

Media Laws And Regulations In Thailand

By

Surapone Virulrak

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Dr. Surapone Virulrak
Dean
Faculty of Communication Arts
Chulalongkorn University
Bangkok 10500, Thailand

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Media Laws and Regulations in Thailand

Media laws and regulations have been widely and heatedly discussed in the present time. Many media laws and regulations are imposing upon media professionals. However, those laws and regulations tend to lose their functions due to probably two factors. First is the lack of development or the modernization of the laws to cope with the advancement and complication of the media practices. Second is the lack of law enforcement. These two factors allow the media professionals in Thailand to enjoy freedom of expression that jeopardize individuals, organizations and political stability. Many of them are carelessly publicizing sex and violence to deteriorate the moral standard of Thai society for the sake of business. And some of them find loop hole of the laws to deceive consumers without ethical consideration. Consequently, the authorities are more serious in their standard of judgement despite the lack of enforcement. But since the standard varies, it creates uncertainty in the media business. As a result, the media professionals are considering to handle their own matters by forming professional media councils to undertake their professional ethics and self censorship. Press council, film council. and advertising council are being formed among which the press council are the most efficient to pursue the press council act which are being considered by the House of Parliament. Meanwhile, the illegal and unethical practices of the media professionals still prevail.

Let us observe the current laws and regulations which affect the practicality of the media professionals.

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Press Act in Thailand probably began in 1894 prohibiting layman to write to the newspaper because their information were not correct. Since then 7 more press acts had been promulgated. Today, two press laws are currently used: The Press Act of 1941 and the Order of the Reform Council No. 42 (1976). These two press laws govern all printed materials -- newspaper, magazine, journal, book, poster, etc. The Press Act of 1941 was promulgated during the wartime to secure the government position. The Order of the Reform Council No.42 (1976) was proclaimed during the peak of the communist insurgency. A press jurisdiction committee was established to exercise these laws under the supervision of the Minister of Interior. The General Director of the Police Department and three assistants are the committee responsables for Bangkok. Provincial governor takes care of his province. And nine army officers from Supreme Commander Headquarters undertakes the information concerning the Thai Arm Force. The penalty includes fine up to 400 bahts, imprisonment up to three months, or both. The concerned printed materials and printed machines may be confiscated or destroyed. Owner, publisher, and editor licenses may be repealed. Moreover, they may be charged with the act of communism. To prevent unhealthy publications, the press jurisdiction committee has the right to notify or to pre-censor before distribution. Appeal can be made and it is finalized by the Minister of Interior or by the Supreme Court.

Although the law of the press in Thailand is very severe and rigid, the printed materials such as newspaper and magazine are still publicizing headlines, contents and pictures of crime, sex and violence. For example, a headline of a popular newspaper read "Father raped Five

Daughters". The content disclosed the detail story of the victims. The press laws and other related laws such as the Moral Code and Pornographic Code should be enforced to protect the innocent people but nothing has been done. This is also true with some magazines publishing nude figures and obscene stories and are being sold freely to the minors. To protest the pornographic materials, certain individuals and organizations occasionally filed law suit against the distributors. So the materials may disappear from the shelves for a while. Also during the annual official promotion, enforcement is staged as a show piece. It may be unfair to say that the enforcement is insufficient because there is a lot of printed material. The press jurisdiction committee has to send each case to the court and the prosecutor may not file the law suit since his value judgement on pornography is different from the committee. A common trick of the publisher is that the permitted volume is clean where as the distributed volume is pornographic. No matter what the laws and enforcement are, the sex and violence still prevail in printed media.

Now let us turn to film laws. The first Thai film act was promulgated in 1930 and three more laws followed. These laws govern the film production and distribution. Film jurisdiction council is responsible for the implementation of these laws. The council comprises ten senior police officers, one representative from the Ministry of Interior, and a representative of any government agency that is related to the film subject. Under this council, the Board of Film Censorship undertakes the actual censorship. This board comprises ten police officers and six officials from various other government agencies -- Army, Education, Foreign Affairs etc. which will be called upon accordingly. The censorship may be

done before, during and after the film production. The script has to be approved by the authorities. But this is not a guarantee that the finishing product will not be banned. During the shooting the local officers such as sheriff or police officer may stop or terminate the shooting if it is against the laws. It is also possible that the officer may stop the show from being shown at the theatre with the same charges.

