencies Distribution, Radio and Television Broadcasting and Telecommunication Business Super Vision Agency Act, B.E. 2543 (2000) be amended to authorize temporary transfer of power from the NBC to the National Telecommunication Committee. This proposal only fuelled public resistance. The proposal was finally rejected by the Cabinet's decision on November 29.



Media Reform going Backward ?

Community Radio : Prove of the Public Mind and the People's Spirit of Freedom and Dignity*

*(A non-academic, in-depth look at real life situation in community
radio advocacy in Thailand)*

• Dr Uajit Virojtrairat •

Chairperson of Civil Media Development Institute, Civic net Thailand •

“Achan Uajit [the author], you are so preoccupied with the community radio issue that it makes you so unhappy. You should try to be happy.”

The quotation above was the remark from a nationally famous thinker. The academic commented on my predicament after I had taken the opportunity during a certain meeting to report that, at that moment (early 2005), the Public Relation Department (PRD) had announced that community radio can air six minutes of commercial advertisements.

The move by the PRD should be viewed as undermining the concept, the belief, and the practice of the people's community radio projects. It was a 'divide and rule' tactic - by dropping a tiny drop of honey (benefits from commercial advertisements) for the tiny ants of different kinds to slug it out among themselves.

* translated by Bancha Suwannaonda



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I reported the information and shared my ideas during the meeting with the aim to solicit advices and recommendations from the senior academic and to inform him of the current situation in community radio. I had thought that the academic supported the principle of community radio, judging from his statement in a public forum at a hotel in Bangkok during late 2003, when community radio was thriving and well-approved of. He stated, “*Community radio is the people’s media, a non-commercial, non-profit media for communicating people’s affair. It must materialize and must exist in Thailand. The operators might be apprehended and stations might be ordered to close down again...and again, but the stations can also re-open again...and again....*” The statement drew wild applause from the audience.

‘Pre-occupied?’ The word has a demoralizing effect on me. It rang as if I took the issue very personally and very emotionally. Had no one been so ‘preoccupied’ and had the State officials not tried to block the equitable right of the people to these airwaves, would there be any concrete incident for the thinkers and the academics to analyze and study? Was it wrong to be preoccupied in the defense of the public interest? Here I am being preoccupied again before I can ‘try to be happy’ about it and leave all my worries behind.

From the situation in late 2003 that I mentioned above, it was found later that the government refrained from picking on the community radio operators and the epithet “illegal station” began to fade from public attention during that period. *Incidentally*, the general election was going to take place in early 2004 and the state agencies, such as the PRD, incidentally relax their attitude toward community radio stations. This relaxation *incidentally* held the door open for



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some political parties and politicians to support the community radio operations; they even launched their own community radio stations for their canvassing campaign.

After the general election, several of the newly emerged community radio stations that had been launched for this political purpose began to air advertorials or even forthright advertisements. Some stations' broadcast range even reached the audience across the border to the other side of the Mekong River!

The interviews and talks with the operators during early 2005 revealed that these operators could break even within a year or two because at the time the PRD had no policy for an 'open market for commercial community radio' and, therefore, there were few competitors and the operators can break even fast.

During this later period, the majority party leader, who was going to lead the government for a second term, became interested in the community radio stations. Some of his party members told people during their canvassing campaign in the northeast of Thailand that the government would provide the villagers with radio transmitters as giveaways to help them launch their community radio stations.

Words and promises seem to materialize into reality when PRD high-level executive announced the news to the media and set the amount of support money that each community radio would receive to one hundred thousand Baht per one community radio station. The good (i.e. earning higher income than others) Tambon Administration [Sub-district Administrative Agency, vernacular abbreviation: O Bo To.] will get it first.



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The idea was later publicly announced, but by early 2004 it was all smoke and no fire, despite some Tambon Administrations' cooperative responses that their community radio stations - if they can get the support to launch one - will relay live broadcast of that important Saturday morning program ('The Prime Minister Talks to the People' program, which was already broadcast live on all mainstream radio stations).

As the promise later turned into an 'ice cream castle in the air,' it was unusual that no Tambon Administration came out to request for radio transmitters - the promised giveaways. Some Tambon Administration people shared their thoughts with me that people already had the right to practice in community radio and the Tambon Administrations already supported members of the community to operate the community radio anytime. There was no need to announce it as a policy or a duty for the Tambon Administrations to do, since they already have many other duties to perform.

Meanwhile, the opportunity to siphon an enormous budget of several hundred million Baht to buy radio transmitters was thwarted. It was Thailand's good fortune that no budget was set aside for this project which is not only wasteful but would instill the harmful concept of "*state-ordered - state-made*" community radio. *This concept undermines the principles that a community radio station must come from each community's need and readiness; that it must be owned jointly by community members; and that the State can only play a supporting role without trying to interfere or control.*

It is fair to say that, from late 2003 to early 2004, there were attempts to 'exercise state power through the local administrative



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agencies' who were expected to manage the community radio stations. Fortunately, the plan folded, possibly because Section 26 of The Frequencies Distribution, Radio and Television Broadcasting and Telecommunication Business Supervision Agency Act, B.E. 2543 (2000) clearly differentiated radio broadcast operators into the Public Sector (meaning the State operation for public service), the Commercial Sector, and the People Sector; and also because the Broadcasting Bill defined the local administrative agencies as state agencies. Another explanation for this is that an attack of conscience probably prevent these people from wasting the national budget!

For whatever reason, the plan failed and the idea simply evaporated quietly. About a year later, the PRD high-level executive who had promoted the idea of "Tambon Administration's community radio station" was transferred from PRD (and the idea seemed to subsided from the PRD also!) and to another position as an inspector in the prime minister's office.

As a certain state officer has remarked that it is impossible to "...march on an empty stomach," if the idea of 'non-commercial public service radio' materializes into reality, the golden opportunity of several state agencies will be affected.

The section 40 in the present Constitution 1997, as well as certain sections in a proclaimed bylaw - the Frequency Allocation Act 2000 and in the Broadcasting Bill stipulate that community radio, as well as all the state's media, are for public service. Nevertheless, state agencies still seek income from frequency concessions 'to support welfare projects,'



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under the pretext that there are no budget allocated for such projects. The acts are tantamount to selling public property for profits.

Therefore, if the community radio insists on earning no income from selling advertising time, this stance will affect several state agencies that are actively seeking income.

However, during late 2004 - early 2005, one of PRD's directors had a bright idea for community radio. (It was speculated that this executive might become the first secretary-general of the new, independent agency - the National Broadcasting Commission or NBC). His idea was probably prompted by his close association with the operators of, or those who would like to operate, community radio with advertisements, or perhaps it was prompted by the assessment that this would offer him another chance to eradicate community radio, or perhaps he might be considering the advancement of radio broadcasting business and his own job advancement.

For whatever reason, this executive started to sell his idea. It was unusual that this director had stated (and there are witnesses) in a meeting of the community radio operators who supported air advertising that "community radio can air advertisements" even before the PRD announced its policy on the issue. Civil Media Development Institute (CMDI) made a petition to the incumbent top executive of PRD that such an act was inappropriate. It incited divisiveness and confusion, and it was against the spirit of the Constitution. The response came from the accused in a document wherein it was clearly stated that the director-general had asked the accused to explain to the petitioner himself. The response turned out to be something like "What was wrong



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with that? How was it wrong? (So what if it was?)”

It did not come as a surprise to anyone, though, that this PRD director was finally promoted to higher position - probably owing to his outstanding performance in the “community-radio-can-earn-money-from-air-time-advertisement” campaign. In a game, such a performance should earn the person both fame and fortune. Later, in several media’s investigations and analytical writings, it was concluded that several state officials earned handsome amounts of income from radio transmitter sales and equipment installment services. It was surprising that no defensive disputes, corrections, or explanations came forth from any State agency - not from the Custom Dept., the Excise Dept., the Police Dept., the PRD etc. The political official, a close associate to the minister who was in charge of the media, even stated that it is difficult to stop community radio from selling air-time advertisement “...as everyone is well aware of it.”

Today, it is said that there are over three thousand community radio stations and that “some thrive, while some flop.” When we consider that launching one station requires an investment between five hundred thousand to one million Baht, the total amount of investment involved should be somewhere between two to three billion Baht! The demand for the radio transmitters went through the roof. An overseas manufacturer noticed the unusual demand and sent someone to find out why. Finally the manufacturer set up a sales agent office in Thailand to optimize profit.

Before this, it was rumored that radio transmitters were imported through a small island state near the south of Thailand as ‘spare parts’.



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Quite a roundabout way! However, some people told me that they picked up boxes of radio transmitter (the boxes were clearly labeled ‘radio transmitter’) at the airport. With everyone competing on the wattage, the commercial community radio operators began to use increasingly powerful transmitters. Some even ordered a 1,000-watt transmitter from overseas.

In short, the flagrancy of the whole affair started a rumor that “‘nayok’ sells the transmitters,” however, it was not specified as to the ‘nayok’ of what organization. [nayok = 1) prime minister or, in full, nayok rathamontri - literally = chairman of the cabinet; 2) chairman or president of an organization such as chairman of the Tambon Administration or of a municipality]

However, this information was an open secret. The whole thing was possible because of money power and the power to act in defiance of the law i.e. selling the transmitters, operating businesses without paying income taxes, importing the transmitters without going through the Custom Office etc. Everything happened during the transitional period when media reform law was being drafted.

The investors (some of who are program operators whose programs - concessions from the State-owned radio stations - were taken off the air) were driven to compete in these profit-making activities, where only those with wider-range, more powerful transmitters can have a better chance to survive in the business. The competition has virtually taken the community radio off the air because, technically, the powerful transmission from many for-profit stations with high transmitting power can interfere and override the



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community radio transmission with their fertilizer-formula-sound-alike 30-30-15 power (wattage, height of antenna in meter, radius range of coverage in kilometer). The community radio stations still keep on going, even though its transmission can only be received somewhere not too far from the station door.

The even more damaging effect was that it distorted the perception of society at large. These for-profit stations instilled the idea that community radio transmission were interfering with people's mainstream radio and television reception and that the community radio operators were a bunch of opportunists, no-good, incompetent radio program hosts whose programs were packed with advertisements and, worse of all, that community radio transmission might cause plane crashes! Despite the clarification on the contrary by national airline senior pilots, this plane-crash discourse was still intermittently repeated.

The plan crash discourse and the strict compliance to the 30-30-15 formula (while most commercial community radio stations do not comply to this formula) are quite expedient excuses to shut down a community radio station that criticizes the government.

Community radio stations continue to get the axe. Meanwhile no monitoring process was in place to check whether any stations followed the cabinet's resolution on 16 August 2005 that community radio stations must not be commercial operations and that income tax would be collected.

I do not know whether the international communities will scoff at our cabinet's resolution when they learn about it from this



article, or perhaps they might copy our win-win (for the government only) policy because this policy “*transforms the community radio, weakens people’s intellectual strength/power to think, shaken their faith and trust in their right to information and communication, at the same time it provides channel for income, propagate unfair practice by issuing discriminatory rules and regulations...*”

The state agencies were probably not too concerned about their image in the eye of the international communities. Last October, at the behest of the cabinet, the International Conference on Community Radio was scheduled to be held at the UN building. This government level meeting to be held was enthusiastically supported by UNESCO and AIBD (Asia-Pacific Institute for Broadcasting Development), which offered to bear the expenses for inviting representatives from regional countries to participate and share their experiences and visions on the issue of “**Community Radio.**” However, in the schedule no representative of Thailand community radio operators would be given the floor, the key note speech was planned to be delivered by the Minister in charge of the media, while the Secretary to this Minister would talk about community radio in Thailand and speak for hundreds and thousands of community radio operators. The reason behind this choice was unclear.

