

ABSTRACT

Thesis Title : Telecommunication Legal Problems Concerning Supervission
Control of Electronic Data Interchange Services

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At present, Electronic Data Interchange or EDI is playing a more important role in doing business. The EDI operation is concerned as a kind of telecommunication services. This new business gives rise to the difficulty that what laws should be applied since Thailand has no telecommunication laws to define either rights and duties among the operators themselves, or those between the operators and consumers. However, there is a Telegraph and Telephone Act B.E. 2477 which is the only relevant law used in governing telecommunication business. This law, nevertheless, is so obsolete that it cannot catch up to modern technology, which has changed so rapidly recently. As we seen from the answer of the Judicial State Commission to respond to the question of the Post Department, the report enunciates that providing the telecommunication can be extended beyond telegraph and telephone. Such a service should also include teletype, telex, televideo, facsimile and computer information. On the other hand, the word "telegraph and telephone" will effect the service of EDI, This therefore, will enable the government to monopolized the business. In practice, the government not only neglects the EDI operation but also allows it to be operated without any

management. Today, the free trade economy is approaching to Thailand rapidly. Hence, when this free trade marketing is fully effective, a lot of private sectors will come to take part in EDI. Thus, it is important to enact clear laws to govern this business. As stated before, Thailand has no specific law to deal with EDI service and Telegraph and Telephone Act B.E. 2477 does not state the rights and duties of the operators and consumers, and this business is subjected to the monopoly by government. Today, there is a draft law on telecommunication service. However, it does not stipulate EDI as a specific business which needs its own organization to regulate its operation, to manage the fee, and to establish its own standard of services and rules.

For the reasons stated above, the principle of the regulation dealing with EDI services should take the following important measures into the consideration.

- 1) Establishment of a regulatory body. The specific organization must be established in order to control EDI business and to set up principles, regulations and rules relating EDI operation. Even though the draft of telecommunication laws defines a regulatory body which is designated as a Nation Communication Center to control all kinds of telecommunication, its power is too general and, thus, not appropriate to manage the EDI business.

- 2) Condition of the business. The government should designate the EDI operation as a licensing business to assure that the service is undertaken legally.

- 3) Defining the service fee. The government should allow the free trade competition to play in a fair manner so that the price of the service is fixed by the market.

- 4) Defining the standard of EDI service. The government should standardize EDI service by setting and controlling the quality of the service to protect the interest of consumer.

There are several laws relating to EDI service as following.

1) The laws relating the competition. These laws consist of Business competition Act B.E. 2542. Both laws can be taken into the consideration to apply to telecommunication business. For the draft law of telecommunication, imposing the business competition rule, this bill can be applicable to EDI services. However, the penalty provision is too light. Thus, it can not keep the wrongdoer away from doing illegal business.

2) The law relating to the protection of consumer. This law is Consumer Protection Act B.E. 2522. However, it is not applicable to the telecommunication service because there is no provision imposing the rights of consumer and establishing the regulatory body incharged. For the draft law of telecommunication, in section five, it concludes that “when the consumer injure, he can file his complain to the National Board of Telecommunication”. However, this provision does not state whether and where the consumer can seek the fairness if he is not satisfied with the board’s decision.

In the conclusion, the thesis has purpose to study and comment to the laws relating EDI service together with the draft of telecommunication law. This analysis should be a guideline to cope with the EDI business effectively and justly to the consumer and the Thai people.