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**Telecommunications reform programme of Thailand:
Institutionalism and the reform process**

By

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A thesis submitted in partial fulfilment of the requirements for the degree of
Doctor of Philosophy in Politics

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DECLARATION

This thesis is presented in accordance with the regulations for the degree of Doctor of Philosophy. It has not been submitted in any previous application for a degree at another place. I declare that the thesis is my own work. It has been conducted by myself except where otherwise stated.

ABSTRACT

The thesis presents an empirical study of the telecommunications reform experience of Thailand between the mid 1980s and 2000s in an attempt to explain the effect of national institutional arrangements upon the reform process. This time period permits an exploration of the development of the reform as well as its major impediments in relation to three different political settings. The progress of reform on the three basic reform issues (privatisation, liberalisation, and regulation) is thoroughly examined to understand the consequences produced by different industry environments. An historical institutionalist study of the Thai experience identifies the political tensions among the reform's interested parties as well as the unwieldy political settings that were the dominant features that heavily influenced the reform story. The thesis places a special emphasis on the latest political regime (the hegemonic era) since it provided a different industry outlook compared to the previous two regimes (the bureaucratic and pluralistic eras), allowing substantial progress towards reform to be made. The telecommunications reform in Thailand is not complete. Thus, it may be too early to confirm the advantage of the strong politics on the reform in the long run, especially considering the possibilities of rent-seeking or the overuse of political power of the hegemonic government. In any case, the Thai reform experience confirms that an institutionalist framework is helpful, and that institutional arrangements really matter in the policy-formation, policy-implementation and policy-outcome of a particular country.

ABBREVIATIONS

BKK	Bangkok
BOO	Build-Own-Operate
BOD	Board of Directors
BOT	Build-Operate-Transfer
BT	British Telecom
BTO	Build-Transfer-Operate
CAT	Communications Authority of Thailand
CP	Charoen Pokphand Public Company Limited
CUIPI	Chulalongkorn University Intellectual Property Institution
DTAC	Total Access Communications Public Company Limited
EAEM	East Asian Economic Model
ESOP	Employee Stock Option Plan
ETC	Office of the Election Commission of Thailand
FCC	Federal Communications Commission
GATS	General Agreement on Trade in Services
GBP	Great Britain Pound Sterling
GDP	Gross Domestic Product
IMF	International Monetary Fund
ITU	International Telecommunications Union
LDC	Less Developed Country
LOI	Letter of Intent
MFJ	Modification of Final Judgement

MICT	Ministry of Information Communications and Technology
MNC	Multinational Corporation
MOF	Ministry of Finance
MOT	Ministry of Transport
MOTC	Ministry of Transport and Communications
NDP	National Development Party
NESDB	National Economic and Social Development Board
NESDP	National Economic and Social Development Plan
NTC	National Telecommunications Commission
NTSBC	National Television and Sound Broadcasting Commission
OCSC	Office of the Civil Service Commission
OECD	Organisation for Economics Cooperation and Developing
OFTEL	Office of Telecommunications
OPM	Office of Prime Minister
PM	Prime Minister
PSO	Public Service Obligation
PTD	Post and Telegraph Department
PV	Present Value
RBOC	Regional Bell Operating Company
SECPC	State Owned Enterprise Capital Policy Committee
SEPC	State Owned Enterprise Policy Committee
SEPO	State Enterprise Policy Office
SET	Stock Exchange of Thailand
SHIN	Shin Corporation Public Company Limited

SOE	State owned enterprise
SOTE	State Owned Telecommunications Enterprises
TA	Telecom Asia Public Company Limited
TDRI	Thailand Development Research Institution
THB	Thai Baht
TMP	Telecommunications Master Plan
TOT	Telephone Organisation of Thailand
TRT	Thai Rak Thai Party
UCOM	United Communication Services Public Company Limited
UK	United Kingdom
US	United States
USD	United State of America Dollar
VAS	Value Added Service
VAT	Value Added Tax
VSAT	Very Small Aperture Terminal Satellite
WTO	World Trade Organisation

CHAPTER 1

INTRODUCTION

Telecommunications industry reform is a crucial policy area for a country in enhancing its infrastructure as well as developing its economy. There are different pressing reasons (both internally and externally generated) that suggest the need for such a reform. However, it appears that telecommunications reform programmes, especially among developing countries, have faced a number of problems in implementation, often resulting in a suboptimal outcome. National institutional arrangements seem to have been the fundamental problem that hindered the reform process in many cases. The telecommunications reform experience of Thailand was no different; it faced a number of difficulties both structurally and politically during the two decades (under three different political regimes) of the reform attempt. In fact, within a broad historical institutionalist framework, the case of Thailand offers an excellent case in which to study the effects of institutionalism and the reform programme. It is found that industry's institutional arrangements (most notably the political tensions among the reform's interested parties and the weak political structures) caused considerable obstacles to the reform programme both in the policy-making and policy-implementing process.

However, the Thai case is of special interest in the sense that the rapid change of the political environment from being weak and unstable to being powerful and

centralised in 2001 produced an entirely different context for reform both at the national and industry levels. As regards the telecommunications reform programme, the newly emerged environment appeared to be able to ease a number of long-term unresolved issues (even if they were not totally rectified), and that was enough to drive the reform to make satisfactory progress. This thesis therefore looks at how regime change in Thailand has interacted with the progress of telecommunications reform. It thus provides an analysis of the interaction between the macro institutional context and the meso level of a key sector of the economy.

CENTRAL QUESTIONS

The study of the Thai telecommunications reform experience within a broad historical institutionalism framework is a potentially interesting topic. According to Pierson and Skocpol (2002), the fact that the framework stresses the relevance of national institutions, as well as their contextual factors to the political choices and policy outcomes helps the study to become more thorough and dynamic. It tries to put more institutions in context to understand how they relate to one another by drawing attention to the way political situations are structured (Thelen & Steinmo, 1992).

Given the lack of generally accepted definition of institutions in the international literature on historical materialism¹, the current thesis believes that institutions are social structures or social mechanisms (either formal or informal) that embedded in the polity or political economy. Institutions should be able to constitute the framework within which policy is made and provide rules, norms, and procedures that systematically distribute power amongst actors and structure their choice. Thus, under a particular circumstance, institutions should be able to make understanding the policy formation, policy implementation, and policy outcome. Anyhow, one also has to keep in mind that institutions themselves are not the only determinant of the policy process; rather other contextual factors or the consequence produced by institutions are also important to take into consideration. This is in fact consistent to Thelen & Steinmo (1992: p. 3), as they propose that “institutions constrain and refract politics but they are never the sole ‘cause’ of outcomes.”

Among historical institutionalists, they believe that nations are characterised by long-established institutional differences, for example Thatcher (1999) proposes that these domestic arrangements “not only differ among states, but are also deeply rooted and resistant to change” (p. 1). It is these arrangements that influence each nation to have its own political choices and outcomes²; they generate a distinctive national trajectory (Hall & Taylor, 1996), and thus “path dependency” (Guy Peters, 1999, p. 64). As argued by Pierson and Skocpol, “once

¹ Detailed discussion about “institutionalism” will be provided in Chapter 2.

² According to Thelen and Steinmo (1992), although it is believed that institutions are able to influence politics, they are never the sole “cause” of political outcomes. Some other factors (e.g. new ideas, technology, economic changes, internationalisation, etc.) also usually play an important part in political choices (Thatcher, 2000).

actors have ventured far down a particular path, however, they are likely to find it very difficult to reverse course” (2002, pp. 699 – 700). This however does not necessarily mean that this nationally specific path or national institutions are permanent; their resistance to change could be overcome with “the right configuration of circumstances” (Thatcher, 1999, p. 323)³. Once this happens, the new institutional arrangements should evolve and become new constraints to both the country’s decision making process and policy outcomes.

As for the case of Thai telecommunications reform, the two decades of reform experience under three different political settings should provide enough materials to illustrate the roles of domestic institutionalism on the reform activities. The differences in the prevailing political arrangements as well as the involvement from interested parties were found to be the dominant features of the industry that constituted different settings for industry’s institutionalism, which then led to different consequences for the reform programme. As such, this notion leads to the central questions of the thesis being that, “What has been the effect of national institutional arrangements upon the process of telecommunications reform, and how far have they obstructed it?”

³ The work of Thatcher (2004) can provide a clear example. By focusing on the case of telecommunications regulatory reform among four European countries (United Kingdom, Germany, France, and Italy) during the 1990s, he finds that international pressures for change were strong enough to counter balance or even overcome the effects of domestic settings in blocking change or orienting it in nationally specific directions.

BACKGROUND

The dramatic increase in international trade towards the end of the twentieth century made a substantial impact on almost every country around the world. The flourishing of free trade and the free flow of investment derived mainly from the removal of barriers and the higher degree of interdependence among countries. A number of trade negotiation rounds (e.g. the General Agreement of Tariffs and Trade (GATT), Europe's Maastricht Treaty, or the North American Free Trade Agreement (NAFTA)) have all contributed to a more interdependent economy. Concurrently, the advent of an ideology of neo-liberalism⁴ among developed countries during the 1980s also facilitated the boom in international trade and investment. The ideology's stress on "laissez-faire" did not only apply among the core advocating states (e.g. the United Kingdom and the United States)⁵; other countries were also influenced by these states to start implementing a similar policy. The policy recommendations from the major Bretton Woods institutions (e.g. the World Bank and the International Monetary Fund: IMF) as well as the conditionality for a country to become a part of the global society (e.g. to become a member of the World Trade Organisation: WTO) were effectively used to promote economic reform within a number of developing countries⁶.

⁴ In short, the ideology refers to a political-economic philosophy that de-emphasises government intervention in the domestic economy and argues that markets are best left to have a relatively free rein.

⁵ The rise of neo-liberalism coincided with Prime Minister Margaret Thatcher in the UK (known as "Thatcherism") and the presidency of President Ronald Reagan in the US (known as "Reaganomics").

⁶ For example, according to Fine, Lapavitsas and Pincus (2001), it is found that most of the documents from these organisations (e.g. World Bank's World Development Report or IMF's World Economic Outlook) were all indicative of some kinds of benefit the reform yields for the implementing economy.

All the above then contributed to the more widespread belief that free (and fair) trade as well as the unrestricted flow of capital will greatly benefit the local economy, both at the macro and micro levels. A number of economies were convinced to engage in economic reform in order to be in line with global change and to gain the ideal benefits of liberalisation. Understandably, national economic reform also led to suggestions for reform at the industry level; every industry accordingly needed it in order to prepare for this more open and competitive environment.

As for the telecommunications industry, it was unsurprising to find that the industry was directly affected by the momentum of the economic reform in most economies. Petrazzini (1995, p. 1) explains, “As one of the few industries that cut across and integrate social and economic activities, telecommunications holds a strategic position in the building of a dynamic and flexible national economy.

The sector is central to the national and international flows of capital and commerce.” This could be why among the public services and state industries that are being restructured in most nations, telecommunications has usually emerged as the spearhead and showcase of a broader reform programme.

Like most other countries, the development of the Thai telecommunications industry over several decades was also influenced by the wave of reform.

However, the real reform action was found to be of a severely limited nature and faced a great many problems in implementation. The first concrete reform attempt was introduced in 1986 when the industry opened up for private

participation for the first time (however, with a number of restrictions). Apart from this, other attempts at reform were unfortunately overwhelmed by a number of difficulties. The country's specific constraints (e.g. the unwieldy telecommunications law and the lack of an independent regulatory agency) as well as interference from interested parties usually contributed to the slowing down, or even cessation of, any workable reform programme.

From a current perspective, the opportunity cost of having an outdated telecommunications industry structure seems to be higher as time goes by. The domination by inefficient operators, ineffective regulation, and inadequate competition can be seriously damaging to consumer welfare and national prosperity (Hausman, 1997). It is quite apparent that the cost of sluggish telecommunications reform becomes simply too high for any country to accept. As for the situation of Thailand prior to the reform, Petrazzini (1995, p. 136) describes:

In the late 1980s Thailand still had one of the poorest telecom service records in Southeast Asia. Lack of long term planning, financial constraints, managerial and technological problems, poor coordination between the two companies, and other deficiencies plagued the country.

Nonetheless, in the late 1990s, the internal demand for better service together with the pressures exerted from outside the country eventually made the need to reform more intense than ever. As proposed by Niyomsilpa (2000), global telecommunications liberalisation has recently played an important role in shaping Thailand's policy direction in telecommunications; the conclusion of GATT's Uruguay Round as well as the financial bail-out package has served as a clear

warning sign of things to come. In consequence, the last two governments of Thailand, led by PM Chuan Leekpai (1997 – 2001) and PM Thaksin Shinawatra (2001 – 2005 and 2005 – the present), have shown a firm intention to reform the telecommunications industry by putting the reform programme high on the agenda⁷.

After a few decades of attempts at reform, recent Thai experiences reveal that neither local demand for reform nor the strong pressures from outside the country constituted the key factor in driving progress in the reform. Although these factors, especially the external pressure, were unarguably good catalysts in initiating a serious attempt at reform, it appeared that neither the reform experiences from developed countries, the detailed reform implementation plans provided by international organisations, nor the conditionality asked for by international financial institutions were able to make any appreciable progress in practice.

With abundant experience to draw on from other places, most previous governments of Thailand should have been thoroughly acquainted with the basic issues in dealing with the reform programme, which are the privatisation of state-owned telecommunications enterprises (SOTEs), the establishment of an effective regulatory regime, and the liberalisation of the industry. However, it is interesting to find that the telecommunications reform programme of Thailand appeared to make only limited progress, even though it had been being worked on for almost

⁷ See details in Section 5: Communication policies. The Policy of the Government of PM Thaksin Shinawatra delivered to the National Assembly on 26 February 2001.

two decades by as many as nine different governments. It turned out that difficulties within the process derived domestically from both structural and political reasons, and that these were found to be closely interrelated in practice. In this regard, Petrazzini (1995) explains that reforms are not only the mechanical outcome of policy implementation; rather, they are the product of complex and dynamic interaction among conflicting intents. The attempts to change the old structures that were not enhancing the reform process (e.g. the attempts to amend the old telecommunications law or to establish an independent regulatory agency) inevitably affected a number of parties, especially those who were already satisfied with the protected environment. This kind of situation “generally aroused considerable domestic opposition” (Petrazzini, p. 192), which therefore made the reform a political issue. Unsurprisingly, it was this conflict of individual interests among various interested parties that emerged to become the main problem that consistently hindered the telecommunications reform programme of Thailand, especially when Thai political structures were weak and very vulnerable to political pressure.

Since the beginning of 1986, the telecommunications reform programme of Thailand has been carried out under three different types of political environments. At first (between 1986 and 1992), the reform was implemented under the so-called “bureaucratic era”, during which the country’s politics (as well as the politics within telecommunications) was simply dominated by the military (Niyomsilpa, 2000). Subsequently, the public resistance to the military’s autocratic administration gave rise to a more open and pluralistic political

environment. A number of interested parties, which became more politically powerful (e.g. academics, non-governmental organisations (NGOs), the public, etc), began to get involved and tried to assert their influence in the reform process, either to protect their existing interest or to find new benefits. Finally, in 2001, the pluralistic regime was replaced by a more or less hegemonic political environment; the overwhelming victory in the 2001 General Election⁸ of Thaksin Shinawatra and his “Thai Rak Thai” party (TRT) gave Thailand a very powerful premiership as well as a very stable, centralised, and well-insulated government. This consequently justifies the appropriateness of naming this latest era the hegemonic era.

Considering the three reform issues that need to be dealt with, the Thai experience reveals that different political eras produced different consequences for these issues. Institutionally, the lack of political will to reform in the bureaucratic era and the dispersion of interests among interested parties in the pluralistic era were the main reasons for the sluggish reforms then. However, the fact that there has been significant progress in reform during the hegemonic era suggests some interesting implications. It is possible to argue that the newly emerged political era had created a more reform-enhancing arrangement within the industry.

⁸ The 2001 General Election was the first election conducted under the country’s new Constitution, which was drafted and promulgated in 1997 with the intention of reforming country’s political system.

METHODOLOGY

The central questions guide the choice of the approaches and methods to be used (Burnham, Gilland, Grant, & Layton-Henry, 2004). The thesis is thus deliberately designed to be a single qualitative in-depth case study focusing on Thai telecommunications reform programme between 1986 and 2005. The broadcasting industry, however, will be excluded from this study, as in Thailand, it is a separate industry from telecommunications, which can be seen from the fact that the law requires these two industries to have their own regulators⁹. As for the time period covered, the year 1986 is chosen as the starting point because it is the year that the first concrete reform attempt was evolved, while 2005 is selected as the cut-off point, as January 2005 was the end of the first four-year term of the PM Thaksin Shinawatra's administration (which also meant the end of the first four-year period of the new telecommunications politics).

The single in-depth case study approach is believed to be the best way to investigate the distinctive historical institutionalisms of the Thai telecommunications reform programme. Although the single case study approach has on occasion been criticised for its lack of generalisability, Grix (2001) argues that one in-depth case study of a relatively under-researched area can be embedded in, and compared with, the existing body of literature and studies to gain useful insights into a particular region, or to establish similar patterns

⁹ However, there are a few specific tasks where the telecommunications and broadcasting regulators have to work together (e.g. the task to produce the frequency allocation master plan). Please see details in the Act on Organisation Allocation Frequency Waves and Supervising Radio/Television Broadcasting and Telecommunications Businesses B.E. 2543 (2000).

between well-researched regions and the chosen study; therefore, it is also capable of contributing to the advancement of specific theories. In fact, the single in-depth case study also has its strong points. Punch (1998, pp. 155 – 6) points out the benefits of a single case study:

The first is what we can learn from the study of a particular case, in its own right ... the case being studied might be unusual, unique or not yet understood, so that building an in-depth understanding of the case is valuable.... Second, only the in-depth case study can provide understanding of the important aspects of a new or persistently problematic research area.... Discovering the important features, developing and understanding of them, and conceptualizing them for further study, is often best achieved through the case study strategy.

Burnham et al. (2000, p. 53), further argue that, despite its limitations, “case studies enable researchers to focus on a single individual, group, community, event, policy area or institution, and study it in depth, perhaps over an extended period of time”, which makes the approach one that is widely used and has had considerable application in social science research. In fact, the thesis’ central questions posed also suggest the appropriateness of the single case study. The thesis does not strive to compare the reform experience of Thailand with other countries; rather, it intends to see within an historical institutionalist framework, the obstacles and the progress of the reform under the different types of political regimes. In other words, it is possible to compare a single case over different periods so that there is a “within country temporal comparison”.

The qualitative method also appears to be a suitable alternative for the thesis. The thesis is a case study of the policy process and a quantitative model might not be helpful as many variables, if they could be turned into numerical values at all, would often be nominal rather than even ordinal as has been pointed out by Rudestam and Newton (2001, p. 27),

Quantitative method is especially useful for looking at relationships and patterns and expressing these patterns with numbers. Descriptive statistics describe these patterns of behavior, whereas inferential statistics use probabilistic arguments to generalize findings from samples to populations of interest.

Neither the data to be collected nor the analysis of data is readily available, or even entirely capable of being quantified into numbers. On the contrary, as the thesis is also trying to understand the perceptions of the parties involved in the reform process, the data to be collected deals extensively with open-ended answers. For example, the information obtained from interviews may differ markedly from one interviewee to another, as it depends heavily on personal experiences and the perceptions of each interviewee and, most importantly, the questions asked are also not identical for all interviewees. They have to depend on the area of expertise of each interviewee. As for data analysis, the quantitative method also seems to be inappropriate; answering the posed central questions appears to make more sense when explaining via logical extensions of arguments than when making affirmations from quantitative evidence. For instance, when the research focuses on change in the political environment of the country, it is difficult to measure such a change in numerical terms; on the other hand, it is possible to measure the change by explaining the real incidents that took place or by elaborating the experiences of the people who were actually involved in the situation.

Data collection

In order to select the method of data collection, it is inevitable to return to the central question, as it once again determines the appropriate methods (Grix,

2001). In this case, elite interviewing and documentary analysis appear to be the most appropriate choices. As the thesis' main questions talk about the institutional arrangements and their effects upon the process of telecommunications reform programme of Thailand, the issue is found to be novel and relevant literature seems to be scarce. The on-site direct interview with members of the local elite who are aware of such institutional changes (and of the impacts of those changes) was chosen as the main source of the primary data. At the same time, the research also needs a lot of secondary data to complement the analysis; thus, documentary analysis is chosen to be the main collection tool for the rest of the relevant information.

Primary data

To gather all the necessary primary data, two periods of fieldwork were conducted in Bangkok, Thailand. As argued by Burnham et al. (2004) and Rudestam and Newton (2001), it is appreciated that the research process is complex, uncertain, and never as straightforward as the ideal. There is a marked tendency to have to repeat steps to build on the previously obtained findings (also known as the “research wheel”¹⁰). The fieldwork was accordingly planned on the assumption that it would require two phases of work in the field. The first fieldwork took place at the end of 2003. In fact, it was in many ways a trial attempt (or a “pilot study”) to see whether the researcher’s general perceptions or understandings of the Thai telecommunications reform programme were correct; besides, it was also

¹⁰ Please find the details of “research wheel” in Chapter 1 of Rudestam and Newton (2001) or Chapter 2 of Burnham et al. (2004).

intended to verify if some critical issues (e.g. the outstanding reform issues or the change of telecommunications politics) really existed. The pilot interviews that were conducted among selected respondents (out of the full list of interviewees) provided a number of benefits to the researcher. Not only did it benefit in terms of research content, and defining the parameters of the research, it was also beneficial in familiarising the researcher with the procedures as well as the unforeseeable problems of the interview. After that, the second round of fieldwork was performed subsequently during the second half of 2004 to collect the rest of the relevant data.

The qualifications of the targeted interviewees as well as the information needed suggested the appropriateness of elite interviewing. Mentioned by Leech (2002a, p. 663), “elite interviewing can be used whenever it is appropriate to treat a respondent as an expert about the topic in hand”. Burnham et al. further point out, “When it is carried out effectively, this technique can make a considerable contribution to the understanding of political phenomena” (2004, p. 205). In fact, elite interviewing implies both the targets to be studied, which is an “elite” of some kind, and the research technique to be used, which is usually in the semi-structured (or unstructured) mode (Burnham et al.).

As for the sampling method, the specific qualifications of interviewees suggested the non-random sample method. The list of interviewees was carefully selected to include the industry elite who were eligible and experienced in the Thai

telecommunications industry¹¹; they also had to be closely involved with the industry during the chosen period. These qualifications are critical since the data in the thesis strives to deal with complex issues deeply rooted in the reform programme and the recent sophisticated change in the reform environment. Hence, the thesis did not need a large sample size to answer the central questions, instead the answers sprang from the analysis of insights from a group of elite members who were directly involved and knowledgeable in the field. The interviewees chosen were basically high-level actors who were involved with the Thai telecommunications reform programme in various respects, who together, were believed to cover every important reform aspect. The sample of interviewees was made up from pertinent politicians (e.g. the Minister of Information Communications and Technology: MICT¹²), high-level government officials, telecommunications regulators, senators, high-level management of the SOTEs, high-level management of private telecommunications operators, SOTEs' labour unions, and academics. While a summary table of the interviewees is presented in Table 1.1, detailed information on the names and positions of all interviewees as well as the separate table of the anonymous respondents¹³ are shown in Appendix A.

¹¹ Most of the interviewees were deliberately chosen to be respectable and well-known figures in particular fields (e.g. Uthaisang for policy making, Tangkitvanich for the academic perspective, and Pornsutee as a government official). However, some of interviewees (e.g. the academics) were also obtained from the “snowball” method.

¹² Resulting from the bureaucratic reform in 2002, the MICT was established and took over all the telecommunications-related tasks, including the telecommunications reform, from the Ministry of Transport and Communications (MOTC). After the separation, the MOTC accordingly changed its name to the Ministry of Transport (MOT).

¹³ According to the confidentiality agreement made with the respondents, the names and positions of some respondents will not be disclosed.

Table 1.1
Summary of interviewees

	Area of expertise	Interviews conducted
Fieldwork phase 1	Policy maker	1
	Government official at MOTC	1
	Government official at MICT	1
	Government official at PTD	1
	Government official at MOF	1
	Private operator	1
Fieldwork phase 2	Policy maker	3
	Regulator	3
	Senator	2
	Government official at MICT	1
	Government official at MOF	1
	SOTE management	2
	SOTE labour union	2
	Private operator	2
	Academic/Industry expert	4
	NGO	1
Total		27

Note: MOF = Ministry of Finance; PTD = Post and Telegraph Department.

The first round of fieldwork, which was carried out quite early in the research process, was undertaken with the purpose of getting the big picture of the recent situation and the existing problems of the reform programme of the country.

Therefore, the interviews conducted were more or less unstructured and fewer interviews were conducted. The topics discussed were deliberately not very specific in order to encourage flexibility and to “open up avenues of investigation, including informal discussion, previously unthought of” (Grix, 2001, p. 77).

Although Leech (2002b) argues that data gained from unstructured sessions is hardly a consistent source for comparative purposes, the unstructured interview in the guise of an exploratory conversation around a structured theme appears to be useful in giving the researcher an opportunity to gain a better understanding of a particular topic (Burnham et al., 2004).

As for the second round of the fieldwork, elite interviewing (using the semi-structured technique) was conducted extensively to collect more detailed sets of data while still being able to maintain “a certain degree of flexibility” and allow for “the pursuit of unexpected lines of enquiry during the interview” (Grix, 2001, p. 76). In other words, elite interviewing appears to be a good way to draw out accumulated experiences from knowledgeable experts to use for academic purposes; the technique is believed to “bring the worlds of the practitioner and the academic together in a hopefully fruitful mutual dialogue” (Burnham, 2004, p. 219). In undertaking interviews, the researcher drew up a check-list of topics to be covered (also known as an “interview guide” (Devine, 1995, p. 138)), although, in practice, the discussion of those topics was not necessarily pre-ordained.

In any case, in the event each interview was handled differently, the questions asked were varied depending on the respondents and their areas of expertise. Structured interviewing (or the questionnaire) was deliberately excluded from the project owing to some of its unsuitable qualities for the thesis. While the main benefit of structured interviewing is to achieve a high degree of standardisation or uniformity in the format of answers (Grix, 2001), it unfortunately does not fit well with the main considerations of the thesis. It was not a useful approach to give an identical set of questions to all interviewees. Rather, the expectation was to gain different answers from different interviewees depending on their respective areas of expertise. In fact, even on the same question, the answer could be highly variable depending on the respondents’ background, standpoint, or perception.

Although elite interviewing seemed to be the most appropriate technique for the thesis, some difficulties were experienced from time to time during the research stage. First of all, in line with the most common problem with elite interviewing, the tight schedule of respondents caused difficulty in setting up appointments. Even when the interview had been set up, there were several times that the appointment had to be postponed or even cancelled in the middle of a conversation. Secondly, there were also many instances whereby the interviewees provided a lot of information on the areas that they knew best, which were unfortunately irrelevant to the research content, were time-consuming and unproductive, and encroached upon the chance to explore more relevant questions. As a result, there were several occasions when a follow-up telephone interview had to be done to complete all the topics. It is also important to point out that discussions over sensitive issues, such as issues that related to the government or some politically powerful persons, were a hindering factor. Although the researcher realised the importance of building “rapport” (Leech, 2002b, p. 665) from the beginning of the session, it was still difficult to build “trust” with respondents. Unease was usually observable especially among interviewees who could still potentially gain or lose from political influence. Therefore, the confidentiality of data and the anonymity of the informant had to be promised in order to accommodate those interviewees, and it is for this reason that there must be a separate list of anonymous respondents in Appendix A. All in all, since these problems were largely solvable, the elite interviewing technique appeared to be an excellent tool in collecting the empirical data and it therefore formed the basis of this thesis.

Altogether, 27 elite interview sessions were conducted, which was deemed reasonable considering the time constraints as well as the amount of data obtained. The fact that the later interviews appeared to add relatively little to the stock of information or understanding suggested the “saturation point” of the research had been reached (Burnham et al., 2004, p. 208). One has to bear in mind that, after the saturation point, additional interviews may not be worth the time invested in terms of a marginal additional return. According to Grant (2000, p. 4), by adding up the time spent in “setting up the interview; travelling to and from it; the interview itself; preparing the transcript; and analysing the transcript, then figures of at least twelve hours per interview are not unrealistic.” In fact, Burnham et al. (2004) also suggest that twenty to thirty interviews seem to be a reasonable target for a research in which elite interviewing is the principal method.

For each interview session, the interview was prepared and carried out in a very cautious fashion. The researcher was very careful with most details (e.g. the questions must not be hostile or in any way lead the interviewee to particular conclusions). The set of individuals being interviewed can be considered as a major strength of the thesis, as they included many of the key individuals involved in telecommunications reform in Thailand. All interviewees were very high-level telecommunications actors in the country; they were obviously very experienced and knowledgeable about the industry as well as the reform programme. Most importantly, the combination of the whole set of interviewees appeared to

represent most parties who held a stake in the reform, which makes the data obtained more balanced and more thorough.

Secondary data

Documentary analysis was used extensively to collect the secondary data. The relevant documentary evidence came in all formats, such as books, book chapters, journals, articles, research papers, previous theses, government reports, country legislation, operators' financial statements, or even local newspapers.

Fortunately, unlimited access to the library, inter-library loans, electronic databases, and the archive services at the Modern Records Centre, University of Warwick helped the researcher to become more familiar with the subject as well as able to investigate the relevant information that already existed. In the first place, the documentary analysis was a very important tool to gain general knowledge of the telecommunications industry reform, for example, the reasons that make countries reform their telecommunications, the normal issues associated with the reform programme, and so forth. However, at the later stage of the research, documents with specific relevance to the case of Thailand became the dominant material analysed, which inevitably meant that these documents are sometimes only published in the local language. The Chulalongkorn and Thammasat University central libraries, the MOF library, the SOTEs academic centres, as a result, became other main sources for documentary data.

Interestingly, for more updated data (e.g. the political related issues, the most updated reform progress, or criticism of the reform programme), various local

newspapers or articles were used to obtain more updated insights. They are believed to provide a “feel” for the view and opinions of the printed press, or the wider opinions they represented at that time (Grix, 2001). Anyhow, with the full awareness that “the media landscape is very broad and represents a wide range of diverse interests” (Grix, p. 83), it was found that the use of these printed media was a useful complement to the interviews on many occasions. All in all, by spending time in the location and keeping the overall tasks in mind, the documentary analysis carried out during the fieldwork was certainly a very helpful tool in providing the researcher with a clear understanding of the local issues as well as a better opportunity to access all the data.

Data analysis

To manage the primary data collected, each interview was either noted or recorded depending on the interviewees’ choice. Both the note and tape were summarised or transcribed shortly after the interview session while the interview was “still fresh in the researcher’s mind” (Grant, 2000, p. 14). Most interviews were therefore kept in both audio and document formats. On the other hand, data obtained from the secondary sources was also summarised and kept within an organised filing system. To start the analysis, all the data in hand must be “ready for easy access” (Grix, 2001, p. 87). The outline of the provisional chapters and their break-down topics became very useful as they helped in sifting through and analysing stacks of documents, interview transcripts and other data from the fieldworks. By doing this, the researcher acquired plentiful raw data on every

topic, which was ready for further interrogation and analysis. In fact, it was found that the compilation of data from diverse sources on one particular topic was able to provide the researcher with a richer and deeper understanding, which therefore was beneficial to the thesis as a whole.

However, some sensitive issues that the thesis set to find out could not be simply obtained directly or easily from the interviewees. In this regard, the “triangulation” technique was brought in to improve the chances of getting better, more reliable, data and to minimise the chance of biased findings (Grix, 2001, pp. 83 – 85). Data obtained from primary and secondary sources on similar topics were used and triangulated with each other. In fact, the primary data obtained from different interviewees were also cross-checked to avoid hidden political influence on interviewees (if any). For example, the sensitive question on whether the government under the leadership of PM Thaksin Shinawatra has affected the SOTE labour unions so that they have become less active in the telecommunications political arena was not asked solely in the form of a direct question to members of the labour unions, as they tended to be reluctant to answer. To deal with this kind of circumstance, the same query was also put to other interviewees (e.g. academics, NGOs, SOTE management, MICT and MOF government officials) who were likely to know the answer and be more at ease with sharing their comments.

CONTRIBUTIONS AND ORIGINALITY

Wellenius and Stern (1994) propose that there is no standard blueprint for sectoral reform; instead, an industry reform programme requires a “case by case” analysis. Sector design and implementation strategies must be crafted to fit the specific economic, political, and institutional features of each nation. Despite the differences among nations, Newbery (1999) and Williamson (1994) argue that the analysis of reform experiences from any country, whether they are successful or not, is valuable and worth exploring to understand the implications of reform attempts in different places. In fact, this kind of information is a rich source for later researchers or policy makers. Especially for the governments who are going to reform their economy, they should be as well informed as possible on every aspect of the reform strategies and consequences, whether there are any similarities or differences, in order to use them as lessons and to avoid any potential problems that may occur, as “opportunities for restructuring are rare and hard to reverse, so such choices need to be well informed” (Newbery, 1999, p. 386). Although there already seems to be an abundance of telecommunications reform literature available (for instance, the studies of Armstrong, Cowan and Vickers (1994) and Vickers and Yarrow (1988) on the UK experiences, the studies of Crandall and Waverman (1995) on the US experiences, and the studies of Wallsten (1999) and Wellenius (1994) on the Latin American experiences), it appears that the study of the topic among Asian countries is still inadequate (Singh, 2000). This thesis is therefore intended to contribute to a more general academic literature on an institutional analysis of the telecommunications industry

reform in relation to the political environment through an intensive study of the Thai case. The value of the thesis can be seen both from the micro and macro standpoints.

At the micro-level, as an in-depth case study, it implies a very specific approach to phenomena “through thorough analysis of an individual case” (Kumar, 1999, p. 99). Therefore, the historical institutionalist study of the Thai telecommunications reform process (as well as its obstacles) and the analysis of the political environments and their impacts on the reform process, which have been suggested in the main questions of the thesis, should at least be of value to the country’s policy makers and other telecommunications and political analysts concerned with the Thai situation. Not only does the current thesis have different focused points from other existing studies on the Thai telecommunications industry, but the thesis also builds on and develops earlier studies¹⁴. It provides the most up-to-date analysis of telecommunications reform programme of Thailand both in terms of its obstacles and its progress. It also introduces the advent of the hegemonic politics (both at the national and industry levels). It is undeniable that the new politics created a dramatic change within the industry arrangements, which as a result produced a substantial impact on the reform programme as a whole. As the hegemonic regime constitutes the present era at the time of writing the thesis, it cannot be forecast how long this regime is going to last. However, the fact that so many important events and changes happened within the industry in the first four years of the regime alone is enough to clearly indicate the importance of this

¹⁴ Please see the discussions on the existing studies of Thai telecommunications reform programme in Chapter 2.

period, which should not be overlooked, as it is undoubtedly an important historical period in the industry's development.

On a larger scale, by being a qualitative single case study, the specific focus on the case of Thailand could be argued to have limited generalisability¹⁵. However, the fact that the study centres on the Thai reform experience does not necessarily mean that it does not have any validity in the larger context. For example, Noll (1999) and Singh (2000) argue that empirical knowledge about neo-liberal reform of the telecommunications industry among developing countries still remains as the main gap in the pool of knowledge. As for the case of Thailand, it is true that the Thai telecommunications industry presents some specific and deeply-embedded arrangements (e.g. the legal or the Build-Transfer-Operate (BTO) concession scheme). However, under closer examination, there are a number of similarities that the Thai reform experiences are able to share with other countries or even to provide some conceptual contributions to existing knowledge.

First of all, consistent with the general idea of the historical institutionalism, the thesis reveals that the local political context is a key shaping factor in the design, implementation, and outcome of an industry reform programme. It could either enable the reform to make good progress or seriously hinder the programme. The Thai case can be used as a good illustration in this respect since the telecommunications reform programme has passed through at least three different political settings, in which each setting usually had its own arrangements and

¹⁵ According to Grix (2001, p. 33), "Critics of this type of research point out that studies are usually small-scale and not generalisable beyond the case researched."

therefore produced different consequences for the reform process. It is found that national institutions produced by neither the bureaucratic nor pluralistic eras enhanced the reform process; however, the dramatic change in local political context in the hegemonic regime was found to be the key explanation for the impressive reform progress recently. It appears that the chronic problem of interest dispersion is effectively dealt with when the hegemonic government utilises its superior political power to capture any powerful vested interests (either voluntarily or under compulsion) and make them yield to the reform. Therefore, according to the Thai experience where the politics and interest of stakeholders are so diffuse, it is reasonable to argue that the semi-authoritarian character of the hegemonic regime is a necessary condition to execute reform.

Moreover, the thesis is also able to contribute in visualising the impacts of external reform forces onto a particular country. The fact that Thailand, since 1997, has encountered a number of external pressures (e.g. the neo-liberalism ideology, the financial crisis, or the WTO commitment) makes the study of the Thai case an exemplar to understand such impact. It is found that external forces that could overcome the institutional inertia and therefore become the real trigger of the reform were unable to carry the reform to ultimate success. The reform momentum that seems to be strong enough at the beginning was usually intercepted by a number of problems embedded within the industry and the country themselves. Therefore, it could be argued that national institutional arrangements as well as their contextual factors play a crucial role in reforming an industry. Domestic arrangements can be a strong counteraction vis-à-vis external

forces: in the case of Thailand, domestic institutions appear to be the real explanatory factors that bring about reform.

As for originality, the time covered and the recent changes in political environment (both at the national and industry levels) appear to be the important factors that provide the originality of this thesis. Although there were several existing studies of the Thai telecommunications industry (e.g. those of Keeratkrainon, 2002 and Niyomsilpa, 2000), those studies had different focus points and, most importantly, confined their observations to and drew their conclusions from year 2000 information at the latest¹⁶. What is now, however, deserving of closer study is the fact that there were dramatic changes within the industry's politics, as well as the entire telecommunications reform programme, after the coming of PM Thaksin Shinawatra in 2001. It brought the industry environment and the reform programme to a new and interesting outlook. An in-depth study on such a topic under the new political regime, which is almost totally different from the previous ones, is therefore novel; it is surely beneficial to know how political environments would have consequences for industry's institutionalism, and therefore the reform programme. Besides, the primary data used also contribute to the thesis' originality. A series of elite interviews that were mostly done in late 2004 and the beginning of 2005 with very high-level figures in the Thai telecommunications industry should provide the thesis with very exclusive, insightful, and up-to-date data. Not only because it was obtained from important figures of the industry, but it was also a set of data collated when

¹⁶ A brief description of the works of Niyomsilpa and Keeratkrainon will be provided in Chapter 2.

the reform had already moved into a phase of greater clarity. For instance, this thesis is the first academic work that utilises the data obtained from direct interviews with the telecommunications regulators (which was established in October 2004), as well as the management and labour unions of the already corporatised SOTEs (the Telephone Organisation of Thailand (TOT) was corporatised in July 2002, while the Communications Authority of Thailand (CAT) was corporatised in August 2003).