In the end, the Minister in charge of the media, who initiated the whole event, ordered a postponement of this international meeting just two weeks before the scheduled date under the pretext that, as there is going to be a new independent agency - the NBC (National Broadcasting Commission), we should then wait for the NBC to arrange the meeting. However, while we have to wait for NBC, its ‘twin’ agency (National Telecommunications Commission - NTC) and the



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Public Relation Department went ahead with the order to shut down community radio stations (that aired critical content) without having to wait for NBC's decision!

“Achan Uajit, you are so pre-occupied with the community radio issue that it makes you so unhappy. You should try to be happy.”

I must admit that the words of advice from a senior person taught me many valuable lessons. It forced me to look back and reflect on my life's work. I found that I had been working on the firm beliefs that **community radio is a public media for the community. It comes into being, grows, and thrives through the community. It presents contents and programs, supplied by the community itself, that meet the community's need. The presentation format depends on the nature of the sound medium and the character and potential of the volunteer program producers. It is possible for community members to contribute to the station's operation, expenses, and to enjoy listening to the programs. It is possible and certainly beneficial to the community. (I guarantee it!)**

For these reasons and beliefs, I have been putting all my efforts in my work - seeking funds to support the activities that help disseminate the knowledge and understanding of the right to communicate, the principle of community radio, and the approach of operating from the resources and wisdom from within the community itself, for the community.

However, today I found that anyone who wants to waste time in community radio or media reform movement must first try to assess the situation to see what lies in store for them. This safety precaution will prevent disillusionment.



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It is not surprising that, when the community radio concept was first developed during the late 2002, it received little support, endorsement, or attention from the local academics, especially from those in mass communications. There were very few academic writings on the issue.

As time passed, the community radio of the people's sector turned out to be a new area of research for many academics who had the opportunity to study and research, and to direct multi-million Baht projects.

Some academics can give excellent analysis and generate a vast body of knowledge in the field. However, some academic works focus on either structural or methodological analysis in strict academic discipline - in short, they are too academic and not readily accessible nor applicable to real-life situations of the community radio operators during this formative years when they are more concerned about their rights to communicate freely - a basic constitutional rights for all citizens.

What these community radio operators urgently need to understand at this initial period are: What is a community radio? Why do they need it? How different is it from other radio broadcast? What are the good points of, and the benefits can they get from, joint ownership and joint operation? How important is it for the people to have the right and the power to jointly own and to jointly operate the community radio station?

My idea was slightly transformed in late November 2005 during the Workshop on Digital Production Techniques for Community Radios co-hosted by a German training institution - the Deutsche Welle Radio Training Centre, and the Civil Media Development Institute



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(CMDI). An academic who participated in the workshop said that she had read a community radio handbook (written by an academic in mass communication for development and published and distributed in a training/workshop organized by a government agency) and felt that community radio is good for society, but it is a complex issue and a hard to accomplish task. However, she said that her participation in the workshop with the representatives of community radio operators forced her to brush up her knowledge and to clarify, together with other participants, the principles of community radio. The academic said that she had better and clearer understanding of the community radio.

Community radio is, of course, a complex issue that encompasses several dimensions - the right to information and the freedom to communicate, the participatory process, the power and potential of the citizens etc.

I believe that it is beneficial to talk, write, and analyze any of these dimensions. Nonetheless, the nature of community radio can only manifest itself through its “programs” and other related works such as the selection of topic and information sources, format or presentation, broadcasting, program planning and scheduling - all of which must respond to the community’s interests, need, potential and readiness.

This kind of realization will come about only after one is clear on the crucial questions: What is the most important reason the existence or *raison d’être* - of the community radio? What are the differences between the community radio and the other kinds of radio broadcast?

I have repeated during almost every skill & knowledge development activities that I was involved in that the main difference is



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“what the others have, we have not; what we have, the others have not”. “What is going on in the small community is too small an issue to catch the attention of the big radio stations, but it is not a small issue for the small radio stations such as the community radio stations.”

The real-life situation can be cruel and debilitating, despite the knowledge on participatory management, flexible program planning/scheduling according to readiness, program productions that respond to the various groups’ right to communicate, and on how to use radio as a tool to develop human resources and community in the same self-determined direction etc. People find it hard to remain true to principles when they face real-life situation and various hurdles - the difficult job of persuading the community to understand, to trust, and to see the benefit of building up and campaigning for local support; the colleagues who are after their own interests rather than the community’s; the lures of fame, fortune, opportunities, power etc.

The worst experience is the networking - not to discuss and exchange work experiences with the aim to earn community acceptance and support, but the networking to build up in number with the aim to earn support from other agencies by trading off one’s standpoint i.e. grant recipients must do the activities or produce the programs that correspond to the goal of those donor agencies. This default on the basic principle undermines program production based on the need of one’s own community, adds to vertical power structure, and destroy public mind at community level.

I remember that I have left one question for the southern community radio network operators to find out for themselves:



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“Between thirty thousand Baht from one source outside the community and the same amount of fund from three thousand or thirty thousand people in your own community - which of these two choices would make your community radio more sustainable?” Grant money can also destroy participatory process of community, devalue the works of public-minded community volunteers, is a tool for building vertical power network to the community radio even before it got off the ground!

Today, if communities still believe that community radio is a learning process, each community should review what they have learned. Other checkpoints are: *Do we still have faith in community radio ? Will we keep on making community radio a communication channel for community’s interests and benefits?*

Each member should ask himself *whether he wants to work in the media or whether he wants to make the media work for community development? Are we networking to support each other in developing community radio or are we being taken for a ride by some self-proclaimed group leaders from outside our community - at this initial stage of development, despite the uncertain future of community radio under the State’s flippant and insincere media reform policy?*

Ask yourself *what is the real force that sustains community radio? The community? The financial source? The self-proclaimed leader? During the transition period from “learning and experimenting period” to “sustainable reality,” what should we do? So far, have we jointly contributed to make known to the community the value and benefit of community radio or have we been campaigning to support someone else’s cause?*



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I feel that I really am too preoccupied! Anyway, I do not regret the work opportunity and the income I left behind for this work with these groups of alliances. I have learned valuable lessons about the community radio and about how state officials worked to support the people's right and opportunity to communicate. (These state officials I mentioned, whose salaries come from people's tax money, were from various levels of management - department directors, directors-general, secretaries to the minister, ministers, cabinet etc.)

I have learned the various levels of the faith, trust and strength in the people's horizontal relationship. I have learned of many levels of the public mind and the spirit of freedom of the involved communities. Most importantly, I have learned that I should change the way I manage myself. I should spend more time reflecting on my experiences. I should build up and disseminate knowledge as well as instill beliefs in community radio to wider circles in society. I should not be too "preoccupied" with any one group in particular.

I should quit acting like a worm fertilizing the soil with the belief that, if the soil is well fertilized, plants should grow well as they were meant to be. I should change and become a visitor to the garden, whose hands are not soiled. I should become a beautiful butterfly fluttering its wings in the air and let the plants learn how to grow. Let them choose whether they want to be ground covers or creepers.

This new attitude will allow me to see the world through rose-colored spectacles. I will be free from worries. I will be happy.



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A Genealogy of Media Reform in Thailand and Its Discourses*

• Assoc Prof Ubonrat Siriyuvasak •

President of Campaign for Popular Media Reform (CPMR)

*E*ver since the promulgation of the 1997 Constitution eight years ago, the broadcast media reform agenda has recently reached yet another turning point. Many believed that the crucial period is a result of the up-coming National Broadcast Commission (NBC), whose members are provided with full authority to allocate and assign radio frequencies for broadcasting. Much media attention has been focused on the 14 short-listed commissioners. The public, however, is keeping a close watch on whose interest they are representing and how they would divide up this rich resource. In any event, it seems they are coming in to protect their turf, be they government agencies or private concessionaires. For those who aspire to have access to the airwave, this is the most dramatic change and the first time ever, in the span of 50 years, for which they would be able to realize their dreams.

* This is a short version of the same article written in Thai.
The English translation is by Suwanna Asavaroengchai
Edited by Assoc Prof Ubonrat Siriyuvasak



- **Dominant discourse and counter discourse:
State closure versus people's rights and freedom
of expression**

For several decades, the state repeatedly reinforced its dominant discourse that it is the sole and rightful owner of the airwaves. Hence, their monopoly on radio and television stations ownership. Such a misconception had been so overwhelmingly indoctrinated that the public perceived it as '*truth*'. At the same time, this dominant discourse had succeeded in suppressing other competing discourses from the public sphere. These counter discourses have been denied their political legitimacy. As a result, they do not command an equal status, as '*truth*' and '*knowledge*', when compared with the state discourse.

Contrary to the state dominant discourse the media reform movement in recent years has proven that the public, community and grassroots groups are well equipped in both theoretical and practical knowledge. They could easily challenge the dominant discourse on state media ownership monopoly. The key problem in this struggle is the unequal power between the state and the people.

In the first part of this article, I will outline the main gist of the media reform discourse, particularly on the notion of the rights and freedom of expressions. Whereas civil society and the public adhere to the principle of the rights and freedom of expression as the basic rights or natural rights, the state believes that this right is '*handed down*' by the authority. For the state, it is not a natural right in any sense. Using the same line of argument the state is convinced that the public does not have the right to access the airwaves nor to own the broadcast media.



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But the social movement advocating for community radio since 2000 has proven that the public is well prepared to claim their constitutional right over the airwaves. In their discursive practice they are in direct confrontation with the state. They challenged the 1955 Radio Communications Act and the 1955 Radio and Television Broadcasting Act, as well as a host of rules and resolutions enacted by past Governments and the Public Relations Department. These draconian regulations remain intact up to the present.

For the civil society and the public, they firmly believe in the rights and freedom guaranteed in the 1997 Constitution and in Article 19 of the 1948 Universal Declaration on Human Rights, which stated that;

“Everyone has the right to freedom of opinion and expression; this right includes freedom to hold opinions without interference and to seek, receive and impart information and ideas through any media and regardless of frontiers.”

If one traces back to the original concept of the rights and freedom of expression, one could see that it is neither an imported Western concept, nor ‘*un-Thai*’ as often alleged by ruling class and the conservatives. For if it were so ‘*un-Thai*,’ why did the previous constitutions and the past democratic governments regard it as an essential right that required extensive legal guarantee. These legal stipulations on the rights and freedom of expressions provide the necessary protection for both individuals and the media alike. As a matter of fact, under the present Constitution, the basic principle of legal protection on these rights and freedom has been fair and equal. It is indiscriminate in protecting people across the whole range of the



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social spectrum, from common people to the elite, and the ruling class. Imagine if there were an absence of guaranteed Constitutional rights over the rights and freedom of expression, in speaking, writing, in ones belief and thinking, the elites and the ruling class, too, would suffer severely by this repercussion. They could neither enjoy the rights nor the freedom of expression under the protection of the law.