The Ministry of Interior established guidelines of film censorship indicating that the film showing the following substances are prohibited:

1. an act of insulting any religion
2. unusual methods of crime which may be conducive to more crime
3. history of notorious criminals
4. horrifying murder or execution
5. torture to human or animal
6. pornographic scene
7. harmful to social or foreign relationship
8. act of lese majesty towards the state, the nation and the government's personnel
9. political issue which may disturb the government administration or arouses disturbance

10. immoral behavior
11. act of lese majesty to the monarchy

In addition to these guidelines, Thai film is also subjected to regulations set forth by the Ministry of Defence and Ministry of Education. Army's regulations prohibit film from showing demonstration or marching protest, promoting communism, presenting actor in the monk robe, portraying government personnel as villain. The Ministry of Education laid down 21 rules concerning sexual relations, behavior detrimental to juveniles and students, gangsters, drug addiction, and crime, etc. The film that is banned by the authorities can appeal to the Film Jurisdiction Council, and their decision is final.

These rules and regulations create traumatic situation in the film industry. It is nearly impossible to produce any film without breaking any rule. As a result, Thai films mostly deal with family affairs, love triangle among husband, wife and mistress, etc. The villain's occupation is not identified. Social drama is hardly produced unless it is treated in light vein -- comedy or farce. However, standard of censorship varies from time to time. Recently, some social plays can be shown. Again the films with lots of obscenity are plenty. Similar to the porno magazine, the film professionals send the clean parts to the Board of Film Censorship to assure the permission. The obscene parts are added to the distribution copies. Press ads and posters of these films are equally obscene.

Next of our discussion is the radio and television broadcasting laws. Radio and Television Act of 1955 and

1959 are the two main laws plus many regulations concerning the programme of news, education, entertainment, political campaign and advertisement. These laws and regulations are under the responsibility of the Administrative Board of Radio and Television. Radio and television are governmental. Nine television stations and nearly 300 radio stations are operated by various government organizations. This is a large and a complicate system to govern. Thus, fifteen high rank officers from these organizations are appointed to the board and headed by the Deputy Prime Minister.

Radio and television laws and regulations are similar to that of the press and film but with more emphasis on air time arrangement, proper use of Thai language, technology, and qualification of media professional. However, due to the lack of cooperation and the inefficient control of the central authority, the provincial radio stations tend to overlook the laws and regulations. Meanwhile, sex and violence may be seen occasionally on television due to the fluctuation of the standard of judgement of each sub-committee assigned by the Board.

It seems that the laws and regulations of radio and television should be simpler since they are owned by the government. But the fact is that many radio and all television stations lease their air time to private enterprises who try to break the rules to make profit. Some private companies built the radio station for the government agency and franchised a large portion of air time, if not all, to make money. An air time may be sold to third or fourth hand programmers who actually runs the

programme. Consequently, he has to include as much ad-spots as possible to cover the high rental air time. The more complication of the business leads to more regulations and more committees involved.

Under the radio and television laws, advertising regulation is recently an important issue. The following discussion on advertisement will include

Suppression of Pornographic Act of 1928,
Medical Act of 1936,
Fund Raising Act of 1944,
Phamaceutical Act of 1957, 1965, 1979,
City Order and Cleanness Act of 1960,
Auditor Act of 1962,
Animal Food Quality Control Act of 1963,
Food Quality Control Act of 1964,
Crops and Grains Act of 1965,
Insurance Act of 1967,
Standard Industrial Products Act of 1968,
Cosmetics Act of 1974,
Fertilizer Act of 1975,
Copyright Act of 1978
Child Adoption Act of 1979,
Consumer Protection Act of 1979
Drug Addiction Act of 1979, and
Trust Act of 1979, etc.