The study of the Thai telecommunications reform programme, following the stated central questions, is expected to provide some findings that are original to this thesis. For example, the thesis is going to propose that the dispersal of interest among politically powerful interest groups was the main problem with the earlier Thai reform programme; the thesis is going to argue that the politics of Thai telecommunications (at least between 2001 and 2005) is strong, centralised, and very well insulated from any outside pressures; and, finally, the thesis is going to show that the change in the telecommunications political environment to a more or less hegemonic type strongly impacts the industry's earlier institutional arrangements and such change is a key attribute of the impressive progress of the reform recently, as it is this which is able to effectively deal with the previous key problem – interest dispersion.

THESIS STRUCTURE

The thesis comprises nine chapters. The first chapter provides the introduction to the thesis, the methodology used, as well as the contributions and originality of the thesis. Chapter 2 presents the literature review, which highlights works, theories, concepts, or debates that are relevant to this thesis. The review of literature therefore provides the general understanding of the existing knowledge surrounding the research topic. Importantly, it also reveals if there are any gaps in the knowledge relating to this particular research area that this thesis can fill.

Chapter 3 introduces the three different political regimes that the reform had passed through. The chapter brings forward how different political environments would have consequences on industry politics and therefore the reform programme as a whole. It focuses mainly on the arrival of the new politics, and also the new leadership of the country, which appears to have had large effects on telecommunications politics, industry institutional arrangements, and the entire reform programme. After that, Chapter 4 provides comprehensive information about the Thai telecommunications industry as well as its reform programme since the beginning. It reveals some unique arrangements of the industry, which heavily influence the development of the industry to what it is at the present. The chapter also talks about the pressures for Thailand to reform its telecommunications industry and also raises the country's outstanding reform issues that effectively hinder the reform programme.

The subsequent chapters, Chapters 5 to 7, provide an in-depth analysis of the three outstanding reform issues of Thailand. Each chapter is devoted to one issue, which are the privatisation of SOTEs (Chapter 5), the conversion of existing telecommunications “Build-Transfer-Operate (BTO)” concessions (Chapter 6), and the establishment of the telecommunications independent regulatory body (Chapter 7), respectively. The problems experienced in dealing with each issue are also explored and, most importantly, the reasons that lie at the root of those problems are also investigated.

Chapter 8 explores how the new political regime managed to produce a lot of progress within the reform programme. It examines how the hegemonic government has affected the previous key problem of the reform (interest dispersion), the three reform issues, and therefore the reform programme as a whole. The final chapter (Chapter 9) recapitulates all the findings and identifies the implications that can be drawn from the case. Towards the end, it also discusses the limitations of the current thesis and suggests some future research opportunities.

CHAPTER 2

LITERATURE REVIEW

INTRODUCTION

Telecommunications have become a necessity for the well being of a country, both socially and economically. In a social context, telecommunications have become a basic need for most of the population. The ability to be connected with others as well as to receive information has almost become a basic human right that every country strives to deliver to its citizens. In fact, it is believed to be an important tool in reducing the social gap, promoting equality among people in the society, and therefore increasing social welfare. In an economic sense, telecommunications is also very important. It is becoming one of the most crucial factors for the modern economy of today. It appears to be an important parameter in promoting economic development (Scherer, 1994). As such, Petrazzini (1995) further stresses the importance of telecommunications in the near future in expectation of the convergence of telecommunications and computers. Such technology will surely become an invaluable resource for a country to remain competitive and flourish both at the national and international levels.

Over previous decades, the telecommunications industry in different countries gradually emerged and diverged. Some countries began with state-run industries, with some others being privately run. However, after a certain period, the flaws

within the industry, either government failure, market failure, or advances in technology, usually began to appear, which as a result exposed the need to reform the industry. In fact, the idea of telecommunications industry reform has existed for a long time. It is actually something both developed and developing countries had either implemented, or were in the process of implementing.

On the academic side, although there are plenty of theories or explanations that can be brought forward to explain the need for as well as the obstacles to reform, the studies of telecommunications reform itself, on the other hand, are also able to provide a pool of knowledge for academics of many persuasions. Indeed, as the reform programmes are still ongoing in many places around the world, the new knowledge or findings can still be expected to yield insightful and valuable revelations.

As for the current chapter, the first part will be concerned with the review of relevant theoretical materials, which contribute to the understanding of the broad picture of the reform programme and its important issues. The chapter will then put more focus on the real world telecommunications reform experiences to view the similarities and differences among the nations. The literature relating specifically to Thailand will also be mentioned towards the end to determine whether there is any knowledge gap for further exploration.

INSTITUTIONALISM

Before getting deep in to the theoretical materials relating to the industry reform, it is worth having some discussions of different understandings of the term ‘institutions’, which a number of scholars (e.g. Hall & Taylor, 1996; North, 1990 and Steinmo, 2001) claim a crucial role in the policy process (ranging from policy formation, policy implementation, to policy outcome) in any political system.

Within the scientific community, the generally accepted definition of an institution is still under debate (Guy Peters, 1999 and Immergut, 1998). It is found that there is a wide range of definitions of institution proposed by new institutionalists. Some scholars (e.g. Hall & Taylor, 1996) see institutions as the formal or informal procedures, routines, norms and conventions embedded in the organisational structure of the polity or political economy. On the other hand, some other scholars (e.g. Thelen & Steinmo, 1992) raise a range of examples about what constitutes an institution ranging from formal government structures (legislature) through legal institutions (electoral laws) through more amorphous social institutions (social class), and appear willing to accept all of this disparate set of structures as components of the institutional apparatus they will use to explain political phenomena.

Even though there is no clear definition of institution, institutions have been used for a long time as central objects of study in various fields (e.g. social science, political science, and economics). As for political science, institutions are

believed to be the foundation of all political behaviours (Steinmo, 2001). They can be used to explain how government policy choices are made, and seek to determine what the policy outcomes are likely to be, given a particular political decision-making process and context. Broadly speaking, there are two main analytical approaches in the studying of institutionalism¹⁷, which are historical institutionalism and rational-choice institutionalism (Thelen & Steinmo, 1992). Even though both schools share a concern with the question of how institutions shape political strategies and influence outcomes, goals of scholars in these two schools separate these approaches in some rather fundamental ways.

According to Steinmo (2001), historical institutionalists are primarily interested in the studying of institutions in order to understanding and explaining specific real world political outcomes. Historical institutionalists however rarely insist that “institutions are the only causal force in politics” (Hall & Taylor, 1996, p. 10); they rather see institutions as intervening variables through which battles over interest, ideas, and power are fought. Historical institutionalists also believe that, under particular institutional settings, the policy choices made will have a continuing and largely determinate influence over the policy far into the future – referred to as “path dependency” (Krasner, 1984). The fact that institutions are deeply rooted and resistant to change (Thatcher, 1999) should help maintain the path during period of institutional stability. However, it is also found that,

¹⁷ However, to some other institutionalists, institution analytical approach could be separated in another way. For instance, Hall and Taylor (1996) propose three different analytical approaches, which are (1) historical institutionalism, (2) rational-choice institutionalism, and (3) sociological institutionalism; or Immergut (1998) propose another set of three approaches, which are (1) historical institutionalism, (2) rational-choice institutionalism, and (3) organisational theory institutionalism.

periodically, such path can be disrupted when institutional stability is punctured – referred to as “punctuated equilibrium” (Krasner) – by the right configuration of circumstance, such as the internationalisation or the change of political regime (Guy Peters, 1999 and Thatcher, 1999). Once the punctuated equilibrium happens, it usually brings about relatively abrupt institutional change, after which institutional stasis should again sets in (Krasner).

On the other hand, as argued by Steinmo (2001), the goal of rational-choice institutionalism is different. Rational-choice institutionalists see institutions as important features of a strategic context, imposing constraints on self-interested behaviour (Thelen & Steinmo, 1992). Rational-choice scholars tend to focus on rules of the game that causes political actors to strategically choose a particular political choice to maximise their own ends, which after all should help in understanding and predicting political behaviour. As argued by Weingast (2002), although the rational-choice institutionalism has much in common with other approaches to institutions, rational-choice has it distinctive features, most importantly, providing the micro-foundations of institutional analysis. The theory has no means of explaining why political systems move from one arrangement to another; rather, the greatest achievement of rational-choice institutionalism has been to provide tools for studying political outcomes in particular institutional settings (Steinmo). All in all, rational-choice institutionalism usually focuses on the micro-level at a specific point in time; thus, it appears to be more suitable to explain a particular situation. It is incapable of generalising its study in the macro-level or in the history process.

NATIONALISATION AND THE ARGUMENTS

The era of “nationalisation” began when a number of developed countries applied protectionism and created a number of state owned enterprises (SOEs) to foster economic growth in the decades following the Second World War (Clarke & Pitelis, 1993). At that time, a high level of state involvement was believed to be essential to enhance the economic growth of the country. As mentioned by Bishop, Kay and Mayer (1995), nationalisation was believed to be a powerful economic justification after the privately run services showed so called “market failures”¹⁸. The concept was especially appropriate for an industry with the characteristic of a natural monopoly or economy of scale. Nationalisation therefore suggested that goods or services would be most cost-efficient if produced by only one producer (usually meaning the state). In a way, as cited by Vickers and Yarrow (1988), the idea of nationalisation also goes hand in hand with the thought of Karl Marx, as he opposes the private ownership as the means of production by arguing that public management will do better than private management in terms of economic efficiency, especially for a monopolised industry. The telecommunications industry was always a classic example of a nationalised industry. Both natural monopoly and economies of scale were apparent characteristics when it was reliant on fixed line technology; therefore, the telecommunications industry in most economies was among the first industries to be nationalised.

¹⁸ Armstrong et al. (1994) categorises market failures into three classes, which are (1) problems of asymmetric information, (2) problems of externalities, and (3) problems of monopoly power or market power.

However, following the expansion of state control and SOEs, it was found that the state in many countries had over-extended itself in attempting to intervene or control private enterprise through various measures (e.g. licensing, price control, and so forth), and that these attempts turned out to hinder economic growth rather than stimulate it. Moreover, performance of state-run businesses, compared to private, was very controversial, and it became uncertain whether they constituted a good way to create and sustain economic growth. As a result, the idea of “government-bureaucratic failure” was raised by many scholars (e.g. Chang and Rowthorn, 1995 and Niskanen, 1975) as an argument against nationalisation. This argument became widely disseminated in many countries. In fact, the nationalisation concept was challenged on many occasions from both the economic and political perspective.

From the economic perspective, Niskanen (1975) is a strong advocate of the government failure theory. After testing a series of hypotheses, he concludes that government expenditure is excessive; government production is less efficient than private; government production is more capital-intensive than it needs to be; consolidation of bureaus decreases competition, increases monopoly power, and increases budgets. He further argues that market failure is not a justified reason for government intervention or domination. In this regard, Vickers and Yarrow also argue on similar lines that,

The history of the nationalised industries has shown that ... a system of control that relies heavily upon agents' internalisation of the public interest objectives is unlikely to produce good performance. In the event ... the results of the policy failure have included widespread goal displacement, lack of clarity in corporate objectives, overlapping responsibilities and excessive ministerial intervention in operational decisions. These in turn have had detrimental

effects on the pricing, investment and internal efficiency performance of the nationalised industries (1988, p. 151).

As for the more recent works, Weiss (1995) states that there has been a considerable reappraisal of the role of the government, and it was found that from being regarded as an engine of development in the early days, the government later came to be seen as part of the problem, rather than the solution. In this regard, Bishop et al. (1995) also disagree with direct intervention by the government. They argue that it was ineffective and unjustifiable to try to correct market failure by direct intervention; they propose that a far better solution was private ownership combined with regulation targeted directly on the identified source of market failure.

As for the political perspective, Friedman (1962) and Stigler (1988) share similar observations on the risks associated with a government-led economy. Firstly, there is a possibility that the government would be captured by special interests or powerful organised groups. Although, in theory, the “public interest” is supposed to be the main concern of the nationalised industry, Horwitz (1989) argues that the behaviour of the state is frequently found to betray or pervert the public interest standard¹⁹. Secondly, the unintended inefficiencies embedded in the government agencies could be transferred to the goods or services provided by the state. A number of existing studies on the inferiority of the state-run service compared to the private-run (e.g. the studies of De Alessi in 1980 and Weiss in 1995) could be

¹⁹ Horwitz (1989) also provides the general reasons for the perversion of public interest. Most are the “influence model”, which is comprised of (1) instrumental, (2) structural, and (3) capture.

seen as good evidence in this respect²⁰. As a result, the state-run services thus might not be as good as they are claimed to be in the ideal of nationalisation.

In a nutshell, the nationalisation concept was significantly undermined by the government failure theory. The government failure enthusiasts believe that government control and intervention are undesirable because they distort the market and the price structure, which will surely have adverse effects on the economic performance of the country at a later time. Although there is substantial evidence suggesting drawbacks of government direct intervention within the economy, it is inappropriate to generalise that state ownership and government intervention are necessarily the sources of economic inefficiencies. There are exceptions in the real world. The “East Asian Economic Model” (EAEM) puts in question the wide application of the government failure concept. According to Singh (2000) and Weiss (1995), the countries in East Asia (e.g. South Korea, China, and Singapore) experienced impressive economic growth and remarkable infrastructure expansion, including telecommunications, during the 1990s, even though they were under strict government controls and promotional measures²¹. Weiss has appropriately summarised the situation of the EAEM in commenting that, “the reconciliation of this contradictory experience probably requires an understanding of the political-economy framework in those countries that allow control to be devised and applied with positive effects” (1995, p. 7).

²⁰ More discussions will be provided later in the chapter under “ownership” topic.

²¹ Singh (2000) however expresses reservations on the EAEM. He proposes that, as economic and political liberalism make an entrance in East Asia, it is hard to predict if its current institutions will be able to enforce the property rights as effectively as they have done in the past.

TELECOMMUNICATIONS INDUSTRY REFORM

Setting aside the case of the EAEM, where Singh (2000) has noted that it may work at a particular stage of development under specific conditions, the legitimacy of government control and intervention in the economy seems to be declining in most other countries. In order to revive the economy from state domination, the role of the state as a producer has to be reconsidered; while all economic distortions also have to be fixed. Although these prescriptive statements could be found in a number of conventional wisdoms, the most notable one is widely known as the “Washington Consensus”. The consensus is considered an important milestone of the industry reform as well as of the rise of neo-liberalism. According to Looney (2003), the consensus is a set of free-market economy guidelines produced by the multilateral agencies that are based in Washington, DC (e.g. the World Bank and the IMF). Within the consensus, countries were encouraged to promote liberalisation by reducing barriers against imports and eventually aiming to achieve free trade. Privatisation of SOEs and industry deregulation were also key elements in the consensus policies. In short, the substance of the consensus was to encourage countries to carry out economic and industry reforms; the governments were expected to withdraw from economic activity and intervene as little as possible. Ultimately, freeing the market was seen as the most important factor in promoting successful and sustainable development²².

²² Afterward, some critics (e.g. Stiglitz) argue the Washington Consensus that it seemed rather deepen the problems of some recipient countries. Anyhow, regarding of industry reform, Fine et al. (2001, p. xiii) propose that “it is imperative to stress that the gradually forming Post-Washington Consensus remains deeply conservative in the fiscal and monetary matters; it does not

Looking at the telecommunications industry, the nationalised telecommunications industry in various countries was also impacted by the wave of economic reform. The previous dominant roles of the state in all functions within the industry (i.e. policy maker, regulator, and operator) had been systematically reformed. Beginning in the more developed countries (e.g. the US and the UK), the telecommunications industry reform was carried out by a number of developing countries at a later time. The fact that there were more than 90 developing countries that started to reform their telecommunications industry during 1990 – 1998 is an obvious indication of the importance of the trend of telecommunications industry reform (Izaguirre, 1999)

Reasons to Reform

Although different countries entail different circumstances, there are several common factors that explain the need to reform the telecommunications industry in most countries, which are the inefficiency of the SOTEs, the deterioration of the natural monopoly rationale, and the global trend and pressure from transnational forces.

First and foremost, the inefficiency of the SOTEs is usually the primary reason for a country to reform its telecommunications industry. The government failure theory seems to hold with most state-run telecommunications services. There are a number of studies affirming the inferiority of the state-run service compared to

in principle oppose liberalisation and deregulation, and it is broadly in favour of free trade and privatisation.”

private-run service. For example, Boardman and Vining (1989) find statistical evidence showing that the public sector firms in many developed countries (e.g. Italy, France, Germany, Britain, Japan) perform worse than private firms under every criterion considered, which were profitability, sales per employee, and sales per asset. Moreover, Weiss (1995) also tries to examine the root of the inefficiency of the SOTEs. He suggests that the broad and conflicting objectives (between the performance and social responsibility) usually led the SOTEs to demonstrate poor performance in both main objectives.

Secondly, the natural monopoly theory that used to justify the state domination in the past has also been seriously undermined recently due to more advanced technology. Newbery affirms that, “Before the digital revolution, the local network was a classic natural monopoly. Economies of scope argued for a single network provider. However, after the digital revolution and the ensuing rapid growth in traffic, the advantages of a single provider rapidly decreased” (1999, p. 315). Wallsten (1999) and Wellenius and Stern (1994) also assert that technological innovation (along with the growth in demand) are motivations for the industry’s liberalisation and privatisation. In fact, Weiss (1995) argues that, under today’s environment, the state is no longer justified in being the service provider, except only when it is clear that the state initiatives are sensible, either because the state has an obvious comparative advantage in such an area or because appropriate private initiatives will not be forthcoming; unfortunately, neither of these reasons is convincing in the telecommunications industry in most places in the twenty first century.

The last impetus to reform is influence from transnational forces. The leading international organisations (e.g. the World Bank, the IMF, the World Trade Organisation (WTO), and the International Telecommunications Union (ITU)) unanimously endorse the telecommunications industry reform to all their recipient countries²³. These organisations believe that a country and its people will benefit from the reform, which includes the privatisation of SOTEs, the liberalisation of the industry, and the initiation of an effective regulatory regime. Although institutionalists would believe that a nation usually has a certain level of resistance to change, it is found that “resistance can be overcome if countries become closely interlinked through ideas, supranational institutions, and market integration.” (Thatcher, 1999, p. 319). In fact, by the late 1980s, recommendations from these international organisations have become (or believed to be) more or less normal practices, and are almost unavoidable for most developed and developing countries if they want to stay shoulder to shoulder with other countries in the modern economic environment (Fine et al., 2001).

Impacts of telecommunications reform

With regard to the impacts of the telecommunications industry reform on the economy, the experiences from developed countries provide convincing evidence that the economy as a whole benefits from the reform, especially in the long run. Many scholars (e.g. Bailey and Pack, 1995 and Wellenius and Stern, 1994) propose that the reform provides a more favourable environment for the

²³ For example, please see details in Letters of Intent (LOI) Thailand made with the IMF or the commitment on basic telecommunications service Thailand made with WTO (shown in Table 4.9).

development of the industry as well as for the growth of the economy in general; at the same time it also helps in promoting social welfare among the people within the society. The relationship between telecommunications reform and the overall economy performance can also be illustrated quantitatively. The studies conducted by Boylaud and Nicoletti (2000), Fink, Mattoo and Rathindran (2001) and Wallsten (1999) all reveal that telecommunications reform usually has a positive relationship with the increase of sector performance through a better industry environment and the pressure for more healthy competition.

The benefits of telecommunications reform became even more apparent when it was endorsed by the results of the seminar arranged in Washington, DC in 1991. The seminar specifically focused on telecommunications reform. It was jointly hosted by the World Bank, the ITU, and the Commonwealth Telecommunications Organisation. The event brought together over one hundred participants who were involved in the telecommunications reform programme from more than 40 countries. The purpose of the seminar was to examine the experiences from various countries that were implementing the reform in the telecommunications industry. According to Wellenius and Stern (1994), the seminar clearly revealed that, in order to overcome persistent shortfalls in the development of telecommunications, it was necessary to attract private investment and new entrants into the business as well as to shift the role of government from being the industry dominator to the sector policy maker as well as the regulator. The seminar further revealed that telecommunications reform obviously produced a number of positive results for the reforming economy. For instance, the industry

benefits from higher productivity; the services are more varied and of a higher quality; and, so far, most stakeholders are content with the reform programme.

All in all, telecommunications reform is now widely considered as a strategic policy for a country to maintain and develop its competitiveness at all levels – the national, regional, or even firm levels. Unsurprisingly, it is found that a number of countries in every region chose to apply the telecommunications reform as a spearhead to strengthen their macro economy and their national competitiveness (Wellenius & Stern).

Political environment and the reform programme

The political environment is considered one of the crucial factors for the reform programme. There are some studies addressing how the political environment could affect the telecommunications reform programme. However, the findings of these studies provided a mixed picture. Some showed that a country with an open and pluralist political system is more favourable to the success of the reform programme, while others revealed different results.

On the one hand, studies of scholars like Duch and Schiller found that an open and decentralised political system is complementary to the reform programme. The experiences of the UK (Duch, 1991) and the US (Schiller, 1982) share the same finding in that it was the large corporate telecommunications users who

asked for market liberalisation and reform of the traditional arrangement for service provision. As for the case of the UK, Duch (1991, p. 257) concludes,

The recent British experience also provides an important insight into the political factors that facilitate privatization and the lowering of industry entry barriers. Pluralist institutions in Britain have favoured the development of strong demand for change, and they have afforded government the flexibility to implement far-reaching changes based on the support of minimum winning coalitions.

As the demand for reform arose from the majority of industry stakeholders themselves, the resistance thus turned out to be minimal, which accordingly enabled the reform to move forward quite smoothly. However, one has to keep in mind that although the demand for reform among these developed countries arose from within the industry, it did not necessarily mean a resistance-free reform, especially in the implementation stage. For instance, in the case of the UK, although it was the users (the Telecommunications Managers Association (TMA), which included the largest 400 corporations operating in Britain) that played a central role in demanding telecommunications reform in Britain (Duch, 1991), the privatisation of BT still faced resistance from employees and management. This is why PM Margaret Thatcher had to make a strategic executive decision to privatise BT intact as an integrated dominant firm. Even though the government claimed the desire for rapid privatisation as a reason, it seemed that the decision was actually made to appease the BT employees and management and to make the privatisation happen (Armstrong et al., 1994).

On the other hand, Petrazzini (1995) has a different view. He argues that Duch's claim might not necessarily hold, especially among the cases of less developed countries (LDCs). By focusing on many different LDCs (e.g. Argentina and

Mexico), Petrazzini proposes an entirely opposite conclusion that a closed and a centralised political environment is suitable in carrying out the reform programme. He finds that the reform initiation among these countries was exogenous to the industry; it was normally initiated by the executive branch with the objective of relieving a country's financial difficulty, not in searching for higher efficiency or better services. Therefore, the reform usually encountered strong resistance from societal actors with a vested interest in the industry. He summarises his findings,

Relatively closed political systems (i.e., those in which the state enjoys a considerable autonomy from civil society and presents a significant concentration of power in the executive) are more successful in introducing reform in the sector than more open polities (i.e., those in which the state is vulnerable to pressures from civil society and where political power is dispersed throughout the political system) (Petrazzini, p. 195).

Williamson and Haggard (1994) also have similar beliefs to Petrazzini's. They studied the cases of economic reform in many different developing countries (e.g. Chile, Indonesia, Korea, Mexico, and Turkey) and found that, where the level of social conflict over economic policy is high and democratic institutions are weak, "reform needs, or at least is easier with, an authoritarian regime" (p. 567).

Approaches to reform

According to Collings (1994), there are four main approaches normally used in reforming an industry²⁴. Although all approaches have the same ultimate goal, they are quite different in the implementing stages. Each approach has its own

²⁴ The approaches are (1) piecemeal approach, (2) gradualist approach, (3) goal-oriented approach, and (4) strategic approach. For details of each approach, see Collings (1994, pp. 567 – 581).

strengths and weaknesses. It is therefore difficult to tell which approach may be used as a reform prototype or will produce the best outcome for the implementing economy. In this respect, Collings proposes that, “successful completion of sector reform will require significant resources and depend on access to the necessary data and policy guidance to ensure that the sector reform is geared particularly to national circumstances rather than some generic model of sector development.” (1994, p. 574). Besides, the fact that Cowhey suggests that, “the structure of political incentives and political institutions in each country powerfully shapes how the country will reallocate the property rights and reorganize the regulation of the communications system” (1991, p. 3) should be able to further stress the importance of national institutionalism to the industry reform programme.

Although many scholars (e.g. Thatcher, 1999 and Wellenius & Stern, 1994) agree that the industry reform programme is a case-by-case analysis, as it depends largely on the domestic arrangements, it does not mean that the experiences from other places are irrelevant. Valuable lessons can usually be drawn from experiences. Despite differences between nations, reform experiences (either successes or failures) are crucial for the reforming economy (Newbery, 1999). In fact, these governments should be well informed on every aspect of the reform strategies and their consequences in order to adapt those lessons to fit their own situations.

BASIC ISSUES OF TELECOMMUNICATIONS REFORM

In order to implement the reform programme, several distinct but closely related basic issues have to be considered, which are ownership, competition, and regulation (Noll, 1999 and Petrazzini, 1995). Although most countries realised that these issues are crucial for successful reform, reform programmes in some countries still produce unsatisfactory outcomes. This once again was resulted from the fact that each country has different circumstances and limitations; therefore, the implementation of each reform issue must be done differently. Importantly, the reforming country also has to be aware that these reform issues are all inter-related; the results produced from one issue surely affect the others, and therefore, the entire programme as a whole.

Ownership

Adam Smith²⁵ touches upon the issue of the state ownership and operating performance as early as 1776,

In every great monarchy in Europe, the sale of crown lands would produce a very large sum of money, which, if applied to the payment of the public debts, would deliver from mortgage a much greater revenue than any which those lands have ever afforded to the crown. When the crown lands had become private property, they would, in the course of a few years, become well improved and well cultivated (as cited in Vickers & Yarrow, 1988, p. 1).

²⁵ Adam Smith is widely known for his free market perspective. He vigorously attacks most forms of government interference in the economic process, arguing that such interference creates inefficiency and high prices in the long run. However, Smith's idea also has a counter argument. One of the most renowned arguments is made by Polanyi (1957). Polanyi believes that the development of the market should go hand in hand with the development of the state. In fact, he argues that the powerful state was needed to push changes in social structure that allowed for a competitive capitalist economy, and that a capitalist economy required a strong state to mitigate its harsher effects.

For a more updated premise, Weiss (1995) links the matter of ownership to the performance of organisation in his study; he asserts that the relationship between the owner and the employee of a particular organisation is critical to the prosperity of the organisation²⁶. With public ownership, property rights are diffused and no one is the real owner; consequently, there is no individual willing to seriously monitor or control the SOE. Although it can be argued that the SOE is owned and controlled by the state, however, this form of control is weak or forces the SOE to have contradictory objectives between commercial and social aspects.

On most occasions, reform of ownership implies the privatisation of SOEs. The essence of the privatisation is to fundamentally increase private participation in the activities that were previously dominated by the state; therefore privatisation covers a wide variety of forms, ranging from management contracts, contracting out, to divestiture. However, most of the available literature places the main focus of the privatisation strategy on the divestiture alternative. This could be attributed to the fact that this strategy has received the most attention in the policy discussions and has been used most in the real world.

Some scholars have criticised that ownership plays relatively the least significant role in the reform result compared to the other two reform issues, which are

²⁶ The principal-agent relationship can be applied to explain the importance of the ownership. By comparing the owners and managers of an organisation as a principal and agent respectively, Martin and Parker (1997) propose that the diffusion of the owners causes “noise” to distort the information flow between the principal and agents. Therefore, privatisation is viewed as the change of the nature of the relationship to reduce this “noise” and therefore facilitate the more effective incentive systems that bind agents to the principals’ goals.

competition and regulation. According to Singh (2000) and Yarrow (1986), where the market is reasonably competitive, competition and regulation are likely to be the more important determinants of economic performance than ownership. This is consistent with Dempsey (2000), who proposes that there is only a minor difference in whether a firm is privately or publicly owned as long as it operates in a competitive market. Nonetheless, there are also several studies that mention the unclear results of the impact of ownership on the firm's performance. By applying statistical methods, the widely cited empirical work of Millward (1988) finds that there is no clear statistical relationship to support the claim that ownership is the key factor that allows the SOE to have a lower operating efficiency than a private firm. Rowthorn and Chang (1993) further assert that private ownership per se does not guarantee better performance. Works that equate efficiency with private ownership probably contain some misleading points; they argue that public enterprise could be as efficient as the private if it is free from political interference.

On the other hand, many more studies have been done to show that ownership does matter to the firm's operating performance, especially in a highly competitive and well-regulated environment. Privatising the SOE will materially affect the incentive structures and hence the behaviour of management. De Alessi (1980) finds a lot of evidence showing that ownership really does affect the behaviour of the firm in a systematic and predictable manner²⁷. He suggests that

²⁷ De Alessi (1980) raises the "residual claimant theory" to explain the superiority of the privately-owned to the publicly-owned. Providing "the profit" (also known as "the residual" in property rights literature) as an incentive, private firms tend to work harder and more efficiently than the

government-owned firms, relative to privately-owned firms, are less successful in satisfying consumer needs, are less efficient, and incur higher costs. The analysis of Boardman and Vining (1989) also reveals a similar result. Their statistical analysis was conducted to test the performance of public, mixed, and private firms in a competitive environment. They find that the SOEs and the mixed enterprises performed substantially worse than privately-owned firms. Moreover, a similar verdict still holds when Wallsten (2001) applies an econometric analysis to his data on the telephone services from various countries. His study reveals that state monopoly provision correlated with lower telecommunications penetration and higher long-distance prices than privately provided services; additionally state-owned monopolies provided worse rural services.

In summary, although there is no conclusive evidence about the sole effect of the ownership on the firm's performance, it is possible to conclude that a firm's performance, including the quality of service, will dramatically improve if the SOE has been privatised in a competitive and well-regulated environment.

Competition

In the context of the industry reform, competition and liberalisation are closely linked. Most of the time, liberalisation is the vehicle to create competition²⁸. In places where there is a free and fair competition, the benefits of competition for

public enterprises to achieve "the residual" since the rights to profits are clearly defined for private firms while they are diffuse and uncertain for public enterprises.

²⁸ Rowthorn and Chang (1993) explains the term "liberalisation" as the allowance of private companies to compete for the contracts previously limited to publicly owned bodies. Therefore, the ultimate goal of liberalisation is to create competition.

the industry and the economy are undisputed²⁹. Scholars such as Newbery (1999) and Schultz (1994) agree that competition will provide both incentives for efficiency and a means to transfer the gains to customers. As proposed by Clifford (1993), competition enhances efficiency by dissipating the rents that accrued to some well-organised groups (e.g. the incumbents or workers). It forces producers to set the price closer to the real cost in order to compete with other producers, which means lower profits for producers; it also forces workers to work more efficiently to reduce costs and increase productivity, which means the lower rents of labour. In fact, a number of existing studies reveal the efficacy of competition in most cases. Wallsten (1999) applies an econometric analysis to Latin American and African telecommunications reform data; he finds that competition is the most successful agent of change. It correlates with the increases in the per capita numbers of main lines, pay phones, and connection capacity; it also correlates with the decrease in the price of local calls. In addition, Mattoo, Rathindran and Subramanian (2001) also apply econometrics to test the wisdom of competition and find that the openness of the service industry has a direct influence on the long run growth performance of the industry.

In order to create competition within the industry, one particular theory has to be referred to, namely “the theory of the contestable market” (Baumol, Panzar & Willig, 1982). The theory explains that the threat of potential competition is at its

²⁹ However, one has to note that the benefits of competition could be seen differently from the political scientists’ aspect, as they would be more interested in distributive impacts, which go beyond net welfare gains and losses.

most potent in a contestable market³⁰. In such circumstances, the incumbents are compelled to do their best to meet customers' needs with maximum efficiency; otherwise, other newcomers will simply take their business and customers away (Clarke & Pitelis, 1993). In short, the reform in the context of competition suggests that the government has to promote contests within the market, as the impediments to entry and exit are the most influential factors that interfere with market efficiency.

Regulation

Regulation is a set of legal restrictions promulgated by government administration agencies. It attempts to produce or prevent outcomes (which might not otherwise occur) through rulemaking supported by a threat of sanction or a fine. In the economic sense, regulation is usually set to correct or prevent inefficiencies caused by market failures within an economy³¹. As such, regulation is justified when the market is unable to function properly to discipline the economic actors (Peacock, Rickettes & Robinson, 1984). Without effective regulation, the dominant incumbents would be able to exploit their customers to earn abnormal profits and produce socially unacceptable forms of discrimination.

Telecommunications regulation was first introduced in North America around the beginning of the 1930s when competitive markets could not work properly due to

³⁰ "Contestable market" means a market in which existing firms are vulnerable to hit-and-run entry. All firms have access to the same production, methods, and hence their cost functions are identical. Moreover, entry involves no sunk cost: a firm can enter the market without making irrevocable expenditures, so there is no exit barrier (Baumol et al., 1982).

³¹ The detailed definition of "regulation" can be found in 1996 Oxford Dictionary of Politics.

the domination of a single private operator (namely, American Telephone and Telegraph Corporation: AT&T). The purposes of regulation pointed out by scholars such as Smith (1997), Toema (1999) and Vickers and Yarrow (1988), are similar, which can be generalised as: regulation is laid down in order to protect consumers from abuse by firms with substantial market power, to support investment by protecting investors from arbitrary action by the government, and to promote economic efficiency³². In other words, effective regulation should be in harmony with the idea of public interest theory (Organisation for Economic Cooperation and Development [OECD], 1988); not only because it is intended to draw the benefits of fair competition among operators, but also because it is used to promote social welfare within the entire society.

Some scholars have mentioned that regulation is sometimes seen as a substitute for competition when real competition has not actually arrived. For instance, Prosser states, “Regulation would merely be a stop gap until the development of effective competition.” (1989, p. 142). The idea is also shared with Littlechild (as cited in Grimstone, 1999), as he proposes that competition is indisputably the most effective means of protecting consumers against monopoly power.

Regulation is essential as a means of preventing the worst excesses of monopoly. It is not a substitute for competition; rather, it is a means of holding the fort until the competition arrives. However, some other experts (e.g. Newbery, 1999 and Schultz, 1994) further add that regulation is still needed even in the liberalised

³² Generally, regulation is often thought of as an activity that restricts behaviour and prevents the occurrence of certain undesirable activities, known as “the red light” concept. However, regulation can also be designed to be enabling or facilitating efficiency, known as “the green light” concept (Baldwin & Cave, 1999).

market in order to control the incumbent's market power as well as to take care of social issues. Schultz (1994, p. 473) provides a clear evidence, "no country to date has been prepared to transfer a public corporation into the private sector without imposing some degree of continuing public or social control over its activities." Real experience also supports these scholars' propositions. For example, the study of the regulation of the liberalised utility industries in Britain performed by Young (2001, p. 5) reveals that,

After liberalisation in utilities, what was expected to be a move to greater freedom, has in fact resulted in far more regulation than had been expected. The light touch that had been hoped for has been turned out to be an unexpected heavy hand, and the regulators themselves have also been the subject of fierce criticism.

It appears that regulation is still needed even in the liberalised and competitive market; it is also undeniable that the regulations in practice sometimes put burdens (e.g. cost in time and on administrative activities) on both the regulated and the state itself, which, according to Peacock et al. (1984), it would be expected to see producers shift these extra costs elsewhere in so far as market conditions permit. The UK experience of the 2005 "Hampton review" appears to have been a sound attempt by the state to deal with such problems³³. Whereas regulation cannot be abandoned, the government can still try to minimise burdens and transaction costs. As for the Hampton review, it suggested a formula (principally regulatory merger) to streamline the existing regulatory regime to make it more efficient and cause fewer burdens on both the regulated and the state, while still being able to maintain or even improve regulatory outcomes³⁴.

³³ However, it is found that utility regulation was specifically excluded from the terms of reference of the review.

³⁴ Please find more details in the 2005 Hampton review on regulatory inspections and enforcement on the Treasury web site (30 October 2005, www.hm-treasury.gov.uk).

Apart from industry rules, another crucial part of regulation is to have a regulator who faithfully pursues allocative objectives (Peacock et al., 1984). Derbyshire (1999) stresses that the tasks of the regulator are important, as they affect a number of stakeholders in the industry. The regulator has to understand and find the balance of interest of all stakeholders. However, there are a number of arguments about the competence of regulators. The first and the most famous argument is the 1971 “capture theory” of the Chicago school (Stigler, 1971). The theory mentions the possibility that the regulator would not work for the sake of the public, as it is interfered with and eventually captured by the industry it regulates³⁵. Secondly, Toema (1999) also questions the independence of the regulatory body since it has to work under the broad policy guidelines set up by the policymakers, in other words the politicians. In fact, such notion is even more compelling considering the fact raised by Thatcher (2002) that the regulator is a non-majoritarian institution; “they are created by legislation; hence elected officials are their principals. They are organisationally separate from governments and headed by unelected officials. They are given powers over regulation, but are also subject to controls by elected politicians and judges.” (p. 125). Lastly, Dieter (1993) challenges the efficacy of the newly established regulatory body since it is hard to believe that the state, as a regulator, would suddenly become an efficient regulator, considering the fact that it, as an owner, just failed to run the SOTEs effectively.

³⁵ “The capture theory” as well as its argument will be discussed in details later under the discussion on “the regulatory reform”.

Relationships between the issues

Although it seems that each reform issue is distinct, they are in fact closely interrelated in reality. All the issues need to be considered and implemented systematically. With abundant reform experiences in the telecommunications industry, it is now possible to summarise the interaction of all three reform issues, or even that between any pair of them.

Regulation and privatisation

Successful privatisation must be accompanied by competent regulation. Regulation has to be capable of keeping a rein on the privatised SOE, as it usually comes with a market dominant character right after being privatised. Besides, the regulation must be capable enough to create incentives for the privatised SOE to operate more efficiently. These are reasons why Mattoo et al. (2001) mention that privatisation without regulation may be costly to consumers and may not improve the services at all. A real case was proposed by Wallsten (1999) when he found that, among 30 countries in Africa and Latin America during 1984 – 1997, privatisation combined with regulation had a positive correlation with good connection capacity and high labour efficiency.

Regulation and competition

Regulation and competition are closely related and complement each other in the enhancement of efficiency in the reformed industry. Inadequate regulation and inefficient competition can seriously damage consumer welfare and national prosperity (Newbery, 1999). Although competition is accepted as an effective mechanism to increase efficiency and to protect consumer benefits against a monopoly power, however, regulation is always needed, especially in a newly reformed industry where competition is still weak and is not contestable (Vickers & Yarrow, 1988). In fact, that the industry is already competitive does not mean that it needs no further regulation. By looking at the case of UK utilities, it was found that regulation became more intense and complex than expected after the industry had been liberalised (Young, 2001).

Competition and Privatisation

Although it is generally perceived that the benefits of competition for the industry's efficiency is superior to the benefits of privatisation per se (Bailey & Pack, 1995; Fink et al., 2001 and Wallsten, 2001), both competition and privatisation theoretically share the same objective, which is the efficient functioning of the market and enterprises (Nestor & Nigon, 1996). Fink et al. (2001) propose that competition and privatisation have positive evidence on their interaction; which means privatisation without pressure from competition may not cause any improvements to the industry. This claim is also supported by Newbery

(1999); he states that competition and privatisation are naturally complementary and, if possible, should be done together.