In the state discursive practice, the state holds strongly to its power and privileges. Firstly, it dictates and controls who has the right to speak without resorting to any legal means. Secondly, it privileged its own class over the populace on the rights and freedom of expression. Therefore, it came as no surprise that we have seen several rules and special legislations written by the elites and the ruling class to protect their own freedom of expression. One of them is the 1955 Radio and Television Broadcasting Act that is based on the discourse stating that the state is the sole owner of the airwaves. In its provision, it stipulates that the state has the privilege to access the frequency. Anyone without an authorization from the state would not be permitted to operate a radio or television station. If they do, they have to work under the name of the state or get a concession right. This is structural censorship, which is a built-in measure, to prevent the public from expressing their opinion. In other words, under the context of the discourse in this Act, the public could speak only upon state permission. If they do not abide by the rule their concessions would be suspended or revoked. Apparently, such legislations have drastically curtailed the media and the people's rights and freedom of expression, when the state could, upon its whim, handpick who can speak and who can't. Those who are granted with this special right must exercise '*self censorship*' or else



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they are faced with harsh punishment or their right withdrawn.

A recent example on the double discourses of the press versus the Prime Minister is a good case in point. During the first ‘*Meeting With the Press*’ hosted by the Prime Minister in August 2005, journalists who asked serious questions on the conduct of the government were taunted with a placard that said ‘*unconstructive question*’. It seemed that the questions and the journalists must have annoyed or offended the Prime Minister. But as a matter of fact, the press is equal to the Prime Minister in their roles as public representatives. Yet, equality didn’t exist in this arena. They were told in advance how to place their questions, what to ask and what not to ask. Thus, the press could ask ‘*permitted*’ questions only. Other than that it would be called off for going beyond the limit. Despite guaranteed Constitutional rights of press freedom, the implementation of this discourse has unveiled the utmost privilege of the Prime Minister’s one-sided question and answer with the press. It is a one-way speech, a monologue in the guise of a Q/A session. It is evident that the press has been barred from speaking, asking or criticizing as they deem to.





- **Genealogy of Media Reform:
A Genealogy of Power Struggle**

In the second part of this article I will expound the notion of power and discourse of Michel Foucault (1978), French sociologist, whose idea on knowledge and power in discourse struggle I find useful in our analysis on the media reform movement. Central to our discussion is Foucault's concept on the genealogy of knowledge and power that allows us to trace the emergence of competing discourses in the media reform process. This theoretical conception is significant in shifting the historical perspective on power and knowledge from a linear and centralized origin to a multiple power center. It would guide us to see and understand how the media reform movement struggled through their discursive practice.

In the past, the state has acquired knowledge and utilized its power to suppress broadcast media under its absolute control. By manipulating laws and government agencies as institutional apparatus, the government has developed certain '*techniques*' as a tool to control and punish those who violate these rules and regulations. Underneath these seemingly objective rules lay deep layers of power manipulation.

Such tools are in the forms of laws and regulations, administrative orders and operational measures such as regulations on announcer's license and producer's license. These tools are the basis for the strategy by which certain knowledge is required as a support to uphold the unequal power relations. For example, media professionals who wish to acquire an announcer's license must be able to read and speak central Thai properly. Everyone has to pass the standard test administered by



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the Public Relations Department. In this test the Department is the sole judge on the proper pronunciation of the Thai language. Those who fail the ‘reading’ exam are not qualified for a license. Their right as a broadcast professional will be legally void. In this structure the state has the power to design the tools and the techniques, and to decide what is the right kind of knowledge. If one wants to exercise one’s rights and freedom of expression through the broadcast media one must obey these rules and regulations. The majority of broadcast media professionals must not only acquire the knowledge to speak properly but also must learn to accept that to speak ‘central Thai’ on radio and television is the ‘truth’ if he or she wants to enter into this power structure.

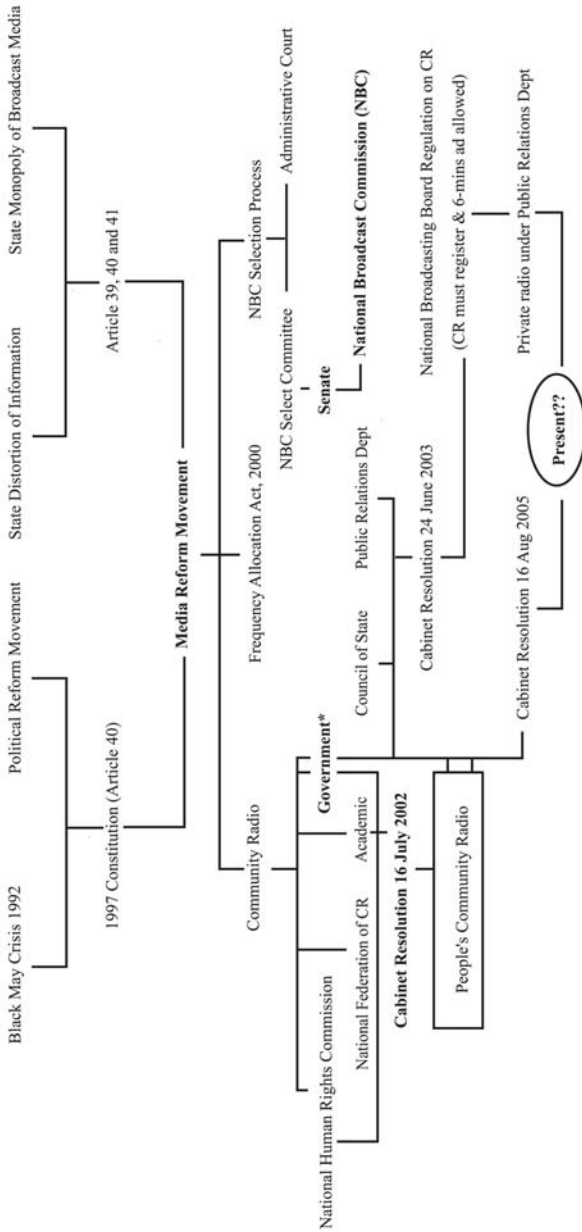
Interestingly, in the knowledge and power relations power must be supported by knowledge. However, it is power that defines what is knowledge and what is not. Only certain kinds of knowledge are accepted as correct and truthful. A good example is on the case of the broadcast announcer. Even though he or she is thoroughly knowledgeable in the language of his or her dialect, whether it is reading or speaking, he or she is disqualified simply because of the fact that the state has categorically denied this knowledge and capability as invalid. It is the wrong kind of knowledge in the eye of the state. Only central Thai language as spoken in central Thailand is perceived as correct and truthful knowledge.





Media Reform going Backward ?

A Genealogy of Media Reform in Thailand (1992-2005)



Ubomart Siriyuvassak (11 Sept 2005)

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The diagram, *A Genealogy of Media Reform in Thailand (1992-2005)*, shows two parallel phenomena leading to the media reform movement. One is on the 1992 May Uprising, and the subsequent political reform movement, that led to the promulgation of the 1997 People's Constitution. The other is on the state distortion of information, and its monopoly on the broadcast media. With the state power weakened by the May Uprising, and the public called for both political reform and media reform the 1997 Constitution has added several new elements to the rights and freedom of expressions. These are Articles 39, 40 and 41. Article 39 guaranteed the rights and freedom of expressions. Article 40 guaranteed the public right to have access to the airwaves. Article 41 guaranteed the rights of media professionals to report and express their truthful opinion without pre-censorship and in accordance with their professional ethics.

The emergence of the media reform discourse based on a new set of knowledge and power that the airwaves and radio frequencies are public resources to be distributed fairly and accessed by all is a total obliteration of the state discourse on the broadcast media monopoly. It is an open objection on the power of the state to control the airwaves and to monopolize radio and television in the form of '*state radio and television*'.

The discursive practices of the media reform movement following Article 40 emerged as follow;

1. The drafting of The Frequencies Distribution, Radio and



Television Broadcasting and Telecommunication Business Supervision Agency Act, B.E. 2543 (2000)

2. The National Broadcasting Commission (NBC) selection process
3. The establishment of community radio stations in several provinces

• **The drafting The Frequencies Distribution, Radio and Television Broadcasting and Telecommunication Business Supervision Agency Act, B.E. 2543 (2000)**

As stipulated by Article 40 of the Constitution there must be an organic law to carry out the new right conceived in this Article within 3 years. In the drafting process of this Act, there was an open confrontation between the state dominant discourse and the emergent public discourse on people's right to have access to the airwaves. The former, consisted of the state agencies that owned the broadcast media, objected to any radical transformation of the existing structure. On the contrary, they proposed that a single regulator should be established. This new independent regulator should be responsible for the allocation of the spectrum for both telecommunications and broadcasting services. The opposing discourse, led by academics working with civil society organizations, wanted to lay down the foundation for the broadcast media in the new legislation. This was meant to provide the legal framework for media reform. Secondly, this group proposed that there should be 2 regulatory bodies. One body overseeing telecommunications and the other takes care of the broadcasting media.



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The discursive struggle between the reformers and the counter-reformers in the drafting process resulted in a legislation, which the main emphasis fell on the establishment of the regulatory body and its authority. The 2000 Frequency Allocation Commissions Act did not provide any detail on how to regulate and re-organize the broadcast media. This legal loophole gave the government and the Public Relations Department an opportunity to go back and continue to reinforce the 1955 Radio and Television Broadcasting Act despite the fact that it is in serious contradiction with the Constitution and this Act.

The reformers, nonetheless, were able to put in place 3 major discourses in the new law. Firstly, there would be two independent regulatory bodies, The National Broadcasting Commission (NBC) and The National Telecommunications Commission (NTC). Secondly, there would be 3 classifications of broadcasting services; public service, private/commercial service, and community service. Thirdly, at least 20% of the radio frequencies must be allocated to community radio and television (Article 26).

It could be seen that the 2000 Frequency Allocation Commissions Act succeeded in challenging the counter reform discourse and would, in the future, weaken the dominant power of the state. The tradition of monopoly and privilege on allocating and managing the airwaves must now face the power of the new knowledge stipulated in this Act. This is evident in the discursive practice of the community radio movement, which is based on the above legal discourse.



- **The National Broadcasting Commission (NBC) selection process**

Much attention was given to the selection process of the National Broadcasting Commission (NBC) immediately after the enactment of the Frequency Allocation Act. The state, the broadcasting industry, and civil society were keen to participate in the selection process. At the same time, the state and the broadcasting industry were well prepared to compete for the largest number of commissioner in the NBC. During the long drawn process, from 2000 to 2005, the focus of the discursive struggle was on the issue of conflict of interests between members of the NBC Selection Committee and the applicants. The reformer sought knowledge on this matter to guide them in their argument that the process was lacking in merit.

Empowered by such information and knowledge they brought the case to the Administrative Court. Although the Administrative Court ruled that the selection process was unlawful since there were actually conflict of interests between the selectors and the applicants the ruling went unheeded. Both the NBC Selection Committee and the Office of the Permanent Secretary, who acted as the secretariat of the selection process, claimed that the whole process was legitimate.

In February 2005, the Selection Committee sent the list of 14 candidates to the Senate for final screening and selection. The 7 finalists were duly selected in September. But a second ruling of the Administrative Court, in November 2005, that there was conflict of interest between the selection member and the applicant, and that the



representation of the Chair of the Selection Committee in the committee was illegitimate stalled the final step of the process. In fact, the Administrative Court ruling has nullified the 7 NBC finalists. However, the Selection Committee along with the Office of the Permanent Secretary are preparing to petition against the Administrative Court ruling by December 2005.