The above mentioned laws and regulations aim at preventing the advertising from deceiving consumers and end users. Creative copywriter of any ad has to abide by those rules apart from the laws of press and film. All copies and story boards for broadcasting are subjected to censorship and the finishing spots may be banned wholly or in part if the audio or visual substances are improper. The most difficult task of the ad men is the consumer product ads which have to be approved by Advertising Control Committee and Food and Medicine Control Committee. The former comprises a group of officers and a representative of the Advertising Association. The latter consists of a group of physicians, pharmacists, and a Thai language expert from the Royal Academy. They mainly concern with the proper text and visualization.

Here are some examples: The word "orange juice" cannot be used for product without mixture of natural orange juice. It must be named as "orange flavored juice" if there is little percentage of natural orange juice. And it has to be called "orange fragrant juice" if it contains no natural orange. The word "milk" has to be defined into "condensed and return to original form milk" or "semi instant milk".

These committees strictly censor the ad that is over claimed. Thus, the words such as "first", "best", "highest", "most", and "beyond" which indicate the highest standard of all are not allowed. The ad that claims its quality without actual proof such as "world standard" or "popular worldwide" are not permitted. They also prohibit the ad that uses improper language or slangs; and the ad that treats its competitors as the inferior products such as "better than others" or "the one and

only" or "more advance than anyone". For the ad of prize drawing or trade prize campaign, the copy has to include number of prizes, costs, deadline, etc. Furthermore, they have to make sure that these text must not be read too loud.

Pertaining to visualization, the committees also censors any ad that shows unethical action. For example, an auto ad showing a man receiving a letter from a woman and hurriedly leaves the house without paying any attention to another woman (understood by the Ad Control Committee as his wife) who follows him to the car. The part of the assumed wife had to be deleted. Another example is a medicine ad on slide showing a bottle of herb medicine but another type of medicine was also shown at a corner as background. The committee decided to eliminate that background because that medicine had not be approved by the Ministry of Health.

The strong censorship of these two committees may be justified by this classic banned example. It was a television of liquid cleaner for auto boiler in 1978. The boiler is called "water pot" in Thai. In the spot, a girl in shorts was talking to a man. She said "Brother-- the cleaner can clean boiler in ten minutes. My boiler is so white and clean now. You should take a look". The man looked at her thigh and said "Ho, ho,-- real white, no rust, no grease, not stain. The pot has been cleaned". The girl then said "Chuh, chuh--liquid cleaner for boiler for only ten minutes, my boiler is really clean. Then she said to the audience "If you don't believe it, please open and look at it".

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It is important to note here that the censorship of the finishing spot causes many troubles to the ad agencies and to the product owners. The classic example is Pepsi whose campaign had always been "Pepsi is the best". Over sudden in 1978 when the word "best" was considered improper for advertising, Pepsi had to revise its total ad concept which cost a fortune. Today Pepsi tries to associate with the word "best" but never comes close to its originality.

The ad agencies and the product owners may appeal to the committee and their decision is final. It is very rare that the case is decided by the court because the procedure takes too long to cope with the advertising movement.

The last part of this paper will be devoted to the law which is very much related to media professionals, the Copyright Act of 1978.

Copyright regulations in Thailand started in 1891 which was confined to the national library. The Act of 1978 has extensive applications and the penalty is very high. This law is beneficial to artists and creative workers whose works are now protected by law. However, this law has a certain impracticality that is the copyright of a foreign product in Thailand will be valid only if the product is firstly publicized in Thailand prior or on the same time as in the country of origin. This impractical statement leads to many troubles for the owner of the product who wish to validate the copyright of his product in Thailand. There was a case in the court that Jeans Levi's filed a law suit against

Jeans Levie's who tried to imitate the genuine product. The Levie's presented an evidence that it has registered for copyright before the plaintiff Levi's did. The case was finally withdrawn from the court. The two jeans are sold legally today.

But more difficulties of this statement can be seen in the video tape industry. Original imported films and video series are widely copied and distributed in the black market since it is impossible to release those films and videos in Thailand the same day as in U.S.A. or Hong Kong. Today, the Police Department gives 30 days subscription period allowing the owner to register for copyright. However, the copyright must be done to each copy. Imagine how much work has to be done in a day particularly for video series. By the time one series is done, the black market already released the copies.

