

ABSTRACT

Thesis Title : Independent Regulatory Body : A case study on
The Telecommunication Regulatory Body

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The goal of this research is to propose concepts of an independent regulatory body for regulation in the telecommunication sector. The research question is whether the telecommunication regulatory body will be established for the same purpose as the independent administrative body under the concepts of public law and the Constitution of the Kingdom of Thailand B.E. 2540. To reach the goal, the researcher has studied the historical background, its evolution and certain causes of the body's establishment. These studies are based on public law concepts that can be divided into two groups: Common Law and Civil Law. The researcher also studies the elements of an overall perspective of various independent regulatory bodies of certain countries which were achieved in the establishment of the telecommunication regulatory body.

In addition, the researcher has studied the government policy on the telecommunication regulatory body in Thailand. The study includes the issue of policy implementation, especially in regards to the Master Plan for the telecommunication sector development and the enactment of the relevant law. The focus of this study will

be the issue regarding the establishment process of the telecommunication regulatory body. Its aim is to analyze whether or not such a body consists of the concepts of public law.

The result of this study is that the independent regulatory body for the regulation of the telecommunication sector will be the new administrative organization that will be established under the provision of section 40 of Thai Constitution, B.E. 2540. Although the establishment process has existed since B.E. 2538, it has still been unsuccessful. This can be attributed to the delay in enacting law, as well as the strong debate on certain issues. The debate includes the issues of the form and structure of the body and the authority and qualification of the body's committee. Moreover, the issue on whether or not the body has actual independence is controversial.

The other result of the study are insight to the crucial problems and obstacles for the establishment on telecommunication regulatory body as the effective independent administrative body under the concept of public law, the Constitution, and the Public Organization Act, B.E. 2542. One of the problems is the "political will" of all people who are involved in the success of the establishment of the regulatory body. From an analysis of the provision of the draft of "The Committee for Wave Frequency Allocation and Radio and Television Broadcasting Regulation B.E....," it was found that there remain some provisions that cause inexplicit Committee appointment, and therefore, no body that is exactly independent. The Committee will not have fair, effective and efficient responsibility regarding the telecommunication regulation.

In addition, the study recommends that the government provide not more than 15 persons as the effective Committee for regulatory body. The Committee selection will be based on professional qualifications, and will be given by "The Selection Committee." For recommendation to such an individual regulatory body committee, preference will be given to a person who is intellectually and practically on expert in

the areas which focus upon the relevant telecommunication relationship in, for example, political, economic, trade, legal, or administrative affairs. Then, the list of those selected persons will be submitted to the Senate for appointment.

To avoid political interference, the government should give authority to the Committee regarding the wave frequency allocation and regulation of radio and television broadcasting and telecommunication services. This authority includes accountability regarding the principle, method, and conditions of the telecommunication service licenses. The technical standard, rate and tariff regulation, and consumer protection will also be the responsibility of the Committee. In addition, the authority of the Minister of Communication should be given merely in general policy involving telecommunication regulation, but not authority in practice. The balance of power should be appointed among the Cabinet, the Minister and the Regulatory Body. The primary concern should be the establishment of a properly initiated fund for the Committee's arrangement in order to avoid any unexpected budget problems.

In conclusion, this research suggests, that in order to set up an effective telecommunication regulatory body and to achieve the good regulations for fair and free trade policy, the government should support the participation of people in every step of the related regulation and enactment of law. This should be based on the principle of the "National Good Governance."