- **The establishment of community radio stations in the provinces**

While the dispute in the selection process of the NBC intensified the public sector moved forward by setting up new community radio stations. The movement started at first from a few provinces in 2001 and gradually extended to several provinces across the country. Within 2 years, there were more than 100 community radio stations being established. Thus, community radio flourished in the outlying locations and communities outside the gaze and powerful control of the center.

Paradoxically, there was no community radio station in Bangkok during the early stage of the movement. It was too close to the center of power.





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Even before the commencement of the community radio movement, questions were asked about their knowledge on program production, station management, and radio transmission. And most importantly, there were queries about funding and capital investment to set up a radio station. The counter reformers in particular, were doubtful about the sources of income of community radio stations. How could these stations survive without the support of advertising revenue? How could the principles of a people's radio station, which is owned and managed by the people and for the people, sustain itself? Yet, with the support from civil society, grassroots groups and community organizations on both funding and knowledge, community radio stations were set up, and mushroomed. The people are on the air.

“This is the historical moment !

Now, the people have their own voices !

Now, the people are no longer silenced !”

Every voice being aired from a community radio station is an invaluable voice that empowers the people and the community. At the end of the day, the integration of knowledge and power in this discursive practice has liberated the people from the hegemony of the dominant discourse. The deep-seated fear has finally dissipated. It is not that the people do not abide by the law or unreasonably stubborn, but because of their newfound confidence in the Constitution. They believe that the Constitution is the highest and most powerful law of the land. Its power is beyond doubt since this is the People's Constitution



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that the people took part in materializing. With this mighty power the guarantee on the rights and freedom of expression enshrined in the Constitution has acquired the stature of '*truth*'. At the same instance, it negates other laws and decrees, which have lesser power, and hence, limited degree of '*truthfulness*' such as the 1955 Radio and Television Broadcasting Act, and rules and regulations on announcers' license.

Under this context, the people's discourse on the rights and freedom of expression, and the establishment of community radio has manifested themselves as the dominant discourse. It is not only comparable to the dominant discourse but has gained a powerful foothold equivalent to, if not more powerful, than the state. The voices of the people, once silenced, now freed from the old shackle. The people can speak truthfully and freely. The iron structure of state monopoly over the broadcasting media has been dismantled by the power of truth. Hence, the state could no longer claim any legitimacy over the airwaves nor continue to monopolize the broadcasting media as in the past.

Looking back on their discursive struggle, although the state dominant discourse was severely weakened it had unceasingly utilized all its power to clamp down on community radio. The state went back to rely on the 1955 Radio and Television Broadcasting Act, which prohibited people's access to the airwaves. In addition, it cited the conventional practice that during the transitional period and in the absence of a new legislation the people could not claim their rights based explicitly on the Constitution. This was the root of the dominant discourse of the feudal period and military rule. It appeared that the state has turned several steps backwards and away from the present reform agenda.



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The people, on the contrary, resisted the ban by invoking the Constitution to counter the dominant discourse. They believe that the Constitution is the basis of people's power. It is sacred. But without any institutional support for their innovation the people and community radio movement must seek their legitimacy from civil society and independent institutions such as the National Human Rights Commission and academics. By allying themselves with these reformist groups the community radio movement was able to put pressure on the government to recognize their right to access the airwaves.

On July 16, 2003 the cabinet announced its resolution on the "*Temporary Measures and Principles to Endorse Community Radio*". The resolution was to pave the way for a committee, composed of representatives from the Community Radio Federation, academics and related government agencies. But the resolution was more of a lip service than a real effort to comply with the Constitution. On the surface, such a resolution for the state and civil society to co-operate on equal term has been rare if not unprecedented. The real intent,





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however, is a different matter all together. The state was fervently searching for the mechanism to control the independent operation of community radio. In this complex and long drawn discursive struggle the objective is to defuse the people's counter discourse, and to suppress the community radio movement as soon as possible.

In 2002, the state had quickly drawn up the plan to incorporate community radio as part of the local authority, i.e. the District Administrative Organization or Tambon Administrative Organization (TAO). The Council of State, acting as the legal advisor, had found the legal mechanism to control community radio. It advised that community radio should be made into local authority radio or TAO radio and registered under the Public Relations Department. But the community radio movement was able to read through its real meaning that the state wanted to force community radio to submit themselves to the Public Relations Department. Community radio will become a part of the Public Relations Department broadcasting network. It will lose its independence and all the principles of community radio. This plan was exposed and vehemently resisted. In the end, the government's intention to make it a New Year's gift for the people failed miserably.

Unsuccessful in turning community radio into local authority radio the government took another drastic measure. It revoked the July 16, 2002 cabinet resolution, which provided the temporary measure for community radio to operate until a new legislation on broadcasting is passed. The government came up with a second resolution on community radio on 24 June 2003. The process took 6 months and



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involved several state institutions which work to support this discursive practice. These are; the Office of the Permanent Secretary, the Council of State, the Public Relations Department and the Post and Telegraph Department. The July 16 resolution took a 180-degree turn from the previous resolution. It excluded the representative of the Community Radio Federation to take part in the committee. The Public Relations Department was to be the main agency to draft the temporary measure on community radio operation, with the assistance from the Council of State, and the Post and Telegraph Department. Although the community radio movement attempted to seek support from the Senate Committee on Public Participation to counter the government the intervention was ineffective due to the lack of political influence over the state dominant discourse and its institutional mechanism. Thus, the Public Relations Department was fully authorized to regulate community radio.

A close reading of the cabinet resolution on June 24, 2003 showed that the government wanted civil society groups and community organizations to work under state radio. The passage stated that the Public Relations Department, state agencies and other related agencies



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in the Administration that owned radio stations should allot airtime to the community. This is to deter community organizations from establishing community radio stations.



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Subsequently, the National Broadcasting Board (the present broadcasting regulator) started to carry out the June 24 cabinet resolution by announcing that all community radio must register with the Public Relations Department in order to remain in operation. In addition, it permitted a 6-minute advertisement on community radio. This new device is a carrot and stick strategy to convince community radio stations to submit themselves to state control. In a sense, commercialism was expressly brought in to support this strategy. This resulted in a big boom in local commercial radio (which has been incorrectly labeled as '*community radio*'). Over 1,500 stations have been set up by local entrepreneur, local and national politicians, and media professionals across the country, including Bangkok. It seemed the government effort to control community radio has backfired. Community radio is suddenly being transformed into commercial radio. Ironically, the majority of these local commercial radio stations were not registered, as they should. Moreover, the essence of the National Broadcasting Board regulation was contradicting to the June 24 cabinet resolution. Instead of providing community with some airtime it boosted the private sector, and the media industry to expand into local broadcasting. The discourse to democratize the structure of broadcasting has been hi-jacked. State agencies, with the aid of the industry, were able to maneuver for the liberalization of the structure. It could be seen that the state dominant discourse has been fractured and embedded with conflicting interests and political vying.

Thus far the National Broadcasting Board had distorted the media reform agenda and the people's discourse on community radio.



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This additional lineage of commercial discourse has created great confusion and conflicts within community radio advocates and their movement. Nevertheless, what emerged out of this disarray has broadened the range of discourses and the number of people involved. Opinions vary and the operational scheme of these small scale local radio stations are diversified. The knowledge on community radio and local commercial radio is now widespread, and the people and private sector are empowered with this new knowledge.

The emerging form of radio broadcasting, be they community radio or commercial radio, is an innovation that provides the audiences with new kinds of program and content. These are political and cultural programs, religious and entertainment programs, community, local and national programs, development and commentary programs which are filled with fresh and independent ideas distinctly different from the mainstream programs. The latter must exercise a great deal of self-censorship for the sake of survival and from constant threat of state control.

With protracted struggle and challenge from the community radio movement the state pulled the plug to demonstrate its force. In 2003, the low-powered transmitter of Angthong community radio station was seized and the operator, Sathien Chantorn, was arrested. This was a test case to quell community radio, which resisted state control. In 2005, the state claimed that community radio broadcast interfere with aviation radio communications. It referred to the 1955 Telecommunications Act on controlling radio transmission. It also



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referred to the 1955 Broadcasting Act on regulating broadcast contents that might affect national security, peace and social morals. The Office of the National Telecommunication Commission (NTC) has closed down 14 radio stations by alleging them of interfering with aviation radio communications. These are seen as a threat to the rights and freedom of expression since the government was unable to prove beyond doubt that low-powered transmitter could actually interfere with aviation communications. The state tried to impose hi-tech and exclusive knowledge in a bid to force community radio stations, yet again, to submit to its control. But since the whole matter is ambiguous the claim could be false. False knowledge of this kind could not prove its powerful stature. It would, on the contrary, nullify the power of the state. Finally in July, the government closed down FM 92.25 or '*The Democratic Voice*', a local radio station in Bangkok, which is critical of the government. Anchalee Paireerak who is the producer of the station backed down after months of strong resistance. However, the station continued to broadcast on the Internet (after things quiet down the station resumed broadcasting again.)

However, counter discourse and new stations in all shades continue to grow. The discursive struggle went on blow by blow. Then the last blow came in August. The National Telecommunication Commission (NTC) proposed the most drastic measure to the Prime Minister (letter no. Tor Chor 1001/3329 dated 15 August 2005) to close down all community radio stations. This is totally in conflict with the previous cabinet resolutions announced on July 16, 2002 and June 24, 2003. Those were more lenient and receptive to the people's discourse.



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In the end, the NTC proposal signified that the compromise has been broken and the state has turned back to reclaim its dominant discourse and power to control the people's rights and freedom of expression.



- **The Final Discourse: People's Right on Community Radio**

The most recent cabinet resolution, August 16, 2005 resolution, maintained a compromise of the state dominant discourse and the people counter discourse. On the one hand, it professed state legal enforcement especially on aviation interference. It also stressed that monitoring of community radio content must be strictly carried out. State agencies must keep a close watch on security issue, law and order, and social morals. On the other hand, it reaffirmed the principle that each community should have its own communication network. Low-powered community radio learning center or experimental broadcast station is permitted. However, the station must have a 30-watt transmitter with 30-metre high antennae, and a broadcast radius of no more than 15 kilometers.

Circumscribed by the community radio movement and its discursive practice the state must acknowledge the right of the people to have access to the airwaves as stipulated in the Constitution. But while it seemed to abide by the Constitution the state put in place its control



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mechanisms by employing various legislations, executive decrees and orders, rule and regulations which work against the reform discourse.

From our discussion on the genealogy of media reform it is clear that the state has been unable to hegemonize or deter the people's discursive struggle against the state. This emerging power was founded on the 1997 Constitution and the Frequency Allocation Commission Act. The state must rely on its administrative mechanism such as cabinet resolution rather than on the legislation in its attempt to control community radio. Furthermore, it has to construct the argument on aviation communications interference as its technical mechanism. This is manifested as the *'truthful narrative'* to legitimize the dominant discourse. It was a myth and an excruciating excuse to wipe out critical voices on the air.