Interaction of all reform issues

When taking all the three basic reform issues into consideration, it seems that privatisation of the SOE will relatively be the least important element, while competition and regulation are the most critical requirements to promote efficiencies within the reformed industry (Dempsey, 2000 and Singh, 2000).

However, none of the studies demonstrate that effective privatisation is irrelevant to the successful reform programme. On the contrary, all three issues turn out to be complementary to each other. The study of Fink et al. (2001) affirms that a comprehensive reform programme, which includes all the basic issues, has the highest chance of producing the optimal outcomes both in terms of industry efficiency and stakeholder protection. All in all, it does not seem to be an exaggeration to say that a successful industry reform programme should consist of the privatisation of any SOE, the liberalisation of the industry, and the introduction of a competent regulatory regime.

TELECOMMUNICATIONS REFORM EXPERIENCES

The initiation of deregulation in the US and privatisation of the SOTE in the UK led the idea to reform the telecommunications industry among both developed and

developing countries around the world. The benefits from the reform were promoted so that it became a widely accepted strategic policy to sustain economic growth, to enhance competitiveness, and to improve social welfare within a country. The fact that, in the early 1990s, all members in the OECD were at various stages of restructuring their telecommunications industry could show the global credence in the reform (Wellenius & Stern, 1994).

Experiences from developed countries

The most frequently cited case studies of the telecommunications reform programme among the developed countries in the existing literatures are those of the UK and the US. Interestingly, the difference in background and historical industry development made the telecommunications industries of these two countries differ markedly before the reform. It is therefore not surprising to see that they employed different reform strategies, both in terms of approach and implementation.

The United Kingdom

The telecommunications reform programme in the UK began in the early 1980s under the administration of PM Margaret Thatcher. The UK experience could be a good reference point where the industry, before the reform, was nationalised and dominated by the state.

As in many other places, the UK telecommunications services provision in the past was absorbed into the responsibility of the Post Office from 1912 due to the natural monopoly argument³⁶. However, in the early 1980s, the 1981 Telecommunications Act once again separated British Telecom (BT) out of the Post Office and abolished BT's legal monopoly over network operation. Unfortunately, the abandonment of BT's monopoly right did not threaten BT's dominance because the industry did not have sufficient competition at that time (Armstrong et al., 1994). Instead, the real problem that threatened BT was the tight financial controls over the nationalised industries. The need to raise funds for BT's investments became the pressing factor for BT privatisation in 1984. The break up (and privatisation) of BT unsurprisingly provoked strong opposition from the BT management and employees. However, the government wisely made a strategic move by privatising BT intact as an integrated firm to reconcile the conflict and to smooth the way for the privatisation (Armstrong et al.). Although it was true that such a decision was undertaken in a very anti-competitive way, the British government tried to make up for this with a strong regulator to promote competition and protect consumer welfare.

As for industry regulation, the 1981 Telecommunications Act also required the establishment of the telecommunications regulator, the so-called Office of Telecommunications (OfTel)³⁷. Its main duties were to monitor and enforce operators' license conditions as well as to act as an adviser to the government on

³⁶ The telegraph service had been brought under state control at an earlier date.

³⁷ In 2003, OfTel was replaced by Ofcom (Office of Communications). The duties of OfTel have been inherited by Ofcom. Since then, Ofcom has become the regulator for the UK communications industries, with responsibilities across television, radio, telecommunications and wireless communications services (Ofcom Web Site, 1 November 2005, www.ofcom.org.uk).

licensing matters and the regulatory environment in general. Though the privatisation of BT intact in 1984 tended to create an anti-competitive market environment, Beesley and Littlechild (1989) argue that Oftel did a good job in containing BT's dominant market power and promoting fair competition between the incumbent and newcomers. Brown, Hossain and Nguyen (2004) recently examine the performance of the UK regulatory system and propose that, "the system seems successful. The prices of telecom services have been reduced, the quality of service has improved and customers now have a choice of suppliers and services." (p. 59).

With regard to competition, the UK government chose to create competition by adopting a duopoly competition policy in the opening phase of both landline and mobile businesses. Mercury Telecommunications Limited was allowed to operate as the sole competitor for BT on nationwide landline services (Vickers & Yarrow, 1988), while Cellnet (in which BT had a majority stake) and Vodafone were the two companies that were allowed to operate in the mobile business. However, the duopoly policy was terminated in 1991 when the operating license was granted on a merit basis, as a result of which, there were over 150 operators competing with BT by 1995 (Newbery, 1999).

All in all, the telecommunications reform in the UK is considered successful.

Competition is on a level playing field; operators are competing against each other

efficiently while enjoying reasonable returns (via the “price-cap” regulation³⁸); the regulator does its job neutrally and professionally³⁹; the consumers are happy with the advantages of the reform programme. This conclusion was actually affirmed by academically backed-up evidence. The cost-benefit analysis of the UK telecommunications reform, based on data in 1990, conducted by Galal, Jones, Tandon and Vogelsang (1994) reveal that the reform programme benefited shareholders, government, and consumers across the board.

The United States

The experience of the US telecommunications industry reform provides a different lesson from the UK experience. The telecommunications services in the US have never been nationalised or run by the state because this is prohibited by law (Crandall & Waverman, 1995). Unlike the case of the UK where the industry was dominated by a state owned firm, telecommunications services in the US were dominated by a privately owned operator (AT&T) from the start.

For decades, AT&T was the dominant integrated firm with a more or less complete monopoly over apparatus manufacturers, supply and network operations both at the local and long-distance level. Although the US has had the Federal Communications Commission (FCC) as the industry regulator since 1934, it could

³⁸ “Price-Cap” (RPI – x) regulation was invented by the telecommunications regulator and first used in the pricing of telecommunications services. It is perceived as an effective strategy to increase operators’ efficiency and to protect consumers’ welfare (Littlechild, 2001).

³⁹ Although there have been continuing criticisms over the industry dominance of BT, there were a number of cases where Oftel came out and forced BT to correct its actions (e.g. with regard to claims that BT has hampered customers switching operators (“Telecoms watchdog,” 2002) and to claims that BT has charged its rivals too much for wholesale internet access (“BT told to cut,” 2003)).

not do very much. Melody (1997, p. 195) explains, “The FCC admitted its inability to regulate AT&T. Many former regulators in the US and Canada have spoken of the inability of regulatory agencies to resist the power of the regulated monopolies.” Therefore, the impetus to reform the telecommunications industry in the US was rather to correct the market failure problem where the market could not work to discipline the dominant private companies; they tended to exploit their customers to earn monopoly profits and to emerge in socially unacceptable forms of discrimination, such as cream-skimming (Schultz, 1994).

With these specific characteristics, reform in the US basically related to regulation and competition. To be precise, the US government used extensive regulation to foster more efficient competition. According to Prosser (1989, p. 139), “For the US policymakers, they cannot just set rules designed to let the competition flourish and then stand back. They also need to be ready to intervene to keep markets open.” The classic case that obviously shows state intervention designed to create competition was the verdict of the Modification of Final Judgement (MFJ) in 1982 to split AT&T into seven Regional Bell Operating Companies (RBOCs), the so-called “Baby Bells”, to limit AT&T’s market power and lessen its incentive to distort the market⁴⁰. Although the regulation was able to improve competition to a certain extent, it did not appear that the telecommunications industry of the US was enjoying optimal benefit from such improvement.

Crandall and Waverman (1995) claim that the “Rate-of-Return” (ROR) price regulation was the reason; it is found that the technique was inefficient because it

⁴⁰ Right after the separation, each Baby Bell was confined to operating in limited and discrete areas. However, the Justice Department later allowed those “Baby Bells” to operate outside their regions to stimulate further competition (Crandall & Waverman, 1995).

reduced any incentive to improve efficiency, provided an incentive for excessive capitalisation, and created an opportunity for cross-subsidising competitive forays from monopoly revenue⁴¹.

In summary, telecommunications reform in the US has been done through rule making and adjudication by regulators at both federal and state levels, through frequent court reviews of regulatory action, and through court-supervised settlements of antitrust litigation. Crandall and Waverman (1995) have concluded from the recent US telecommunications reform that the US is not very successful in eliminating the distortions in regulated rate structure; thus, it is reluctant to allow full and open competition and is yet still heavily regulated.

Experiences from developing countries

Not only is telecommunications reform perceived as a need among developed countries, but developing countries also realise it is a fundamental necessity.

A number of developing countries around the world are at some stage of reform.

Among the countries that participated in the WTO's Basic Telecommunications

Agreement, 44 (out of 72) were developing countries who committed to

significantly promoting competition within their local telecommunications

markets. The fact that developing nations have different backgrounds as well as a

variety of problems makes their reform experiences diverse and interesting to

examine from an academic perspective.

⁴¹ However, after the Price-Cap regulation was introduced in the UK, the FCC proposed in 1987 that ROR regulation should be replaced by Price-Cap regulation, which technique was first adopted in the US long-distance services (Vickers & Yarrow, 1988).

Latin America

Latin America is the region with the most rapid and vigorous movement toward telecommunications industry reform. According to Wellenius (1994), many Latin American countries believe that reform would save them from economic difficulties. It is thus not surprising to see the majority of these countries put the privatisation of their SOTEs as the foremost task, while leaving the issues of competition and regulation a secondary priority.

Chile was the first to start the telecommunications reform programme which was substantially completed by 1987; it was regarded as the most successful case in the region and because of this the Chilean approach has become the model for most countries there (Izaguirre, 1999). However, differences in political incentives and institutional arrangements among Latin American countries shaped the differences in the reform process, which as a result, produced different outcomes. For example, although the reform initiative among these countries generally revolved around the privatisation of SOTEs, there was a difference in each country's implementation. Privatisations in Argentina, Mexico, and Venezuela were done for financial reasons; therefore, they were very focused and rushed. These countries took less than two years for the whole privatisation process. With a different objective, privatisation in Chile was more gradual and indecisive, which consequently took more than ten years to complete (Wellenius & Stern, 1994).

Despite the rapidity in privatisation, the development of a regulatory capacity in these countries had become the common problem as it usually lagged far behind. It was found that, during that time, all stakeholders in the industries suffered from the lack of a competent regulatory regime as well as inefficient competition. Wellenius (1994) reveals that it took a decade before they were able to get the regulatory capabilities off the ground.

After a long struggle, telecommunications reform in Latin America eventually produced positive outcomes. The economy in most countries gained considerably from privatisation, while all stakeholders also benefited. Operators are much better positioned for sustained development. Consumers are satisfied with the services and prices. The same drawback to the regulatory regime does still persist, but to a lesser degree (Wellenius).

Asia

As elsewhere, countries in Asia also realised the benefits of telecommunications reform. The differences in domestic constraints made the strategies and progress of reform among these countries differ markedly. As proposed by Fink et al. (2001), it is possible to find almost every combination and sequence of changes in telecommunications policy in this region. In any case, although the actions responding to the reform among the governments of these countries were diverse, it is possible to say that they are moving away from traditional public monopolies (Fink et al.).

The attitude to the reform differed from one country to another. Some governments (e.g. that of Hong Kong or that of Singapore) truly supported the reform. They believed that efficiency in the telecommunications industry would lead to a positive outcome for their countries as a whole. As a result, these countries have even liberalised their telecommunications industry ahead of schedule⁴² (Singh, 2000). On the other hand, Singh also finds that, though most other Asian governments wanted to increase efficiency and strengthen their economies, they were still reluctant to open the industry to free competition as well as to abandon their control over the industry. Presumably, it was this hesitation that overwhelmed the telecommunications reform programme of most Asian countries, which consequently led to the slow and uncertain progress.

As regards the Southeast Asian region in particular, the reform experiences among these countries are relatively sparse. Only a few countries (e.g. Indonesia, Malaysia, and Thailand) have seriously commenced telecommunications reform programmes, while some others still make the reform a lower priority since they are still struggling with restoring economies damaged by war (e.g. Cambodia, Laos, and Myanmar). Like most other reforming countries, Southeast Asian countries are striving for a better industry environment. However, with the dramatic differences in each country's backgrounds and constraints, the reform approaches (as well as the obstacles) among these countries cannot be the subject of meaningful generalisation (Singh).

⁴² The Singaporean government decided to introduce its local and international telephony in April 2000, which is two years ahead of schedule; while Hong Kong's government announced full liberalisation of its telecommunications industry in January 2002, one year ahead of the original schedule.

Important determinants of the reform outcome

Despite the similarities in goals and the basic reform issues, the outcomes in different countries still differed greatly. Some countries succeeded, while others failed. The outcomes of the reform are not straightforward as the reform is actually a complex process. It is found that domestic conditions within the reforming country are an important factor in accounting for the different reform results from one country to another. As proposed by Thatcher (1999), national institutions provide a framework within which a country's policies are made. National institutions can affect a country's policy-making (and also economic performance) through their influence over interest, strategies, distribution of power among groups, state autonomy and the nature of the markets. It is however found that national institutions not only differed among states, but are also deeply rooted and resistant to change. It was these dissimilar institutional arrangements that lead to persistently different patterns of policy formation and economic outcomes from one place to another. Interestingly, even when reforms take place, "they bear the imprint of past institutional histories and follow unique national paths of development" (Thatcher, p. 2). In any case, there are several issues that tend to exert a direct influence on the outlook of the reform policy-making as well as its outcomes.

Dispersion of interests

The major difficulty in making reform decisions or implementing reform policies is that the interested parties try to get involved to promote their own interests.

Ideally, a desirable political system tries to minimise the harm and maximise the benefit from the political competition among involved parties.

Olson (1982) proposes the harm of competition among interest groups that it introduces a significant bias into political markets by diverting resources from efficient allocation, which has the result that the accumulation of interest group coalitions will lead to productivity slowdowns, sluggish growth, and eventually, the decline of a nation. However, Becker (1983) challenges Olson's idea by claiming that competition between interest groups tends to correct market failure and minimise dead weight losses in the process of wealth redistribution. Becker explains that competition among interest groups contributes to the survival of policies that raise social output since the favourably affected groups tend to lobby more intensively for these policies than the less favourably affected groups lobby against them⁴³. It is also found that the size of interest groups cannot indicate the level of influence on the policy making process of the group. The better organised and wealthier groups are usually found to be the winners in the political arena; unfortunately the interest of the winning group hardly enhances social welfare or public interest.

⁴³ However, the claim that there is no policy that lowered social output would survive will be held only if all groups are equally large and skilful at producing political influence (Becker, 1983).

As for the telecommunications reform programme, the experiences in many places reveal that the dispersion of interest among different interest groups did not seem to increase social output as claimed by Becker. It appears that, “In the real world, competition among interest groups is imperfect.” (Newbery, 1999, p. 141). As a result, the dispersion of interests usually turned out to be a reform hindrance. In this respect, some existing works (e.g. Niyomsilpa (2000) on the case of Thailand and Singh (2000) on the cases of Malaysia and India⁴⁴) describe as “pluralism” situations where various politically powerful interest groups are trying to be involved in the reform process either to protect their own interest or to search for more benefits. In such circumstance, Singh (2000) proposes that the outcome of the reform depends heavily on how fast and how well the government can balance the forces from different interest groups. Interestingly, experiences in many developing countries reveal that pluralism normally goes with messiness and delays in the reform programme, as either the interest groups are politically too strong or the governments are too weak.

Regulatory reform

The importance of effective regulatory reform becomes apparent both in the short term and long terms. As suggested by Prosser (1989), efficient competition needs time to develop, which in the meantime, regulation can merely be used as a stop gap to create a fair competition within the industry. As for the longer term when

⁴⁴ Singh (2000) reveals that the pressures from different interest groups such as foreign states, international organisations, telecommunications operators, urban users, trade unions, and politicians led India’s telecommunications reform programme to be known as one of the most complex liberalisation programmes ever undertaken.

the market is already competitive, Schultz (1994) and Young (2001) still argue that effective regulation is needed in order to deal with the industry standard, social issues, and so forth. Therefore, it becomes clear that effective regulatory reform is an important determiner of the reform outcome; not only is it used to create fair competition, but it is also crucial to promoting social welfare within the economy.

An effective regulatory reform is difficult to create. There are some convincing arguments that regulation in the real world is not operated with the goals of efficiency and social welfare as originally intended. The first and foremost argument was Stigler's capture theory. Stigler (1971, p. 3) proposes, "As a rule, regulation is acquired by the industry and is designed and operated primarily for its benefits." In other words, the capture theory explains the situation where the regulator either lost, or never had, the independence to make professional decisions on their merits because of undue influence either from politicians, politically driven ministries, or the regulated monopolies (Melody, 1997). The advocates of the capture theory such as Peltzman (1976) and Posner (1971) (as cited in Armstrong et al., 1994) further propose that strong interest groups, usually the operators, may try to capture regulators by either lobbying or monopolising information or both, the so-called "regulatory capture"; consequently, regulators instead act in the interests of politically strong incumbents rather than those of consumers, or potential entrants to the industry. In this respect, Peacock et al. (1984) present a study on the industry environment once the regulators were captured. The result was the "predatory regulation model". The model explains

that politically powerful operators used the regulators to restrict entry and protect higher prices, which eventually led to efficiency losses in the industry and the economy as a whole. However, Hancher and Moran (1989) disagree with the instinctive belief that private influence over the regulatory process is illegitimate. They argue that the idea of “capture” betrays an assumption that there is a sphere of public regulatory authority which ought to be inviolate from private influence. Instead, they find that, in the advanced capitalist economies, the integration of private sector into the implementation of regulation is very often a precondition of its success. They consequently conclude that, unlike the case of the US⁴⁵, “The critical question for the analyst of the European regulatory scene is not to assume “capture”, but rather to understand the nature of this shared space.” (Hancher & Moran, p. 276).

The study of regulatory reform cannot be complete without mentioning the concept of the “regulatory state”. The concept was originally developed by Johnson (1982). By using the economic development experience of Japan during 1925 to 1975 as a case study, he finds that Japan developed and attempted to implement three different government-business relationships, namely “self-control”, “state-control”, and “administrative guidance”. It is found that the administrative guidance form is by far the most efficient. Johnson explains the chief advantage of this form that it leaves ownership and management in private hands, while it affords the state a certain degree of goal-setting and influence over

⁴⁵ Prosser (1989, p. 154) argues that “a central theme in accounts of regulation in the United States is that of the “capture” of regulators by the dominant industry.”

private decisions⁴⁶. As regards the UK, the idea of a regulatory state became apparent during the late twentieth century, when there was a change in the relationship between the state and industry. In fact, it is no exaggeration to say that the idea seems to be a prerequisite for successful industry reform in any economy, as the state needs to change its mindset and adapt its roles to fit with real-world modernism. Moran (2002) and Osborne and Gaebler (1992) propose that the state has to withdraw from direct interventionism and to concentrate on the role of “steering” (policy decision) rather than the role of “rowing” (service delivery). In short, the regulatory state therefore involves a semi-detachment of the state from the economy whereby the state still plays a role in promotion of the public interest through a process of regulation⁴⁷, while leaving the role of producer to the private sector (Bartle, Muller, Sturm & Wilks, 2002).

Interestingly, although the concept of a regulatory state would seem to reduce the power of government within the industry, this is not necessarily the case in terms of a broader political perspective. Wolfe (1999) examines the British utilities regulations and finds that the state still has both direct and indirect influences on the industries. It is true that diminishing the state’s role in production and administration would reduce its direct influence; paradoxically, the use of

⁴⁶ However, it appears that the “regulatory state” among European countries is becoming more complex because of the creation of a single market and the liberalisation of European utility sectors. The European regulatory state therefore has been only studied and developed extensively during the past decade (e.g. one of the most famous works is conducted by Majone, 1996). In any case, even though the European Community (EC) has steadily expanded its regulatory regime in the European utilities, it does not mean the end of national regulation. One has to keep in mind that the EC regime cannot be complete within itself; it has to allow some space for national variation and the real implementation action (Coen & Thatcher, 2001).

⁴⁷ Vickers and Yarrow (1988) describe the public interest regulation as the regulation that has purpose to enhance economic and social welfare via improved efficiency in resource allocation, and that has a regulatory agency that faithfully pursues the implied allocative objectives.

regulation appears to promote the state's indirect influence, which altogether could re-empower state control over industry. Thatcher (1998) also shares a similar point of view. He argues that the establishment of a new regulatory regime in the UK has not weakened the power of the state; instead "the 1980s and 1990s have not seen "de-regulation" or a "rolling back of the state"; on the contrary, to the privatised suppliers, the DGs often represent the ever-present and over-powerful-state" (Thatcher, p. 140). All in all, it is important to keep in mind that even though the benefits of regulation are various (e.g. to promote efficiency and social welfare), it is also nevertheless associated with some risks, especially when the authority used the power inappropriately or dishonestly.

TELECOMMUNICATIONS REFORM PROGRAMME IN THAILAND

According to both internal and external impetus, recent Thai governments have made the telecommunications reform programme a high priority since the late 1990s. The scarcity and the low quality of telecommunications services along with the need to increase industry efficiency were the main internal forces, while the influences from international organisations as well as the global trend were considered as the external force to reform. There are several academic pieces of work that can help in visualising the country's need for telecommunications reform.

Crisis hypothesis

Although the telecommunications reform programme in Thailand has been ongoing for more than two decades, the movement in favour of it intensified following the Asian financial crisis in 1997. The situation in Thailand is largely consistent with the “crisis hypothesis” (Williamson, 1994 and Rodrik, 1996).

This hypothesis states that reforms usually emerge as a response to crisis since crisis alters the benefits and costs of different policy options, thus shocking countries out of traditional policy patterns. Wei, Christine and Xu (2003) further explain the hypothesis from the political standpoint that a crisis effectively increases the opportunity for reform because the maintenance of the status quo option during the crisis becomes too expensive. As for Thailand, Niyomsilpa (2000) proposes that the Asian economic crisis in 1997 sparked public debates about the linkage between politics and economics as well as the growing need to speed up political and economic reform. Niyomsilpa concludes that, “the financial crisis in 1997 could be seen as another milestone in Thai political history as it was leading to far wider political economic and social reform than Thailand had seen up to date.” (p. 104).

External help hypothesis

Another academic perspective that helps an understanding of the reform initiative in the Thai telecommunications industry is the “external help hypothesis” or “foreign aid hypothesis”. Williamson and Haggard (1994) propose that external

help can be very influential both in the form of intellectual help and of conditional foreign aid. The IMF financial bail-out package required Thailand to undertake major economic and bureaucratic reforms, which included reform of the telecommunications industry. Rodrik (1996) proposes an interesting argument that assistance from other countries does not guarantee the success of the reform. It can either foster or hinder the reform; however, foreign aid in countries with good accountability should better foster policy reforms than in countries with poor accountability. In the regard, Weiss (1995) admits that though the Bretton Woods Institutions provide financial support and economic development recommendations, their help usually comes at a cost. Not only is interest charged, but the policy conditionality they required is also a severe restriction on the freedom of the recipient governments. As such, a Thai local expert, Ruchuphan (as cited in Dempsey, 2000) questions the sincerity of international lenders like the IMF; he criticises the reform recommendations as being driven by creditors who care less about local economic well-being and more about having their loans repaid.

Global trend

In many cases, forces from powerful international organisations always effectively put pressure on policy establishment in developing countries (Weiss, 1995). In the case of Thailand, apart from the rescue package of the IMF, the commitment with the WTO signed in 1997 to liberalise basic telecommunications services by the year 2006 also yielded substantial influence on the

telecommunications policies. Responding to the commitment, several important reform attempts were introduced. The first action was the ratification of the Telecommunications Master Plan (TMP) in 1997 to be used as a guideline for the overall reform programme. Further, two new telecommunications laws were enacted in 2000 and 2001 to terminate the state monopoly power and to establish a new independent regulatory body specifically for the industry. There was also an attempt to convert the BTO telecommunications concessions in order to create a fair competitive environment. Finally, the SOTEs were also pushed to be privatised to increase their efficiency and competitiveness.

Interdependent environment

Not only has the telecommunications reform programme in Thailand been directly pressured by commitments made to international organisations, but the reform programme of Thailand is also influenced by other factors. Thatcher (1999) argues that technological and economic development, supranational regulation, international policy learning and market integration and competitive pressure are all contributed to the idea of institutional reform (or industry reform). In other words, these factors could guide different countries to the same development direction. In the case of Thailand, it is found that the advent of digital technology, the neo-liberal ideology, or even the benefits gained from the reformed industry in other countries appear to be the implicit reasons to strengthen to need of the telecommunications reform.

RELEVANT LITERATURE ON THAI TELECOMMUNICATIONS INDUSTRY

Looking specifically to the literature on the Thai telecommunications reform programme, there are only a few studies existing. All of them have been conducted under different themes and focal points. Importantly, when considering the recent situation of the telecommunications industry, all of them appear to have one common important limitation.

The most recent study is a PhD thesis in the area of Mass Communication, conducted by Keeratikrainon in 2002. This thesis provides a content analysis of the historical pattern of development in the policies governing the Thai telecommunications infrastructure during the period 1934 to 2000. In fact, the thesis put special emphasis on the two reform policies, which are the formulation of the 1997 TMP and the promulgation of the two new pieces of telecommunications legislation, which are the Act on Organisation Allocating Frequency Waves and Supervising Radio/Television Broadcasting and Telecommunications Business B.E. 2543 (2000) and the 2001 Telecommunications Business Act⁴⁸. Keeratikrainon (2002) proposes that the government is reluctant to fully liberalise the industry; it has adopted a gradual and protectionist approach geared towards ensuring that government will still obtain significant economic benefit from the developing market by remaining an investor in the new market in both the short and long term.

⁴⁸ However, Keeratikrainon's analysis of the country's Telecommunications Business Act was based on the draft version. The final law was promulgated in 2001, which is apparently one year after the thesis' cut off point.

The second relevant piece of work was written by Niyomsilpa in 2000. The focus of the study is to explain the change of state-society relationships in Thailand during the 1980s – 1990s. Telecommunications is chosen as the case study as it is believed to represent the country in the larger picture. It is found that the telecommunications industry in Thailand has experienced political transformation from a bureaucratic polity towards a more pluralistic socio-political system in the later stages. By identifying bureaucrats with anti-reform and societal groups with pro-reform forces, Thai telecommunications reform experiences during the last decade reveal that state-society relations have been moving gradually in the direction of an increase in the roles and influence of societal forces. That the pro-reform coalition started to gain the upper hand over the anti-reform in the reform competition shows that the bureaucratic government is no longer the main player in national economic development as it was formerly.

The third relevant piece of literature is a Doctor of Science thesis written by Prateapusanond in 2001. It is about the performance and economic expectations of the newly privatised telecommunications companies, which used a Thai telecommunications state owned monopoly, the TOT, as a case study.

Prateapusanond's thesis tried to establish that privatisation affects performance measures of newly privatised telecommunications companies. The thesis shows that privatisation works in Thailand and that privatising state-owned enterprises would greatly improve their profitability, operating efficiency, output, service delivery, and capital investment spending without lowering the employment level after privatisation.

In general, all the existing works provide a great deal of insightful information within their particular perspectives. The review of these works further shows that they have not covered all the interesting aspects regarding the Thai telecommunications reform programme. There still are some gaps to be filled in. For example, none of the existing studies has put the main focus on the country's three outstanding reform issues; none of them has tried to find how and to what extent the industry's institutional arrangements would have effect on the progress of the reform programme. In fact, as mentioned earlier, all the existing studies have one common limitation being that they were based on information prior to the year 2000. This made their observations less up-to-date, thus their conclusions may not apply at the present, especially considering the fact that there were so many important incidents that occurred after the year 2000. For example, there were at least two serious official attempts (in 2000 and 2001, respectively) to convert the BTO telecommunications concessions. The resistance to privatising SOTEs from labour unions has been dealt with. Two new telecommunications laws were promulgated in 2000 and 2001 respectively. The SOTEs' monopoly right was called back to the state in 2001. A new ministry (the Ministry of Information Communications and Technology: MICT) was established in 2002 specifically to take care of telecommunications related tasks (including the reform programme). The telecommunications regulator was established and started operations in 2004. Most importantly, the new industry's political environment, which was dramatically different from the previous regimes, was introduced in 2001. All in all, these country's new conditions should alter the industry institutional arrangements a great deal. Therefore a

detailed study of telecommunications reform of the country under the new settings should produce a whole different outlook and none of existing literature has previously touched on it.

In summary, the wide range review of literature provided throughout the chapter basically surrounds the topic of telecommunications industry reform. The chapter spells out the inevitability of telecommunications reform for a particular country.

Both internal and external pressures appear more demanding in the modern environment. In order to implement an effective reform, it involves a number of complicated and sensitive issues. The privatisation of SOTEs, the introduction of free and fair competition, and the creation of an effective regulatory regime are all imperative, which therefore have to be carried out carefully and systematically.

The local conditions (most notably the dispersion of interest among interested parties and the political environment) are normally found to be the key factors to the smoothness of the reform process and the success of the reform as a whole.

Although it appears that reforming an industry is strongly influenced by domestic conditions, the real practice reveals that reform experience of one country can be useful to others. The transfer of experience actually happens (e.g. when the UK carried out the regulatory reform following the US or when the US began to apply the “price-cap” regulation following the UK). Therefore, it is believed that the study of the Thai telecommunications reform process (as well as its obstacles) in relation to the different industry settings of different political eras will be more or less academically useful as it could be well situated within a broader paradigm of historical institutionalism.

CHAPTER 3
POLITICAL ERAS AND
THE TELECOMMUNICATIONS REFORM PROGRAMME

INTRODUCTION

The telecommunications industry reform experience of Thailand during the last twenty years has encountered fairly dynamic political environments. It usually faced changes of government from time to time. In the broad picture, it is found that the reform has been carried out under three different political regimes (ranging from the bureaucratic, pluralistic, to the hegemonic). Each political regime produces a specific set of institutional arrangement for the industry, and therefore different consequences for the telecommunications reform programme. It is found that neither the bureaucratic, nor the pluralistic polity, enhanced the reform programme; on the contrary, they caused delays and even hindered the entire reform programme. However, events took a different turn in 2001. The advent of the hegemonic political regime resulted in a major shift in domestic institutional arrangements at both national and industry levels. It is interesting to understand how and to what extent each political environment has an impact on the reform programme as well as to visualise whether the new political regime will be more favourable to the reform programme than the previous ones had been.

POLITICAL ERAS OF THE THAI TELECOMMUNICATIONS

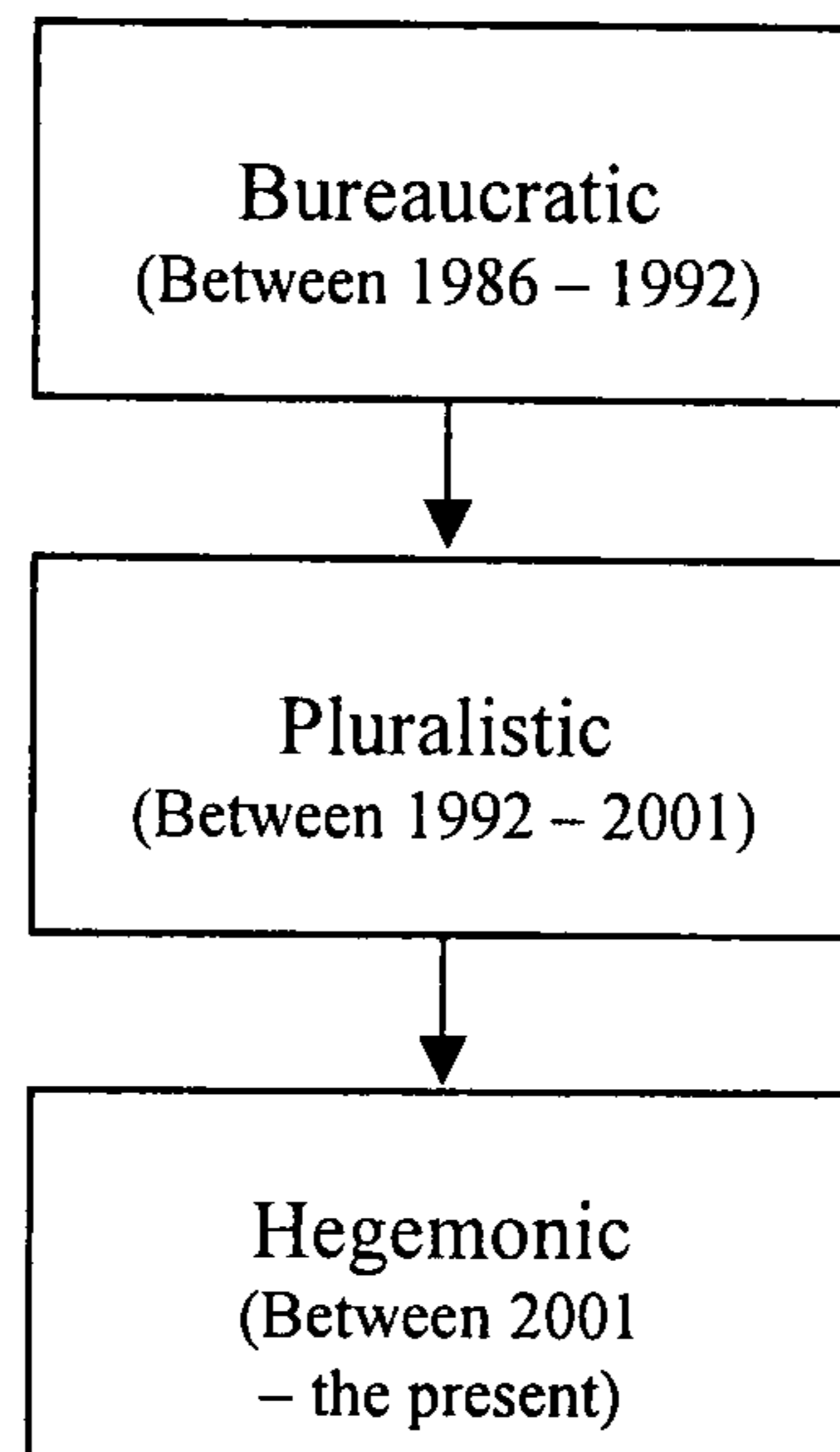
INDUSTRY

From the beginning of the telecommunications reform attempt in the mid 1980s, the telecommunications reform programme of Thailand has been carried out under three political regimes, which are the bureaucratic, pluralistic, and finally hegemonic. With closer consideration, it is interesting to find that the politics within the telecommunications industry is directly reflected from the politics at the national level. Experiences show that the industry does not have much autonomy on its own; rather, it is very easy for it to be intervened or influenced by the wider politics. The fact that the industry is usually dominated by the state agencies, the fact that the industry does not have an independent regulatory body, and the fact that there is no real competition are all making the industry depend heavily on state activities. Any change within national politics tends to have consequences for politics within the industry (or vice versa). This would be the reason why Niyomsilpa (2000) decided to study the Thai telecommunications politics as a depiction of the national politics in general.

As suggested by the characteristics of national politics, telecommunications political environments during the last twenty years are accordingly separated into three regimes (see Figure 3.1). Unsurprisingly, a historical institutionalist study of telecommunications reform programme during these periods reveals that each political regime usually embeds with its own set of industry institutional

arrangements. It is further found that the differences in these arrangements did lead to varying consequences for the reform process.

Figure 3.1
The eras of telecommunications politics in Thailand from the beginning of the reform attempts



THE BUREAUCRATIC ERA

At the time when Thailand implemented the first telecommunications reform attempt in the late 1980s, the telecommunications politics of the country was perceived to be a “bureaucratic polity” (Niyomsilpa, 2000 and Riggs, 1996). Both politics at the industry and national levels during that time were basically dominated by the military. In fact, Thailand had been run by the military since the country changed from absolute monarchy to democracy in 1932. Although the country did have civilian governments from time to time, those governments did not stay long as they were normally either terminated by the dissolution of parliament or overthrown by the military.

Focusing on the telecommunications industry, the key persons who exerted most influence on telecommunications activities, ranging from the PM to the Minister of Transport and Communications, usually came directly from the military (see Table 3.1 and 3.2). Moreover, once in position, they normally used national security as an excuse to assign people from the military as the Chairmen of the Boards of TOT and CAT. In fact, until recently, it was traditional that the Chairman of the Board of both SOTEs had to come from the military (Naksrinuan, personal interviews, December 7, 2004).

Table 3.1
List of Thailand's PMs during 1948 to 1992

	Name	Military/civilian	Position held between
1	Field Marshal Por Piboonsongkram	Military	Apr 1948 – Sep 1957
2	Poj Sarasin	Civilian	Sep 1957 – Dec 1957
3	Field Marshal Tanorm Kittikachorn	Military	Jan 1958 – Feb 1959
4	Field Marshal Salit Thanarat	Military	Feb 1959 – Dec 1963
5	Field Tanorm Kittikachorn	Military	Dec 1963 – Oct 1973
6	Sanya Thammasak	Civilian	Oct 1973 – Feb 1975
7	M.R. Sanea Pramote	Civilian	Feb 1975 – Mar 1975
8	M.R. Kukrit Pramote	Civilian	Mar 1975 – Apr 1976
9	M.R. Sanae Pramote	Civilian	Apr 1976 – Sep 1976
10	Tanin Kraivichean	Civilian	Oct 1976 – Oct 1977
11	General Kreangsak Chamanan	Military	Nov 1977 – Mar 1980
12	General Prem Tinsulanondha	Military	Mar 1980 – Apr 1988
13	General Chartichai Choonhavan	Civilian	Aug 1988 – Feb 1991
14	Anand Panyarachun (Anand I)	Military	Feb 1991 – Mar 1992
15	General Suchinda Kraprayoon	Military	Apr 1992 – May 1992

Source: The Royal Thai Government

Table 3.2

List of Ministers of Transport and Communications during 1955 to 1992

	Name	Military/Civilian	Position held between
1	Lieutenant General Banyat Thephussadin Na Ayutthaya	Military	Sep 1956 – Feb 1957
2	Major General Pong Punnakan	Military	Jan 1958 – Feb 1959
3	Lieutenant Pong Punnakan	Military	Feb 1959 – Mar 1971
4	Air Chief Mashal Tavee Jullasap	Military	Mar 1971 – Nov 1971
5	General Pong Punnakan	Military	Dec 1972 – Oct 1973
6	Rear Admiral Chalee Santisalarin	Military	Oct 1973 – May 1974
7	Chao Na Sinlawan	Civilian	May 1974 – Feb 1975
8	Surat Osathanukroh	Civilian	Feb 1975 – Mar 1975
9	Major General Siri Siriyothin	Military	Mar 1975 – Apr 1976
10	Tawich Krinpratum	Civilian	Apr 1976 – Sep 1976
11	Khunying Lursak Sombatsiri	Military	Oct 1976 – Oct 1977
12	General Surakit Maiyalarb	Military	Nov 1977 – May 1979
13	Somporn Boonyakup	Civilian	May 1979 – Feb 1980
14	Admiral Amorn Sirigaya	Military	Mar 1980 – Apr 1983
15	Samak Sultornlavej	Civilian	May 1983 – May 1986
16	Banharn Silpa-archa	Civilian	Aug 1986 – Apr 1988
17	Montri Pongpanit	Civilian	Aug 1988 – Dec 1990
18	Samak Sultornlavej	Civilian	Dec 1990 – Feb 1991
19	Nukul Prachoubmoh	Military	Mar 1991 – Mar 1992
20	Colonel Vinai Sompong	Civilian	Apr 1992 – Sep 1995

Source: The MOTC

It is evident that the military was able to dominate the telecommunications industry in the executive branch. However, the military seemed able to dominate the industry in the operating branch as well. Although the laws provided both SOTEs with monopoly powers (both in the service provision and regulatory respects), the line ministers and the BODs appeared to be influential enough to overshadow the operations of SOTEs in real practice. In fact, the telecommunications academic Vongpanitlerd (personal interview, December 2, 2004) adds that the Thai telecommunications industry under the military regime was considered a closed industry. Most activities within the industry (e.g. policy development, project investment or contract signing) had never been opened up to public scrutiny; only a few high ranking officials knew what was going on inside the industry. The contract for the telephone directory made in 1984 was a classic

example of the SOTE being dominated by bureaucratic polity. Via the BOD, the military was able to force the TOT to comply with its demands. The BOD used its power to overrule the decision already made by the TOT management and the selection committee, to help a foreign company to win the deal. The case became an issue when the TOT selection committee disqualified an American “big name” bidder, as it violated two important conditions of the Terms of Reference (TOR). The TOT Chairman of the Board, General Arthit Kamlang-ek (who was also the Army Commander), asked the committee to reconsider the selection; however, the committee insisted on its ruling. As a result, the BOD decided to overrule the committee’s decision by annulling the whole bidding process and calling for a new one. Interestingly, this time, the BOD dropped the two TOR conditions that had previously disqualified that American company, which eventually made the company concerned the winner of the contract.

