

Abstract

The public right in communications is one of the basic rights, guaranteeing and protecting under the Thai constitution. The telecommunication services need very large amount of investment, therefore the government will take leader roles both regulators and service providers, simultaneously. However, the free market policy in telecommunication services recently induced almost of the increment in number of telecommunication providers only in private sector under regulator roles of government sector. In addition, the policy on minimum control of regulator is a driven force to open the free market in telecommunication services. In the context of Thailand, there are not many of telecommunication service providers getting into the local market, because they will confront with many difficulties such as the large amount of investments, the monopoly service providers in the market, and the lacking of the policy on promotion of increasing of the new service providers into the domestic market, etc. Besides, the consumers are mostly not realized on their communication right, it is now necessary for Thailand to raise public awareness of the protection in telecom consumer rights.

The protective measures in violation of right is one the best measures on consumer right protection in order that it is possible for consumers to avoid those violations. Then, it will encourage a fair competition in the telecommunication free market with effectiveness and transparency under the regulator policy worldwide, intending to minimize control of regulators. Those measures consist of the important factors as below:

1. In present, there are many regulators, taking their responsibilities on consumer protection in Thailand. The Office of the Consumer Protection Board is in charge of the general consumer protection. the the National Telecommunications Commission is taking their responsibilities on specific roles of regulator and consumer protection only in telecommunication services. However, there are others regulators working on telecom consumer protection such as Ministry of Information and Communication Technology, Ministry of Interior, etc. In the case of regulator issue, it is

necessary to make a clear understanding in related to roles and responsibilities among all of those related regulators in order to protect their confusion and deliver the protection of telecom consumer right, quickly and equally. In addition, the routine monitoring on the law enforcement are always conducted to reinforce its practical enforcement under the present principle of the telecom consumer right protection.

2. The measures on economical power balance: the telecommunication services are naturally depended on the advanced technologies and complicated operating procedures, therefore there are not many service providers in the market and they are with a strong negotiation power. Those measures are taken into the implementation under the protection principle to empower a negotiation power for the consumer and encourage the creative competition both in providing quality of services and reasonable rates—i.e. the control of the content of service contract by reason of the telecom service contract nature on a standards form contract will be directed to the equitable binding of both consumer and service provider, the consumers will be informed clear and adequate service information from providers in order that they will freely and adequately choose an appropriate services to meet their needs to protect the misunderstanding and non-use service charges by pricing procedures from service providers, and the right to keep telephone numbers of consumers for their seeking to freely and adequately choose any of providers in the market without any concern about changing the numbers , etc.

3. The quality control of services is one of the most important factors for the consumers to make a decision of binding into service contract. The consumer protection can ensure that the consumers will be reached the telecommunication service with appropriated standards and quality as be mentioned, encouraging the development of telecommunication network in order to maintain the maximum benefit of the consumers. Recently, the minimum standards of service quality of voices is declared under the notification of the National Telecommunications Commission on the Standards and Quality of Voice Telecommunication Services by indicating that the providers have to disclose all information on the related standards and quality of service in public spaces

with easy accessibility by the consumer in general. Nonetheless, there are not any guarantees in related to the information content and their correctness without any distortion by the providers. Depending on those problems, the information disclosure on the quality of services shall be the responsibilities of the National Telecommunications Commission as regulators. Nevertheless, those of information shall be compared in terms of quality among any providers in the market to open equitable space for the consumers to make their choices with appropriated quality of services easily.

Though, the internet service is allowed to be in market mechanism without any interfering by any of government agencies in the foreign countries by reason of many service providers in the market with completely free competition condition. But there is different situation in the context of Thailand there are not any of minimum standards to control the minimum quality level in internet services in Thailand. Therefore the consumers are now receiving reasonably lower quality of services than indicating service conditions in the service contract. Depending on this study, the minimum standards of services shall be necessities to be enacted by Thai regulators. Nevertheless, the collection of services qualities from all providers in Thailand shall be collected and disclosed in terms of content comparative information in public space for easy accessibilities of the consumers in general as same as the voice standards by the National Telecommunications Commission.

4. The measure on the protection of personal information is one of the related measures on the personal information protection issues and the marketing through the telecommunication channel. Depending on the overview problems investigation, there are not any of systematically fundamental regulations in personal information protection, but there are only some of related regulations such as the tort law under the Civil and Commercial Code, the Criminal Code, the Official Information Act B.E. 2540, the Notification of the National Telecommunications Commission on the Protective Measures of the Telecom Consumer Rights in related to personal information, right of privacy, and freedom of communication through telecommunication. They are not adequate with many limitations for protecting the personal information of the

consumer systematically, then the new enactment of the fundamental regulations on personal information protection shall be considered in order to protect the consumer right in personal information protection systematically.

In Thailand, the marketing channel through the telecommunication services shall be considered to enact new regulations on prohibited to provide marketing through the telecommunication services without the consumers consent. Besides, the compliment services on mobile phone service the principle on double opt in confirmation by consumers shall be concurrently implemented in any provided services and any of services shall be provided under only an appropriate binding in specify terms of duration with any of consumer application that the provider shall inform all customers to the due date of their application conditions prior to continue validity of service agreement.. In the case of advertisement in related to gamble or risk in content shall be under the permission of Gambling Act, B.E 2478. However, invitation for getting into the gamble activities by sending the short message from unspecified sources of sender are quite different from drawing lots in general gamble and difficult to limit the scope of spatial and temporal services, or the age of the consumers, including supporting people to be occupied by temptation in gamble. All of those gamble activities invitation through the telecommunication channel shall not be strictly allowed in my point of view.

5. The measures on the protection of contents in services and deceiving are separated into the inappropriate contents to consumers and the misleading or fraud through the telecommunication channel. The significant cause of problems on inappropriate service contents are initiating by non-specified categories of customers or their ages in related to the admiration of pre-paid system for payment mobile phone services, not requiring the real customers to register prior to service opening, particular in the most of the young consumers in Thailand, necessitating in controlling some of the service contents. Therefore, the compulsory measures for customer registration prior to opening the services contract shall be implemented in order to avoid these problems.

For the misleading and fraud through the telecommunication channel is one of the critical problems both in domestic and international arena. In present, there are not any adequate and appropriate protective measures in order to manage these problems effectively. The advanced technologies, particularly the displacement of mobile phone on to personal computer service naturally lead to difficulties of investigating the high-tech criminal offenders nowadays. The pre-paid system payment is the most difficult investigation situation by the police to bring the offenders to the court in comparing with the previous situation, depending on non-specifying the real customer from the formal registration. By those reason, the offenders will easily commit the crime on the benefits of lacking of appropriate regulation. Therefore, the formal registration on service application prior to open any services from providers shall be enforced through all of the customers in all system of payment and the awareness of all risks may raise by the offenders through the telecommunication channel shall be declared by service providers.