In the discursive struggle against the state the people have found new knowledge in their experiences on community radio. They were able to draw from traditions, rules and regulations within the realm of the community or people's institution to support their position. They also learnt many valuable lessons on the rights and freedom of expressions from their discursive practices, such as during the May 1992 political crisis, the subsequent Constitutional reform movement, Article 39 and 40 of the Constitution, and Article 26 of the Frequency Allocation Commission Act (2000), which stated that "*at least 20% of the radio frequencies must be allocated to the people's sector*". These experiences have significantly formed the basis for the reform discourse, especially on the people's right to have access to the airwaves.



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It could be seen that both the state dominant discourse and the people counter discourse on media reform shared the same ‘*truth*’ since they must legitimize their claim and belief on the rights and freedom of expressions enshrined in the Constitution. But they were poles apart on the question of community radio operation. Community radio advocates repeatedly affirm that the right of the people to have access to the airwaves has been guaranteed in the Frequency Allocation Commission Act and Article 40 of the Constitution. Community radio stations are, thus, legal entities. Any kind of closure by the state is unlawful. Although these stations have not been allocated any frequencies by the regulator their operation rests on the highest guarantee of the Constitution. In addition, the cabinet resolutions on July 16, 2002, June 24, 2003 and August 16, 2005 have all agreed on the principle of community radio as the people’s right of information and expression. By these measures it is clear that community radio stations could broadcast their programs without any hindrances from the state. Their right according to Article 39 of the Constitution is that;

“A person has the right to express his / her opinion, to speak, to write, to publish and to communicate by other means”.

Their right is further guaranteed in clause 3 that;

“The closure of the printing press, radio station or television station in order to suppress the rights and freedom of expression guaranteed in this Article is prohibited.”

Hence, state closure of community radio is evidently a breach on the Constitutional and a violation of the rights of the people.



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Knowledge regarding the rights and freedom of expression, on community radio, and on various legislations led to the emergence of innovative ideas and practices that openly challenged the

state. The state can no longer control the rights and freedom of the media, and the people, as was in the past. State radio and television as we once know is history. This new and emerging phenomenon would force the state to re-allocate the radio frequencies and to open its access to the people. There is no turning back. The state must take heed to the discursive power of the people.

Knowledge is power,

Power defines what is truthful,

Power defines what is knowledge,

But knowledge defines the truth

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How to prevent domination of media business listed in the stock market*

• Somkiat Tangkitvanich •

Research Director, Thailand Development Research Institute

*T*he hostile takeover bid by GMM Media of Matichon PCL, and Post Publishing PCL, two leading media companies in Thailand, in September 2005 has generated considerable interests in mergers and acquisitions (M&A) within the media business.

The fact that the three companies involved are all listed companies in the Stock Exchange of Thailand (SET) led many people to urge the SET and the market regulator, the Securities and Exchange Commission (SEC), to issue a set of measures to prevent future takeover of listed media companies.

I am one of those who are not so worried about M&As in general, hostile or friendly alike. However, I am extremely concerned with the issues of “market monopoly,” and “media domination”. In any case, I am of the view that calling for SET or SEC to come up with special measures to prevent takeover of listed media companies

* translated by Supapohn Kanwerayotin



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would not be effective. Nor would they be the most appropriate defense against media domination.

Effective defenses against domination of media companies should cover four elements namely: measures of media companies to protect themselves; measures relating to market disclosure rules, measures to prevent market monopoly and market dominance and media ownership regulations.

1. Measures of media companies which are the takeover targets

In principle, any listed company can be a target for a takeover if investors deem that the venture is undervalued by the market. If the venture is acquired and further developed, it is likely to be of greater value and thus generate profit from the takeover.

Financial textbooks point out that companies most vulnerable to takeover bids tend to be those whose share value falls below their



potential; those with large cash flow reserve; those with high borrowing capacity; those with assets that can be taken apart to generate profit from sale and those whose majority shareholders keep relatively low proportion of shares.



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The best defense against takeover bid for these companies would be to steer clear of the above qualifications through a number of actions such as finding new investment activities to reduce cash holdings or increasing the holdings among majority shareholders, etc. Any competent financial advisers should be in the position to dispense detailed advice on these matters.

Textbooks also point to some other simple ways to avoid being a takeover target. It is sometimes suggested that listed companies could amend their company charters that would make takeover a harder act to accomplish. The charter can, for instance, stipulate that voting on important issues that concern control of a company requires a supermajority of votes. Or they can come up with staggering tenure for directorship – so that the takeover party cannot change the entire board of directors overnight. Another option could be to specify that different categories of shareholders are entitled to different kinds of voting rights.

Any competent legal firm should be able to advise whether these measures would be possible within the Thai commercial law. One cautionary note here could be that these measures may have an impact of driving share prices down as their allure as takeover target wanes.

2. Measures relating to market disclosure

As mentioned before, I am not subscribed to the idea that the stock market regulator should issue special regulations to protect listed



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media companies. My reasoning is that this is not the mission of SET and SEC, whose main duties involve helping companies to raise fund and setting rules that protect investors, in particular small investors, from being taken advantage of.

However, I still think there are regulations and guidelines of SET and SEC that can be improved – to protect investors in general, as well as to provide safeguards to those concerned about the media companies in particular.



These rules and regulations are those dealing with disclosure of the takeover party in line with Section 247 of the Securities and SET Act, in which SEC requires the takeover party to submit tender offer to SEC. In practice, the SEC has announced the procedures in filing the tender offer, by requiring the takeover party to fill in a form called Form 247-4.

Regarding the GMM Media's takeover bid, I have searched the SEC's website for such form that GMM Media is supposed to submit, but I could not locate it. Only through reading newspapers and watching television that I learned GMM Media's vague motives of the takeover bid. As I have said in public before, I am not entirely



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convinced by his argument and would like to have more information on how he proposed to enhance the value of the companies he wished to take over. I could not find such information.

Disclosure procedure is being strictly observed in other countries where M&As are concerned. In the US for example, there is a requirement for related parties to submit the S-4 proxy statement form. In practice, the takeover party would need to disclose in detail the reasons behind the takeover bid and outline steps to be taken post-takeover. For instance, when Pepsi Co. took over Quaker in 2001, its S-4 disclosure contains 384 pages. The takeover party must in addition disclose other relevant information, such as minutes of meetings with analysts and various groups of investors (Form 425) as part of disclosure to the investors.

Disclosure requirement will benefit investors and will enable the public to verify whether the takeover has the appropriate business considerations as claimed by the takeover party, or whether there are other hidden motives. I think this should be a sensible starting point if one is to appeal for SET and SEC to act in the public interest.

3. Measures to prevent mergers that create market dominance

Takeover may put the society at risk over business monopoly of market dominance. Most developed countries have fully acknowledged



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the detriment of business monopoly within the capitalist system and have therefore legislated laws that require certain types of takeover to undergo “merger review” from the competition authority. Permission is usually granted provided a takeover does not appear to pose any threat of monopolization or market dominance. In some cases, the competition authority may grant permission with certain conditions attached, such as some business units are mandated to be sold with a view to minimizing the risk of monopoly. It can also deny permission for an M&A in the advent of high dominance risk.

In Thailand, there is such a competition law called “the Business Competition Act” promulgated since 1999, with the Department of Internal Trade, Ministry of Commerce as the supervisory authority. Six years since, there has never been a case successfully prosecuted for abuse of dominance nor is any M&A blocked. This is because two necessary bylaws—one defining market dominance and the other setting threshold value for M&A review – have not yet been announced, making it impossible to enforce the Act.



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I really look forward the day when someone would lodge a complaint with the Administrative Court that the Department of Internal Trade neglect to perform their duties and responsibility under the public administration law.

4. Media ownership rules

Certain cases of takeover may not lead to business monopoly as defined by the competition law, but the public may remain wary still about its possible negative impacts on the society, such as cases that involve media companies. Even if there are no threats of market dominance, the absence of diversity of opinion alone can lead to domination of thoughts among citizens, thereby undermining the very foundation of the democratic system.

Substantial research on this issue have been conducted both in overseas and Thailand. In practice, many countries have come with regulations against media concentration and cross-media ownership. The new Thai broadcasting law should also incorporate similar provisions.

Through the thoughts in this article, I hope that the public would seriously consider the issue of media domination, which will then enable us to perhaps turn this crisis into an opportunity.



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Where There is a Dream, There are Today and Tomorrow: A Movement to Realize Cabinet Resolution on Children Program on TV*

• Assoc Prof Wilasinee Phiphitkul •

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*O*n January 1, 2004, the Thai public was delighted upon receiving a special ‘gift’ from the Thaksin 1 Government. The ‘gift’ was a Cabinet Resolution, being endorsed on November 4, 2003, approving a policy stipulating state-run radio and television stations to allocate a minimum of one- to one-and-a-half-hour between 4 pm to 10 pm to program that promotes learning development for children, youth and family.

But up until now, that ‘gift’ hasn’t yet been unwrapped and admired by the public.

Of late, there has been no clue as to when the Cabinet Resolution would become effective. So far, there has not been any change in the tube suggesting that the government policy will be implemented.

Amid uncontrollable political factors such as cabinet reshuffle and other pressured elements, question remains if there would be any

* translated by Suwanna Asawaroengchai



structural and policy alteration in the broadcast media at all.

Nevertheless, even if the Cabinet Resolution has faced hiccups, it should be credited for inadvertently creating spontaneous public response by stirring public awareness and prompting unity among civil group networks, children program producers as well as academics who wish to see quality program for the young and their families. This advocacy network has joined forces to push for a process to realize the Cabinet Resolution.

While their grand ambition is to see a family-advocate television station being set up, their immediate task is to assure a permanent settlement of family hours in major television channels.

This article aims to reflect strategies that pressure for a mechanism, which is crucially needed to propel the Cabinet Resolution. Furthermore, such mechanism should be instrumental in realizing government policy on the screen, as its process will allow opportunity for public participation in realizing TV program for children, youth and family.

Although the process may be long, it is believed that, one day, there will be quality programs for the children and families.

• **When the Situation is Ripe**

What led to social pressure demanding a government's resolution was the dramatic drop in quality in television program that



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hit the rock bottom. As reflected by unfavorable criticism from the public audience and negative approvals as the results of various academic surveys, each response unfolds information on how various segments of the society have found the aggravating situation intolerable.

Information from research surveys on the patterns of television consumption among Thai children, youth and families has similarly revealed a strong influence of television over Thai families. It is found that watching television, when compared with other activities, is the most popular among children and youth aged between 6-24 years, at 39.62 % making it the largest among all age groups surveyed. On average, there are 74.7 % of children sitting in front of the television from evening until dusk on Mondays to Fridays, and 75.8 % of them on Saturdays and Sundays. The survey also reveals that most children watch the same television program as the adults. Apparently, these adult contents are filled with entertainment and consumerism, designed to respond to business purposes.

Thus, it could be noted here that despite the fact that the majority of Thai families rely on television as a means to stimulate their children's learning and development, the broadcast media falls short of public's expectation to provide adequate positive influence in child learning and creativity.

Worst yet, in a different survey in television by Assoc Prof Dr Ubonrat Siriyuwajak of the Faculty of Communication Arts,



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Chulalongkorn University, it has indicated that children program (for those under 12 years of age) has dropped in proportion when compared with all broadcast programs – at 9.6 % in 1993 to 4.94 % in 2003 or at a mere 42 hours.

Ironically, as the report reveals, children programs in all television stations in 1993 outnumbered those in 2003, despite the fact that back in 1993, iTV, a supposedly-independent television aimed to serve the society, was yet to be established.