The bureaucratic polity and the telecommunications reform programme

The first telecommunications reform attempt evolved around the end of this era. Following the oil crisis and global economy downturn in the late 1970s, Thailand was hurt by the economic recession between 1981 and 1986. As a result, the Prem Tinsulanondha government came up with an idea to reform the economy to restore stability. As for the telecommunications industry, in 1985, the government proposed to separate telecommunications from postal services. This proposal was turned down due to severe opposition and the threat of a national strike from the labour unions with the backing of the army (Niyomsilpa, 2000). The interference

from the military was even more obvious when there was an idea to revise the 1934 Telegraph and Telephone Act, which was the source of monopoly rights of both SOTEs. The idea, in 1986, progressed to the stage where the cabinet submitted the reform bill to Parliament for approval. However, once again, the reform bill faced strenuous opposition from the army as well as the threat of a nation-wide strike from the labour unions. As a result, the cabinet reluctantly withdrew the bill to defuse the political crisis (Niyomsilpa).

Following the retirement of PM Prem Tinsulanondha in 1988, Chartichai Choonhavan became the first-elected civilian PM of the country since 1976.

Unlike Prem Tinsulanondha, PM Chartichai Choonhavan ran the country with a more advanced mindset. He agreed to reform the economy in order to support the economic boom during his time⁴⁹. He brought a number of businessmen and technocrats into his cabinet; however, this increase was offset by the decrease in the quota of the military. The 65% of businessmen and technocrats in Chartichai Choonhavan's government, compared to the 47% in Prem Tinsulanondha's, was good evidence of this trend (Niyomsilpa). With regard to telecommunications reform, PM Chartichai Choonhavan decided to increase the role of the private sector within the industry by allowing SOTEs to grant more BTO concessions⁵⁰. More than 20 BTOs were granted during 1988 – 90. Moreover, he also proposed a bill to establish an independent regulator to separate the regulatory role from the

⁴⁹ After the economic recession of the mid-1980s, the Thai economy bounced back with a rapid recovery in the late 1980s. With double-digit growth in GDP for three consecutive years, the Thai economy had the highest growing figure globally, which led to an unprecedented economic boom during 1988 – 90.

⁵⁰ The BTO scheme in the telecommunications industry was originally initiated in PM Prem Tinsulanondha's era. However, there was only one BTO concession granted in his time.

SOTEs (and from military intervention)⁵¹. Nonetheless, due to the strong opposition from the labour unions with support from the military, the parliamentary vote on the bill was indefinitely postponed. In the big picture, the telecommunications politics under Chartichai Choonhavan's government was different from that under Prem Tinsulanondha. With the main focus on economic growth, PM Chartichai Choonhavan brought a number of technocrats into the administrative level and a number of private companies into the service provision level. However, doing so inevitably challenged the power of the military; the further PM Chartichai Choonhavan succeeded in bringing more participants in the political arena, the more the military felt that their power and honour were being reduced. As a result, the military, also known as "the Revolutionary Council", brought down PM Chartichai Choonhavan in February 1991, citing corruption as justification for ending his era⁵².

The Revolutionary Council appointed a renowned technocrat, Anand Panyarachun, as PM to reduce resistance from the public. The fact that PM Anand Panyarachun came to the position by military power gave him very limited independence. Telecommunications reform, as a result, was not much different from what it had been during the era of the military. The PM's technocratic background eventually started to emerge when he began to support a pro-reform coalition (Phongpaichit & Baker, 2004); unfortunately, this was not satisfactory to

⁵¹ See the draft of the Communications Act, MOTC, dated 30 June 1989.

⁵² Among the justifications of the military coup, the Revolution Council raised the 3 million countrywide fixed line BTO project as a sample case of corruption. The Revolution Council claimed that it had saved the government's revenue for approximately THB 1,000 billions (or around GBP 2,500 millions at that time) by abolishing the deal (Uthaisang, personal interview, November 18, 2004).

the army, thus costing PM Anand Panyarachun his post. Soon after PM Anand Panyarachun's exit, the military set up its own man as PM. General Suchinda Kraprayoon, who was the Deputy Chief of the Revolutionary Council, became the next PM of Thailand. The coming of PM Suchinda Kraprayoon appeared to be a wrong move, as it led to the end of the military era. Placing someone with such strong military ties as PM stirred up strong public feelings, which soon led to a mass uprising in May 1992. Following the riot, PM Suchinda Kraprayoon himself was forced to step down, while the political power of the military was significantly decreased. In fact, it is found that the involvement of the military in politics, especially in telecommunications politics, has remained very calm and limited during the past decade. The fact that the military did not express any grievance when the positions of the Chairman of the Board of both TOT and CAT (which normally reserved for representatives from the military) were offered to the technocrats at a later time⁵³, could be good evidence suggesting that the military realised its diminished status and the need for modesty⁵⁴.

To conclude, although the idea to reform the telecommunications industry was initiated in the bureaucratic era, the reform hardly saw any progress. There were only a few parties (the military along with its subordinate allies – the labour unions) who had any appreciable influence on the telecommunications reform programme; however, they seemed to disagree with the reform and effectively

⁵³ The Chairman of the Board of CAT was changed from Air Chief Marshal Anan Kalintah to Chaovalit Tanachanan in June 1992, while the Chairman of the Board of TOT was changed from Air Chief Marshal Issarapong Nunepakdee to Rungroj Sriprasertsuk in July 1992.

⁵⁴ However, Samudavanija (as quoted by McCargo and Pathmanand, 2005) argues that the Thai military has never depoliticised, it only adjusted itself to the changes in socio-political conditions and maintained a low profile until conditions were right for a reassertion of influence.

blocked or delayed all the reform attempts. In fact, from time to time, the military was suspected of enjoying hidden benefits associated with its resistance to the reform of telecommunications, especially when considering that the military actually exercised its superior power to interfere with the operations of SOTEs on many occasions. In this era, the issues of privatisation and independent regulation seemed very sensitive and virtually untouchable due to nationalism and national security reasons. The grant of BTO concessions that appeared to be the only reform action in this era was also questionable, as to whether it was deliberately done for efficiency. Chevapruek (personal interview, December 8, 2004) reveals that the military and labour unions did not see the BTO as a reform initiative; rather they allowed the BTO to take place because it gave the SOTEs the opportunity to enjoy free revenue-sharing without losing their monopoly and controlling power.

THE PLURALISTIC ERA

The collapse of military power in 1992 gave rise to the next era of telecommunications politics, the so called the “pluralistic era” (Niyomsilpa, 2000). This term was used to characterise politics where there were various emerging parties (e.g. political parties, private operators, academics, etc) that had become more politically powerful, and started to take part in the telecommunications reform political arena⁵⁵. The era lasted almost a decade

⁵⁵ In this regard, Jordan, Halpin & Maloney (2004) propose to call any policy-relevant active party by the generic term of “pressure participant”. They further argue that, within that general

(between 1992 and 2001) and covered most of the time after Thailand first began reforming its telecommunications industry.

In this era, the opinions on the reform programme among interested parties seemed to diverge. Some agreed, while others did not. Some agreed in principle, but were still unsure about the implementation. Surely, the reform would lead to fundamental changes of the industry and certainly affect the status of many interested parties; it is unsurprising to see that each party strove to protect its particular interests or searched for better opportunities from the change in the industry. Inevitably, the reform programme became a political issue, where there were a number of parties (who were also politically strong) involved in most reform moves.

Unlike the previous era where the most influential parties obviously disagreed with the reform, the pluralistic era was more complicated since there were usually tensions between interested parties as the reform progressed. Most of the time, the tensions were unable to be solved since the interested parties were all strong (or had support e.g. the case of a private operator and a political party or the case of labour unions and the academics). Interestingly, while other interested parties became politically stronger, it appeared that the governments in this era were usually weak and unstable. Most governments were politically vulnerable; they

category, the unitary interest “policy participant” is distinct from the collective “interest or pressure group”. Being a “policy participant” or “interest group” depends on the group’s level of flexibility, decision-making process, autonomy, and so forth. Although such a proposal is worthwhile to note, it is still the subject of wide debate. Therefore, this thesis decided to apply the old term “interest group” for the reason, “the policy studies literature tends to accept as a pressure/interest group any organisation that is seen as being active in the policy process with the function or aim of influencing policy outcomes” (Jordan et al., p. 200).

easily became unstable if their reform policy caused dissatisfaction to other coalition political parties, or was strongly opposed by any politically influential parties such as the labour unions, academics, or NGOs. In other words, the governments were incapable of reconciling the tensions between the interested parties into a sound reform package, and it was this dispersal of interests that was the main cause in the delay (or the failure) of the reform programme during this era.

The pluralistic polity and the telecommunications reform programme

The fact that there were a number of parties involved in the telecommunications political space in this era, inevitably made the reform programme more complicated and confronted it with a number of difficulties. It is argued that the pluralist characteristic of the Thai telecommunications politics on many occasions was the key factor leading to the failures or delays of the reform (Niyomsilpa, 2000 and Petrazzini, 1995).

Although the governments, as a policy making unit, were supposed to fulfil an important role in facilitating the reform programme, it was found that they were more of a hindrance. All the governments in this era were politically weak and not well-insulated from any kind of intervention. A number of good reasons can be listed to explain how other parties could exercise their political power over the government's policy on telecommunications reform.

All the governments were made up of a coalition of many political parties. These coalition governments usually held only slightly more seats than the opposition parties. The core party as a result, was normally very polite to its coalition parties since the government would collapse if one of the coalition parties pulled out⁵⁶.

Although this kind of situation is not extraordinary among developing countries, upon closer consideration, it had a direct effect on the progress of the telecommunications reform of Thailand. Most political parties (either in the government or on the opposition side) were usually accused of having their own agenda on the telecommunications reform programme. This claim would seem to be true considering the nature of political parties where a large part of their income usually comes from private patronage (either legally or illegally).

Teeralarp (personal interview, December 20, 2004) explains that giving sponsors to political parties and sending proxies into politics were the common methods that private operators used to boost their business activities during the last few decades. In this respect, McCargo and Pathmanand assert some samples, “Broadly speaking, UCOM was aligned with the Democrat, TT&T with the Democrat and Chart Thai, and TA with New Aspiration” (2005, p. 29). This evidence suggested “patron-client” relations (in other words – the proxy system) between the private sector and the political parties in Thai society. The political parties tended to hold the duty of clients for the private operators who provided them with financial support. Thus, reform initiation that tended to worsen any patron’s interests was likely to be blocked (or delayed) by its clients, which such

⁵⁶ The sample case was when Palang Dharma Party resigned from the coalition government in May 1995. PM Chuan Leekpai consequently was obliged to dissolve the parliament. In the subsequent General Election, Palang Dharma became the key broker in gathering the seven-party government coalition under the premiership of Banharn Silpa-archa.

veto was not very difficult to make considering the political vulnerability of the previous governments. All in all, the reform policy that seemed unable to allocate benefits to patrons across the board was unlikely to be launched or, even if it was, it was likely to fail.

Table 3.3
List of Thailand's PMs during 1992 to 2001

	Name	Military/Civilian	Position held between
1	Anand Panyarachun (Anand II)	Civilian	Jun 1992 – Sep 1992
2	Chuan Leekpai (Chuan I)	Civilian	Sept 1992 – May 1995
3	Banharn Silpa-Archa	Civilian	Jul 1995 – Sep 1996
4	General Chaovalit Yongjaiyuth	Civilian	Nov 1996 – Nov 1997
5	Chuan Leekpai (Chuan II)	Civilian	Nov 1997 – Feb 2001

Source: The Royal Thai Government

No matter how hard the governments tried to please all powerful players to keep their support, political instability was still a dominant characteristic of this era.

The country experienced frequent changes of PMs as well as governments; the five governments under four PMs within nine years time (shown in Table 3.3) is good evidence. Frequent changes of government inevitably affected the telecommunications reform programme. Changes of PM led to alterations in the reform strategies that eventually faltered from time to time. The most classic example of this case was the attempt to promulgate the TMP that contained detailed strategies to reform the telecommunications industry of Thailand. The TMP was drafted at the time of the Chuan Leekpai I government in 1995; however, along with the changes of government during the mid 1990s, the TMP had been called back for revision every time when there was a change of government. The TMP was finally approved in November 1997, which was the last month of PM Chaovalit Yongjaiyuth's era. Altogether, the political

instability contributed to Thailand taking almost three years, under three different governments, solely to put the TMP into action. Materials obtained from Pornsutee (personal interview, November 12, 2004) explains the story,

Frankly speaking, for most parts, it had to do with political issues; governments were insecure and consisted of many parties with main concentration on other issues rather than the reform. In fact, at times, the governments were determined to reform or even began to implement some of the actions; however, those governments did not stay long enough to make concrete reform progress. The government often changed and another General Election came up. As a result, the previous government's reform attempt was cancelled or put on hold. In short, I would say that the political environment in Thailand in the past did not at all encourage the reform.

Apart from the interference from political parties and the private operators, the pluralistic character of telecommunications politics also included the involvement of other major parties like SOTE management, labour unions, academics, and NGOs. Most of these participants were new players, but became influential in the telecommunications political arena. Unsurprisingly, these participants had their own interests (although at times, some parties might have had common interests in certain aspects). They usually asserted their right to involvement in the government's reform proposals, either to retain or promote their interests.

To cite an example, the SOTE labour union along with the SOTE management did not agree with most kinds of industry reform. According to a SOTE employee (Anonymous A), both management and labour union were willing to accept any measure that would increase their operating efficiency; however, they did not agree with the liberalisation as they did not want to lose the monopoly right or the controlling power over the industry. They opposed privatisation as they did not want to lose their job security and the privileges obtained from being a state enterprise's official. They made several unlikely proposals to the government in

exchange for the privatisation (e.g. no lay-off policy and a huge amount of compensation), which was too much for the government to accept. They refused to accept the idea of the conversion of BTO concessions as they did not want to lose the income from revenue-sharing; however, under the first conversion framework (proposed by Thailand Development Research Institution: TDRI), the SOTEs were more willing to negotiate, as opposed to when they were at a seemingly disadvantaged position under the subsequent framework proposed by Chulalongkorn University Intellectual Property Institution (CUPI)⁵⁷.

With regard to the academics' or NGOs' perspective on telecommunications reform, they tended to base their position on the interest of the public. The country's chronically weak economy that resulted from the Asian economic crisis in 1997, stressed the feelings of nationalism and the dangers of flawed liberalisation among these parties. They argued that this was not the right time for privatisation as the locals would not be the ultimate beneficiaries; on the contrary, they asserted that hurrying for privatisation rather became a sophisticated tool to sell off national assets for the benefit of some people who had power in their hands, or even foreign investors. According to Juruphan (personal interview, December 14, 2004), the academics and NGOs also usually raised the issue of social welfare in their arguments; they claimed that experiences from many developing economies, which were fundamentally similar to Thailand (e.g. countries in Latin America) revealed that privatising the state enterprises and letting them operate commercially might lead to public hardship from cream-

⁵⁷ Please find the detailed discussion about concession conversion in Chapter 6.

skimming and the rise of prices. All in all, such involvement from the academics and NGOs appeared to get the attention of the governments because the constant criticisms from credible people on the reform policies impacted on and undermined the government's standing.

The pluralistic character of policy-making was further intensified after the promulgation of the 1997 Constitution⁵⁸. The economic crisis in 1997 alerted the public to the links between politics and economics and to the fact that they have directly related consequences for one another; in other words, bad politics amounted to bad economics (Niyomsilpa, 2000). This concern was clearly reflected in the content of the new Constitution, which was drafted and promulgated later in the same year. With full support from the public, the Constitution was intended as a strategic tool to reform the country's politics by promoting public participation, good governance, and transparency within the political system, which was the reason that the 1997 Constitution is also called "the Constitution for the Thai people"⁵⁹. Not only was politics at the national level affected by the Constitution's intention, but telecommunications politics was also impacted accordingly. As an example, unlike before when the selection of the committee of an independent organisation (the telecommunications regulator being one of them) was simply appointed by the government, the 1997 Constitution now required the first round of selection to be done by a trustworthy

⁵⁸ The Constitution Drafting Committee was consisted of one hundred experts, all of them with very different backgrounds. Four fifths were representatives from each province of Thailand, in which they had to be elected within their province. The rest of the committee was comprised of experts from different relevant fields of proficiency.

⁵⁹ Yoonaidharma (personal interview, December 21, 2004) further explains that, during the time of drafting the Constitution, the public whose morale had been destroyed by the economic crisis was strong enough to balance the opposition from politicians who tried to preserve their power.

Selection Committee⁶⁰. Once selected, the Senate must make the final selection and ask for the Royal Assent. Another example in this regard is that the 1997 Constitution demands the establishment of the Administrative Court. Consequently, this allows people to bring a law suit against either state agencies or state officials for misuse of power or omission of duties. Generally speaking, although the Constitution had good intentions to involve more participation, as will be described in Chapter 7, some of its consequences (especially in the context of telecommunications reform) paradoxically turned out to be a loophole in reforming telecommunications in practice.

To summarise, unlike the bureaucratic era, this era experienced various attempts at reforming the industry. There were attempts at liberalising, re-regulating, and privatising the industry. Unfortunately, none of these attempts paid off, but faced problems and severe delays. As suggested by the name of the era, there were many emerging participants who became more powerful in the telecommunications political space. It was these participants (together with the key players in the previous era) that tried to take part in the reform programme. Most of the time, these parties had conflicting interests, which finally resulted in a block on policy and a delay in the reform programme as a whole.

⁶⁰ The composition of the Selection Committee is varied depending on the type of the independent organisation, but the law normally requires the Selection Committee to come from different backgrounds, to promote fairness and transparency within the selection process.

THE HEGEMONIC ERA

The pluralistic era ended when PM Chuan Leekpai left his post in 2001. The General Election at the beginning of 2001 paved the way for PM Thaksin Shinawatra and his TRT party. Such election was the first carried out under the principles of the new Constitution. Intended as a tool to reform the country's politics, the 1997 Constitution had fully demonstrated its strong impacts on both overall politics as well as telecommunications politics.

As mentioned in the previous section, the new Constitution brought more participants into the political arena; however, it is also the Constitution's intention to exclude those participants from further involvement, once the process of establishment is over. For instance, though the process to establish an independent organisation such as the NTC, was quite open for many parties to get involved in, once the establishment was complete, both the Constitution and its delegated laws obviously give the NTC its own power as well as a very high level of discretion. In fact, a regulator (Kusripituck, personal interview, November 24, 2004), academics (Tangkitvanich, personal interview, December 28, 2004 and Teeralarp, 2004), a SOTE manager (Naksrinuan, personal interview, December 7, 2004), and a SOTE employee (Chareonwan, personal interview, December 14, 2004), all unanimously agree that the law equipped the NTC with a wide range of responsibilities and a high level of discretion⁶¹. The same principle also applied to the formation of the government in 2001 and 2005. The General Elections

⁶¹ However, Teeralarp (2004) argues that the law did not provide an adequate check and balance mechanism, which could cause a serious problem in the future. Please see Teeralarp (2004) for more detailed criticisms on the NTC's discretion.

were closely watched and governed by the newly established, but very powerful, independent organisation, namely the Office of Election Commission of Thailand (ECT)⁶². However, after the election was over and the government had been formed, the Constitution was designed to provide the government with a favourable working environment in order to ease the work load and make it progress more smoothly and effectively.

The landslide victory of Thaksin Shinawatra and his TRT party in the 2001 General Election made the administration the most stable and powerful government ever in the history of Thailand⁶³. The Constitution's intention to produce a strong PM and stable government seemed to be working.

Consequently, the strong new PM and government has moved the country to a brand new political era – the hegemonic era – which differs greatly from both previous eras.

The new political environment inevitably affected the telecommunications reform programme. The telecommunications reform programme under the new strong government and well-insulated politics appeared to be very interesting, especially considering the fact that many ministers in the cabinet, including the PM himself, may have special interests in the telecommunications industry (see Table 3.4).

Table 3.4 further shows that, except for UCOM and SMART, all other major

⁶² The ECT is another offspring of the new Constitution. Stated in Section 140 of the 1997 Constitution, two out of five of the ECT's duties clearly state the involvement of public participation within the election process.

⁶³ In the 2001 General Election, TRT won 248 seats from the 500 in the Lower House. However, at the time of writing the chapter, the TRT and PM Thaksin Shinawatra had just emerged victorious, with higher winnings on the 2005 General Election. The TRT won 377 seats, which made the TRT and PM Thaksin Shinawatra even stronger and better insulated from any influences than before.

telecommunications operators have joined the first Thaksin Shinawatra cabinet:

However, at this point, it is also interesting to analyse from where and how the

political power of PM Thaksin Shinawatra's government emerges.

Table 3.4

Selected individuals in PM Thaksin's cabinet who have strong background in telecommunications

	Name	Position in cabinet	Telecommunications related background	Current relationship
1	Thaksin Shinawatra	- Prime Minister	- The founder, former chairman, and the major stock holder of <ol style="list-style-type: none"> 1. SHIN Corporation Plc. 2. Advance Info Service Plc. (AIS) 3. SHIN Satellite Plc. 4. ITV Plc.⁽¹⁾ 5. SHIN International Co. Ltd. 6. Other subsidiaries 	- Wife, elder brother-in-law, and three children are the major stockholders of these companies.
2	Adisai Potaramic	- Former Minister of Commerce - Minister of Education	- The founder, former chairman, and the major stock holder of <ol style="list-style-type: none"> 1. Thai Telephone and Telecommunications Plc. (TT&T) 2. Jasmine International 3. Acumen Co. Ltd. 	- Wife and son are holding a lot of stocks of these companies.
3	Pracha Maleenond	- Former Deputy Minister of Transports and Communication - Deputy Minister of Interior	- The former CEO and the major stock holder of the BEC World Plc. ⁽²⁾	- Wife and children are holding a lot of stock of the company.
4	Wattana Muengsuk	- Minister of Commerce	- Son-in-law of Thanin Cheirawanon, the CEO of CP group, which owns <ol style="list-style-type: none"> 1. Telecom Asia Plc. (TA) 2. TA Orange 	- n/a

Note: ⁽¹⁾ ITV is the newly established free channel; it is currently considered as the most popular news channel in Thailand.

⁽²⁾ BEC World runs channel 3, which is one of the country's most popular free channels.

The coming of PM Thaksin Shinawatra and the “Thai Rak Thai” Party (TRT)

Thaksin Shinawatra established the TRT Party in July 1999. Right from the start, TRT sought to define itself as a technocratic party, a party led by a successful entrepreneur who wanted to bring the same levels of professionalism to politics as he had brought to his private sector activities. Thaksin Shinawatra was surrounded by an impressive group of advisors and associates. His slogan “Think new, Act new” resonated with a reformist emphasis on the need for considerable changes in ideas and ways of working. He and his party overwhelmingly won the General Election in January 2001 with the 248 out of 500 seats in the Lower House (see Table 3.5).

Table 3.5
The official result of the General Election in 2001

	Party	Constituency basis	Party’s list basis	Total
1	Thai Rak Thai	200	48	248
2	Democrat	97	31	128
3	Chart Thai	35	6	41
4	New Aspiration	28	8	36
5	National Development	22	7	29
6	Liberal Democratic	14	-	14
7	Rassadorn	2	-	2
8	Tin Thai	1	-	1
9	Social Action	1	-	1
	Grand total	400	100	500

Source: The ECT

The root of his political success had to be attributed to two important factors. Firstly, once the TRT was established, Thaksin Shinawatra wisely sought out the names of the members of the parliament (MPs) from other political parties with a winning potential in the next election, and subsequently invited them to join his

party. As a result of this astute move, Phongpaichit and Baker (2004) estimate that Thaksin Shinawatra managed to gather more than 200 potential candidates for the 2001 election⁶⁴. Secondly, Thaksin Shinawatra differentiated his propaganda from the old-fashioned political parties by stressing the populist policies, also known as “Thaksinomics”, and applied modern marketing techniques in the voting campaign⁶⁵. Thaksinomics was invented under the principal of injecting money to the people at the grass-root levels to revive rural economies and stimulate domestic demand. Selected important policies were the 3-year farmers’ debt suspension and revitalisation programme, the one million Baht (approximately GBP 14,250) village and community fund, the bank for the poor, the 30 Baht (approximately GBP 0.43) health scheme, the One Tambon (village) One Product Project (OTOP), and so forth⁶⁶. These policies were very successful in convincing grass-root people to vote for TRT as they clearly saw the benefits that they were to achieve⁶⁷.

After all, with the highest number of MPs in the Lower House of Parliament, Thaksin Shinawatra became the 23rd PM of Thailand and TRT became the core government party in February 2001; the year was considered the beginning of a new political era for Thailand.

⁶⁴ Thaksin Shinawatra was widely criticised ethically for this strategy when it appeared that he capitalised on his financial advantage by gathering those potential candidates from other parties.

⁶⁵ PM Thaksin commented on his populist policies as “Our critics condemned our policy and called it, in contempt, a populist policy. I must confess I was bemused. A populist policy so called because it must be a policy so liked by the people. The people like it because they find it beneficial. So, if they like the policy and benefit from it, what’s wrong?” (Shinawatra, 2003).

⁶⁶ More details for each policy can be found at the TRT’s web site (www.thairakthai.or.th).

⁶⁷ At a later time, “Thaksinomics” became an economic model for various countries in the region (e.g. the Philippines, Indonesia, or even China). For example, the President of the Philippines, Gloria Macapagal Arroyo, once said “When Thaksin first talked about this programme for rural recovery, everybody made fun of him; but one year later, other countries were also replicating it, including the Philippines.” (as quoted in Perrin, 2003).

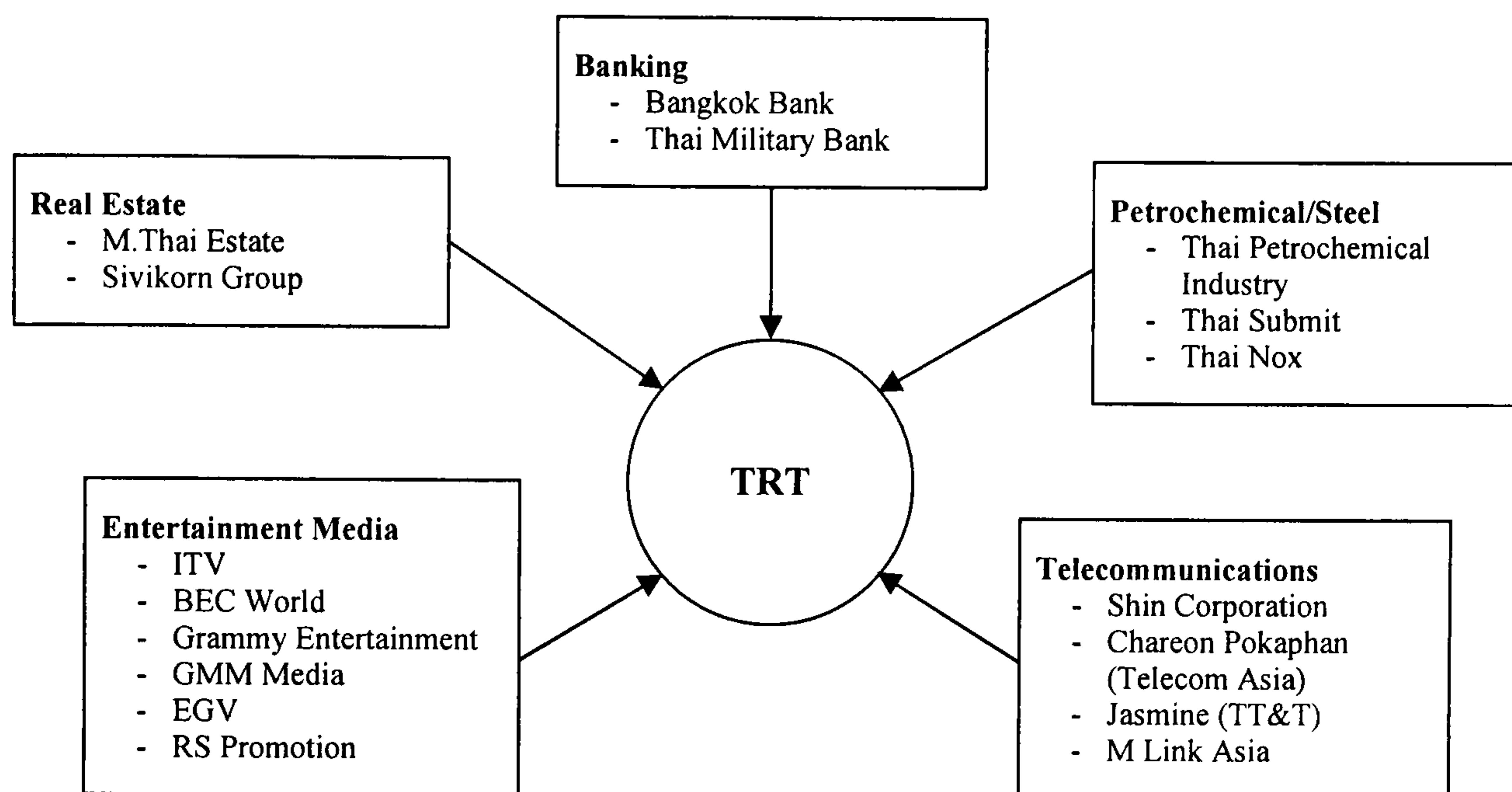
The well-insulated government under PM Thaksin Shinawatra

Whereas previous Thai governments had been characterised by unstable coalition politics and the lack of clear policy direction, this government was quite different.

The government of PM Thaksin Shinawatra was well known for being insulated from both internal and external pressures. The strong insulation was a result of several factors, such as the factions that were committed to him and his party's policies, and the factions acquired by the PM's own utilisation of political advantage.

The insulation of the government could be seen from the incorporation of the TRT itself. The party was formed with the support of a number of local giant corporate groups in various industries (e.g. telecommunications, banking, real estate, and entertainment media). As shown in Figure 3.2, the TRT can be perceived as a coalition of giant private entrepreneurs, who wanted to gain access to national politics. On closer consideration, PM Thaksin Shinawatra successfully created this network by pooling economic powerful players in the country to be his allies. This being so further suggested that his premiership and his government were even stronger and better insulated. It was these companies that patronised other political parties in the country. Therefore, the fact that these patrons became part of the TRT network meant PM Thaksin Shinawatra has effectively weakened other political parties as well as reduced the possibility of conflicts with the joint forces of other giant private corporations and their political proxies.

Figure 3.2
 Samples of private companies that supported the formation of the TRT Party



Source: McCargo and Pathmanand (2005)

In national politics, the TRT was also very strong and well insulated from pressures from other political parties. Even though it won 248 out of 500 seats in the Lower House in 2001 General Election, PM Thaksin Shinawatra still wanted more seats to consolidate the majority. Soon after the official announcement of the results by the ECT, TRT merged with the Liberal Democratic Party and acquired 14 additional seats. Doing so turned TRT into a single-party government for the first time in the history of Thailand. The following act by PM Thaksin Shinawatra was to invite another two political parties – the New Aspiration Party and the Chart Thai Party – to join his government, which gave his government a total of 339 seats⁶⁸; thus it undoubtedly became the strongest ever government in

⁶⁸ The Democrat Party (the opposition party) suspected that Thaksin Shinawatra required his government to have more than 300 seats to enable him to exploit Section 185 of the 1997 Constitution, which states that the opposition party needs more than two-fifths of all MPs (or 200 seats) in the Lower House to submit a motion for a general debate for the purpose of passing a vote of no-confidence in PM.

the history of Thailand. At a later time, the TRT party expanded even more when it acquired the New Aspiration Party and the National Development Party, acquiring 65 more MPs, which gave the TRT alone 327 seats in the Lower House (see Table 3.6).

Table 3.6
The political parties merged with the TRT Party

Political parties	Merged date	Amount of MPs	Total TRT's MPs
Thai Rak Thai	-	248	248
Liberal Democratic	6 Sep 2001	14	262
New Aspiration	28 Mar 2002	36	298
National Development	21 Sep 2004	29	327

Source: The ECT

Apart from insulation from the private sector and the political parties, the government under the TRT also obtained popularity among the majority of Thai people. The widely accepted PM with his eye-catching policies further created a strong insulation for the government and PM Thaksin Shinawatra himself.

Yoonaidharma (personal interview, December 21, 2004) explains PM Thaksin Shinawatra's policies as follows,

It is an entirely new idea to focus on the lower levels of people, rather than the middle or high levels. These new political policies have killed all other old-fashioned political parties. The traditional policies were mostly focused on the middle and high levels of people, and hoped that the benefits of the policy, after having served the high and middle levels, would eventually spill to the poor. These old political policies will probably never again gain popularity.

For the first time in the history of Thai politics, the government of PM Thaksin Shinawatra could administer the country for the whole four-year term. The PM's popularity as well as the unity within the government seemed to be the foremost reason for such an achievement. In fact, he was completely confident of his popularity, his TRT, and his government. As quoted in McCargo and

Pathmanand (2005, p. 84), he once told Thai expatriates in Los Angeles that “Thailand was moving towards a two party system: but whereas in the US where power alternated between two parties, in Thailand, TRT would retain a monopoly of power, opposed by a permanently isolated Democrat Party.” Indeed, on many occasions, he declared that his TRT would remain in power for at least twenty more years, even in the absence of himself (“TRT set for 20 years,” 2003). In the General Election in 2005, the strength of PM Thaksin Shinawatra and TRT remained high (or even higher) when he almost accomplished his announcement of having more than 400 (out of 500) MPs and becoming the single party government. He retained his post as PM, while TRT won even more seats (377 seats) in the Lower House compared to 248 seats in the last General Election (see Table 3.7).

Table 3.7
The official results of the General Election in 2005

	Party	Constituency basis	Party's list basis	Total
1	Thai Rak Thai	310	67	377
2	Democrat	70	26	96
3	Chart Thai	18	7	25
4	Mahachon	2	-	2
	Grand total	400	100	500

Source: The Secretariat of the House of Representatives

In conclusion, politics under PM Thaksin Shinawatra differed from the previous eras. The ability to create and exploit his popularity and to utilise the networks of the government seemed to work well. In this era, the government was able to work with only minimal interference from other political players. Up to the time of writing, although the PM and government have faced some criticisms on their management practices, the PM still got support from the majority of the people

and the unity within the government still remained high. It is arguably true that this cannot guarantee the permanence of either TRT or the PM himself. However, the fact that, during the last four years alone, there have been so many important political changes at both national and industry levels should be sufficient to stress the importance of the era.

The hegemonic era – the return of the beginning?

The new election conditions (e.g. the use of the party's list system or the one MP per one electorate area) as prescribed in the 1997 Constitution, gave the bigger and stronger political parties increased opportunities for winning more MPs. This also meant a more stable government. In this aspect, Tangkitvanich (personal interview, December 28, 2004) comments:

It becomes a consensus at the present that the new Constitution enables big political parties, like TRT, to win the General Election. Once it becomes government, the Constitution still gives further chances for it to dominate or manipulate the politics of the country in the way it deems; while, on the other hand, the Constitution leaves the opposition political parties to face many difficulties to scrutinise the administration of the strong government. Therefore, it totally depends on the individuals in power, whether they will exploit the Constitution as well as the rule of law.

Although, under the new Constitution, the PM is supposed to be stronger than in the past⁶⁹, the power of PM Thaksin Shinawatra at the moment seems to exceed the expectations of the Constitution. Thaksin Shinawatra pledged to run Thailand according to business principles with himself as a CEO. In fact, it is no exaggeration to say that the CEO regime (which suggests a very powerful leader)

⁶⁹ Sirisamphan (2003) states that the Constitution Drafting Committee intended to strengthen the stability of the PM by promoting the "Strong Prime Minister" system (like that of Malaysia and Singapore) in order to enhance the continuously smooth work of the PM.

has some similarities to the period when the military dominated the country's politics. In this respect, a high-level manager of the SOTE (Anonymous A) strengthens the claim, "Thai politics does not look like a party system anymore; everything is centralised around only one person. The entire cabinet has become puppets that work just to serve one person". This opinion is also consistent with another from a renowned academic (Anonymous B), "The current government possesses absolute power. They wisely and sophisticatedly manage the budget, or set the policies. They effectively utilise state power to strengthen themselves and weaken their opposition."

However, no matter how strong the PM and his government are, they are still not to be compared to the military era, as there are several main differences between these two eras. First of all, the military usually possessed political power by overthrowing the previous government. An order from the Revolutionary Council was considered as law and there were absolutely no checks or balances on the power of the militarist government. Compared to this era, PM Thaksin Shinawatra and TRT party came into power lawfully and legitimately. They won the election and gained power by a majority. Secondly, while the power of the militarist government was pooled at the Revolutionary Council; the power of PM Thaksin Shinawatra's government is centralised in only one person. For example, he himself is practically the only one who finalises any reshuffle in most of the important positions, either among political or government officials. A highly ranked government official (Anonymous C) discloses,

The government is comparable to a company, which has PM Thaksin as CEO, and the whole cabinet is rather like the company's employees. The CEO is able to fire or move any

employee as he sees appropriate. Therefore, it is unsurprising that, during his first four-year term, there were nine cabinet reshuffles, which makes for the country's highest record.