And if the owner files a law suit against the non copyright owner in the court, here is the process of investigation. The plaintiff has to provide all evidences indicating all production contracts, copyright certificates of the story and the script, etc. Foreign witness may have to preside at the court to proof the evidences. The court procedure is long and the penalty is relatively low compare to the profit of the black market. And by the time the case is over, the film is already old to the audience.

At this point one can see that there are many laws and regulations concerning the media. They all aim to curb the malpractice of the media professionals. In many cases, the restriction is so severe that it

jeopardizes the creativity and the initiation of media professions. On the contrary, many cases are less concerned by the authorities. The unequal treatment makes many media professionals disapprove the authorities and try to regulate their own business by forming press council, film council or advertising council, etc. However, some people are still perplexing because the council is also another form of censorship. Moreover, they think that media professionals have no ability to exercise the power of censorship and efficient enforcement as well. These comments are quite rational because the structure of the media organization is not strong due to high competition among themselves. Some media professionals and scholars suggested that, to improve the situation, most of the laws and regulations should be lifted for the sake of the freedom of expression and free flow of information. But the authorities think differently. They pointed out that even there are so many laws and regulations, the media professionals still enjoy unethical practices. So more laws and regulations should be added to curb them. Most of all, to solve the problems correctly, the current enforcement has to be improved.

Thus, no one can really predict what will happen to media laws and regulations in Thailand in the future.

Biodata

Dr. Surapone Virulrak

Born 1 March 1944 Bangkok

B. Architecture (Hons.)	(Chulalongkorn University)	1967
M. Architecture	(University of Washington)	1971
M.A.Drama and Theatres	(University of Washington)	1972
Ph.D. Drama and Theatres	(University of Hawaii)	1980
Associate Professor Dept. of Speech Communication and Performing Arts		1983
Dean of The Faculty of Communication Arts Chulalongkorn University		1984
Member of National Communication Committee (UNESCO)		1983-5
Chairman of Consortium for Communication Studies of Thailand		1983
Member of National Culture & Information Committee(Asean)		1983
Member of Board of Film Censorship		1983
Vice Chairman of National Board of Culture Preservation and Promotion		1982-3
Member of National Board of Communication Policy		1984
Vice Chairman of The Board of Trustee, Press Development Institute of Thailand (PDIT)		1984
Member of Executive Council of International Broadcasting Society. (IBS) Seoul-Korea.		1985-7
Member of Evaluation Board of National Teachers Training Council		1985
Member of Civil Service Qualification Evaluation Committee		1985
Member of Chulalongkorn University Planning and Developing Committee		1985
Member of Chulalongkorn University Center for Cultural Promotion Committee		1985
Lecturer in Film & TV. Acting, Folklore, Thai Culture, Graphic Communication, Scenery & Costume, Traditional Media for Development, Creative Copywriting, Introduction to Dance, & Personality Improvement and Mannerism.		

Publications

- Likay: A popular Theatre in Thailand, Hongphapsuwan: Bangkok, 1979
- Traditional Media in the Northeast, Faculty of Communication Arts, Chulalongkorn University Bangkok, Thailand. 1981.
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- A Study on Feasibility of Establishing a Network of Associated Centres for Performing Arts in Asia and the Pacific, a working paper presented at the Seminar/Workshop on the Feasibility of Establishing a Network of Associated Centres for Performing Arts in Asia and the Pacific, Manila, the Philippines 1-5 February 1982 (UNESCO)
- Performing Arts in Thailand, paper presented at the Seminar/Workshop on the Feasibility of Establishing Network of Associated Centres for Performing Arts in Asia and Pacific, Manila, the Philippines 1-5 February 1982. (UNESCO)
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- Modern Communication Technology: Implications for ASAIHL Universities, a paper presented at ASAIHL seminar, Nonthaburi, Thailand, 16-18 December 1985. (ASAIHL)

OTHERS

Film : Director, Actor, Designer & Scriptwriter since 1965.

TV. : Producer, Director, Actor, Designer, Scriptwriter and
Choreographer since 1973.

Stage: Producer, Director, Designer & Choreographer at National
Theatre & Abroad since 1967.

Advertising: A Creative Director of Mc-Cann Ericson Thailand Co.,
Ltd. 1982-84.