Judging from my personal survey on different TV program charts in 2003, television stations which allotted the least for children program were Channel 11, Channel 5 and iTV, at 1.85, 1.88 and 2.17 % respectively. On average, they allocated less than 3 hours when compared with the majority programs on air in these stations.p

Upon the nature of contents of these children programs, it was found that 18 of them were either imported cartoons or folklore dramas. The rest, at 39 programs, featured locally-produced programs and non-drama. However, among them, very few had contents that stimulated public's intellect. Another point of concern was that most of these children programs didn't last. They were prone to be a vulnerable target in TV chart modification – being moved around if not being dropped out of the chart altogether.

An analyst points out to the fact that the core problems stem from the structure of the broadcast media under state supervision that does not design to cater to public interest. Under competitive circumstances



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where business potential and money are the key factors for survival, several program producers catering to children, youth and family audiences find it tough to pursue with their business.

Ironically, while the restraining conditions were in favour of the production of children program, the public has been intense in its pressing demand for better quality in children program, especially from parents' networks.

Additionally, there is yet another movement from the small-scale production houses, whose target is to create quality children program, despite their moderate budget. Well-equipped with knowledge, these small-scale production houses have been relentless in struggling over obstacles in their quest for quality production. Their enthusiasm has stirred excitement among advocates in exchanging opinions and brainstorming for new ideas.

- **Pushing for Cabinet Resolution
with Academic Strategy**

As the situation has ripen, the networks of academics and advocates involving media for children and youth have strengthened up, with Assoc Prof Dr Ubonrat Siriyuwasak, or better known as Archarn Yaa being the core centre, who links up with other academics to join the same cause. Me included.

On my part, I am working on Media Reform Research for the Thailand Research Fund and Assoc Prof Dr Phanthip Karnchanachitra



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Saisunthorn or Archarn Waew from the Faculty of Law, Thammasat University who has conducted a research on Internet and Youth. Meanwhile, Archarn Ya has invited activists advocating on media for children and youth to join this academic network including Kemphorn Virunraphan of the Foundation for Child Development, Chatradchai Chueraman of Tasaparod Group. Naming a Working Group on Media for Child Learning and Education Project, the advocate network aims to achieve a joint mission by presenting a research study on “Strategies on Administrating State-Run Media for Education,” in order to set in motion a policy change.

With Dr Yongyuth Wongpiomsanti, a child psychiatrist as its supervisor, this project has earned financial support from the Thai Health Promotion Foundation, whose agenda includes this mission following a policy set by former Deputy Prime Minister, Mr Chaturon Chaisaeng, then president of the Foundation.

At a conference on October 1, 2003, the project’s working group presented the result of the study to the audience that included Mr Chaturon describing how television is fraught with various problems that have impeded it from exercising its full potential in being a constructive medium to promote learning and education for children, youth and family. Proposals on strategies to develop state-run media for educational purposes were gathered during the conference and compiled as a paper that was submitted to the Cabinet Meeting on November 4, 2003.



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Finally, the Cabinet resolved to approve on guidelines and measures that clearly suggested how the state-run media should be utilized to promote learning and education among children, youth and family. It was the beginning of a crucial process of a strategic and systematic movement towards a focused goal.

The key point in the Nov 4, 2005 Cabinet Resolution is an order for broadcast media to allocate about 10-15 % of its air time for programs to promote learning and education for children, youth and families starting with television stations under the supervision of the Department of Public Relation, beginning from January 1, 2004 onwards.

For other television stations, it has specified that each should follow suit at their own time, when they are well-prepared for it. However, the allotted time must be for at least one- to one-and-a-half-hours, set between 4 and 10 pm.

Subsequently, on November 19, 2003, the deputy prime minister, Mr Chaturon Chaisaeng nominated the working group in a preparation process for an implementation of the government policy on media utilization for child learning and education, with Dr Yongyuth Wongpiromsanti being named the chairperson.



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The working group obtained knowledge from various sources and synthesized them into a proposal that is “acceptable and realistic.” The proposed paper was presented to a conference chaired by Mr Chaturon Chaisaeng on December 17, 2003. In the paper, there was one significant suggestion which has effectively driven forwards the academic and civil movement. That was an advice for an extension of knowledge a comprehensive further study, based on an original research being used among the proposals for Cabinet deliberation that resulted in their approval.

It could be noted here that the proposed extension of knowledge has added refreshing breeze into the fighting spirit for the realization of the Cabinet Resolution. Without such determination, this Cabinet Resolution might face similar fate as other cabinet resolutions that failed to be realized when they lacked extended research supports for a realistic approach in policy implementation.

- **Civil Society and Academics**
Behind the Driving Force



The Nov-4-2003 Cabinet Resolution is a starting point of problem management. If without knowledge acquisition in realistic situation, the Cabinet Resolution would be ineffective. Called



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TV4Kids, the first research study project is under the supervision of Prof Kanung Luechai Foundation, who is the project manager. Funded by the Thai Health Foundation, the two-year project lifted off the ground on June 1, 2003.

The main items in the TV4Kids Study Project involve studies: to search for quality assessment indicator; to develop appropriate program format; to explore for guidelines to promote child and youth participation; to work out with tax structure and other motivations for quality program producers; to organize mobile conferences; to establish bonds between station administrators,

- **TV operators and producers by arranging friendship visits.**

Presently, the results of the project start to bear fruits. The researchers have acquired information from the project to propose for a new approach in tax collection and for an establishment of a fund to develop TV program for children by comparing it with similar programs abroad, yet under Thai social context. A quality assessment indicator being developed under the project is now in experimentation and assessment process for TV operators and family networks who are the majority audience.

Meanwhile, Dr Yongyuth Wongpiromsanti has nominated a working group to conduct a feasibility study in format and marketing condition of a TV channel tailored specifically to cater to children, youth and family. As of now, the study is approaching its final completion.



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In it, there are two most likely recommended choices which are: an investment through cable TV station and a subscription system with estimated subscribers of 200,000 families nationwide.

Apart from inspiring academic research, the Cabinet Resolution also inadvertently incited an empowerment of advocacy networks leading to two incidents where these advocates showed their solidarity in pressuring the government and TV operators for better quality TV program.

The most controversial case in point was the public outcry after the Army Channel 5 adjusted its chart on January 1, 2005 that effectively discharged “World Exploration” documentary program by Next Step Company that presented such world-class documentaries such as National Geographic, Discover and Animal Plant being aired on Monday-Thursday between 8.40-9.10 p.m. and the Thini Prathet Thai (Here is Thailand) Talk Show by the Media Of Media Company which was being transferred from prime time period between 9.15 and 10.00 p.m. to morning period.

Both programs are of high quality that stimulates children and



youth intellectual development, as their contents enhance ethics and morale, historical knowledge and the beauty of life and nature. Such contents could be enjoyed by all members of a family, which fit well into the



philosophy behind the Nov-4-2003 Cabinet Resolution.

The decision to replace quality program that promotes child learning with soap opera has repeated itself time and again. So much to public's disturbance, family and parent networks decided to take matters into their own hands by exercising their power to protect such program.

As part of their campaign for the government to reverse Channel 5's decision, the networks organized a seminar on "New Chart – a Gift for Thai Children?," being held at the Human Rights Commission Board's office on December 18, 2004. Eventually, Channel 5 revised its chart by retrieving the World Exploration Program, though the allotted time was at 6 pm surrendering the prime time to the drama series by the giant entertainment company.

Another incident that stirred public awareness was a demonstration by family members and students, in front of the Government House on February 18, 2005 to demand the government to seriously put children program as a priority.

The demonstration was instigated by a release of a controversial soap opera on Channel 9, "Promlikit, Chapter 1" by Scenario Co Ltd (Sundays, at 6 pm) whose storyline touched upon superficial, romantic genre.

Angry parents were fumed over the drama's blatant sexual explicit that conveyed inappropriate sexual conducts and reinforced unscrupulous sexual value. The casual sexual relationship and excessive emotional expression in public sphere like television that is accessible by every viewer, young and old, led to a heated debate over



airtime priority. It was argued that TV program that occupies public time and space for children, youth and family viewers should be of harmless contents of which all members of the family can enjoy.

After the campaign by parents networks, the management of Channel 9 decided to reallocate airtime of the controversial series to 11 pm on every Saturday until its last episode. Although the drama series stopped short in its Chapter I, without any initiative to continue into second production, question remains that how the Station's administration allowed such unscrupulous program to be on air in the first place.

During the campaign, the family networks and the media for children networks presented an open letter to the Prime Minister, in which four proposals were made to demand the government to take serious measures in promoting television program for children. The four proposals are as follow:

1. All television stations should monitor contents in programs being presented during the period between 4 and 10 pm, as a priority task. They should not contain any inappropriate elements, be it sex or violence or those which are prone to health risk.
2. The government should support media monitoring mechanism
3. The government should encourage station operators to apply strict self-monitoring measure; and
4. The government should allot at least one hour after the 8 pm news hour for children and youth learning development.

The first and the fourth proposals are so crucial and considered



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the mechanism leading to constructive changes that promote constructive creativity for children, youth and family. Whether the mechanism is realistically materialized depends on if the government would accept the proposals as its main agenda and how television operators and program producers would set priority between quality of life in Thai society and marketing.

The movement of the civil society groups after the cabinet resolution is considered an interesting social phenomenon, for its rare unique. Never before that parents would step out to the forefront of a demonstration to voice their dismay over quality of the media. In the past, they would express their criticism within a small circle or keep their frustration to themselves. Nobody would like to bother with the media. Having been repeatedly fed with excessive contents on sex, emotion and violence, most of the public has become apathetic, taking such contents for granted.

Thus, the public movement has signaled that media monitoring mechanism is more effective when it is carried out by the consumers than when it is under the state supervision or under the media self-monitoring procedure.

• **New Opportunity and Network Empowerment**

When the sense of participation in the campaign for television media for learning has been ignited in the Thai society, the public campaign to realize the goal could be seen as a light at the end of the



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tunnel. Being inspired by the movement, more people, who share the same sentiment pour in voluntarily, as a support to the children program producers and families, whose hope began to fade and energy (and money) exhausted.



Among the leaders of children program producers are Patjaree Aisiri, alias Na Nid of TV Hed Hansa program, who is

better known as the host show for Samosorn Pung Noi; Kiatsuda Pirom or Na Aow of Payoon Yuenjor Program and Kittipong Khanthakarn or Na Tom of Songwai band, of Naiyam Lung Nao Program, whose program hasn't yet been allotted for air time. Unfortunately, his untimely death in last August (2005) at the age of 52, has deprived him from witnessing the yet-to-be-established television for family as he and other advocates have long dreamt for.

With the support by Thai Health Promotion foundation, it enables these program producers to join the campaign bandwagon with the social activists for children and physicians expert in child development. The foundation is a mechanism to space and joint activities in form of sponsorship, research and development.

The fund has been spent for a development of program prototype and a preparation process for program producers as well as the society an commencement of a children and family station,



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Even if with the two-year funding from the foundation, quite a number of quality programs are still waiting for airtime availability or production suspension because of being discharged from the chart, or being moved around to the least-viewed period.

Therefore, all advocates in the networks have agreed to draw a plan to develop strategies to achieve an establishment of family TV program or an ultimate goal of family station.