It is hard to believe that the reshuffles were carried out for the purpose of efficiency since each reshuffle led to the cessation or discontinuation of work in the affected ministries. In fact, the promotion, transfer, or demotion of high-level government officials in the era of PM Thaksin Shinawatra have raised public suspicion on many occasions and led to recollections of the cronyism system. Most inheritors of new power positions usually have close relationships with the PM (Sirisamphan, 2003). Therefore, it seems that he politicised everything around him. Selected samples on the appointment of some high-level officials shown in Appendix B could hint that he tried to expand his political network to encompass almost every field of the society.

The hegemonic polity and telecommunications politics

The picture of national politics is inevitably reflected in the politics within the telecommunications business. When considering the names of persons who govern the country (see Table 3.4), it can be presumed that telecommunication politics might be even more heavily afflicted by a change in the political environment. All of the individuals in Table 3.4 resigned from their businesses and devoted themselves entirely to the political arena, which is the reason why the era is named "telecom tycoons turned politicians" (Tangkitvanich, personal interview, December 28, 2004).

On closer consideration, such a phenomenon further implies another characteristic of the current era namely that the old proxy political system has now come to an end (at least in this era). Telecommunications entrepreneurs are no longer working from the shadows; they come out directly into politics to set their own agendas. It costs less⁷⁰ and the result is guaranteed. The telecommunications entrepreneurs may have realised that they cannot fully rely on their proxies because they may also be hand in glove with someone else at the same time, thus causing a conflict of interest. Besides, telecommunications entrepreneurs may also realise that they are unable to let these proxies, who are usually old-fashioned professional politicians, to run the economy any longer. Their stakes are very high; it is too risky allowing the old-fashioned proxies to handle the dynamically changing economy in today's era of globalisation.

It is not an exaggeration to say that the new political regime changed the telecommunications politics quite dramatically. It affected industry institutional arrangements at large. In fact, it appeared that the previous two main institutional problems of the reform (the involvement from interested parties and the weak and instable government) were effectively dealt with and become no longer obstacles to the reform.

All in all, as the reform programme in Thailand is still in process, it cannot be said for sure, at this point, what ultimate results this era will produce. However, with the information gathered during the first four years of this era, it becomes feasible

⁷⁰ According to Teeralarp (personal interview, December 20, 2004), the patronage system in the telecommunications means the feeding of the whole system, not only politicians, but also government officials and SOTEs' management.

to draw some tentative conclusions. Firstly, the hegemonic character of the government in power was able to push the reform towards making impressive progress. In contrast with the military era, this government agreed and had a clear intention to push forward the reform programme. Unlike during the pluralistic era, PM Thaksin Shinawatra's government effectively dealt with the political tension involved in the reform; the government was strong and effectively insulated itself from political interference. Taking an optimistic view, the fact that the government consisted of a number of former telecommunications tycoons might arguably be advantageous to the reform programme in some ways. They should have a lot of relevant experience, and know exactly what the problems of the reform were. If so, their being in charge of the issue meant a better opportunity for problem solving, given that they exercised their power properly and legitimately. However, on the flip side, a powerful government with strong links to the telecommunications sector inevitably gives cause for some concerns. It is questionable whether these persons would be able to discard their own interests and promote those of the public. However, without any clear evidence, it would not be fair to draw any final conclusions at this time.

CONCLUSION

In summary, since the telecommunications reform programme began in the late 1980s, telecommunications politics in Thailand have passed through at least three different eras. Each era has its own characteristics and institutional arrangements,

which as a result produced different consequences for the reform programme. The problems in the bureaucratic era were found to be that the persons with absolute power did not agree with most reform activities. In fact, it was found on many occasions that the military also allied itself with another strong party – the labour unions – to obstruct the reform programme. While national security was usually raised as an excuse for keeping telecommunications as a closed industry, a number of people suspected that the reform was avoided to further retain a controlling power over the industry as well as over the SOTEs. Most reform attempts were stymied either by direct order from the military or by opposition from the labour unions. As a result, little progress occurred in this era. In the subsequent era, institutional arrangements within the industry had changed significantly. The role of the military significantly decreased while that of more democratic elements blossomed. Various groups in society increased in strength. Several of those who had an interest in telecommunications (e.g. private operators, academics, or NGOs) had entered the telecommunications political arena to either protect self-interest or search for more benefits. Therefore, apart from the lack of a formal regulatory institution, it was also found that the greater number of participants (especially the ones with political power) in the reform programme under the weak and unstable governments of the time appeared to be the main problem of the reform in this era. Tensions, arising from conflicting interests, over the reform activity were usually found to be irreconcilable; it was these unsettled issues that resulted in a major delay of the entire reform programme. Finally, the General Election in 2001 led the country towards a new political era, the so-called hegemonic polity. Once again, the change of political

regime provided telecommunications industry with a substantial institutional change. In this era, the government and PM remain ever powerful, as their stability and insulation are at a very high level. It is apparent that the reform under the strong policy and centralised style of administration could drive the reform to make a lot of progress. Even though the reform was not completed at the time of writing, the immediate consequences of the new telecommunications politics for the reform programme are still interesting to consider.

The current chapter already introduced the political environments in Thailand and also brought forward the analysis of the reform programme in relation to the different political environments. However, the following chapters are going to deal with the more general background to the telecommunications industry of Thailand as well as the reform issues that kept hindering the reform for a long time. An understanding of this material is necessary for the further and deeper analysis of the Thai telecommunications reform experience under the historical institutionalist framework.

CHAPTER 4
THE TELECOMMUNICATIONS REFORM PROGRAMME
IN THAILAND

INTRODUCTION

The telecommunications industry in Thailand is embedded in a long history. The services in the early days were only available for military or official sectors. As time passed, the benefits of telecommunications services became apparent in that it was no longer considered appropriate that they should be kept and used only within state functions. Instead, business use, personal use, as well as use relating to social affairs would also gain a lot of benefit from these services. At the present time, access to efficient and sufficient telecommunications services throughout the country has become a key factor in the development of the economy and promotion of social welfare. However, the previous development of the Thai telecommunications seems neither able to effectively support the economic activities nor to thoroughly enhance the social welfare. The idea to reform the telecommunications industry in Thailand evolved from both internal demands as well as external forces. Although governments during the last two decades professed the intention of reforming the telecommunications industry, the process was very difficult to implement in practice. Every reform attempt was usually marred by a variety of complex issues, either structurally or politically. It

was these difficulties that caused the reform programme in Thailand to falter with unsatisfactory progress being made.

BACKGROUND TO THE THAI TELECOMMUNICATIONS INDUSTRY

The history of the industry began around 1867 under the reign of His Majesty King Rama IV. Initially, the Post and Telegraph Department (PTD), established in 1898, was the sole organisation that received consent from the King to provide all kinds of telecommunications services within the kingdom. Later, with the increasing demand for telecommunications services, the financial and staffing constraints of the PTD started to cause problems for the capability of service provision. The PTD therefore hived off its telecommunications-related responsibilities to two newly established SOTEs in 1954 and 1977, respectively. The separation of the PTD's responsibilities reduced the size and authority of the PTD dramatically. The remaining authorities were basically left to oversee the industry on the whole as well as to act as the representative of the country in the international affairs of telecommunications and post, while the tasks relating to service provision were directed to the responsibility of the SOTEs (the PTD, 1990).

Thailand's state owned telecommunications enterprises (SOTEs)

As mentioned earlier, most telecommunications services in Thailand were initially operated and used within the military or government before becoming part of the public domain. Therefore, unlike some other countries where telecommunications services were first provided by private operators, such services in Thailand were started, operated, and monopolised by state agencies from the beginning. In fact, the state monopoly right was clearly spelt out in the very first Thai telecommunications law, the Telegraph and Telephone Act B.E. 2477 (1934), whereby Section 5 required the PTD to be solely responsible for all the telecommunications activities within the Kingdom of Thailand⁷¹.

The PTD gave Thailand and its citizens various kinds of telecommunications services, such as telegraphy, telephony, and radio broadcasting. Though the PTD had limited resources, it was able to deal with its tasks satisfactorily. In fact, the period 1938 – 1966 was praised as the “golden age” of the Thai telecommunications industry (the PTD, 1990, p. 157) since the industry grew rapidly both in terms of variety and availability of services. However, the increasingly dynamic industry environment soon revealed that the old structure was not efficient enough to deal with such rapid changes. There are generally two main reasons to explain the PTD's lack of competence. Firstly, as a government agency operating under the jurisdiction of the Ministry of Transport and Communications (MOTC), the PTD had to rely on government rules and

⁷¹ Section 5 of the 1934 Telephone and Telegraph Act states “The Government shall have the monopoly to establish, maintain, and work telegraphic and telephonic services within the Kingdom of Thailand. Such monopoly shall be reserved to the Post and Telegraph Department.”

regulations restricted by the Office of the Civil Service Commission (OCSC), which caused the PTD to have limited flexibility to manage its tasks. Each move had to pass through a long decision chain hierarchically before being put into action, which usually caused a lengthy delay. Secondly, the demand for telecommunications services (especially the telephone) grew so fast that the PTD was not able to serve those demands adequately. In fact, the PTD faced major problems due to the limited annual budget allocated from the government as well as the number of qualified officers; it did not have enough resources to finance network expansion, to install new equipment and to operate the services. As a result, these turned out to be important reasons that caused the Thai telecommunications industry to grow more slowly than it should have done.

To overcome these impediments, the TOT was established in 1954 to take over all telephony-related tasks (e.g. the network and services) from the PTD, while the CAT was established later in 1977 to take over the postal service⁷². Both TOT and CAT became the SOTEs under the jurisdiction of the MOTC and their main objectives were to operate and improve the services for which they were responsible for the benefit of the state and of Thai citizens⁷³.

Since then, the TOT and CAT have dominated the Thai telecommunications industry both in the roles of service provider and regulator. As the service

⁷² However, concurrent with the emergence of other new telecommunications services (e.g. telex, data communication, international television transmission, etc.) during the late 1970s, the government decided to provide the exclusive operating rights over these services to the CAT.

⁷³ For the duty of SOTEs, please see details in Section 6 of the Telephone Organisation of Thailand Act B.E. 2497 (or the 1954 TOT Act) and in Section 7 of the Communications Authority of Thailand Act B.E. 2519 (or the 1976 CAT Act).

provider, the PTD's monopoly right to operate the telecommunications services and to own telecommunications assets was transferred to SOTEs at the time of the spin-off. On the other hand, the laws to establish TOT and CAT clearly mentioned the regulatory authority of both SOTEs (e.g. the role to monitor the service quality, the role to look after the public service, or the role to control the price of services)⁷⁴. Therefore, it appeared that the SOTEs held multiple roles in the industry at the same time, which, on many occasions, it was found that the SOTEs were unable to handle all these roles effectively. The fact that the SOTEs were regulators while also being service providers usually led to conflicts in practice. The confusion in roles ended when the government promulgated the Telecommunications Business Act in 2001. The new law terminated the monopoly rights and recalled regulatory power from both SOTEs back to the state. Both TOT and CAT, since then, have become merely service providers without any special privileges.

THE UNIQUE INSTITUTIONAL ARRANGEMENTS OF THE THAI TELECOMMUNICATIONS INDUSTRY

It is interesting to note that the Thai telecommunications industry has several domestic arrangements that differ from telecommunications industries elsewhere in the world. Due to the country's specific constraints, unique industry arrangements gradually formed along with the development of the industry.

⁷⁴ Please see details in Section 31 of the 1954 TOT Act and Section 29 of the 1977 CAT Act

According to Keeratikrainon (2002), the fact that Thailand was never colonised by a Western country allowed the development of the Thai telecommunications industry to be less influenced by foreign patterns (presumably with the exception of telecommunications equipment) and thus maintain its own unique settings. The main unique arrangements of the industry can be categorised into three main areas.

Legal

The Telegraph and Telephone Act B.E. 2477 (1934) was the first telecommunications law in Thailand. Section 5 clearly outlined state monopoly rights within the telecommunications industry. At the beginning, national security was the main justification of the monopolisation; the PTD was therefore assigned to be the sole legitimate monopolist of the Thai telecommunications industry at the time.

Later, although the TOT and CAT were established to improve the service provision, the idea of protecting a state monopoly still remained unchanged. The monopolistic rights both to operate and to own telecommunications assets were accordingly transferred to the newly established SOTEs. All kinds of services were virtually monopolised by these SOTEs. The TOT monopolised the telephony and other closely telephone-related business within the country, while the CAT monopolised the postal service, telecommunications, and other closely connected businesses. As for some other services that did not fit within the remit

of either TOT and CAT (satellite, for instance), they were to be operated directly by either the PTD or the MOTC.

The “Build-Transfer-Operate” concession scheme (BTO)

Although SOTEs were established with the main intention of alleviating scarcity as well as improving the quality of telecommunications services, the result was not quite as expected. Being a SOTE, wholly owned by the state, TOT and CAT operate under the same strict and complex rules and regulations as other government agencies; these rules sometimes appear to undermine the efficiency of the enterprises in practice. The fact that the Thai consumers had only poor and insufficient telecommunications services under the SOTE service provision suggested the need to bring in the private sector to alleviate the problem.

The level of scarcity of telecommunications services (also known as the “telecommunications crisis”) reached a critical point around the end of 1980s and the beginning of 1990s when the Thai economy was at its peak. The double digit growth of the Gross Domestic Product (GDP) (shown in Table 4.1) and the impressive increase in the per capita income during 1987 – 1991⁷⁵ were suggesting a greater need to support infrastructures, and the telecommunications system appeared to be one of the most important fundamental facilities. Both businesses and individuals needed good and reliable telecommunications to support and extend their activities. However, the limited capacities of the SOTEs

⁷⁵ The per capital income of Thai people has increased from THB 21,000 (around GBP 300) in 1987 to THB 41,000 (around GBP 586) in 1991 (the NESDB, 2004).

were unable to match the growth in demand, either in terms of quantity or quality. Statistics from the ITU on the waiting list and waiting time of Thailand in 1991 revealed the severity of the crisis; the ITU reported that there were more than one million people on the waiting list and they had to wait up to eight years before they were eligible for one telephone line (the ITU, 2004a).

Table 4.1
Average annual GDP growth

Year	Average GDP growth (%)
1961 – 1966	8.1
1967 – 1971	7.8
1972 – 1976	7.0
1977 – 1981	7.4
1982 – 1986	4.4
1987 – 1991	10.5
1992 – 1996	8.2
1997 – 2001	4.9

Source: The National Economic and Social Development Board (NESDB)

Clearly, the two state-run agencies could not effectively respond to the demand for telecommunications services within the country. In fact, this problem was also encountered in many other countries and the most common choice that was widely adopted was to allow the private sector to participate in the industry. Global examples indicate that opening the industry to private participation does effectively alleviate the scarcity and improve the quality of services in most implementing countries (Wallsten, 2001). Unfortunately, this “best practice” could not just simply be applied to the case of Thailand due to the country’s legal limitations. Direct private participation was impractical because private entities were not allowed to own any telecommunications assets or to provide any telecommunications services. Although the governments realised the scale of the problem and wanted to correct this restriction, the political instability during the

1980s was not amenable to amending the existing legislation. As the issue was very politically sensitive, the coalition governments were not strong enough to resist the opposition from involved parties. Besides, the governments did not survive long enough to pass the whole process of amendment. Finally, in 1986, the government of PM Prem Tinsulanonda came up with an alternative solution that made private participation possible without breaking the context of the law. This “practical” solution was known as a new type of telecommunications concession scheme, the so-called “Build-Transfer-Operate” (BTO).

The BTO was a scheme that allowed a private company that won a bid to provide telecommunications services to the public under the monopolistic right of the SOTEs. The BTO’s key feature was that the bid-winner (the concessionaire) had to be responsible for all the expenses that were associated with the building of the network. Once finished, the ownership of these assets had to be transferred to the SOTEs in order to conform to the law. In return, the concessionaire received the right to exclusive use of those transferred assets and had the right to operate within the industry until the end of the concession period. Moreover, the BTO usually came with revenue-sharing (a certain percentage from the total revenue) or minimum guarantee (a fixed amount of money) features. In fact, it was these features that were used as the main criteria to grant the concession; the awarded concessionaire was the one willing to pay for the network construction and the one who proposed the highest revenue-sharing to the SOTE.

Since the first BTO was granted in 1986⁷⁶, it was widely used and has shown its helpfulness in alleviating the scarcity of the services. The service quality and accessibility were also improved under private operations, especially in the services where concessions had been granted to more than one concessionaire (e.g. the pager). As pointed out by Chevapruek (personal interview, December 8, 2004), BTO became an important strategy in developing the Thai telecommunications industry, which altogether there are 26 BTO contracts that have been granted since its introduction (shown in Appendix C). However, the concept of the BTO was also widely challenged. The point of criticism was that granting concessions and allowing private firms to participate in the industry was obviously against the real intention of the law. However, the governments during that time decided to continue granting more BTOs, as it was the most “practical solution” under the specific constraints of the country.

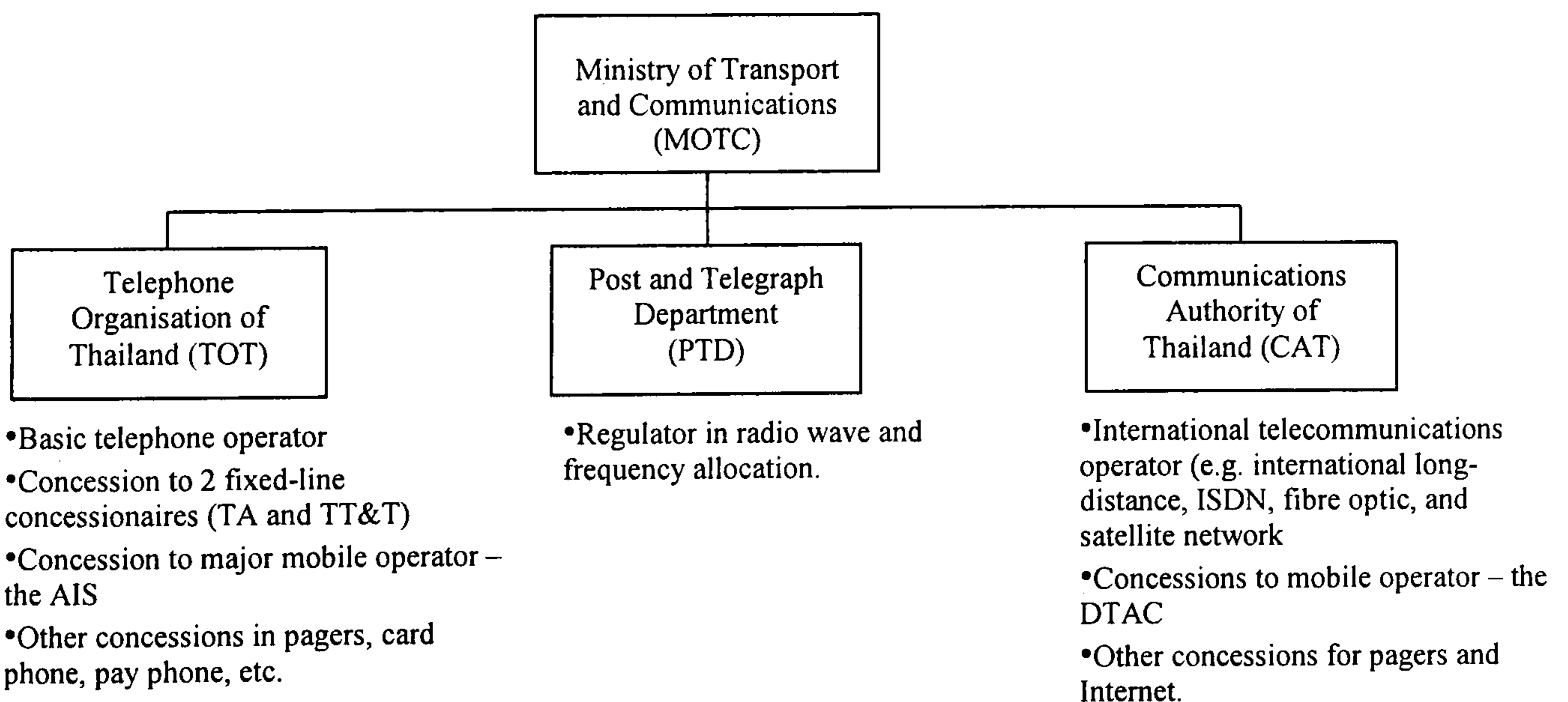
Structure of the telecommunications industry

The present appearance of the Thai telecommunications industry has been formed gradually over a long period. The country’s constraints and industry environment created a specific set of institutional structures. Firstly, the 1934 Telephone and Telegraph Act mandated the MOTC to be the sole body that had the right to regulate the telecommunications industry. Nonetheless, the MOTC’s regulatory duties, in practice, were spread to the PTD, TOT, and CAT depending on the authorities prescribed in the law that established that particular agency (as shown

⁷⁶ The first BTO concession was granted by CAT to a private pager operator, namely the Pacific Telesis Co. Ltd.

in Figure 4.1). Transferring the regulatory duty to the PTD seemed reasonable, as the PTD is a governmental body and does not operate any commercial activity, while transferring the regulatory power to the TOT and CAT was another story, as they were also service providers on the other side. This was another bizarre feature of the Thai telecommunications industry where the SOTEs took both the roles of regulator and operator. This characteristic became even more complicated afterwards, when the regulatory role of TOT and CAT became more active after the allowance of the BTO concessions. The SOTEs happened to have a duty to control and regulate their concessionaires, to be exact, to keep them in line with the designated policies as well as to protect the consumer benefits.

Figure 4.1
The structure of telecommunications industry of Thailand (before 2001)

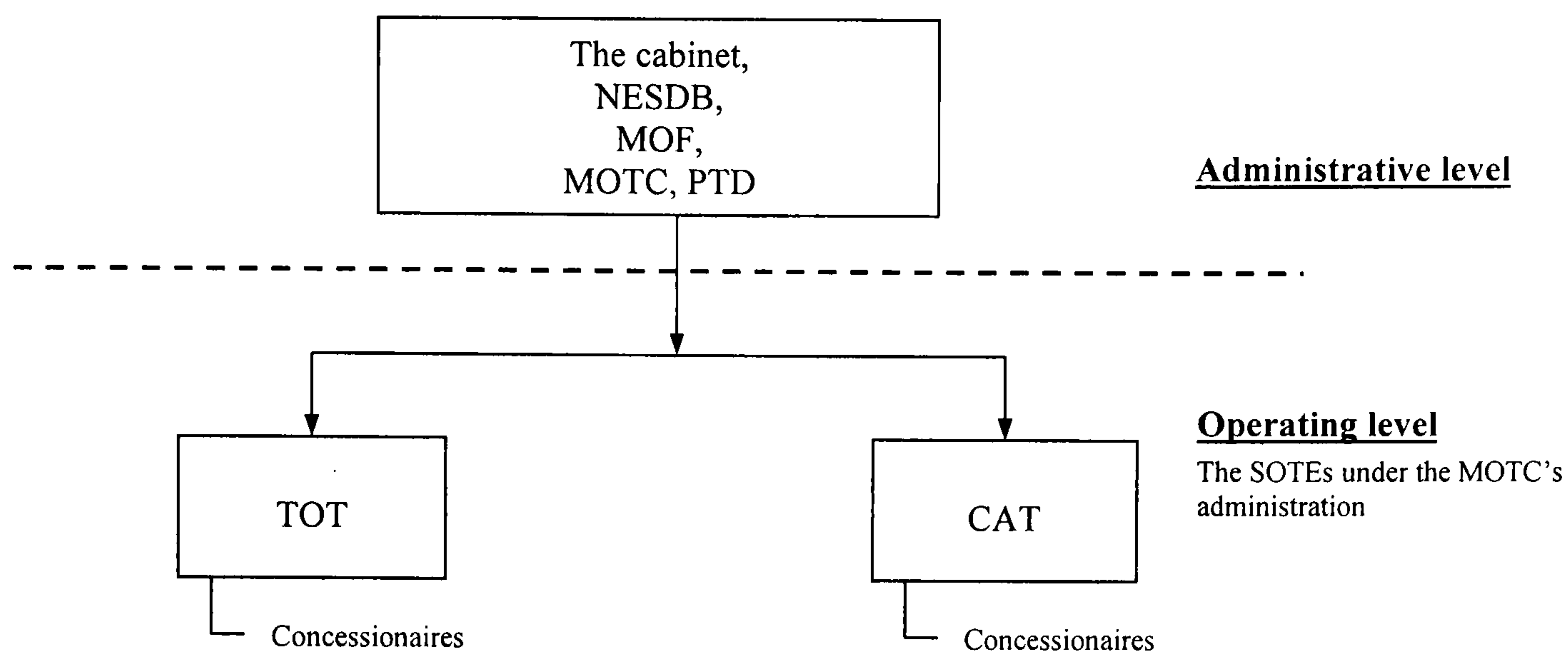


Secondly, both SOTEs were established by their own laws⁷⁷; each law clearly provided the duties that each organisation was responsible for. During the early days of telecommunications development, it seemed that the laws were robust enough to distinguish the types of service to be provided by a particular organisation. However, at a later time, the advent of new technologies and services (e.g. data and mobile communication or other value-added services) blurred the previous borderline of authority between these SOTEs since both the 1954 TOT Act and the 1977 CAT Act, in Section 9(2) and 10(2) respectively, provided an opportunity for each organisation to enter the same new services. Consequently, these SOTEs became direct competitors in some services (e.g. Internet and international telephone). Also on several occasions, they even granted concessions on the same services (e.g. mobile phone, pager, and VSAT (very small aperture terminal)). Although it was good to have more than one operator providing a certain service, it led to waste from double investment and difference in conditions between the concessions that were granted by different agencies⁷⁸.

⁷⁷ The TOT was established by the Telephone Organisation of Thailand Act B.E. 2497 (1954), while the CAT was established by the Communications Authority of Thailand Act B.E. 2519 (1976).

⁷⁸ Concessions on pager (granted by TOT, CAT, and PTD) and mobile phone (granted by TOT and CAT) are good examples of the unequal concession conditions, which were set by different concession granters. The details about the unequal conditions among concessions will be further discussed in Chapter 6.

Figure 4.2
The agencies that have influence on the Thai telecommunications industry



Thirdly, there were various governmental bodies that exerted influence on the telecommunications industry of Thailand. Apart from the normal practice that the responsible ministry, which was the MOTC in this case, had a duty to take care of the overall policy as well as to set the direction of development, the Thai telecommunications industry also had several other governmental agencies that played important roles in telecommunications activities (shown in Figure 4.2). The first agency was the PTD. The PTD involved itself directly as it was responsible for frequency management and allocation; besides, it had the duty to study, analyse, and make comments and suggestions on the country's telecommunications plan; it also had to act as a government representative in international post and telecommunications affairs. The second agency that also played a crucial role in telecommunications was the National Economic and Social Development Board (NESDB). As a central planning authority of the country, its roles were to approve the SOTEs' annual investment budget and to

study and approve the feasibility of the high-value investment project proposed by SOTEs. The next agency was the MOF. The MOF was involved with SOTEs in several aspects, such as in selecting the Chief Executive Officer (CEO) and the Board of Director (BOD), in appraising the SOTEs' operating efficiency and approving the amount of bonus to SOTEs' employees and management, and in fixing the maximum loan levels for each SOTE. In addition, the cabinet was also involved with the telecommunications industry. It was the authority that made the final decision on most of the strategic telecommunications initiatives as well as on every telecommunications mega-projects. Lastly, the final influential body was the SOTEs themselves. With the monopoly right in hand, the TOT and CAT had superior power over their concessionaires. Most strategic activities, such as network upgrading or new service launching, had to be agreed by the SOTE before being put into action. All in all, it is found that the complex structure of the Thai telecommunications industry possessed both pros and cons. The positive aspect was the balance of power. The involvement from various agencies tended to make the decisions more accurate and prudent. On the other hand, it led to a very lengthy process, while disagreement (if any) among these agencies also possibly led to further delay. Importantly, it is also worth noting that more involvement from governmental agencies means a greater possibility of being influenced by outside forces.

In summary, it is not an exaggeration to say that the Thai telecommunications industry has its own unique arrangements in many respects. Many of those are structurally unfavourable to the full-scale reform programme. The competition is

limited, as it is confined by the SOTE monopolisation. Liberalisation is impractical, as it is restricted by the laws and BTO concession. The regulation is complex and inefficient, as it has too many pertinent agencies involving in the decision-making.

THE NEED FOR REFORM

The more developed Thailand's economy becomes, the more significant the role of telecommunications becomes to the country. The growth of the economy needs good supporting infrastructures. According to the OECD (1998, p. 7), "it is clear that the telecoms industry provides the backbone supporting a wide range of growing service industries, and has the potential to create many new service activities". Not only in the economic sense, but a reliable and adequate telecommunications service is also crucial for the social agenda. It can reduce the social gap between people of different classes and create equal opportunities for people throughout the country. Therefore, it is quite clear that an efficient and adequate telecommunications infrastructure is vital for Thailand in order to promote economic growth and competitiveness on the international level as well as to improve domestic social welfare. In fact, Thailand's need for reform can be indicated by several pieces of evidence.

Inefficiencies of the industry

Some statistical data can provide a picture of the severity of the telecommunications crisis during the late 1980s until the mid 1990s. It was found that Thailand had one of the poorest telecom service records in the Southeast Asia, where, like most other countries, the inefficiency of the state-run providers was the main cause of the deficiency (Petrazzini, 1995).

The statistics on basic telephone service before 1993⁷⁹ depict a severe shortage. In 1987, the penetration rate of the fixed line service for the whole country was only 1.67 lines per 100 inhabitants, while the ratio within the Bangkok area was as high as 10.96, and the same ratio for the rural area was as low as 0.59. However, the numbers were slightly improved in 1993 when the penetration rate in Bangkok and the rural areas rose to 25.38 and 1.52 lines per 100 inhabitants, respectively, which increased the average telephone penetration rate of the country to 3.80 lines per 100 inhabitants⁸⁰ (see Table 4.2).

⁷⁹ 1993 is the year that the first fixed line concessionaire, the Telecom Asia Plc. (TA), began its operations.

⁸⁰ As for mobile phones, the number of registered numbers was very low during that period of time, which is therefore considered irrelevant in this case.

Table 4.2

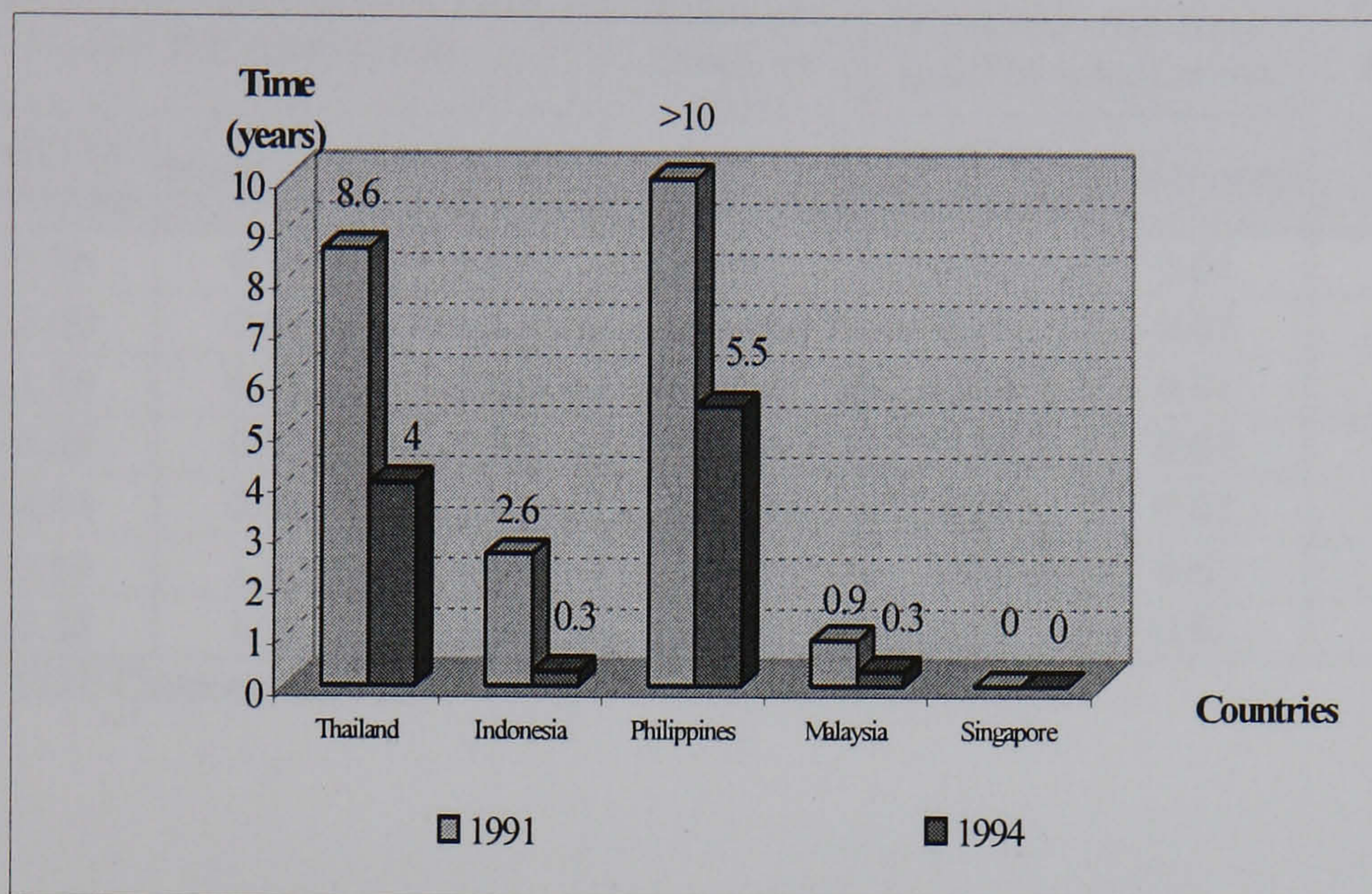
Basic telephone penetration rate (per 100 inhabitants) during 1987 to 1993

Year	Number rented			Thai population			Penetration rate (per 100 inhabitants)		
	Bangkok	Rural	Total	Bangkok	Rural	Total	Bangkok	Rural	Total
1987	614,707	286,915	901,622	5,609,352	48,263,820	53,873,172	10.96	0.59	1.67
1988	686,151	319,721	1,005,872	5,716,779	49,244,138	54,960,917	12.00	0.65	1.83
1989	792,203	365,811	1,158,014	5,832,843	50,055,550	55,888,393	13.58	0.73	2.07
1990	900,941	423,581	1,324,522	5,546,937	50,756,336	56,303,273	16.24	0.83	2.35
1991	1,044,295	508,865	1,553,160	5,602,591	51,358,439	56,961,030	18.64	0.99	2.73
1992	1,159,227	630,802	1,790,029	5,562,141	52,226,824	57,788,965	20.84	1.21	3.10
1993	1,414,242	801,623	2,215,865	5,572,712	52,763,360	58,336,072	25.38	1.52	3.80

Sources: The TOT Corporation Plc., The College of Population Studies, Chulalongkorn University

The inefficiency of the industry can also be illustrated by the statistics on the average waiting time. The ITU reported that telecommunications consumers in Thailand had to wait for a very long time before being served. In 1991, it was estimated that waiting time for installation was as long as 8.6 years, while there were more than 1.3 million customers in the waiting list (the ITU, 2004b). In 1994, the number of waiting lists in Thailand had further increased to 1.6 million customers; but the average wait was reduced to an average of 4 years. Although the average wait was cut by half in 1994 from the 1991 figure, it was still unacceptable and out of line with other countries in the same region (shown in Figure 4.3).

Figure 4.3
Average waiting time in 1991 and 1994



Source: The ITU

The inefficiency of the industry was also statistically noticeable from the local perspective (shown in Table 4.3). There was a huge gap between the telecommunications services provided to the people in Bangkok and the rural areas. For example, the fixed line concentration rate (per 100 inhabitants) of people in the Bangkok area was more than 15 times higher than that of people in the rural areas during the period 1987 to 1993. In fact, the proportion used to be as high as 18.43 times in 1987 before it gradually decreased to the level of 16.70 times in 1993. The situation was not better for public phones. Statistics in 1987 showed that there was less than 1 public phone per 10,000 people in the rural areas, while there were 26 lines per 10,000 people in the Bangkok area, which was equivalent to more than 21 times the difference. Fortunately, the disparity became steadily narrower in the subsequent years, when it was reduced to a difference of 11.13 times in 1993.

Table 4.3

The differences of basic telecommunications services between Bangkok and rural areas during 1987 and 1993

Year	Fixed line Concentration Rate (per 100 inhabitants)			Difference (BKK vs rural) (times)	Public Phone Concentration Rate (per 100 inhabitants)		Difference (BKK vs rural) (times)
	Bangkok Metropolis	Rural areas	Total		Bangkok Metropolis	Rural areas	
1987	10.96	0.59	1.67	18.43	0.26	0.01	21.76
1988	12.00	0.65	1.83	18.49	0.25	0.01	20.18
1989	13.58	0.73	2.07	18.58	0.25	0.01	18.27
1990	16.24	0.83	2.35	19.46	0.26	0.02	17.56
1991	18.64	0.99	2.73	18.81	0.29	0.02	15.22
1992	20.84	1.21	3.10	17.26	0.32	0.03	12.85
1993	25.38	1.52	3.80	16.70	0.36	0.03	11.13

Source: the TOT Corporation Plc.

Moreover, in addition to the terms of service availability, the inefficiency of the industry was also clearly exposed in terms of service fees. The monopoly structure, ineffective competition, and poor regulation were the main reasons for the inappropriate pricing structure, which, from the efficiency standpoint, was unacceptable since it led to a deadweight loss for the country as a whole. For example, the huge cross-subsidisation between the local and long-distance calls effectively distorted the real cost of service and reduced the operators' incentives to increase efficiency. The comparisons of important telecommunications services in Thailand and in other comparable countries provided in the Table 4.4 and 4.5 are examples that demonstrate the necessity of the reform programme within the Thai telecommunications industry.

Table 4.4

The comparisons of domestic long-distance calls

Unit: THB per minute

Distance (kms)	Thailand	Malaysia	The Philippines
	TOT	Telekom Malaysia	PLDT
< 50	3	1.35	2.59
51 – 100	6	3.39	
101 – 150	9		
151 – 200	9	9.67	
201 – 350	12		
351 – 500	15		
> 500	18		

Source: The TDRI

Table 4.5

The comparisons of international long-distance calls

Unit: THB per minute

Destinations	Thailand	Malaysia	The Philippines	Singapore	Hong Kong
	CAT	Telekom Malaysia	PLDT	Singtel	HKIC
UK	30	22.6	17.15	14.0	27.4
USA	22	22.6		9.3	14.6
Japan	30	33.9		21.4	32.3
Australia	22	22.6		14.3	25.1

Source: The TDRI

Note: Exchange rates: 1 Malaysian Ringgit = 11.28 Baht, 1 Philippine Peso = 0.862 Baht, Singapore Dollar = 23.77 Baht, and 1 Hong Kong Dollar = 5.49 Baht

As for mobile phones, the size of its segment during 1987 – 1993 was relatively small compared to that of the fixed line; however, it showed strong potential growth. The proportion of mobile phones to fixed lines had grown dramatically from around 1% in 1987 to almost 18% in 1993 (shown in Table 4.6). Although the advent of the mobile service seemed to be able to alleviate the severity of the crisis (both in terms of the insufficiency and the limited service area of fixed line), however, before 1993, the mobile phone penetration was low and could not make the crisis any better. The monopoly environment hindered the growth of service by distorting the price of handsets as well as service tariffs. Up to the early 2000s, such distortions still existed; the cost of service and the price of handsets in

Thailand are still significantly higher than other comparable countries in the region (see the price comparison in Appendix D).