To keep this philosophy alive, a network for youth media has been established. The networks have proposed strategies to push forwards a TV channel for family. The four strategies proposed include:

1. Strategy to develop program planning and family channel
2. Strategy to develop program sponsorship system
3. Strategy to develop potential of program producers
4. Strategy to create movement in social participation

Presently, all these strategies have been under a steady progress as planned. As for family channel, there is a possibility of future cooperation with ETV (Educational Television) under the Ministry of Education to adapt, adjust and include in their existing educational programs the desired contents. The aim is to modify the ETV contents for better quality that could be enjoyed by family members in all age groups. A publicity for the program will widen audiences to tune to the ETV.

With its satellite coverage since 1994, the ETV Satellite Station is accessible to 20,000 schools, and other educational institutes



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nationwide. On air in Channel 96 of UBC, the ETV has reached 200,000 subscribers and their families. Even though the majority of Thai families could not access neither cable nor satellite, the Ministry of Education, meanwhile, has been close to achieve its technological development to broadcast its programs in VHF system, a similar system being utilized by the free TVs.

• **The dream yet to be realized**

It has been three years, since the campaign for children and family television program since the 2003 Cabinet Resolution during which more people from all walks of life have joined forces.

What began as an ideological movement, has been transformed into a campaign laden with knowledge and driven by clear strategies.

Not only the civil society groups, now being consolidated as a network for children, is a driving force, the government agencies involving education and media, such as the Ministry of Education, the Public Relations Department, have jumped into the campaign bandwagon to work towards a mutual goal.

Only if the government decides to invest more on human and social development than it does with economic growth rate, the dream by generations of advocates would be achieved. The private sector, too, should shift its priorities from profit-oriented to quality-oriented for the sake of public benefit.



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When Television Starts New Trends for Others to Follow*

• Sopit Wangvivatana •



*U*nder the severe criticism about “poor” Thai television programs – forcing the audience to consume “junk programs” like silly game shows or soap operas, merely aiming to instantly attract more people rather than be more sophisticated in their production – some producers blame limited resources and budgets. Others wish such situation would be improved after undergoing media reform. Yet, there are particular television producers who are determined to make only sober programs.

In this paper, I will discuss the perspectives and production processes of the producers of two qualified television programs. It is hoped that they will serve as examples and inspiration for other TV producers to make more constructive programs in the future.

* translated by Wijit Wongwareethip



- **Khon-Kon-Khon (people delving into people)**

by TV Burapa (Oriental Television)

Aired every Tuesday on Channel 9 (10.05 p.m. to 23.05 p.m.)



I had the chance to talk to Mr.Suthipong Thamawuit, the head of *TV Burapa*, one day in mid-July. He told me the “history” of the company, focusing more on *Khon-Kon-Khon*. The latter’s story was more interesting for at least two reasons. First, how such a drama-cum-documentary has become so renowned within only a year and second, why the lives of laymen, usually grassroots people, can provide good lessons for other people from all walks of life.

Suthipong, or *Phi-Check* for the younger generations, started the conversation by tracing back the picture of general TV programs in the past which were more dominated by entertainment-bound programs than socially responsible ones. This was the reason why TV media was always being deemed as a villain – deteriorating social morality while stimulating unsuitable values. Though agreeing with such accusation, he believed that choices and chances were there. If they could only “see” the influence of TV media towards the public, have a strong will,



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and stick to good values, TV producers could turn the table around and be successful in terms of business without having to go against their own principles.

“Work is the result of men. It reflects one’s standpoint, belief, and thought. TV is a scientific instrument using arts for its representation, hence, we have to integrate our interest and aptitude into such tool in order to present our ideas and attract the public at the same time. Aside from this, the form and technical limitations of the type of TV program you are involved in will also be a major factor on whether you will be successful or not.

I can say that it was the right time for me to start working on what I am most skillful in doing. Even though I was not trained in communication arts, my experiences as “an insider” for a certain period of time have shown me the power and the uniqueness of TV media – easily accessible, influential to a wide variety of people, and high in conflicts of interests.”

Suthipong strongly believes that right timing is an important factor to judge whether or not you will achieve your goals. He cited some examples of quality TV programs that were not successful due to its failure to effectively communicate with the audience.

Before he started *Khon-Kon-Khon*, he did a situation analysis on the existing TV market and the capacity of his own company. As for the market, there were two arenas: one for entertainment programs, which is highly competitive and commercial-bound; and the other is an arena for constructive programs. He then decided to be part of the second arena.



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“We realised that *TV Burapa* would not be able to compete in the first field whereas there was a room for us in the second TV sphere. Nonetheless, I didn’t think there would be only two extreme ends for Thai TV programs. There should have been other options for the public. We then assessed our own capacity and all kinds of available resources we had. Finally our *Khon-Kon-Khon* just came out in this fashion.

Since most documentaries in the past were either about tourism or imported ones, *Khon-Kon-Khon* chose to be different. Being aware that the audience had gotten tired of watching the same types of documentary shows, it was a just a perfect time for us to launch this program as an alternative for those “thirsty public”.

“When we first entered the arena in April 2003, we were not that confident that our program would survive. But since we had already committed ourselves to do it, we had to try our best.”

He also raised the issue of the work style of numerous TV programs. “Many programs in the past didn’t do their homework. It was easier to get somebody who was well-known or had just become a so-called ‘star’. This was why sometimes, there were four or five programs waiting for the same ‘star’. I was very disgusted and told myself I would not follow this path. At that time, it was so challenging for me not to be in the mainstream while I had to make sure that our program would stay alive. Now it has proven that *Khon-Kon-Khon* is endearing to our viewers.”

“Our outstanding point is that we present every man’s inner



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values. The people who appear in the program don't need to be stars. We don't play with burning issues, fame, or scandals. What we mainly do is represent the perspective of each individual towards his/ her life and how each one of them copes with his/ her sufferings. You can see that there are diversities in life, but all are beautiful and meaningful in their own way. That is useful for the audience.”

A number of stories in *Khon-Kon-Khon* have not only stirred sympathies from the public but also pulled in offers of help and donations. Below are examples of previously aired programs that have left an impact on the audience:

- The series on “Mom Don't Cry” about two small kids – a brother and his sister – who were so devoted to their sick mother. This episode had become the talk of the town and had drawn massive visits from other people and the pouring in of large amount of assistance.
- The series of Grandpa Yen, an almost 100-year-old man who had



widely impressed the public. He has no children and has gotten no help from the state's welfare service, yet he still strived to be self-reliant and self-sufficient without being a burden to anyone.

- The series about Khom, a disabled man who earns a living by fixing electrical appliances. This program had inspired disabled people and encouraged them not to be limited by their physical handicap.



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- The story of a lady who has devoted herself to her family, including her disabled husband and two children. This has become a good example of love and sacrifice. Aside from her full-time job, she also works as a taxi driver in order to earn more income for her husband's medical needs.

“We have learned that the common belief that the public won't watch this kind of heavy-content program is not true at all. For some production houses, this arena may not meet their interest. This is because the documentary-cum-drama program doesn't make a lot of profits. Plus, it is time-consuming and costly both in terms of budget and human resources. For some series, we took more than two or three months just to gather the pre-production information. But in general, the whole production process of a story about a single person can take an average of one month to make.

Judging from the response that we get from the audience and our growing 'customer base', we can conclude that *Khon-Kon-Khon* is rather successful. However, we are not yet done.”

Suthipong always keeps in mind what former boxer, Veerapol, once said.

“Veerapol said he had never thought before that he would be a world champion. But when that opportunity came, it was more difficult for him to maintain the status of being a winner. Later, he added that after losing in one boxing match, it had become much harder for him to become a winner again.”

What is remarkable in *Khon-Kon-Khon* is the issue that is



highlighted. A plain life story of a commoner can be a telling story through the eyes of the narrator who becomes a correspondent spending his time with that person. To make it comprehensive, some stories take more than one month to finish.

Image language in television: It is unbelievable that a camera's angle can shape the audience's emotion. When it goes hand in hand with the rhythm of the voice from both the "correspondent" and the figure who owns not only the story but also the emotions in it – happiness, pain, sorrow, and so on – such combination can evoke more sentiments.

• **Further steps: strengthening a few good programs**

Though *Khon-Kon-Khon* has already been so popular, it seems to Suthipong that there are lots of other things that are needed to be done. For the viewing public, this program has topped the chart because of either good luck or its touching stories. He wants to erase such discouraging notion and prove that this kind of constructive program can actually "survive". Launching two new documentaries, ***Kob-Nok-Kala and Lum-Dam (or Black Hole)*** is an answer. There are at least two advantages of this strategy. First, this is aimed to inspire a new batch of TV producers to follow this path. In addition, it will further ensure TV sponsors that such programs are able to be both income-generating and can bring fame.

Unlike its predecessor, *Kob-Nok-Kala* (or the frog outside the coconut shell) is livelier and less emotional. As its core principle is "The known" is indeed unknown", two TV anchors will lead us to the



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world outside our accustomed one. They play a role as if they were detectives investigating the origin of stuff around us. To Suthipong, it is a challenging move to prove that a program produced not on the basis of emotions and drama can also attract the audience. After airing, the outcome was satisfactory. People responded positively. They were able to accept this new documentary easier and faster, in barely six months, compared to *Khon-Kon-Khon* which took one year to reach that point, he said.

The company's and its prior program's reputation may partially explain this result, but Suthipong asserts that these two programs have different target groups. This is a good sign as *TV Burapa's* goal is to expand its audience base. This, he emphasized, will not only be for the benefit of the company but will also be the "seed for the nation."

"We don't limit our dream to just targeting more audience for the sake of our survival. Rather, we wish all producers and TV channels see the chance and decide to make more substantial TV programs. If this can be a new trend for TV programs, the fruit of our efforts will certainly benefit the whole Thai society."

Lum-Dam or *Black Hole* is another new documentary reflecting TV Burapa's social concerns. Focusing on society's dark sides – such as child prostitution, online sex, etc. –, the company hopes this will lead to getting collective solutions to such social problems.

"Basically, TV media should be more responsible. We have a strong faith in that principle. So, this new program will serve as a tool to make a better world. We want to see the media getting more involved in



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society. Whether or not it is marketable is out of the question.”

Lum-Dam is still in its “honeymoon period” having been able to easily draw attention from the masses. But Suthipong said time would prove if such investigative documentary is appreciated. If it is so, then the company’s future programs will play the role of change agents, not only as observers reflecting what media “see”. He hopes the company will be more involved in solving the problems of Thai society.

He does not believe though that the establishment of the National Broadcasting Commission (NBC) or any attempts to issue new regulations would be an answer for media reform. Instead, an authentic change has to start from within, meaning, a commitment of media people to produce good stuff to the public. In other words, a real chance will not be derived from any great structural reform, but from every agent’s political will. He stressed miracles could happen from what simple people do and not those being done by “big” person.

“We can simply change ourselves. If both sponsors and TV producers foresee its positive impact to society, and encourage good people by providing them an opportunity to do more good works, it will be much better than a formal media reform. We cannot change anything if we don’t reform our spirit.”

Before I left, he mentioned about his determination to be an inspiration to those newcomers in the media world.

“*TV Burapa* will not last forever, but the legacy that I want to leave behind is participatory production house. That means the company is for everyone. All staff can share ownership, profits, and fame. I don’t



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want a company which is highly competitive or one where there is jealousy among staff. Hopefully, I can fulfill this ambition by next year.

The Khon Khon Khon TV program has received following awards:

2003

- 1 The most outstanding TV program by the Institute of Catholic Mass Media of Thailand.
- 2 Best TV host and Best Knowledge Promotion Program, The Golden TV awards.
- 3 Best Social Enhancement Program, Star Entertainment Awards 2003, the Entertainment Reporter Association of Thailand
- 4 Most Outstanding Radio/TV Personality, Thepthong Awards, the Broadcast Media Association of Thailand under the Royal Patronage of His Majesty the King

2004

- 1 Family Institution Promotion Program, the Institute of Women and Family Affairs
- 2 Best National Human Rights Award, the Amnesty International of Thailand
- 3 Best Social Enhancement Program, Star Entertainment Awards 2004, the Entertainment Reporter Association of Thailand

2005

- 1 Best Documentary Program and Best Social Enhancement Program, Mekhala Awards, the Entertainment Journalist Association of Thailand
- 2 Award of Honor for Outstanding TV Program, the Committee on Religion, Art, and Culture of the National Assembly
- 3 Outstanding Organization on Children Causes, the Bureau of Promotion and Protection of Youths, Ministry of Social Development and Human Security.



- **The Khun Phra Chuay (Oh My God!) program***
Broadcast on Channel 9 Modern TV every Monday
from 10:05 – 11:05 pm.
Produced by Workpoint Entertainment Plc

It is definitely a tough challenge for TV producers to figure out how to present Thai arts and culture, customs and traditions, or Thai traditional plays that will draw in TV viewers. This is because of the old belief that when Thainess is mentioned, people will always associate it with being old, ancient, slow and dull. The fact is, the things which show Thainess have a lot of originality and charm in themselves. It all depends on who will find and present these charms before other people do.

Workpoint, which is well-known as a leader in game show business, takes the challenge which requires the perfect blending of the art of presenting Thainess and the ability to overcome certain limitations of TV media.

When the production team heard the assignment from Channel 9 for the first time, the staff felt the pressure, recounted Chayan Jantharawongsathorn, the production manager of Workpoint Entertainment.

He admitted that upon learning that the program's main theme would be Thai culture, the staff knew that it would be a very difficult

* translated by Paisal Chuenprasang



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program to produce because the team has a background in game show TV productions only. They knew that it's a tough challenge to turn a story with importance into an entertaining and captivating story. They are aware of the limitation of the TV media – that the audience will not concentrate on this kind of media for as long as they can use the TV remote control to change channel anytime. And they do have several other choices of channels. They were also aware that there's a much limited time to present the story in an interesting and concise way, with a pace fast enough to captivate the audience from start up to the end of the program.

“During selection of ideas for the program, our staff could just jump right to the highlights instead of counting from one. We just want the stories that will surprise the audience and make them wonder like ‘Is there really something like this? Why didn't we hear about this before?’ That's all.”



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Most of all, they had to figure out how to attract teenagers and the working people to the program so that audience base would cover more people than those who are over 35 years old. After several brainstorming sessions, the team agreed to produce the Khun Phra Chuay (Oh My God!) program, which was aired for the first time on April 4 2004.

“At first, I thought the program would be boring and difficult to make. After the first four parts of the series had been aired, I was still uncertain whether the program would survive. It’s quite a risky job and I got a little worried about the future.

“But after a while, we gained more knowledge and we found many more new topics. We have a lot of information now and we like the topics we have. Now, when we hear any issue on Thai culture, we will turn our attention to it. We finally find that ‘wow!’. There are a lot of interesting things to learn. We would like to make them more interesting to Thai teenagers. It’s quite a work that keeps us under tension but we are really having a good time.”

Initially, Chayan thought there were not many topics about Thai culture and the program would reach a dead end soon. But it turned out to be untrue. New topics unfold after a while and there are endless points to develop stories. For example, the program could present issues on legendary creatures in the Himaphan Forest mentioned in classic literature and on Thai traditional cloths as well as ancient prisons. “The program needs not to centre only on Thai traditional music and arts.



What is Khun Phre Chuay program ?

It's a talk show program where guests discuss their expertise or special skills. Its goal is to present the backgrounds and distinction of various arts. Experts in their respective fields are invited to talk during the **Khun Phra Chiew** section. For example, a troupe of *likay hulu* from the South was invited to talk about the original characteristics of the dance, which is different from normal *likay* because it has elements of southern culture in the show.

Then, there is a demonstration during the **Khun Phra Show** section. The invited *Likay Hulu* troupe showed how they normally dance and sing, for example.

Then, the **Khun Phra Prachan** section follows where two youths will compete in a particular type of Thai arts – such as traditional music, painting, or a performance art. Specialists or teachers of such kind of art will be the judges for the competition. Both contenders will receive scholarships.

The program also has short video clips or brief sessions to provide knowledge on various issues of Thainess, such as the origin of certain words in Thai literature, stories of antiques which are rare or stories of historical places in Bangkok.

It could be any issue about Thainess and we could find a lot of topics from our history,” he said.

On the front stage is an entertaining program with essence. But behind the scene are works which always add pressure to the staff – from figuring out new and original topics and finding ways to



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make the presentations of such interesting to the audience. Moreover, the production team has to be careful because the issues of Thai customs and traditions are sensitive. The customs, which are long valued, cannot be violated. The production team has to be careful not to go against the custom while trying to present new angles, trying to blend the ancientness of Thai arts and culture with modern things to make them more interesting.



Chayan cited the time when the program wanted to present information on Khon traditional dance as an example. Usually, Khon comes with slow and unexcited music. The team would like to change the music to have faster beat, to be more fun and to be modern. But when the team consulted an expert on Thai arts, it found out that the music could not be changed because it is a custom for the music to be that way while the rhythms of the music have their meaning.

Chayan mentioned tension at least five times during the interview, but every time he also added that it was a fun challenge and that he was happy with his job.

Following are several outstanding factors of the program:



- **Presentation/content**



It requires wits to perfectly blend the oldness and newness that will create interesting and original selling points for the program. Once, Khun Phra Chuay showed a

master of Northeast traditional harp jamming music with a rock singer, Jack of the Fly band. Sometimes, Khun Phra Chuay had a zither player contest with a piano player. Sometimes, it showed traditional *likay* dances singing in stories from Star Wars and Lord of The Ring. It has produced some stories, which seemed impossible, and made them fun and interesting.

Fortunately, the production team has skilled advisers – Panya Nirandkul and Prapas Cholsaranon, two executives of Work point who always provide advice on new ideas of presentation and on how to use music to create originality for the program.

“We have a very capable adviser on music – Phi Jik (Prapas Cholsaranon). We made original music to create newness for stories of old things. When new music is presented with old things, it makes the program more interesting. We write new songs all the time for participants of the program to perform,” Chayan said.



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The depth of information is also important. Every part of the series has to present a new story. If it has to be an old story, it will be presented in a new angle, one which has never been done somewhere else.

“After we select a point, our staff will find more information. Our staff needs to have a vision and need to find selling points to have their ideas approved. For example, when we presented the story of the national anthem, the selling point was that most people might not know that, so far, we have seven versions of the anthem. We played various versions during the program. We related good stories in clever presentations. During selection of ideas for the program, our staff could just jump right to the highlights instead of counting from one. We just want the stories that will surprise the audience and make them wonder like ‘Is there really something like this? Why didn’t we hear about this before?’ That’s all and we will discuss details later. We use Work point standards to judge stories for presentation. We need only some angles, not all the information.”



• Arts, backdrops, tools

The production team pays a lot of attention to the details of the things used to set up the backdrop and the



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elements of stories being presented. The original ideas and the production team's fine and meticulous sense for creating the backdrop make the program unique. Careful



considerations of every detail started from the selection of the program's title. The title Khun Phra Chuay was an expression used in old day when people were startled by something and which conveys the meaning of the program very well. The names of the sections of the program were also carefully selected to play with the wordings of the title. The part where experts of various arts are interviewed is called Khun Phra Chiew (Chiew is short from chiewcharn which means expertise). The section where a demonstration of an art is presented is called Khun Phra Show. Khun Phra Prachan is the time when participants of the program compete in some kinds of arts. (Prachan means contest). The producer also uses specially-coined words on the credits shown at the end of the program to draw attention.

The production team attaches a lot of importance to the setup and backdrop and invests a big budget to make them suitable for particular stories. For example, a model of the Suphannahong Royal Barge was made for the story of the royal barge procession. Half of the barge was elaborately made to demonstrate the movement of the rowers and how the skipper would control the barge.



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When the program was presented about Thai cartoons, the backdrop beautifully displayed cartoons from various periods. It was used only once and discarded afterwards.

Chayan recounted that meticulous selection of the backdrop once caused hours of delay to the shooting when the program was made on the royal anthem.

“The stage was set up and rehearsal started at 8 pm. A symphony orchestra had been rehearsing with over a hundred people and students were taking part in singing the royal anthem. When the rehearsal finished at about 1 am and the program was about to be recorded, I noticed that the backdrop was not that beautiful. I had the backdrop changed, which meant re-doing all the production works. The record was eventually finished at 4 am instead of midnight like in most cases,” he said.

• Costumes

Khun Phra Chuay is the first TV program in Thailand, or it may be the only program in the world, where hosts do not wear shoes. The costumes of the hosts are very outstanding.





Called Jongdaeng, this is a traditional costume for students of traditional performance arts. Chayan said Jongdaeng costumes are simple and easy to put on and the hosts like them. At the same time, the costumes very well convey Thainess.

• Hosts

The main host is Thongchai Prasongsanti, a comedian who is knowledgeable in and loves northeastern arts and culture, especially *morlam* dance. Together with Theng Terdthoeng, a comedian from *likay* dance, they make a perfect match. The two can draw smiles and laughter from the audience all the time. The team is made even stronger by having a farang (foreigner) host like Todd Tongdee who seems to know more about Thailand than several other Thais. Todd adds a dimension from western civilization to the program. The perfect blending of the three hosts makes the program light and interesting. Chayan said guests of the program are always told that the show would be presented in a light-hearted manner instead of a more serious style.

Chayan unveiled his dream that he would like to expand his program from TV media, like making video CDs or holding Khun Phra Chuay concerts.

He is certain that each part of the program series could be used by schools as learning aids for students to find out more about Thai arts and culture.

He appeared shy when he revealed that, given a chance, he would



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build a theme park using the Ramayana story so that visitors could meet the characters from the epic story or enjoy the rides inspired by story.

No matter how the situation of the broadcast media will be, whether the media reform will progress or take a step backward, or no matter how long before the National Broadcasting Commission will be set up, these people have gone ahead to create a good program for the viewing public, using their potential to the fullest without being asked by anyone. TV media people should be proud of having Khun Phra Chuay as an example of a really good TV program

Awards for Khun Phra Chuay

- 3.1 Best culture promotion program at the Star Entertainment Awards 2004 by the Entertainment Reporters Association on March 2, 2005.
- 3.2 Thongchai Prasongsanti received the best host award at the 19th Golden TV Awards 2004 on April 9, 2005.
- 3.3 Best education promotion program at the 19th Golden TV Awards 2004 on April 9, 2005.
- 3.4 Best variety program at the 19th Golden TV Awards 2004 on April 9, 2005.
- 3.5 Best culture promotion program at the Mekhala Awards 2004 by the Entertainment Correspondents Association of Thailand on April 23, 2005.