Table 4.6

The size of mobile phone and fixed line segments during 1987 to 1993

Year	Fixed line	Public Phone	Total Basic Telephone	Mobile phone operated by TOT	Mobile Phone operated by CAT	Total Mobile Phone	Proportion Mobile/Basic
1987	901,622	20,144	921,766	4,413	n/a	4,413	0.48%
1988	1,005,872	20,668	1,026,540	10,612	6,972	17,584	1.71%
1989	1,158,014	21,360	1,179,374	20,936	14,171	35,107	2.98%
1990	1,324,522	22,307	1,346,829	31,981	31,242	63,223	4.69%
1991	1,553,160	26,093	1,579,253	79,198	50,044	129,242	8.18%
1992	1,790,029	30,999	1,821,028	142,422	95,538	237,960	13.07%
1993	2,215,865	36,730	2,252,595	254,837	143,277	398,114	17.67%

Source: The TOT Corporation Plc. and the CAT Telecom Plc.

In summary, the statistical data before 1993 provides a clear picture that the Thai telecommunications industry was in need of reform, either looking from the economic or the social standpoint. In economic terms, an efficient and adequate telecommunications infrastructure is a key factor that enhances economic growth (Wellenius & Stern, 1994). The question of deeper telecommunications reform (apart from only the introduction of the BTO) was further addressed when the 7th NESDP (National Economic and Social Development Plan), which was used between 1992 and 1996, called for making Thailand a telecommunications hub within Southeast Asia. Compared to other countries in the region, even though Thailand's figures on basic telephone penetration, mobile phones, and waiting time in the years 1991 and 1994 were slightly better than those of Indonesia and the Philippines, these numbers were significantly worse than those of Malaysia and Singapore (see Table 4.7). Consequently, an immediate action towards reform had to be launched and implemented in order to achieve the national goal.

Focusing on a social perspective, the accessibility differential between people in the capital and in the rural areas was very high. The basic telephone concentration rates in the Bangkok and in the rural areas were obvious indicators. Like electricity and irrigation, telecommunications currently appeared to be another basic infrastructure for everyone; in fact, it is very important in promoting equality and unity within society, especially in the aspects of social, economic, custom, and politics (Tatchayapong, Korarnuntakul & Wanichakorn, 2003). The difference in accessibility between different groups within society can widen the gaps between them and may lead to social problem afterwards (the so-called “digital divide”⁸¹).

Table 4.7
Comparisons of selected telecommunications indicators in 1991 and 1994

Category	Year	Country				
		Indonesia	The Philippines	Thailand	Malaysia	Singapore
Basic telephone (per 100 inhabitants)	1991	0.7	1.0	2.7	9.9	39.9
	1994	1.3	1.7	4.7	14.7	47.3
Mobile phone (per 100 inhabitants)	1991	0.01	0.05	0.37	0.39	2.96
	1994	0.04	0.30	1.10	2.93	8.36
Average waiting time (yrs)	1991	2.6	>10	8.6	0.9	0
	1994	0.3	5.5	4.0	0.3	0

Source: The ITU

The Telecommunications Master Plan (TMP)

Responding to the 7th NESDP that wanted Thailand to become the telecommunications hub in the Southeast Asian region, the MOTC accordingly

⁸¹ The “digital divide” is a social/political issue referring to the socio-economic gap between the people or communities that have access to telecommunications and related services (e.g. telephones, computers, and Internet access) and those who do not (the ITU, 2005).

transformed the national goal into a real action plan by launching the TMP in 1997.

According to Kusripituck (personal interview, November 24, 2004), the TMP was written under the expectation of changing the industry from a state monopoly to a liberalised one with a number of operators who are licensed and regulated by a newly established independent regulator. In fact, the TMP also incorporated the 2006 liberalisation commitment into the plan, which is why the TMP set the year 1999 as the deadline to liberalise the industry for all local operators, as the plan intended to prepare the local operators for the arrival of real competition in 2006. Although it is found that the real reform actions taken later were not quite in harmony with the plan, the TMP was considered the first concrete comprehensive plan to reform the telecommunications industry in Thailand.

Country's new legislations

Responding to the wave of economic reform that hit Thailand around the end of 1990s, the Thai governments had promulgated several new legislations that directly impacted the telecommunications industry as well as its reform programme.

The declaration of the 1997 Constitution made a number of impacts on the telecommunications industry. There are at least three sections, which are 40, 87, and 335(2), that have reference to the telecommunications industry.

Section 40⁸² states that the communication frequencies are a national resource and belong to the people of Thailand; the management of these valuable frequencies therefore should no longer be carried out by the SOTEs who are going to privatise in the near future. Besides, the frequencies must be used to serve the public interest and public benefit rather than to maximise the SOTEs' income. Thus, permission to use a frequency on the basis of the highest revenue-sharing bidder appeared to no longer correspond to the intention of the new Constitution because this extra operating cost is usually transferred to the consumers in some way or other (Peacock et al., 1984). Section 40 also stresses another key feature of the reform, which is to establish an industry independent regulatory body. However, the detailed establishment process as well as the specific duties of the regulator are not specified in the Constitution, but will be spelt out later in the implementing laws.

⁸² Section 40: Transmission frequencies for radio or television broadcasting and radio telecommunications are national communication resources for public interest. There shall be an independent regulatory body having the duty to distribute the frequencies under paragraph one and supervise radio or television broadcasting and telecommunications businesses as provided by law. In carrying out the Act under paragraph two, regard shall be had to utmost public benefit at national and local levels in education, culture, State security, and other public interests including fair and free competition.

Section 87⁸³ principally talks about a fair and free market, which also includes the abolition of the state monopoly as well as the liberalisation of the industry. It further mentions that the state should not compete with the private sector in areas where private concerns can run effectively. This emphasises the need for corporatisation and privatisation of the SOTEs, while, on the other hand, the monopoly right should be brought back to the state.

Finally, Section 335(2)⁸⁴ further extends the gist of Section 40 by mentioning the enactment of the implementing laws, which primarily refers to the law to establish an industry regulator. In addition, Section 335(2) makes another important point, as it honours all the existing concessions. All the BTO contracts will be valid and remain intact until the end of contracts. Unless both BTO partners agree to terminate or convert their concessions, the concessionaire still maintains the exclusive right to use the networks and to operate within the industry under the right of the SOTE until the end of the concession period.

In a nutshell, the 1997 Constitution mandates the telecommunications industry to be open for free and fair competition, an independent regulatory body has to be

⁸³ Section 87: The state shall encourage a free economic system through market forces, ensure and supervise fair competition, protect consumers, and prevent direct and indirect monopolies, repeal and refrain from enacting laws and regulations controlling businesses which do not correspond with economic necessity, and shall not engage in an enterprise in competition with the private sector unless it is necessary for the purpose of maintaining the security of the State, preserving the common interest, or providing public utilities.

⁸⁴ Section 335(2): The provisions of Section 40 shall not apply until the law implementing such provisions has been enacted, which shall not be later than three years as from the date of the promulgation of this Constitution; provided that such law shall not affect any licence, concession, or contract valid on the date such law comes into force until the expiration of such licence, concession, or contract.

established, and the SOTEs have to be transformed into operating companies without any privileges.

The Act on Organisation Allocating Frequency Waves and Supervising Radio/Television Broadcasting and Telecommunications Business B.E. 2543 (2000)

Resulting from Sections 40 and 335(2) of the 1997 Constitution, the government promulgated one of the two implementing laws, which was aimed at establishing the independent telecommunications regulatory body.

The cabinet, in February 2000, approved the Act on Organisation Allocating Frequency Waves and Supervising Radio/Television Broadcasting and Telecommunications Business B.E. 2543 (2000), hereinafter “the 2000 Spectrum Act”. It is interesting to find that the government decided to regulate telecommunications and broadcasting separately, as the law requires these two industries to have their own regulator⁸⁵. The telecommunications regulator will be called the National Telecommunications Commission (NTC), while the broadcasting regulator is to be called the National Television and Sound Broadcasting Commission (NTSBC).

⁸⁵ However, the law still requires some tasks to be done by a “joint commission” such as the task to manage the use of the national frequency wavelengths (please see details in Section 62 of the 2000 Spectrum Act). In fact, that telecommunications and broadcasting are being regulated separately is surprising considering the fact that modern technology is dissolving the boundaries between the two industries. This is perhaps suggesting an innate conservatism in Thailand.

The 2000 Spectrum Act revealed a key implication that the government had shown a clear intention to discharge its control over the industry and to transfer the control power to the newly established agency that is more skilled, independent, impartial, and professional. However, although the law to establish the regulators is already in effect, the new regulatory regime still cannot fully function unless another law, namely the “Telecommunications Business Act”, which provides the details on the framework of doing telecommunications business within the country, has been enacted. Therefore, the 2000 Spectrum Act is more or less the first step in the country’s regulatory reform.

The Act on Telecommunications Business B.E. 2544 (2001)

A year after the promulgation of the 2000 Spectrum Act, the second implementing law of Section 40 and 335(2) of the 1997 Constitution was also in effect. The Telecommunications Business Act B.E. 2544 (2001) was approved by the cabinet in November.

The law is used as the ground framework for the operation of the regulator; for instance, the law mentions the types of license, the payment of the license fee, network interconnection, the standard of telecommunications networks and equipment, the rights of service operators and consumers, and so forth. One of the most important features of this law is that it officially terminated the state monopoly right that was embedded in the SOTEs. Section 3 of the 2001

Telecommunications Business law repealed the 1934 Telegraph and Telephone Act, which was the basis of telecommunications monopoly.

It is interesting to note that although Thailand was in the middle of a fast-changing and highly competitive environment, the introduction of the 2001 Telecommunications Business law was the first time in the last six decades that the original regulatory authority on telecommunications (and also broadcasting) had been touched since it was mentioned in the country's first telecommunications legislation in 1934. Therefore, the introduction of the 2001 law can be seen as a significant step forward towards reform, since it loosened the legal deadlock, which was one of the major reform problems.

The external forces

Reform pressures from outside the country also appeared to be important forces driving economic reform in Thailand. The country's crisis combined with the conditionality required by international organisations for being part of the global society stressed clearly the need for economic reform. As such, these external forces appeared to be an effective force that pressured the Thai governments to seriously reform the economy.

The 1997 Asian Economic Crisis and the IMF bail-out package

The major economic crash in Thailand and other Asian countries in 1997 was another turning point in the Thai telecommunications industry. According to Prachuabmoh (1998), the attempt to defend the “Baht” against international speculators was the main reason for the depletion of the country’s foreign reserves and for the country being driven almost to bankruptcy⁸⁶ (see Table 4.8). The government, under PM Chaovalit Yongjaiyuth, decided to float the Baht on July 2, 1997 and signed an agreement for IMF financial assistance for USD 16.7 billion on August 14, 1997. As a result, the government had to conform to the rescue package demanded by the IMF, such as tighter fiscal and monetary policies.

Table 4.8

End quarter net official foreign reserves

Unit: Billion USD

Year	Quarter	Net Official Reserves	Current Account
1997	Q2	2.9	-3,128
	Q3	1.8	-694
	Q4	1.9	2,890
1998	Q1	2.8	4,201
	Q2	5.4	2,810
	Q3	6.8	3,411
	Q4	11.7	3,861
1999	Q1	14.1	3,463

Source: The Bank of Thailand

Note: Drawing from the IMF package started in September 1997

Focusing on the telecommunications industry, the privatisation of the SOTEs was clearly stated as a medium-term strategy in the summary of important measures

⁸⁶ Before 1997, Thailand used a “basket of currencies” to determine the value of the Baht. However, in practice, the Bank of Thailand normally tried to keep the value of the Baht around THB 25 to USD 1.

attached to every Letter of Intent (LOI) Thailand made with the IMF⁸⁷. In fact, even though the IMF did not ask for it, the privatisation of TOT and CAT still seemed inevitable. The SOTEs were allocated insufficient budget for new investment. While self-raising debt was difficult (due to the constraint on the country's public debt⁸⁸), the only option left was to therefore raise funds by selling stocks of the organisations.

To conclude, the 1997 Asian financial crisis as well as the conditionality imposed by the IMF effectively forced Thailand to make a very important move in its telecommunications industry⁸⁹. The incidents enlightened both the government and the SOTEs that privatisation was an inevitable option for the recipient country.

The Commitment with the World Trade Organisation (WTO) and the General Agreement of Trade in Services (GATS)

As a member of the WTO and a GATS participant, Thailand had to commit to promoting freer and fairer trade in services. Each participant country had to make individual commitments stating which of its service sectors it is willing to open to international competition, and how open those markets are.

⁸⁷ Such conditionality was severely criticised by various social and business groups (e.g. NGOs, labour unions, and academics) that it was a “fire-sale” tactic to benefit foreign investors rather than the locals (Krugman, 1998).

⁸⁸ This was similar to the UK's experience when the idea to borrow directly from the private capital market (via the so-called “Busby bonds”) to alleviate the BT's underinvestment on network modernisation did not get off the ground due to the difficulty of distinguishing such borrowings from public sector borrowings (Armstrong et al., 1994).

⁸⁹ The “crisis hypothesis” and “external help hypothesis” can well explain the situation of Thailand in this respect. Please see more details in Chapter 2.

As for telecommunications related issues, the GATS agreement in February 1997, which committed 69 governments and accounted for 90% of the world telecommunications market in 1997, required the participant countries to open their telecommunications to free competition by January 1, 1998. Nonetheless, Thailand (together with other 25 countries) won an exemption since it was not ready for full liberalisation in time. However, these countries had to make an obligation to liberalise their telecommunications by a later date. As for Thailand, it had already liberalised the value added service (VAS)⁹⁰ to international competition since January 1995, while it committed to liberalising basic telecommunications services (i.e. fixed line, telex, telegraph, and facsimile) by January 2006. The types of service and level of liberalisation that Thailand had committed to the WTO are shown in Table 4.9.

All in all, the commitment to the WTO under the GATS frameworks is therefore another significant impetus to the reform, as it provided concrete deadlines for liberalisation, which truly put pressure on the government to prepare the industry for very intense competition in the near future.

⁹⁰ VAS includes (1) data base access service, (2) online information and/or data processing services, (3) telecommunication equipment sales services, (4) telecommunications consulting services, (5) videotext, (6) teleconference, and (7) domestic leased circuits.

Table 4.9

The levels of telecommunications liberalisation programme due to the WTO commitment

Types of service	Indonesia	Malaysia	The Philippines	Thailand	APEC Average	World Average
Voice Telephony	1	5	2	2	4	4
Mobile Telephony	3	5	2	0	4	4
Teletype	1	0	2	2	4	4
Telegraph	1	0	2	2	4	3
Facsimile	0	5	2	2	4	4
Pager	3	5	0	0	4	3
Packet Switched Data Transmission	2	5	2	2	5	4
Circuit Switched Data Transmission	1	5	2	2	5	4
Private Leased Circuit	0	5	0	0	4	4
Mobile Data Service	0	0	0	0	3	3
Personal Communication Service	3	0	0	0	2	3

Source: The TDRI

Note: Score "0" means monopolisation, while score "8" means full liberalisation

In summary, there were a number of factors that directed Thailand to implement telecommunications reform. In the past, inefficiency within the industry, together with service scarcity used to be the main reason. The introduction of the BTO to allow the private sector to participate in the service provision seemed to be able to temporarily alleviate the crisis. However, as time went by, the credence of the benefit gained from the reform together with the pressure from the outside became very influential in calling for telecommunications reform in terms of both depth (and width) and the speed of the reform.

CONCLUSION

Consistent with the nationalisation concept, the early telecommunications industry in Thailand was dominated by the state with the intention of providing quality

services throughout the country, while national security was still a major priority. All kinds of telecommunications related tasks, as a result, were solely done by the state and the SOTEs. However, the analysis of events revealed that the state-led telecommunications development in Thailand was encumbered with a number of inefficiencies. Telecommunications services at that time were simply inadequate and inefficient in responding to local demand. A series of statistical data provided throughout the chapter can be sound illustrations of the difficulties. The levels of economic development and social welfare consequently tended to be hurt by the telecommunication limitations. At the same time, the pressure from outside (e.g. the neo-liberalism wave and international commitments) was another important factor that demanded a major revolution within the industry. All things considered, the local demand along with the pressure from outside made the telecommunications reform programme in Thailand inevitable.

Although the Thai telecommunications reform programme began from the late 1980s and there were so many incidents emphasising and accelerating the reform programme all along the way (e.g. the new Constitution, the 1997 financial crisis, the commitment to WTO, and so on), it is interesting to note that all these incidents were not powerful enough to drive the reform programme to a satisfactory outcome. In fact, the effects of these stimuli were drowned out by a number of deeply embedded unfavourable conditions within the industry. In the next several chapters, the three basic reform issues (which are the privatisation of the SOTEs, the conversion of the BTOs, and the establishment of the industry regulator) will be separately discussed and analysed in detail to identify the

reasons that have hindered (or still continue to hinder) the completing of each issue, and therefore the telecommunications reform programme as a whole.

CHAPTER 5

THE PRIVATISATION OF THE STATE OWNED TELECOMMUNICATIONS ENTERPRISES

INTRODUCTION

The fact that most telecommunications services were brought into Thailand for use within state functions was the reason that the state was the sole operator of all the service provisions. However, when the telecommunications services became widely available to the public, all the services were still monopolised by the state, but now with the intention of providing services throughout the country at reasonable prices, while still being able to preserve national security. With the monopoly right, the TOT and CAT simply dominate the industry. The high demand on telecommunications services from both individual and business users drove both SOTEs to grow quickly and strongly. Compared with all other SOEs, the TOT and CAT are usually ranked very high both in terms of size and financial performance. However, the question that usually arises is whether the assets and the profits made by SOTEs are really gained as a result of their own competency; the answer, unfortunately, seems to be that their accomplishments were actually derived from their monopolistic power and the protected industry. Although the monopolised industry structure may have been sensible in the past, new influential factors such as advances in technology, the rapid growth in service demand, as well as the liberalisation wave, made the old structure no longer convincing and in

need of change. It was difficult for the SOTEs to survive in conditions where their monopolistic rights were taken back by the state, especially when they remained inefficient and unwilling to respond to change.

PROBLEMS OF SOTES AND STATE-RUN SERVICES

Experiences of dissatisfaction over state-owned and state-run services from many places around the world have strengthened the substance of the government failure theory. Similar to places elsewhere, the operation of SOTEs in Thailand is also considered not very efficient. The fact that the country ran into a telecommunications crisis around the end of 1980s was good evidence of their inefficiencies. Careful consideration shows that there are several factors that lead to inefficiencies in the Thai SOTEs.

The first factor is the problems deriving internally from the SOTEs themselves. The large size and the rigid organisation structure made the SOTEs inflexible. Both TOT and CAT have divided their structure into so many divisions and subdivisions. The steep organisation structure and long communication flow among units often cause a slow workflow. Neither do the rules that the government applies to the SOTEs enhance efficiency. By being a state enterprise, SOTE has to be under the rules that are also used by all other government agencies, which can be very trivial and conservative. A high-level management official of a SOTE (Chevapruerk, personal interview, December 8, 2004) discloses,

Carrying on the business under the state owned structure makes it hard to compete against the privately-owned structure. There are so many inferiorities embedded in the nature of the SOTE; for example, the SOTE cannot expand their services to cope with the demand as it has only limited investment budget; the SOTE's business project cannot be kept secret as it has to submit the proposal for feasibility study and approval; the SOTE is unable to respond quickly to the changes within the market as any action has to successively pass the lengthy decision process.

Apart from problems within the operation, human resources stand out as another major impediment for Thai SOTEs. The study of TDRI in 1994 as well as a comment from the SOTE's labour union (Iambumrung, personal interview, December 21, 2004) both reveal that high-level management with a good vision and business mind is a scarce resource within Thai SOTEs. In this aspect, the State Enterprise Policy Office (SEPO) reported that the lack of a proper motivation mechanism⁹¹ and the lack of a sense of ownership among employees and managements also contribute to the human resource problem (Juruphan, personal interview, December 14, 2004). It is also found that though SOTEs had abundant employees in hand, they were not able to effectively utilise their people. Table 5.1 provides evidence of the inefficiency of the SOTEs (the TOT in this case); it gives an idea why the SOTE is unlikely to be able to compete with private operators. For a comparable level of service provided, the SOTE required a lot more resources than did the private operators. For example, in the year 2000, TOT used 24,483 employees to provide 2.88 million fixed line numbers around the country, while the concessionaires (combined TA's and TT&T's) used only 8,545 employees to provide approximately the same number of lines as TOT.

⁹¹ The poor working performance does not actually have effects on the SOTE employees and management. With "no lay-off" policy, both TOT and CAT provide their employees with a high level of job security. Besides, the monopoly right also generated the SOTEs a huge amount of profit every year, which eventually led to a substantial level of bonus (in practice, it is found that both SOTEs apply the fixed bonus policy during the last decade (Chareonwan, personal interview, December 14, 2004)).

Moreover, when looking at the ratio of amount of numbers rented to the employee employed, it is found that, in 1998, one employee of TOT was able to serve 98 numbers, while one employee of a private company was able to serve 306 numbers. Although TOT tried to improve its efficiency until the ratio increased to 157 numbers in 2003, however, it is still not to be compared to the private companies, which also rose to 373 numbers per employee in the same year.

Table 5.1

The comparison of employees used to provide service between the TOT and its concessionaires

		2003	2002	2001	2000	1999	1998
Number of Employees	TOT	21,597	21,858	22,842	24,483	25,355	26,017
	Private Operators	8,465	8,579	8,790	8,545	8,102	8,092
	TT&T	3,124	3,160	3,251	3,240	3,304	3,392
	TA	5,349	5,419	5,539	5,305	4,798	4,700
Number of numbers rented	TOT rural	1,854,227	1,785,473	1,647,170	1,437,212	1,248,740	1,099,623
	TOT Bangkok	1,542,231	1,543,262	1,474,421	1,439,382	1,438,933	1,459,549
	Total TOT	3,396,458	3,328,735	3,121,591	2,876,594	2,687,673	2,559,172
	TT&T	1,187,181	1,196,299	1,184,126	1,178,856	1,135,424	1,167,675
	TA	1,971,135	1,974,808	1,736,774	1,535,634	1,381,539	1,310,702
	Total Private Operators	3,158,316	3,171,107	2,920,900	2,714,490	2,516,963	2,478,377
Numbers rented for each employee employed	TOT	157.27	152.29	136.66	117.49	106.00	98.37
	Private Operators	373.10	369.64	332.30	317.67	310.66	306.27

Source: The TOT Corporation Plc., the TT&T Plc., the TA Plc., and the Bualuang Securities Plc.

Secondly, the SOTE normally faces the problem of operational freedom. The SOTE's operation is notoriously vulnerable to outside intervention. The fact that the SOTEs are currently wholly owned by the state and are under the responsibility of the line ministry⁹² suggests that the operations of both SOTEs do not have as much freedom as they should. For example, the law specifies that the cabinet should make the final decision on a number of important issues such as

⁹² In the past, the TOT and CAT were under the jurisdiction of the MOTC. However, when Thailand underwent a major bureaucratic reform in 2003, the MICT was established. Since then, both SOTEs had been transferred to the jurisdiction of the new Ministry.

the approval of the high-value investment plan, the appointment of the BOD⁹³ and the high-level management⁹⁴. In fact, real incidents that show the SOTEs' vulnerability to political interference can be seen all along. According to Uthaisang (personal interview, November 18, 2004), it almost becomes a tradition among the large SOEs, including the SOTEs, that there will be a major reshuffle within the BOD every time there is a change of minister, where, most of the time, the members of the new BOD are intimates of the government party or the minister himself.

Finally, the unclear objectives of the SOTEs sometimes cause confusion regarding the roles they play. Thai SOTEs do not clearly know whether they are socially-oriented or commercially-oriented organisations. They play both roles up to this date. In fact, the ambiguous objectives of the SOTEs can be traced back to the beginning when Section 6 of the 1954 TOT Act and Section 7 of the 1976 CAT Act prescribed both organisations to operate for the benefit of both the state and the public. However, in practice, maximising the state benefit may not be consistent with maximising public benefit. Focusing on the public welfare perspective, state telecommunications organisations should have duty to provide equal accessibility to all people at reasonable prices regardless of where they live; such a role is so described under the concept of "Public Service Obligation" (PSO). Obviously, providing PSO to promote social welfare (e.g. providing

⁹³ See details in Section 27 and 40 of the 1954 TOT Act and Section 24 and 39 of the 1976 CAT Act.

⁹⁴ As a result of the Act on the Qualifications of Board of Director and Officers of State Owned Enterprise B.E. 2543 (2000), the selection of the top-level position of SOE has to be done by the MOF, which is the owner of SOEs. The applicants can be either SOE employees or professionals from outside. However, the selected applicant also needs approval from the cabinet before taking the position.

public telephones in the remote areas) burdens the SOTEs with heavy losses in financial terms, which therefore hurts the performance of the SOTEs as well as the benefit of the state. Although it can be argued that the PSO problem is easily solved by specific government subsidies, the PSO subsidisation from the government has never happened in Thailand. Instead, Pornsutee (personal interview, November 12, 2004) reveals that the PSO's source of funds seems to come from cross-subsidisation from some other monopolised services such as long distance calls. On the other hand, the state also expects some benefits of its own. The fact that the state, via the MOF, usually asks for a huge amount of treasury remittance from the SOTEs every year is a strong reason to force the SOTEs to maximise their incomes and profits. The statistics of the SOTEs's remittance to profit ratio during 1998 to 2002 (shown in Table 5.2) reveal an interesting finding in that both SOTEs remitted a very high percentage of their profits to the state coffers. Especially in the case of TOT, it appeared that the TOT had remitted more money to the state than profit received. In this kind of circumstance, it is obvious that not only were the SOTEs unable to expand their investment, but it also hurt the SOTEs' financial status in the long run. With these incompatible objectives, the SOTEs should have tried their best to optimise both objectives; however, the real practice appeared to demonstrate that both TOT and CAT put priority on the maximisation of revenue rather than social benefit. Several pieces of evidence can be produced to justify this claim. Firstly, the SOTEs try to maximise profit because part of the profit will be put into the employee fund to promote employees' welfare; secondly, the MOF, via the SEPO, uses the annual profit and level of annual remittance as the key indices to evaluate

state owned enterprise's performance as well as to determine the level of bonus pay for SOTE's employees and management.

Table 5.2
SOTEs' remittance to profit ratios during 1998 to 2002

Unit: GBP

Year	TOT			CAT		
	Profit	Remittance	Ratio	Profit	Remittance	Ratio
1998	194,702,837	233,671,429	120.01%	105,274,730	74,571,429	70.84%
1999	27,677,210	169,828,571	613.60%	52,968,763	50,000,000	94.40%
2000	75,777,628	31,068,714	41.00%	81,539,646	40,564,286	49.75%
2001	189,013,553	43,196,571	22.85%	102,133,931	74,681,857	73.12%
2002	292,704,723	119,096,714	40.69%	81,294,029	65,631,286	80.73%
	Average		167.63%	Average		73.77%

Source: The SEPO, MOF

Note: Exchange rate at GBP 1 : THB 70

In summary, all observations on the problems of the state run organisations and services above should be convincing enough to conclude that Thai telecommunications under the domination of SOTEs really did face problems. These problems had to be addressed without delay in order to improve the industry and make it in-sync with the changes of the current era.

THE NEED FOR PRIVATISATION

The idea to privatise the SOE in Thailand can be traced back to the beginning of the 1960s; however, it had never been put up for serious implementation. Until the mid 1990s, there were only a few small, poorly-operated, and inefficient SOEs (e.g. the Paper Mill Organisation, the Preserved Food Organisation, and the Off-shore Mining Organisation) that had been privatised and sold to private

companies. Although the idea of privatisation within Western countries started to become widespread during the 1980s and 1990s, such thoughts did not affect the Thai economy much at that time. It appeared that the high growth of the Thai economy during those periods kept the governments from paying much attention to privatisation. Dempsey (2000, p. 380) explains,

Because Thailand's GDP was growing faster than any country in the world between 1985 and 1995, the need to reform the SOEs seemed less pressing. Ministers and directors of state enterprises were willing to turn a blind eye to the inefficiencies of the SOEs as long as the country as a whole kept booming. The incentive for reform was simply lacking during these years.

However, more recently, the need for privatisation has become more apparent in many economies around the world. Thailand is one of the countries where privatisation finally appeared vital in order to catch up with the fast changing environment. Focusing on the telecommunications industry, many factors, internally and externally, unanimously suggested that the government had to start considering and implementing the privatisation programme seriously.

The first reason that forced the governments to seriously implement the privatisation programme was the promulgation of the 1997 Constitution. Section 87 clearly states the promotion of a free and fair market; it also mentions that the state should not compete with the private sector in doing business except where it is necessary to do so. As for telecommunications, there was no further reason that the state should remain the service operator since the claims on either national security or the natural monopoly were already weakened due to advances in technology (Newbery, 1999 and Wallsten, 1999). In fact, it was also obvious that the Thai private telecommunications companies could do the job very efficiently.

Therefore, to comply with the Constitution and to enhance economic efficiency, the TOT and CAT had to be privatised and become only ordinary operators without any special privileges.

The second impetus to serious privatisation also took place in 1997 when Thailand accepted the financial bail-out package from the IMF. The package insisted that the government must bring the SOEs into fiscal balance and prepare a comprehensive privatisation programme. As a result, the government's commitment to privatising the SOEs was seen in every LOI. Besides, the economic recession that dragged on into subsequent years also pressured Thailand to privatise its SOEs in another way (Dempsey, 2000). The economic deterioration made the government desperately in need of money to spend on other pressing expenditures such as reducing debts, balancing the budget, improving social services, and so forth. The privatisation of SOEs seemed an easy and sensible option. Although privatisation in theory covers a wide range of measures (e.g. leasing, contracting out, joint ventures), privatisation in the outlook of the Thai government basically meant the divestiture option (Juruphan, personal interview, December 14, 2004). The primary purposes of privatisation were to raise money for the state coffers as well as to reduce the state's financial burden. In fact, the intention to privatise SOEs (including TOT and CAT) in search of money can be clearly seen when the cabinet made a resolution on May 19, 1998 that 50% of privatisation proceeds must be used to replenish a special fund that was established to bail out the country from the damage incurred during the financial crisis. However, because the country was in a financially vulnerable

situation, the selected SOEs to be privatised had to be lucrative enough to draw attention from investors, which is why TOT and CAT were picked and put in the MOF's fast track privatisation schedule.

Another reason for privatisation was the need to increase the efficiency of the telecommunications industry and the SOTEs themselves. As mentioned earlier, there were many factors that made the industry under SOTEs' domination not very efficient. Additionally, the inefficiencies embedded within the SOTEs tended to make them unable to compete effectively with other private local and international competitors; especially when they no longer had monopoly rights or special privileges. These SOTEs therefore needed to be changed; and privatisation seemed to be the soundest alternative in such circumstances. In fact, according to information obtained from the fieldwork, the privatisation of SOTEs with the purpose of increasing efficiency is unanimously agreed upon among most local industry gurus in different fields such as politicians (Sueb Wonglee, personal interview, November 25, 2004), SOTE management (Chevapruet, personal interview, December 8, 2004 and Naksrinuan, personal interview, December 7, 2004), government officials (Juruphan, personal interview, December 14, 2004 and Pornsutee, personal interview, November 12, 2004), academics (Teeralarp, personal interview, December 20, 2004 and Vongpanitlerd, personal interview, December 2, 2004), and even SOTE labour union (Chareonwan, personal interview, December 14, 2004 and Iambumrung, personal interview, December 21, 2004). A number of advantages are potentially obtained from privatisation. For instance, the tight government rules applied to SOTEs will be lifted off;

private business practice will be brought in; independence and transparency within the organisations will be improved (especially once the SOTEs are listed on the stock market and conform to the stock exchange regulations).

In the case of Thailand, the benefits of privatisation have begun to be seen even though the SOTEs have not yet divested. Firstly, the pressure of being a private company that focuses on performance is prone to force employees (and even management) to change their working style to a more efficient manner. As disclosed by the president of TOT labour union, Chareonwan (personal interview, December 14, 2004),

It is found that the plan to privatise TOT made TOT employees more enthusiastic about their careers. It appeared that a number of employees strove for further education and attended more training sessions in order to improve their qualifications and advance their career paths.

Secondly, the “Thailand Post Company Limited” (a company that spun-off from the CAT) stands as another good example of the significant improvement in operating performance. Although there was no plan to list it on the stock market, the company’s performance considerably improved simply by bringing in private business practices and performance-based operation; a number of new services (e.g. the “Pay-at-Post” service⁹⁵) were introduced to customers, which generated a high amount of income and helped the company to overcome heavy losses (Chareonwan). Moreover, a high-level government official at the MOF further reveals another benefit in that privatisation can create a sense of ownership among the employees and management (Juruphan, personal interview, December 14,

⁹⁵ “Pay-at-Post” is a service that allows people to pay their bills (e.g. electricity, water, landline phone, mobile phone, insurance, credit card, and etc.) at the post office, which there will be a small amount of premium charged for this service.

2004). Based on her experience, one of the major drawbacks of the SOE is that there is no real owner. Employees, management, or even the public, do not have a sense of belonging to the SOE, which did not inspire them to do their best for the good of their organisation. Therefore, incorporating the “Employee Stock Option Plan” (ESOP)⁹⁶ with the privatisation of TOT and CAT provides a good opportunity to improve the performance and efficiency of the organisations, as the improvement in the organisations’ performance would be reflected in the price of the SOTEs’ stock.

Last but not least, the privatisation of SOTEs also showed government intentions as regards the telecommunications reform. That the government agreed to pull out its stake from the SOTEs means it no longer has motivation for further industry protection. As SOTEs become private companies, the government cannot simply ask for remittances as before; on the contrary, the only ways the government can draw money from privatised SOTEs are from stock dividends and annual income taxes, which means the government is no longer reluctant to open the industry to free competition⁹⁷. Instead, it now becomes another party that expects to gain benefits from the reformed and more efficient industry (Juruphan). By doing so, the clear direction from the government has become a good stimulus to increase the confidence of investors, either local or foreign, and facilitates real and fair competition.

⁹⁶ The ESOP is a scheme that gives the SOTE employee the right to buy a certain amount of the SOTE stocks at a special price.

⁹⁷ Keeratikrainon (2002) argues that Thai governments in the past actually did not want to privatise the SOTEs, as they still enjoyed drawing money from both TOT and CAT.

In summary, during the 1990s, there were many important incidents that suggested the Thai telecommunications industry towards the same policy. The economic breakdown, the commitment to international organisations, and the apparent inefficiency within the SOTEs all suggested that the privatisation of the SOTEs was a sensible option to alleviate these problems. Privatisation raises money for the state; it reduces the state budgetary burden; it corresponds with the country's commitment to international organisations; it supports a more open and highly competitive environment; it releases the SOTEs from tight and lengthy government rules; it improves the efficiency and flexibility of the SOTEs; and, most importantly, it is expected to restore economic vitality to the country.

THE PREVIOUS ATTEMPTS AT PRIVATISATION

Attempts to privatise SOTEs have been seriously undertaken by the two recent governments. The Chuan Leekpai II government was the one that began undertaking the privatisation programme seriously, which was inherited by the subsequent government of PM Thaksin Shinawatra. To make privatisation happen, recent governments attempted several important manoeuvres. The first action was the unveiling of the Master Plan for State Enterprise Sector Reform in September 1998 (hereinafter “the 1998 State Enterprise Master Plan”). Resulting from the 1998 State Enterprise Master Plan, a specific committee, namely “the State Owned Enterprise Policy Committee (SEPC)”, was established to take responsibility for most privatisation-related tasks, ranging from choosing the

SOEs to be privatised to supervising and facilitating the entire privatisation process. The second action taken by the Thai government was the enactment of the Corporatisation of State Enterprise Act B.E. 2542 (1999), the so-called “1999 Corporatisation Act”. The objective of the act was to facilitate the transformation of the SOE from state ownership to a company⁹⁸. Besides, the 1999 Corporatisation Act has another important implication, as it mandates the establishment of another important agency, namely the State Owned Enterprise Capital Policy Committee (SECPC), which has the duty to facilitate and deal with the whole corporatisation process of any SOE.

Although the governments have undertaken many measures to facilitate the privatisation programme, privatisation in real practice was not as easy as initially thought. The urgent need for money and the inexperience of privatisation caused the MOF to only roughly estimate the country’s economic conditions as well as to be too optimistic about the readiness of the SOEs themselves. As the secretariat to both SEPC and SECPC and the owner of all SOEs, the MOF picked the 18 most lucrative SOEs and put them into the initial fast-track privatisation schedule (Table 5.3), which meant all of them had to be privatised and listed on the Stock Exchange of Thailand (SET) between 2001 and 2003. However, by the end of the

⁹⁸ However, the 1999 Corporatisation Act is not versatile enough to privatise the SOE in one step. All it can do is convert the SOE’s initial capital (the equity that the state gave to each SOE at the establishment) into a number of shares, depending on the value of each SOE. Therefore, the privatisation of the SOE (e.g. the divestiture) has to be done as the next step under the guidance of the SECPC and the MOF.

plan, there were only five SOEs that actually publicly traded their stocks on the SET⁹⁹ (shown in Table 5.4).

Table 5.3

The MOF's initial privatisation schedule during the period 2001 to 2003

State Owned Enterprises		2001				2002				2003			
		Q1	Q2	Q3	Q4	Q1	Q2	Q3	Q4	Q1	Q2	Q3	Q4
1	Internet Thailand Co. Ltd.												
2	Thai Airways International Co. Ltd.												
3	Petroleum Authority of Thailand												
4	Krung Thai Bank												
5	Sri Nakorn Bank												
6	Siam City Bank												
7	Telephone Organisation of Thailand												
8	Communication Authority of Thailand												
9	Thailand Tobacco Monopoly												
10	Airport Authority of Thailand												
11	The Government Housing Bank												
12	Port Authority of Thailand												
13	Government Saving Bank												
14	Electricity Generating Authority of Thailand												
15	Metropolitan Electricity Authority												
16	Provincial Electricity Authority												
17	Metropolitan Waterworks Authority												
18	Provincial Waterworks Authority												

Source: The SEPO

Table 5.4

The list of fast-track SOEs that have been privatised and listed on the SET between 2001 and 2003

Name of SOE	Year of divestiture	Percent of divestiture
1. Internet Thailand	November 2001	51%
2. Petroleum Authority of Thailand	December 2001	30%
3. Krung Thai Bank	October 2003	31%
4. Siam City Bank*	November 2003	17.5%
5. Thai Airways International	November 2003	30%

Source: The SEPO, MOF

Note: * Siam City Bank and Sri Nakorn Bank have been merged before divestiture.

Focusing on the SOTEs, both TOT and CAT were also included in the initial schedule. The schedule required the TOT and CAT to be privatised and listed on the stock market by the second and third quarter of 2002, respectively. However,

⁹⁹ However, there are several SOEs that are not on the fast-track list, but they have been listed on the SET during 2001 to 2003. For example, Bank Thai divested 51% of its stocks in September 2002.

under the real circumstances, the schedules of both TOT and CAT were violated and indefinitely stalled. By the beginning of 2005, the most that both SOTEs had achieved was that they had been incorporated as companies; the TOT was corporatised in July 2002 and had its name changed to “the TOT Corporation Public Company Limited” (TOT Corp Plc.). Likewise, in August 2003, the CAT was also corporatised and separated into two different companies, which presently are (1) “the CAT Telecom Public Company Limited” (CAT Telecom Plc.) and (2) “the Thailand Post Company Limited¹⁰⁰.”

THE FAILURES OF THE ATTEMPTS

Upon closer consideration, the failure of the previous SOTE privatisation attempts can be attributed to several main factors.

The structural reasons

Since the late 1990s, governments have consistently put a lot of effort into privatisation. Although it is found that both TOT and CAT were healthy enough for privatisation, the industry environment at that time was not kind enough to make privatisation happen.

¹⁰⁰ The CAT has to be separated into two companies because the postal service is considered part of the PSO. The THB 3 delivery fee (approximately GBP 0.04) around the country is obviously unprofitable and needs a subsidy. Therefore, the Thailand Post Company will be kept as a SOE, while the CAT Telecom Plc. will be listed in the stock market in the appropriate time.

It is found that the industry contained too many uncertainties to produce a successful privatisation; to be precise, the industry lacked adequate structural arrangements. The absence of an industry regulator was the biggest hindrance. The vagueness of the future industry outlook remains a very influential factor in putting off privatisation, as investors need to know every relevant factor in order to evaluate the appropriate price, and decide whether or not it is worth buying the SOTEs' stocks. Also following from the absence of clear regulatory regime, the leftover BTO concession was another big obstacle to successful privatisation. The continuation or termination of these concessions would make a big difference to the operating performance of both SOTEs. In this regard, Vongpanitlerd (personal interview, December 2, 2004) affirms that, at least, the government must be clear on whether or not it is going to convert the BTO concessions. Unfortunately, even though the government realises the importance of such distinctness, it does not have any right to force the BTO partners either to convert or not to convert their contract as all the existing concessions have their validity recognised by the 1997 Constitution. With these ambiguities, it is almost impossible to sell the stocks of SOTEs. In short, the uncertainties on the industry's future environment (e.g. the absence of regulator, the unclear regulatory regime and the unresolved BTO concessions) effectively undermined the privatisation since the risk from those uncertainties was too high for the government to recklessly push ahead the programme, while it was also too risky for investors to invest in the privatised SOTEs that had no clear direction.

The political reasons

Apart from structural unreadiness, politically related reasons also played an important role in putting off the privatisation programme.

Indecisive policy

The indecisive policy over the privatisation of TOT and CAT was one of the reasons that obstructed the privatisation. The first official clue of privatisation appeared in the 1997 TMP, which had been well prepared and agreed upon by most involved parties, including the labour unions (Kusripituck, personal interview, November 24, 2004). However, according to Uthaisang (personal interview, November 18, 2004), the TMP was simply overruled by the promulgation of the 1997 Constitution, which is also a relevant context for the telecommunications reform. Although the TMP and the Constitution did not ultimately contradict one another, the Constitution does not strongly stress the privatisation of the SOTEs like the TMP (Kusripituck, personal interview, November 24, 2004). The Constitution rather puts more focus on the establishment of an industry regulator as well as the enactment of new telecommunications laws, which made privatisation relatively a secondary priority of the reform.

The situation with the privatisation became even more complicated after the Thai economy was severely hit by the economic crisis in 1997. The aim of

privatisation had begun to veer away from the primary one, which was to increase the efficiency of the SOTEs; privatisation became more or less a device of the political apparatus. As described by Tangkitvanich (personal interview, December 28, 2004), privatisation in the era of PM Chuan Leekpai II (between 1997 and 2001) was under pressure to conform to IMF conditionality and to repay the country's debt, while PM Thaksin Shinawatra (between 2001 – the present) promoted privatisation mainly to stimulate the capital market and the country's economy.

Moreover, the fact that the privatisation model determined by the governments has never been constant led to confusion among the working teams, as well as to difficulties in implementation (Juruphan, personal interview, December 14, 2004 and Pornsutee, personal interview, November 12, 2004). For example, at the beginning, the TMP prescribes that there would be a newly established telecommunications holding company, which has both TOT and CAT as its subsidiaries; and these three companies can be separately brought to the stock market at an appropriate time. But, later, the government came up with several new alternatives of privatisation. For instance, it proposed the establishment of a "Super-Holding Company"¹⁰¹, which was going to be the holding company of all the privatised SOEs (not only the SOTEs); subsequently, the Super-Holding Company model was replaced by another idea, which was to separately privatise the TOT and CAT; and most recently, the model was changed once again when the government considered a merger of TOT and CAT into one comprehensive

¹⁰¹ The government of Thailand imported this idea from the very successful "Temasek Holdings" of Singapore (Juruphan, personal interview, December 14, 2004).

organisation before listing it on the stock market. Apparently, each alternative had its own pros and cons, supporters and opponents, which made it a difficult choice for the government as well as for other involved parties. Consequently, it eventually led to the stumble of the privatisation programme.

Instability of the government

The instability of the governments also caused problems for the SOTE privatisation plan from the start. Until recently, the nature of the Thai government was that of a coalition government. Each political party did not greatly differ in terms of the number of seats held in parliament; the coalition government side usually had only a few more seats than the coalition opposition. Every Thai government in the past was not quite stable; in fact, all of them were politically vulnerable (Uthaisang, personal interview, November 18, 2004). History suggests that political instability led to the frequent changing of the governments and the PMs, which inevitably affected the SOTEs' privatisation programme. The announcement of the TMP in 1997 is one good example. The TMP passed through three revisions from three different governments. The governments did not survive long enough from the drafting stage to the announcement stage. Each time there was a change of government, the draft of the TMP was drawn back and revised (Keeratikrainon, 2002 and Niyomsilpa, 2000). Moreover, resulting from the politically vulnerable nature of the governments, policies or actions that might cause dissatisfaction to other politically powerful parties (e.g. other coalition political parties, the labour unions, the military, the NGOs, and the public in

general) were usually turned down. A good example arose in the era of PM Chartichai Choonhawan when the government proposed the intention to privatise the SOTEs. Unfortunately, the government was not strong enough to withstand the resistance from the powerful labour unions¹⁰², which, as a result, indefinitely stalled the idea. All in all, it would not be an overstatement to conclude that governments in the past were politically weak and appeared interested in keeping themselves in position for as long as possible, rather than being seriously interested in implementing risky privatisations.

Involvement from interested parties

The diverse perspectives among the parties who were involved in the privatisation actually caused difficulties in the privatisation of SOTEs. According to Juruphan (personal interview, December 14, 2004), she claims that SOTE employees, academics, NGOs, and the political groups were the parties that had high levels of involvement. It is interesting to find that each party has its own convincing reasons for participating in the privatisation. From the employees' perspective, it is very understandable that they would have an active role, as the privatisation directly affects them. The presidents of the labour unions of both TOT and CAT (Chareonwan, personal interview, December 14, 2004 and Iambumrung, personal interview, December 21, 2004) disclose that the employees resist privatisation because they are afraid of change. They fear losing job security and the benefits received from being a state employee, which are usually better than those of the

¹⁰² According to Niyomsilpa (2000), it is believed that the labour unions were backed by the military, which also receives many benefits from the SOTEs, and indeed the government of PM Chartichai Choonhawan was subsequently overthrown by the military.

private companies. They are also afraid that privatisation would lead to an increase in layoffs and a decrease in benefits, as the experiences in many other places reveal such results. The high-level management of TOT (Naksrinuan, personal interview, December 7, 2004) reveals another insight that the government stressed only the privatisation's potential benefits for the country and the consumer. But, the employees had never been informed about their own benefits, they only knew that they were becoming more exposed to harder work and being faced with less security in their jobs. Perspectives from academics are also interesting to note. As quoted in Pouaree (1997), Ungpakorn, a local renowned political academic, opposed the government's privatisation programme by asserting that the SOE existed not to make profit, but to promote social welfare or for national security reasons. Moreover, some academics were also concerned about the issue of national sovereignty, as selling the SOEs' stock to international investors also means creating opportunities for foreigners to have more influence on the Thai economy. As for the political groups, opposition from some senators was also prominent. As cited in Nontharit (1998), Senator Kumanvisai appealed to PM Chuan Leekpai to slow down the privatisation programme since Thai investors, compared to foreign investors, were not financially strong enough to invest in the majority of the SOEs' stock. Especially, when considering all the privatisation series (the 18 fast-track schedule) launched by the MOF, it was very unlikely that the "just-recovered" Thai economy would be able to absorb all the expected proceeds from the privatisation of 18 huge SOEs during the three-year period. In addition, Senator Ruchuphan (as quoted in Theparat, 1999) also attacked the privatisation programme on the grounds that the main objective had

diverged from the original intentions, as the privatisation in Thailand turned out to be driven primarily by the general policy of the IMF and foreign creditors, who seemed to be more concerned with getting their loans repaid rather than the well-being of the recipient country. All in all, it was found that the privatisation involved not only the SOTE employees and management, but it also called for involvement from other political actors (e.g. the NGOs, senators, or the academics).

CONCLUSION

What this chapter reveals is that privatisation of SOTEs was and still is an important issue in the telecommunications reform programme of Thailand. In fact, both internal and external forces were directing Thailand into improving the efficiency of the SOTEs and towards promoting free and fair competition via privatisation. Nonetheless, all the previous attempts failed for two main reasons. The first reason was the unreadiness of the associated structural arrangements within the country, such as the absence of a regulator and the existence of the BTO concessions. These ambiguities were technically unfavourable to the privatisation; they created a high level of risk that disincentivised investors, as well as worked against the prospect of a successful privatisation. More importantly, another culprit was the political dynamics created by different interested parties. Each party has its personal preferences and interests in the privatisation. For example, the government tried to privatise SOTEs to increase

the efficiency of the economy, to reduce financial burdens, and to meet national commitments; the labour unions resisted the privatisation to protect their privileges and benefits; the academics, along with the NGOs, opposed the programme since they doubted whether all Thai citizens would be the ultimate beneficiaries. The inconsistency of interests among these parties inevitably affected the progress of the privatisation programme. Each party strove to retain or even promote its interest by exercising its power, directly or indirectly and openly or secretly, while the governments were not strong enough to resist all these involvements. In short, the case of Thailand reveals that, without a supportive institutional arrangement, a strong commitment and a clear policy from the government, and also coordination from the involved parties (especially the ones who are politically powerful), the privatisation of the SOTEs seems to be difficult to accomplish.

CHAPTER 6

THE CONCESSION CONVERSION

INTRODUCTION

The conversion of the BTO concessions is the second hindrance to reforming the Thai telecommunications industry. As mentioned in Chapter 4, the BTO concession scheme was created and appeared to be the only way to bring in private participation to the industry. The introduction of BTO in 1986 was actually the first concrete reform attempt of Thai telecommunications. At the beginning, the benefits of the BTO were quite obvious to both the SOTEs and the consumers; it effectively resolved the telecommunications shortage crisis and strengthened the SOTEs' financial status. The BTO, as a result, has been widely used within the Thai telecommunications business since then. However, the BTO ended up causing a lot of problems at a later stage when the country considered reforming the industry on a larger scale. Initially, it seemed fair that the BTO partners exchanged part of the revenue (or the "revenue-sharing") in return for the exclusive right to operate in the industry. However the BTO started to appear doubtful when the idea to open the industry for free and fair competition became apparent. This was especially so when the SOTEs no longer held monopoly rights. Many attempts have been made recently to terminate these concessions in order to separate SOTEs and their concessionaires to free them and allow them to

compete with one another. Unfortunately, all the attempts failed, and it seems that both structural and political reasons were at the root of the problem.

BENEFITS OF THE “BTO” FOR THE THAI TELECOMMUNICATIONS INDUSTRY

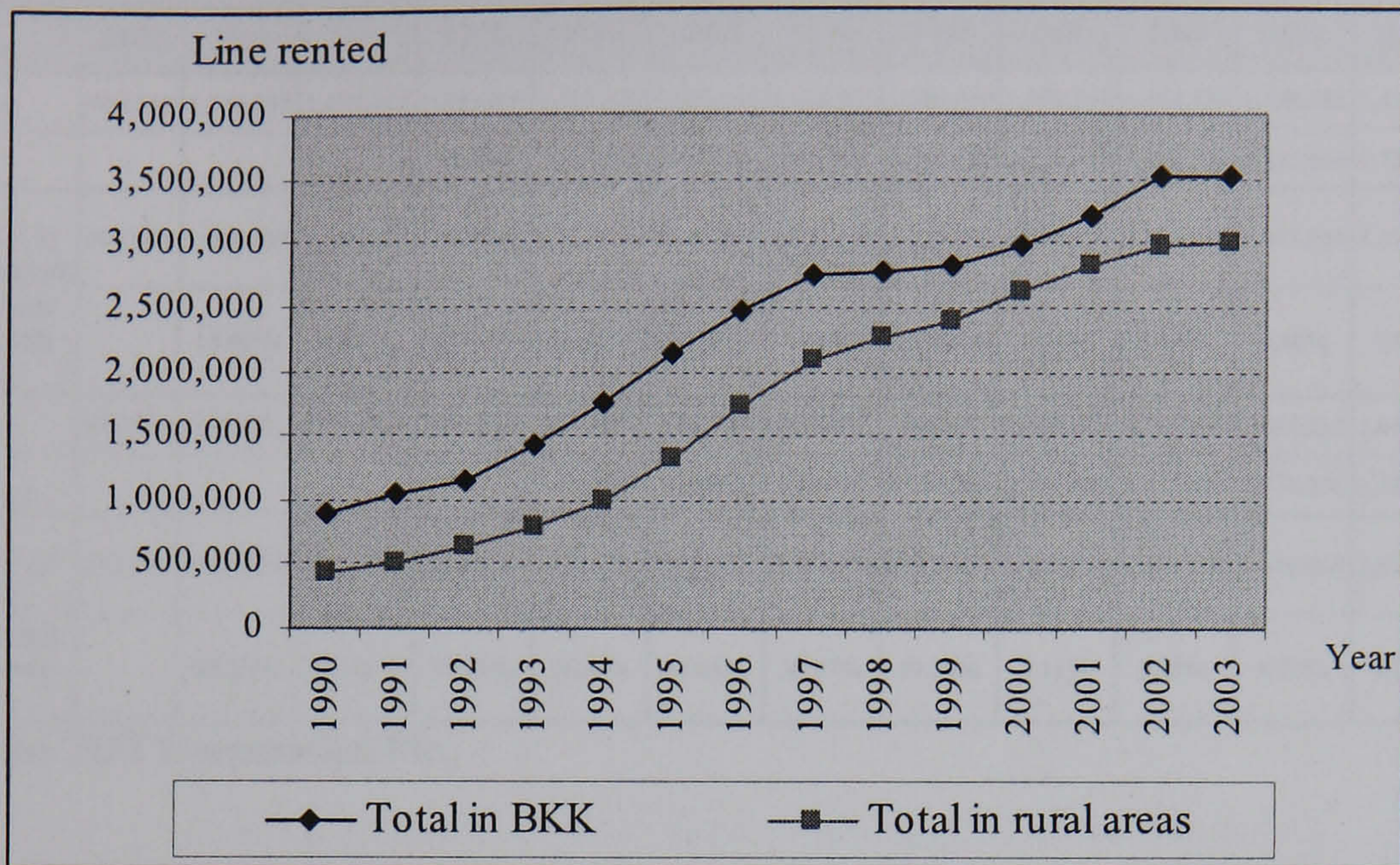
Responding to the telecommunications crisis during the end of the 1980s, the BTO concession was introduced as the most practical answer to most of the industry's problems. In fact, the benefits of the BTO were widely perceived right after its introduction in the 1986.

The first benefit of the BTO was that it was the only way to bring in private participation without violating the country's telecommunications laws. The establishment law of both SOTEs allowed them to grant concessions to the private sector in the services that were under their responsibilities¹⁰³. Therefore, as long as the SOTEs still held the monopoly right and the telecommunications assets were still owned by them, there was no legal violation. Besides, the state was also able to retain power of control over the industry; it could exercise the power either directly over the SOTEs or indirectly (via SOTEs) over the private concessionaires. The classic example was that the state used its power to control the price of services or to force the operator to provide a universal service obligation without offering any subsidies.

¹⁰³ Please find details in Section 9(6) of the 1954 TOT Act and Section 10(6) of the 1977 CAT Act.

Figure 6.1

The amount of the fixed line subscribers in Bangkok and rural areas during 1990 to 2003



Source: The TOT Corporation Plc.

Whereas the services provided by only SOTEs were obviously insufficient to meet the increasing demand, the BTO scheme allowed private companies to participate in providing some important services to the consumers, which as a result, was able to alleviate the service scarcity. The growth of fixed line and mobile phone services can be seen as good evidence of the benefits of the BTO. Figure 6.1 illustrates the improvement of the supply of fixed line service in both Bangkok and rural areas during the period 1990 – 2003, while Table 6.1 shows the annual growth rate of fixed line supply during the same period.

Table 6.1

Annual growth rate of fixed line in Bangkok and rural areas during 1990 to 2003

Area	Provider	Number rented													
		1990	1991	1992	1993	1994	1995	1996	1997	1998	1999	2000	2001	2002	2003
Bangkok	TOT	900,941	1,044,295	1,159,227	1,383,269	1,511,520	1,531,036	1,528,973	1,502,616	1,459,549	1,438,933	1,439,382	1,474,421	1,543,262	1,542,231
	TA	-	-	-	30,973	241,169	615,770	933,191	1,246,147	1,310,702	1,381,539	1,535,634	1,736,774	1,974,808	1,971,135
	Total in Bangkok	900,941	1,044,295	1,159,227	1,414,242	1,752,689	2,146,806	2,462,164	2,748,763	2,770,251	2,820,472	2,975,016	3,211,195	3,518,070	3,513,366
	Annual growth rate		15.91%	11.01%	22.00%	23.93%	22.49%	14.69%	11.64%	0.78%	1.81%	5.48%	7.94%	9.56%	-0.13%
Rural	TOT	423,581	508,865	630,802	801,623	929,941	948,958	959,505	996,888	1,099,623	1,248,740	1,437,212	1,647,170	1,785,473	1,854,227
	TT&T	-	-	-	-	69,209	386,233	778,489	1,081,033	1,167,675	1,135,424	1,178,856	1,184,126	1,196,299	1,187,181
	Total in rural	423,581	508,865	630,802	801,623	999,150	1,335,191	1,737,994	2,077,921	2,267,298	2,384,164	2,616,068	2,831,296	2,981,772	3,041,408
	Annual growth rate		20.13%	23.96%	27.08%	24.64%	33.63%	30.17%	19.56%	9.11%	5.15%	9.73%	8.23%	5.31%	2.00%

Source: The TOT Corporation Plc.

The statistics of the growth rate of fixed line service both in Bangkok and rural areas provide the same evidence that the availability of service increased significantly after the presence of private concessionaires. For example, the growth of fixed line service in Bangkok has increased twofold from 11.01% in 1992 to 22.00% in 1993 right after the introduction of the TA service. The arrival of TT&T also produced similar consequences when the growth rate of the rural areas jumped from 24.64% to 33.63% within a year subsequent to the TT&T introduction. Further, the growth rates in both Bangkok and the rural areas remained extraordinary for several years subsequent before the growth started to slow down. Nevertheless, it continued to grow until recently. Vimolvanich (personal interview, December 19, 2004) explains this effect in terms of the fact that the private operators had excess capacity allowing them to work more quickly and effectively than the TOT, which made the waiting list decline significantly during the several years of the TA and TT&T's operations. With the decrease of the waiting list, the growth rate of the fixed line service accordingly dropped to a

normal one afterward. Apart from the decline in the waiting list, the substitution and the growth in the mobile phone service was also another factor that slowed down the growth of the fixed line service.

Unlike the fixed line, the comparison of the mobile phone service before and after the BTO could not be clearly elucidated because both TOT and CAT were unable to make their mobile phone business flourish from the beginning. In fact, mobile services, under the provision of TOT and CAT, appeared to be an unsuccessful service both in terms of the amount of subscribers and the profitability. The story was different once the service began to be operated by the concessionaires (the AIS and the DTAC)¹⁰⁴; the amount of subscribers, the quality of service, and the service availability improved significantly (see Table 6.2). Although it can be argued that the impressive growth in the mobile phone industry may derive from factors like the change in technology and the reduction in the price of the handset and service fees, the evidence of inefficient and overly conservative characteristics of the Thai SOTEs should be convincing enough to demonstrate that the admission of private companies to take care of the development and the provision of the mobile service was the right decision by the state¹⁰⁵. Otherwise,

¹⁰⁴ As of 2004, there are three major mobile concessionaires, which are (1) the Advance Info Service Plc. (AIS), the TOT concessionaire which provides the analogue NMT 900 MHz and the digital 900 MHz system, (2) the Total Access Communications Plc. (DTAC), the CAT concessionaire which provides the analogue AMPS 800 MHz and the digital 1800 MHz system, and (3) the TA Orange Plc. (TAO), another CAT concessionaire which provides the digital 1800 MHz system.

¹⁰⁵ To strengthen the claim, Chevapruek (personal interview, December 8, 2004) admits that CAT (and probably TOT as well) is incapable of running a business that is not its core service. CAT had no service mind and lacked marketing skills. He raises the case of “pagers”, which was one of the most businesslike decisions of the CAT as an example. The CAT saw the potential of the service and kept the service provision for itself. After five years of operation, CAT had huge losses and thus decided to give out the service provision to the private concessionaires. Interestingly, the pager service in the hands of private concessionaires (e.g. the PACLINK,

the Thai mobile phone industry might not have flourished into what it is at present. The statistics show that, in 2001, the number of active mobile subscribers in Thailand was approximately equal to the amount of fixed line subscribers at around seven million lines before the mobile subscribers impressively soared to 16 million in the following year while the fixed line only slightly increased (less than one million lines) in the same period (the ITU, 2004c).

Table 6.2

The growth of mobile phones in Thailand during 1995 to 2003

Unit: 1,000

	1995	1996	1997	1998	1999	2000	2001	2002	2003
Mobile subscribers	1,297	1,844	2,203	1,977	2,337	3,056	7,550	16,117	24,864

Source: The ITU

Besides, the BTO also helped in introducing newer telecommunications services to the consumers. The conservative nature of the government, the NESDB, and the SOTEs themselves, on many occasions, obstructed the development of the industry. The SOTEs were not brave enough to initiate a new service, which was usually associated with risks, while the cabinet as well as NESDB were always reluctant to approve an investment project that entailed such a very large amount of investment. The granting of the BTO therefore became a decent alternative for the government to transfer the business risk to willing private operators, while still being able to retain control and the chance to draw revenues from the private company. The introduction of the VSAT service to the Thai telecommunications

PHONELINK, and WorldPage) had made a huge customer base and large profits for many years before the service was gradually superseded by the introduction of the mobile phone service.

market was good evidence in this respect¹⁰⁶. According to Chevapruek (personal interview, December 8, 2004), the cabinet rejected the project, as it needed high investment, while the success was not guaranteed. However, a number of private operators saw the opportunity and were willing to bear the risks. Later there were six VSAT BTO concessions granted to the private sector and most of them turned out to be successful.

THE IMPORTANCE OF CONCESSIONS TO THE SOTES

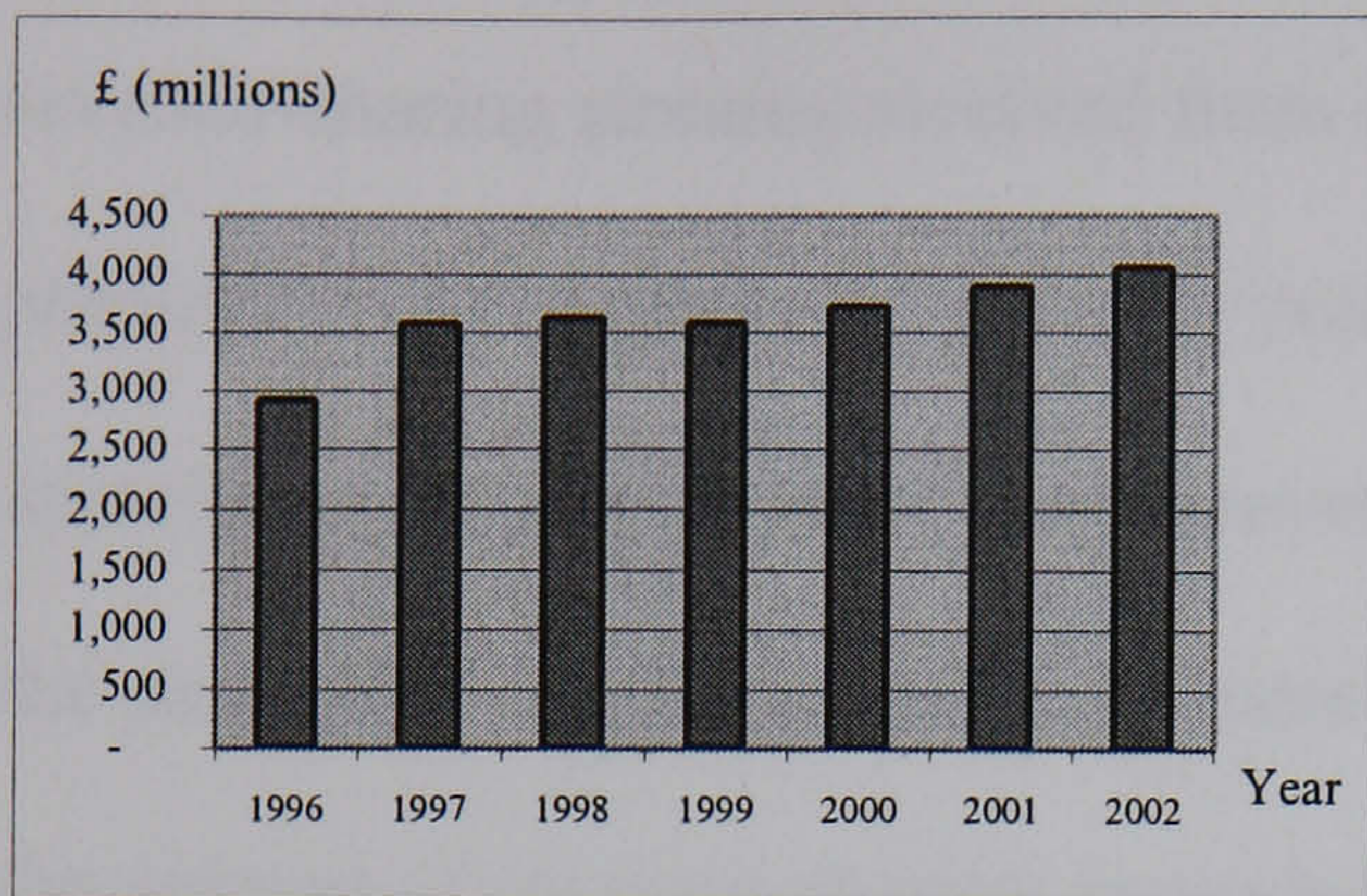
Apart from the fact that the concessions have alleviated scarcity and improved the quality and variety of telecommunications services in Thailand, the concessions also gave Thai SOTEs a strong position, especially in terms of network coverage and revenue streams. The conditions of the revenue-sharing and the assets transfer included in the BTO scheme enhanced the SOTEs' vigorous and steady growth, both in terms of size and income.

¹⁰⁶ In fact, the introduction of other telecommunications services (e.g. Trunk Mobile or Optical Fibre Network) also originated in the similar fashion to the VSAT.

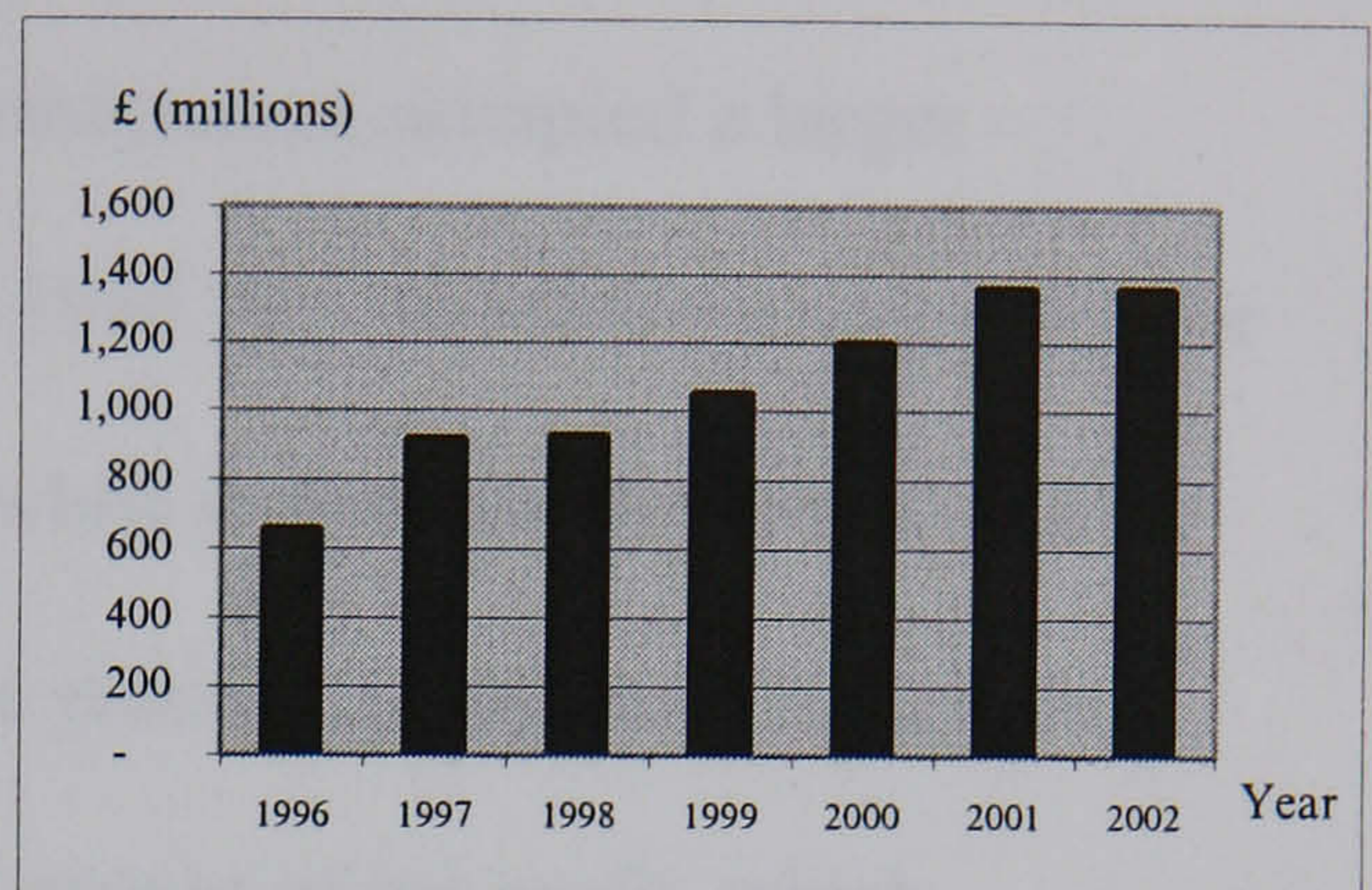
Figure 6.2

The size and the revenue of TOT and CAT during 1996 to 2002

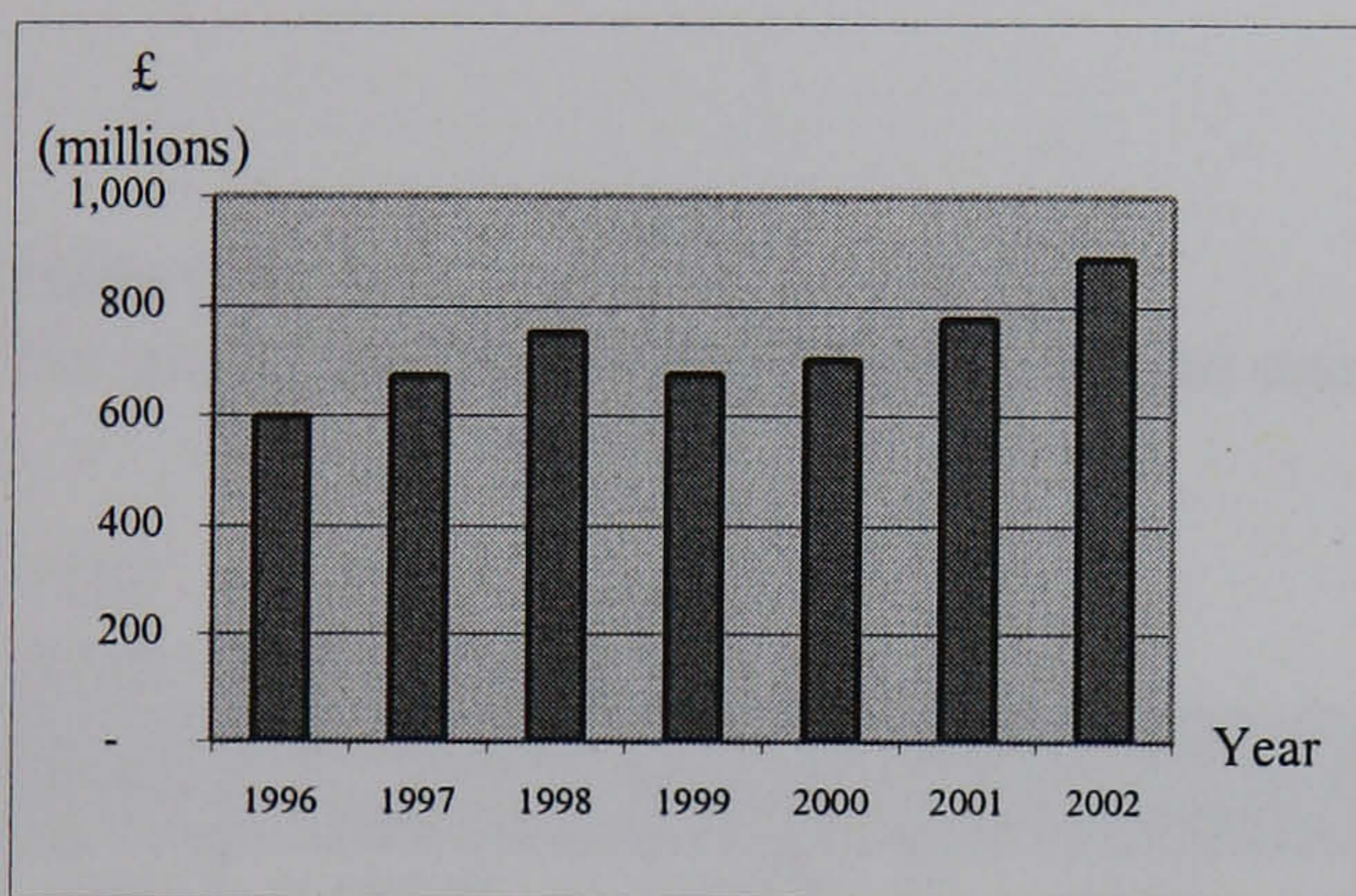
Size of TOT



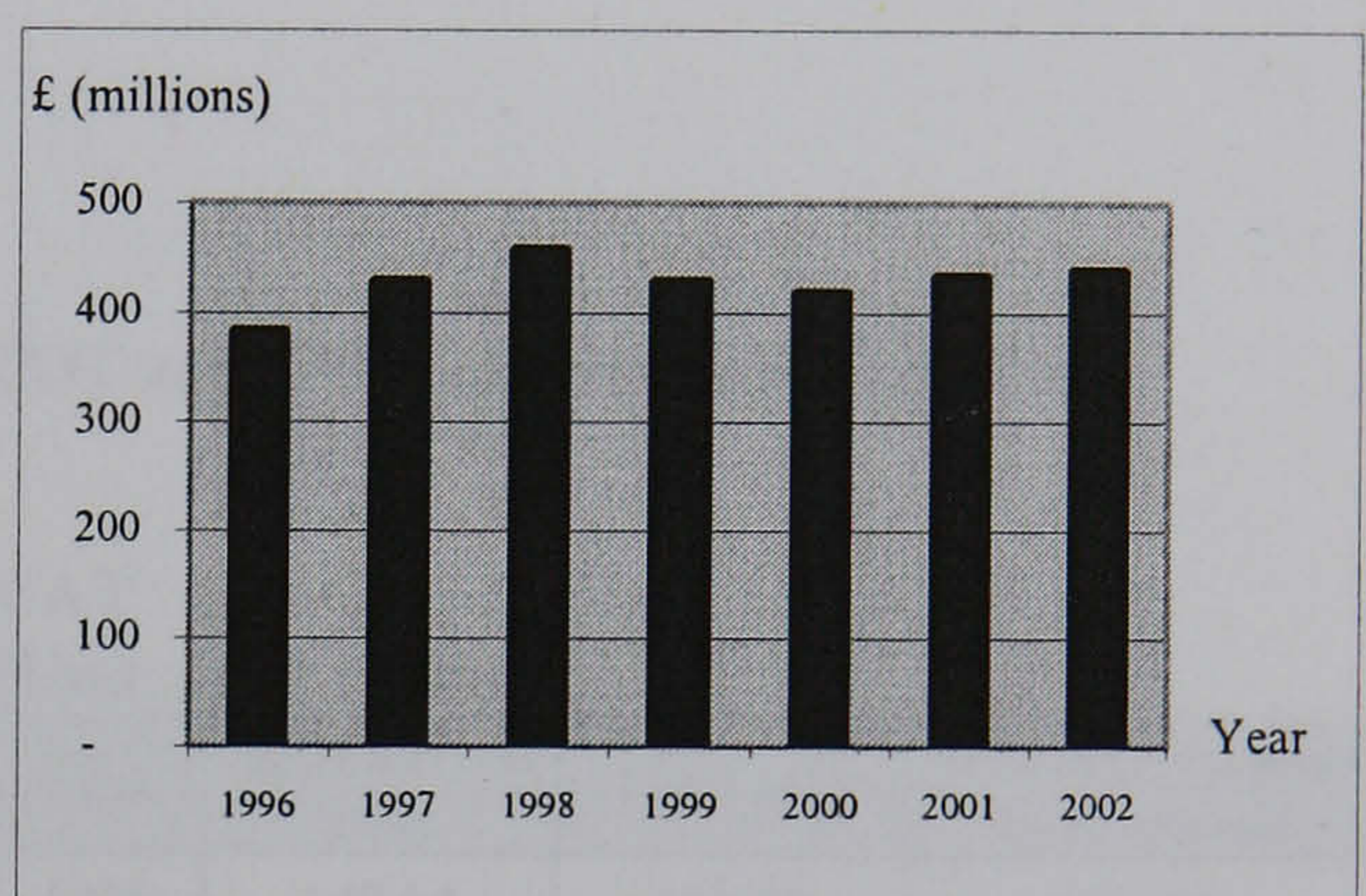
Size of CAT



Revenue streams of TOT



Revenue streams of CAT



Source: The SEPO

Note: The exchange rate at THB 70 : GBP 1

As shown in Figure 6.2, between 1996 and 2002, TOT's total assets increased from GBP 2,920 million to GBP 4,058 million, or around 40%. The grant of concessions both to the fixed line (TT&T and TA) and mobile (AIS) operators was the main reason behind this growth. The assets transferred from TOT's concessionaires were attributed to the significant proportion of the total assets of TOT. The fact that TOT invested only a small amount of capital to expand its own network after granting concessions has significantly diluted the proportion of assets built up by TOT compared to the assets built up and transferred from its concessionaires. The numbers provided in Table 6.3 are good evidence of this. In

1996, the total transferred assets accounted for 41% of the total assets of TOT; while the proportion increased to the level of 76.5% in 2002. Furthermore, the revenue-sharing streams received from concessionaires occupied a larger proportion of the total revenue each year. In 1996, revenue-sharing accounted for approximately 20% of TOT's total revenue, while it increased to almost 32% in the year 2002. Interestingly, there were some years (e.g. 1999 and 2000) when the amount of revenue-sharing exceeded the amount of net profit, which obviously showed how important a role revenue-sharing played in TOT's profit.

Table 6.3

The percentage of transferred assets to total assets of TOT and CAT between 1996 and 2000

TOT
(Unit: GBP millions)

Year	Transferred asset	Total asset	Transferred asset to total asset
1996	1,202.39	2,919.79	41.2%
1997	1,594.55	3,573.16	44.6%
1998	1,566.18	3,624.65	43.2%
1999	2,520.41	3,589.79	70.2%
2000	2,799.87	3,712.85	75.4%
2001	2,751.81	3,900.05	70.6%
2002	3,074.93	4,018.25	76.5%

Source: The TOT Corporation Plc.

CAT
(Unit: GBP millions)

Year	Transferred asset	Total asset	Transferred asset to total asset
1996	147.14	651.94	22.6%
1997	336.04	918.24	36.6%
1998	335.65	929.34	36.1%
1999	383.86	1,054.65	36.4%
2000	493.47	1,202.41	41.0%
2001	609.03	1,365.19	44.6%
2002	598.36	1,364.82	43.8%

Source: The CAT Telecom Plc.

The percentage of revenue-sharing to total revenue of TOT and CAT between 1996 and 2000

TOT
(Unit: GBP millions)

Year	Revenue-sharing	Total revenue	Revenue-sharing to total revenue
1996	119.02	597.59	19.9%
1997	177.20	673.97	26.3%
1998	133.72	751.71	17.8%
1999	133.42	676.60	19.7%
2000	151.57	703.40	21.5%
2001	182.88	776.52	23.6%
2002	281.35	885.97	31.8%

Source: The TOT Corporation Plc.

CAT
(Unit: GBP millions)

Year	Revenue-sharing	Total revenue	Revenue-sharing To total revenue
1996	13.04	383.94	3.4%
1997	25.15	430.09	5.8%
1998	26.00	459.34	5.7%
1999	36.19	430.25	8.4%
2000	30.62	419.68	7.3%
2001	40.41	434.20	9.3%
2002	52.69	441.27	11.9%

Source: The CAT Telecom Plc.

As for CAT, it also experienced a dramatic growth in size since 1996 (see Figure 6.2). It more than doubled from GBP 652 million in 1996, to around GBP 1,365 million in 2002. Similarly to TOT, Table 6.3 shows that the transferred assets also significantly contributed to the impressive growth of CAT's total assets. It accounted for 22.6% of total assets in 1996 before it rose to almost 44% in 2002. However, the picture is a little different from that of TOT when looking at this from the revenue aspect. CAT's annual revenues do not greatly fluctuate, ranging from GBP 350 – 450 million, between 1996 and 2002. The amount of revenue-sharing each year was not a critical portion of CAT's total revenue; in fact, the revenue-sharing received from concessionaires accounted for only 3% of CAT's total revenue in 1996, before being raised to around 11% in 2002. This is derived from the fact that CAT has only one strong concessionaire – DTAC – whose business is going well and is able to transfer a lot of assets while paying a substantial amount of revenue-sharing every year¹⁰⁷. In fact, the main income of CAT basically comes from its monopoly of data communications (e.g. long distance calls or international live broadcasting). Therefore, between the two SOTEs, CAT is much more financially independent from concessions than TOT. Even so, with the closer consideration, concessions are also important in keeping the Thai telecommunications market running smoothly since there is no clear indication whether the inexperienced state agencies like TOT and CAT will be able to utilise all the concession assets and continue operating those services efficiently and effectively, as was done before by the private operators (Vongpanitlerd, personal interview, December 2, 2004).

¹⁰⁷ Except for DTAC, other CAT concessions are in sunset businesses, such as the pager and the VSAT.

Interestingly, another important fringe benefit of BTO concessions can be seen from the macroeconomic standpoint. The BTO has created several strong Thai multinational corporations (MNCs). Apart from the two SOTEs, there are five other major private conglomerates that dominate the telecommunications service provision: the Shinawatra group (SHIN: the major shareholder of AIS), the Jasmine group (the major shareholder of TT&T), the United Communication Services group (UCOM: the major shareholder of DTAC), the Charoen Pokphand group (CP: the major shareholder of TA and TA Orange), and the SMART group (the major shareholder of the SMART telecom). The entrance to the telecommunications business and exploitation of the BTO conditions allowed these former family-based companies to grow impressively at both local and regional levels. For example, according to Ure (1995), Shinawatra has contracts for installing telephone lines and wireless local loops in Phnom Penh, fixed wire, mobile and broadcast concessions in Laos; CP, via TA, had some contracts in China, Vietnam, and Cambodia; UCOM has sub-contracted network construction from other companies, e.g. for CP in Cambodia; SMART operates the largest cellular network in Cambodia. Economically, the growth of these companies at the regional level also benefits the economy as well as the competitiveness of the country as a whole. Appendix E shows the more detailed business lines of these major conglomerates in other countries.

THE BOOMERANG EFFECT OF THE “BTO”

Although the previous section has illustrated the benefits of BTO to the industry as well as the country, the BTO also embodied some critical drawbacks that waited to be revealed at a later time. In fact, it became one of the major hindrances that was very difficult to resolve, especially when the country wanted to reform telecommunications on a larger scale.

The first problem of the BTO resulted from the process of selecting the concession winner. The government used the amount of return that the state was to receive, such as the percentage of the revenue-sharing or the annual minimum guarantee, as the primary criteria. The bidder who met all requirements and proposed the highest benefit sharing to the SOTE was simply the winner of the concession. Sometimes, the need to win the concession forced the bidders to propose a very high offer to the state; and unsurprisingly this action later caused them financial difficulty¹⁰⁸. In addition, as the private concessionaires have to bear vast financial burdens, it is quite certain that these service providers would try to pass on these extra costs to the consumers (Stigler, 1971 and Peacock et al., 1984). They tended to exploit the exclusive operating right to maximise their income to cover the revenue-sharing element as well as the operating expenditures. The “cream-skimming” phenomenon and all kinds of exploitations

¹⁰⁸ The case of TT&T, who won the 2.1 million fixed lines concession in the rural areas concession, provides a good explanation of the claim. The fact that TT&T proposed to share 43.5% of its revenue with TOT in order to win the bid in the first place led the company into the financial difficulty on many occasions. It is always found that the incomes generated were not enough to pay for the revenue-sharing (the SET, 2005).

can consequently be found in the Thai telecommunications market; and it became an obvious manifestation of the drawbacks of BTO.

Secondly, as the exclusive right to operate in the business is included as part of the BTO conditions, this means that the state has provided the concessionaires with an anti-competitive arrangement and enabled them to be a monopoly (or oligopoly in some cases e.g. pagers, VSATs, or mobile phones), in that particular service (Tangkitvanich, personal interview, December 28, 2004). It is interesting to find that, once the SOTEs granted a concession, they either did not get into that particular service (if the service had never existed before, such as was the case with VSAT) or ceased their expansion (if the service was already provided by SOTEs, such as fixed line, mobile phone, and pager), as they and their concessionaires became business partners and enjoyed the same amount of revenue. Focusing on fixed line business, which was its core business, TOT agreed to cease its network expansion, except for unprofitable public service purposes, after granting the concessions to TA and TT&T. Table 6.4 reveals that the growth of TOT's subscribers dropped dramatically after it granted concessions to the private operators. The statistics in the Bangkok area reveal that TOT's subscriber growth rate fell sharply from double-digits to almost no growth after TA started its operation. The numbers in the rural areas however, may not show a significant decrease since TOT still had obligations to expand PSO services to remote and unprofitable areas.

Table 6.4

The growth of TOT and private concessionaires' fixed line subscribers between 1990 and 2003

Area	Providers	Number rented													
		1990	1991	1992	1993	1994	1995	1996	1997	1998	1999	2000	2001	2002	2003
Bangkok	TOT	900,941	1,044,295	1,159,227	1,383,269	1,511,520	1,531,036	1,528,973	1,502,616	1,459,549	1,438,933	1,439,382	1,474,421	1,543,262	1,542,231
	<i>Growth rate</i>		15.9%	11.0%	19.3%	9.3%	1.3%	-0.1%	-1.7%	-2.9%	-1.4%	0.0%	2.4%	4.7%	-0.1%
	TA	0	0	0	30,973	241,169	615,770	933,191	1,246,147	1,310,702	1,381,539	1,535,634	1,736,774	1,974,808	1,971,135
	<i>Growth rate</i>					678.6%	155.3%	51.5%	33.5%	5.2%	5.4%	11.2%	13.1%	13.7%	-0.2%
	Total in Bangkok	900,941	1,044,295	1,159,227	1,414,242	1,752,689	2,146,806	2,462,164	2,748,763	2,770,251	2,820,472	2,975,016	3,211,195	3,518,070	3,513,366
Rural	TOT	423,581	508,865	630,802	801,623	929,941	948,958	959,505	996,888	1,099,623	1,248,740	1,437,212	1,647,170	1,785,473	1,854,227
	<i>Growth rate</i>		20.1%	24.0%	27.1%	16.0%	2.0%	1.1%	3.9%	10.3%	13.6%	15.1%	14.6%	8.4%	3.9%
	TT&T	0	0	0	0	69,209	386,233	778,489	1,081,033	1,167,675	1,135,424	1,178,856	1,184,126	1,196,299	1,187,181
	<i>Growth rate</i>						458.1%	101.6%	38.9%	8.0%	-2.8%	3.8%	0.4%	1.0%	-0.8%
	Total in rural	423,581	508,865	630,802	801,623	999,150	1,335,191	1,737,994	2,077,921	2,267,298	2,384,164	2,616,068	2,831,296	2,981,772	3,041,408

Source: The TOT Corporation Plc.

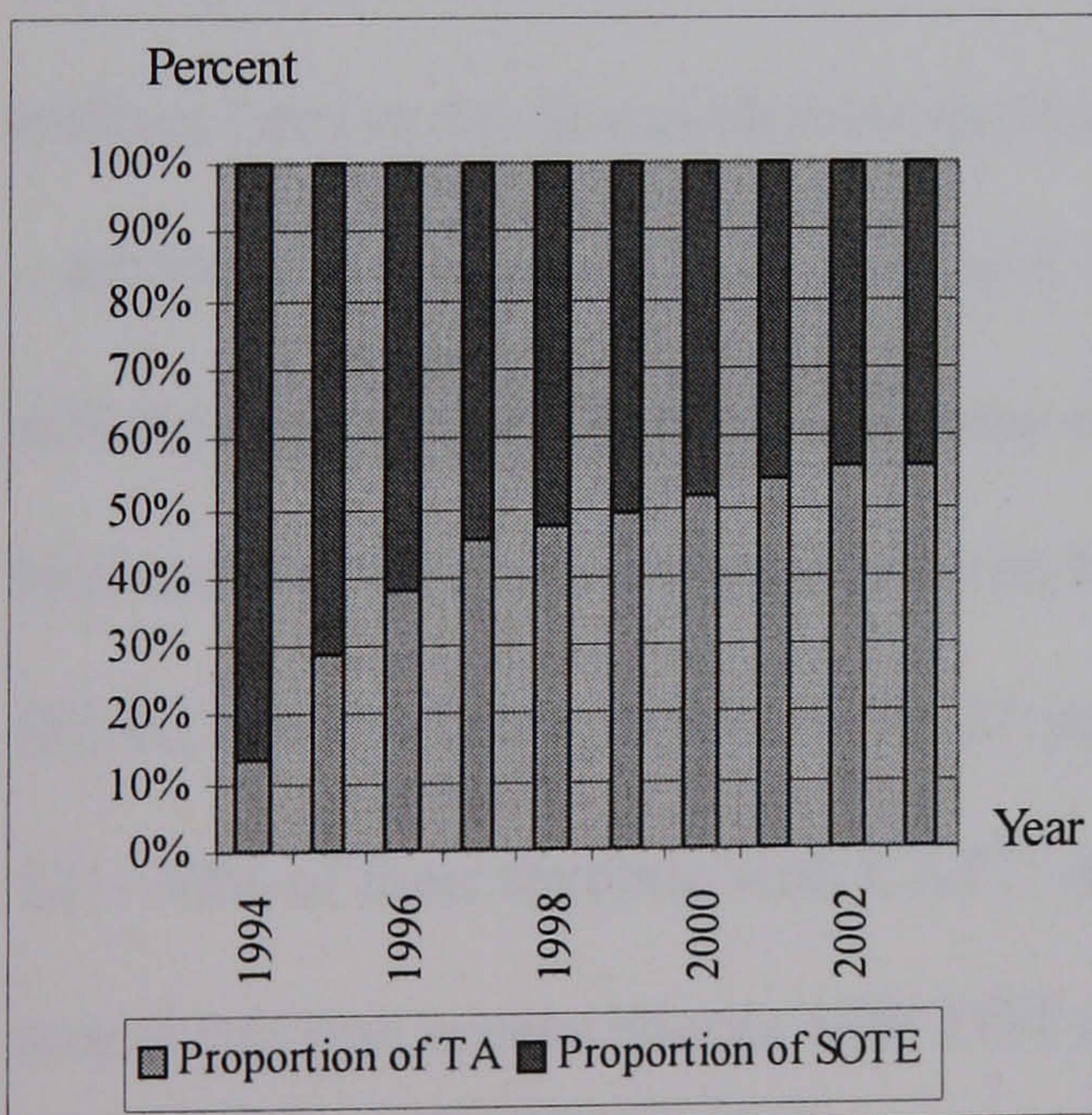
However, the SOTE may not realise that merely maintaining its old customers while the private concessionaires grow rapidly in terms of finances and customer base, indicates that the SOTE is becoming relatively smaller and weaker (as shown in Figure 6.3). The case of mobile telephones is even clearer evidence of this. Although both TOT and CAT started to provide the mobile phone business in 1987, they could not exploit their first mover advantage to become the market leaders (Naksrinuan, personal interview, December 7, 2004). On the contrary, after TOT and CAT granted mobile concessions to AIS and DTAC, they ceased their development of the mobile business and enjoyed increasing income from revenue-sharing. As a result, as of 2002, both TOT and CAT still only have outdated analogue technology, with an insignificant number of combined subscribers (less than 50,000 numbers). On the other hand, the concessionaires exploited the latest digital technology and have more than 17 million lines in hand (Sookmongkol, personal interview, November 20, 2004). Therefore, it is not an

exaggeration to conclude that the BTO enabled the private operators to become more powerful in the Thai telecommunications industry. The combined subscribers of TA and TT&T became larger than those of TOT in the fixed line market, while the mobile business is completely dominated by the private concessionaires such as AIS and DTAC. In addition, the longer the private concessionaires can keep exploiting the BTO's drawbacks (e.g. the limited competition from either the new entrants or the SOTEs), the harder it is to create a level playing field within the industry, as the incumbents have huge advantages, in terms of customer base and brand recognition, over the privatised SOTEs and the newcomers who are about to enter the industry after liberalisation in 2006.

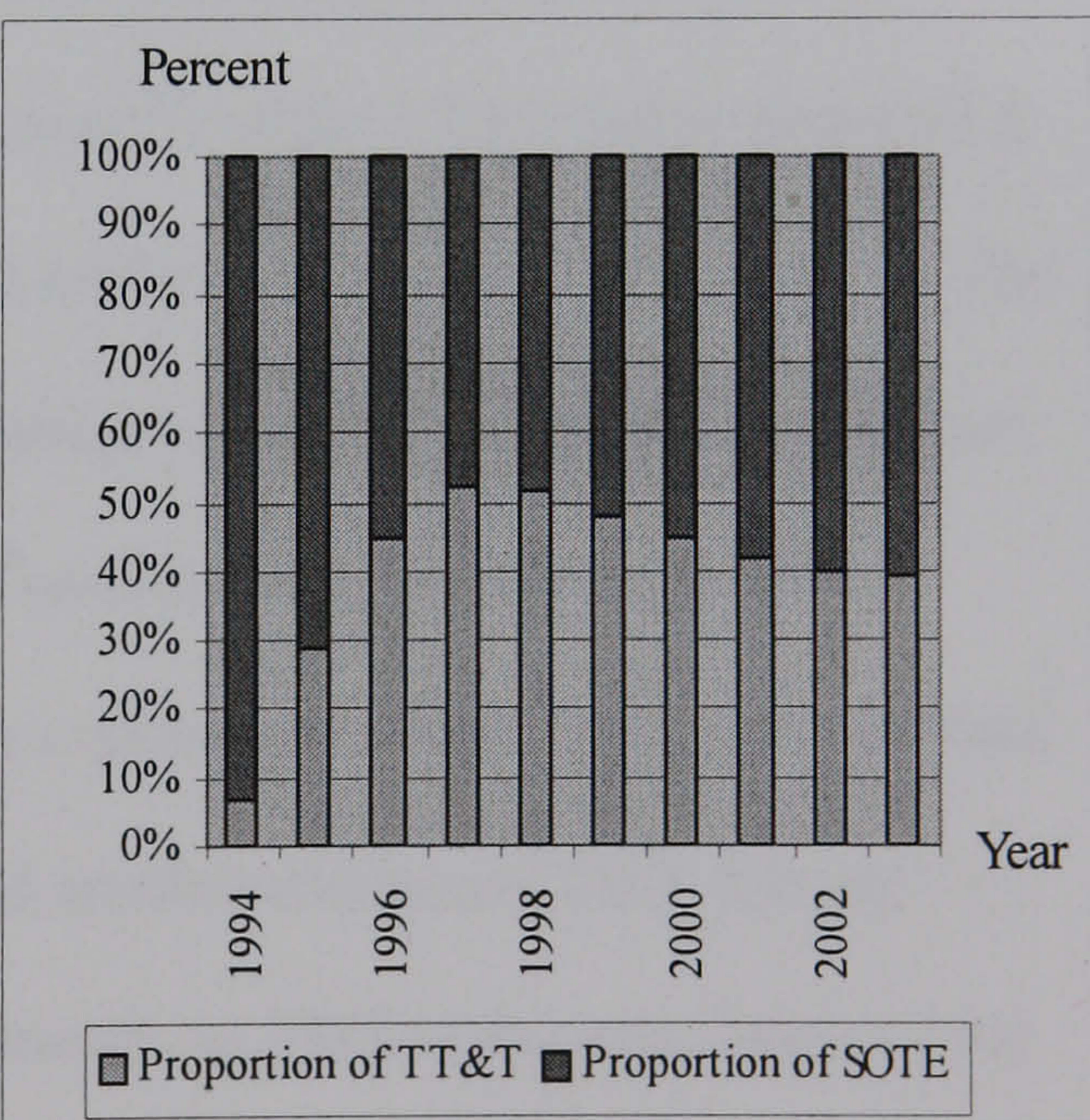
Figure 6.3

The comparison of the fixed line market share in Bangkok and the rural areas

Proportion of the fixed line market share in BKK



Proportion of the fixed line market in the rural areas



Source: The TOT Corporation Plc.

The next drawback of the BTO was that many state agencies (i.e. TOT, CAT, PTD, and the MOTC) are eligible to grant the telecommunications concessions. Unfortunately, the country did not have any standards to set the concession conditions; it all depended on the time they negotiated the contracts as well as the negotiation power of each private company. Therefore, it is unsurprising that the conditions specified in the concessions that were granted by different agencies would differ from one another. In fact, the differences still persist even between the concessions that were granted by the same agency, but at a different time. This was because the private companies were so keen to win a concession; they accepted virtually any of the conditions proposed by the SOTE and, at the same time, they also offered very convincing benefit sharing schemes to SOTE. The fixed line concessions can be good examples in this regard. Both TA and TT&T received concessions from the TOT, but their conditions differed markedly. TA was required to share 16 – 18% of its revenue in exchange for 25 years and 2.6 million lines in the Bangkok metropolitan area¹⁰⁹, while TT&T had to share 43.5 – 44.5% of its revenue for 25 years and 1.5 million lines in the rural areas¹¹⁰. The difference in the percentage of revenue-sharing was the key disparity in this case. However, a more extreme example can be seen in the mobile phone sector. DTAC and TA Orange (TAO), the 27-year concessionaires of CAT, have to share 12 – 30% of their revenue with CAT¹¹¹ and another additional THB 200 per month per line access charge with TOT network, as TOT is the sole owner of the

¹⁰⁹ TA agreed to share 16% of its revenue on the first two million lines, while the rest of the subscribers would be shared at 18%.

¹¹⁰ TT&T agreed to share 43.5% of its revenue on the first one million lines, while the percent of sharing increased to 44.5% for the rest of its subscribers.

¹¹¹ DTAC's revenue-sharing varies as follows: year 1 – 4: 12%, year 5: 15%, year 6 – 15: 20%, year 16 – 20: 25%, and year 21 – 27: 30%. However, the minimum payment for the whole concession period must not be less than THB 17,051.84 million (or approximately GBP 244 millions).

entire fixed line network within the country. But, AIS, a 25-year mobile concessionaire of TOT, bears a burden of 15 – 30% of revenue-sharing without paying any access charge¹¹² as it is a direct concessionaire of TOT. Obviously, DTAC and TAO were not able to compete with AIS because they have to collect an additional THB 200 on top of the normal monthly service fee. In the big picture, the cases of the fixed line and the mobile phone service illustrated the clear problem of the BTO, which led to the lack of a level playing field in the industry. However, it is expected that the problems from the unequal conditions among concessions will get worse in the future. At the moment, it seems that all major concessions (i.e. the fixed line and mobile phone services) already have some kinds of limitation that prevent them from direct competition. For example, DTAC and AIS provide service on different system networks and frequencies¹¹³; for fixed line, the TA service area is limited to the Bangkok metropolitan area while the service area of TT&T is in the rural areas. But, in the future, when the industry has been fully liberalised and there are more new players getting into the industry, the unfair competition that resulted from the BTO will emerge more obviously. Given that there is no conversion of the BTOs, there will be several types of operators in the industry. The first is the incumbents, which tied to SOTEs by a number of BTO conditions (e.g. the revenue-sharing and the asset transfer conditions); and the second type is the newcomers, which obtained the operating license from the regulator and, hence, have more freedom to operate.

¹¹² AIS's revenue-sharing varies as follows: year 1 – 5: 15%, year 6 – 10: 20%, year 11 – 15: 25%, and year 16 – 25: 30%. However, the minimum payment for the whole concession period must not be less than THB 20,388 million (or approximately GBP 290 millions).

¹¹³ The DTAC provides mobile telephones under the 1800 MHz, PCN technology, while the AIS uses the GSM technology under 900 MHz frequency. Therefore, the customer who already chose the carrier cannot easily change to another provider and neither is the number portable.

Once again BTO will inevitably lead to another round of unfair competition. Not only will there be unequal conditions between the incumbents, but there will also be unequal operating conditions between the incumbents and the newcomers.

Another flaw in the BTO scheme is derived directly from the ownership of the telecommunications assets. The asset transfer scheme of the BTO indirectly affected the operating costs of all private companies. According to Vimolvanich (personal interview, December 19, 2004), since the private operators are not the owners of the assets, they are not able to use those assets to guarantee their loans, which make their cost of capital higher than it should be. Consequently, compared to other concession schemes like BOO (Build-Own-Operate) or BOT (Build-Operate-Transfer), the operating costs of the BTO tend to be the highest, which is another reason why Thai consumers inevitably have to absorb this premium.

Finally, the last problem of the BTO derived from the lack of an appropriate institutional arrangement to support the participation of the private sector within the industry. The real objective of the BTO was to allow the private sector to provide services as an attempt to heal service scarcity. Nonetheless, the case of Thailand reveals that the government simply shifted the duty of service provision to the private sector too fast and to an excessive extent, while the country still lacked appropriate supporting institutional arrangements (Tangkitvanich, personal interview, December 28, 2004). Most notably, there was no independent regulator to act as an industry referee in arranging an efficient and fair

competition among operators. Although it could be argued that BTO was introduced as a quick fix solution, still the government should have been more circumspect. In fact, none of the evidence showed that the governments had thought about the potential drawbacks of the BTO and tried to come up with some preventive measures. On the contrary, it is found that BTO was used extensively as a strategic tool to develop telecommunications service provision.

Unfortunately, the BTO eventually backfired, when it turned out to be a major reason for the unequal competition as well as for the economic waste caused by double investment¹¹⁴. Furthermore, it was also the BTO that equipped the SOTEs with the authority to regulate their concessionaires¹¹⁵. By acting as both the regulator and operator at the same time, the SOTEs had been questioned by the public on many occasions about lack of capability, fairness and transparency; especially considering the fact that the SOTEs themselves are also vulnerable to political intervention.

¹¹⁴ The double investment can be clearly seen in the mobile phone business. As there was no agreement on the cellular system to be used within the country, TOT and CAT decided to use different technologies and frequencies. Consequently, the AIS and DTAC are required to have their own cell sites and switching circuit for their technology. It was found that in one service area, there are at least two kinds of cell sites; one for the AIS system and another one for the DTAC system. In fact, in early 2000s, there could be up to three different types of cell sites in one area, as there is another cellular technology introduced in Thailand (the CDMA), which also requires its own facility.

¹¹⁵ According to Vimolvanich (personal interview, December 19, 2004), the SOTEs obviously have a powerful influence over their concessionaires. Almost every business movement of concessionaires needs a prior approval from the concession owner. For example, the private company must possess an official approval from the SOTE before it can launch any value added service or even upgrade the network, which caused big frustration to the concessionaires.

THE NEED FOR CONVERSION

Theoretically, it is not necessary to convert BTO concessions. None of the country's legislation requires such conversion; on the contrary, both the 1997 Constitution (Section 335(2)) and the 2001 Telecommunications Business Act (Section 80¹¹⁶) have honoured the validity of all existing concessions in the country. However, when looking at other sections of the Constitution that refer to the telecommunications industry (especially Sections 40 and 87), it is interesting to find that they ask for the creation of free and fair competition within the industry. The preceding section of this chapter has already explained the shortcomings of the BTO in relation to the telecommunications industry; therefore the fact that Section 335(2) of the Constitution honours the validity of concessions seems inconsistent with the Constitution's intention to create an efficient industry environment. Moreover, departing from the legislation, the need for BTO conversion seems more serious when bringing the real situation of the industry into consideration. Information obtained from fieldwork reveals that most local experts (e.g. Juruphan, Suebwonglee, Tangkitvanich) all agreed on the imperative of the conversion of the BTO, as it is an important part of the telecommunications reform. In fact, there are many reasons that make the concession conversion critical in the real practice.

¹¹⁶ Section 80 of the 2001 Telecommunications Business Act states, "if the Communication Authority of Thailand and the Telephone Organisation of Thailand have granted permission, concession or contract to any person for the operation of telecommunication business before the effective date of this Act, such person being granted permission, concession or contract is entitled to operate the telecommunication business to the extent and the rights originally granted under such permission, concession or contract until the expiration thereof."

First of all, conversion is needed in order to correct the present industry's distortions. Even though the country has a sound telecommunications reform programme, it is difficult to achieve full benefit from the reform as long as the BTO concessions still exist. According to Tangkitvanich (personal interview, December 28, 2004), the BTO contains several anti-competitive schemes such as revenue-sharing, transfer of concession assets, and monopoly right, which are obviously inconsistent with best practice in creating efficiency. Especially given that the SOTEs have been privatised into private companies and are operating commercially, it is unacceptable if the concessionaires have to pay revenue-sharing and be under the control of privatised SOTEs, who are already their direct competitors, until the end of concession¹¹⁷. It is also illogical for private concessionaires to keep paying the revenue-sharing and transferring assets to the SOTEs, while the SOTEs no longer possess a monopoly and the industry is no longer protected. Besides, the conversion also helps in promoting a level playing field among players. The SOTEs and the concessionaires will become independent from each other; they no longer have a common interest and therefore tend to compete with all their capabilities. The disparate conditions among the concessions will also be reset; all the incumbents as a result will be able to compete on the same ground. Lastly, the newcomers and the incumbents will compete on a level playing field, as incumbents will be free from the concession restrictions and will move to the license ones. This means they

¹¹⁷ Unlike the newcomers who are going to operate under the rules stipulated by the regulator, the incumbents under the BTO concession also have to be under the direct control of the SOTEs. Therefore, it turns out that the operators under the BTO will have two different regulators in practice, which obviously will affect the freedom, productivity and competitiveness of these operators (Vimolvanich, personal interview, December 19, 2004).

thereafter have to operate fairly under the rules and regulations stipulated by the regulator instead of by the SOTEs.

Although the need to convert the concessions is apparent, the removal of the BTOs in order to facilitate the reform programme is not as simple as having the government order the abolition of the existing BTO concessions. The BTO concession is a legalised business contract. It commits two partners to follow the conditions that are already agreed until the end of the concession; changes or terminations of the BTO could not be forced or carried out unless both contract partners have come to an agreement (Yoonaidharma, 2003). Therefore, the policy to convert concessions has to be on a voluntary basis, which was the reason that the recent governments tried to come up with various conversion frameworks to induce both partners to negotiate and convert their concessions.

THE ATTEMPTS TO CONVERT CONCESSIONS

According to Uthaisang (personal interview, November 18, 2004), although the governments (both under PM Chuan Leekpai and PM Thaksin Shinawatra) did not take the detailed steps in converting the BTOs, they did have a clear set of principles that the detailed plan would have to follow, which are (1) each market must not be limited to just one dominant operator, (2) both incumbents and newcomers should compete on the same plane (level playing field), (3) revenue-sharing should be eliminated, and (4) the conversion has to be fair to both SOTEs

and their concessionaires and it has to be on a voluntary basis. With these frameworks, it appeared that the conversion was very sensitive and complicated; it involved a great many financial gains and losses; and most importantly, it was associated with a number of industry uncertainties. Since 1998, there were four different conversion attempts; however, these attempts had never satisfied all the involved parties, which eventually led to a degree of unpleasantness.

The MOTC made the first attempt in 1998. Without an order from the government, the first conversion attempt was initiated within the ministry. The MOTC established a working group, chaired by the Deputy Permanent Secretary, Kitti Yupho, to study the alternatives to convert the existing concessions. The working group finally came up with three possible alternatives, together with the advantages and disadvantages of each strategy. However, the MOTC was not able to decide which alternative would be the best option for the country.

Therefore, the MOTC decided to stall the study to gather more information; the ministry concluded that a concrete solution needed to incorporate more professional suggestions from experts and experienced consultants.

The second study was also arranged by the MOTC in the era of PM Chuan Leekpai. The MOTC hired a group of consultants comprising Dhana Siam Securities Limited, Baring Brothers Limited, and Credit Suisse First Boston (Singapore) Limited to create a concession conversion framework. The final study was proposed on October 15, 1998. The key result of the study was that the concessionaires would have to pay revenue-sharing to the SOTEs only until the

year 2006, which is the year that Thailand promised the WTO to meet standards for market liberalisation. After that, the concessionaires would have to lease the networks from the state agencies. However, the Dhana Siam proposal could not be put into action since it was severely criticised for favouring certain private operators, and threatened to create unfair competition; besides, the cessation of the revenue-sharing in 2006 also would have made the SOTEs lose a massive amount of revenue (“Can a level playing field be created?,” 2003). All these charges finally led to the failure of the attempt. Not long after that, the SEPO, as a secretariat of the SEPC, proposed that SEPC should conduct another study to revise and create a new conversion framework.

In May 1999, the Thailand Development Research Institution (TDRI), hired by the MOF and the SEPC, proposed another set of conversion frameworks. The major feature of the framework is that, in order to be free from the concession obligation and receive a license, the concessionaire has to pay a lump-sum upfront “compensation” to the state agency equal to the sum of the projected annual revenue-sharing streams until the end of the concession period, which would be discounted into “Present Value” (PV) at an appropriate rate¹¹⁸. The TDRI framework satisfied most academics and SOTEs, as the SOTEs tend to receive a huge amount of upfront compensation. The framework was approved by the cabinet on January 25, 2000. Unsurprisingly, the TDRI framework was opposed by most private operators as they claimed that there were too many risk factors involved in the compensation calculation, such as the discount rate and the

¹¹⁸ Please see details in TDRI (1999).

projection of future revenue-sharing streams¹¹⁹, and only a small mistake in the calculation could lead to a catastrophe (Bencharongkakul, personal interview, December 3, 2004). Besides, another major problem of the framework was over the assets that the concessionaires had already transferred to the SOTEs. The TDRI framework gave the concessionaires only the right to use the assets until the end of the concession in exchange for the upfront revenue-sharing payment, while giving no option to buy back those assets. The conversion negotiation under the TDRI's framework went on for an entire year. The result was that not a single concession had been converted. Basically, it was because the private companies refused the framework; they claimed that the framework entailed too much risk and would make them considerably less competitive than either the SOTEs or the new entrants that would enter the market after 2006 (Vimolvanich, personal interview, December 19, 2004). In late 2000, the private operators suddenly ceased negotiations since they began to sense that the concession conversion might be done on much more favourable terms under the new Thaksin Shinawatra administration (Pornsutee, personal interview, December 23, 2003). Such a prediction became true, when there was a change in government and PM after the General Election in early 2001 and Thaksin Shinawatra became the 23rd Prime Minister of Thailand. Promptly, PM Chuan Leekpai's conversion attempt (or the third attempt) was officially abandoned with the resignation of his ad-hoc conversion committee right after the arrival of PM Thaksin Shinawatra.

¹¹⁹ The projection of future revenue streams is extremely difficult to calculate since there was no clue about the future industry environment and other conditions under the leadership of the independent regulator, which surely differs markedly from the era of SOTEs' guidance.

As for the fourth attempt, the MOTC hired another consultant, the Chulalongkorn University Intellectual Property Institution (CUIPI), to revise and make the TDRI's framework more practical. In October 2001, the CUIPI came up with the revised framework. Interestingly, the CUIPI's framework in many aspects was similar to the Dhana Siam's. The essence of the latest framework was that the concessionaires should pay revenue-sharing to the SOTEs only until 2006, which is the country's deadline for liberalisation. According to Pornsutee (personal interview, December 23, 2003), CUIPI claimed that the concessionaires should stop paying revenue-sharing to the SOTEs when the monopoly right of the SOTEs has reverted to the state, which was after the promulgation of the 2001 Telecommunications Business Act. However, the CUIPI considerately picked 2006 as the cut off point because it wanted to allow SOTEs time to prepare them for real competition; it knew that stripping out the revenue-sharing instantly might have hurt the SOTEs severely. As for the concession assets, the CUIPI's framework gave the concessionaires an option to buy back the transferred asset at a "Re-Valued" price¹²⁰. Unsurprisingly, the new framework was immediately agreed upon by the private operators; while, even less surprisingly, it drew severe criticism from the SOTEs' management, labour unions, NGOs, academics, and especially the public in general. They argued that the framework obviously favoured the private companies at the expense of state agencies¹²¹. Therefore, the concession conversion process was once again stalled.

¹²⁰ The government has never explained the meaning or the detailed calculation of the "Re-Valued" price though both the SOTEs and the concessionaires asked repeatedly for that definition (Vimolvanich, personal interview, December 19, 2004).

¹²¹ Moe (2001), a telecom analyst at the Societe Generale Group, estimates that the state would lose around THB 290 billions (approximately GBP 40 billions) by following the CUIPI framework.

In conclusion, the more attempts, the more conversion frameworks, and the more recommendations from consultants made the concession conversion all the more complicated. The involved parties began to be confused about which one was correct, as there were many occasions when one framework came into conflict with another. For instance, the TDRI proposed that the concessionaires continued paying the revenue-sharing until the end of concession period (which could be as long as 2016 in some major concessions), while the CUIPI proposed that the concessionaires paid only until 2006. The inconsistency between frameworks made it hard to believe that the concession conversion would provide a win-win outcome for all parties. Rather, the involved parties believed that the conversion was a “zero sum game”, where a framework could benefit one side of the partner at the expense of another. However, since the conversion has to be done on a voluntary basis, it is unlikely to happen when one side is not assured of its position, or is in danger of losing interest.

THE FAILURES OF THE ATTEMPTS

Although the Thai governments had put a great deal of effort into converting the BTO concessions, all the attempts failed. It is found that the first two attempts failed without any serious implementation, while the last two had been put into serious action, but they simply did not work. Mentioned by Bencharongkakul, (personal interview, December 3, 2004), the first two attempts look rather like trial attempts; the private operators did not have even a chance to get involved in

any aspect. That the attempts were not seriously implemented could be because telecommunications reform was not the highest priority and it was still a long way from the liberalisation deadline. However, the story is different for the last two attempts, as both attempts were put into real action and seriously implemented. The recent governments had established the negotiation committees only to facilitate the conversion negotiation process. Unfortunately, due to a number of unfavourable factors, both these attempts also ended in failure.

The structural reason

As explained earlier, the conversion of a BTO concession is a sensitive issue for both contract partners. Every action has to be done with all due caution, as only a minor error may lead to a major disaster. Therefore, it is ideal if both contract partners have all the relevant information (e.g. the amount of license to be issued, the interconnection regime, the license fee, the PSO, and basically other rules and regulations to be stipulated by the regulator), which would enable them to make a better decision and be subject to minimal risk from the conversion.

The Thai telecommunications industry, especially during the time it was concerned about the potential of changes from the reform programme, contained a number of uncertainties. There was no clear picture on what the industry was going to look like after the reform. The delay of regulator establishment caused a vacuum in the regulatory reform. The lack of a new regulatory regime (e.g. the number of licenses to be granted, the amount of license fee, the interconnection

regime, and so forth) directly impacted the concession conversion. None of BTO partners wanted to take the risk and pursue the conversion. As explained by Vimolvanich (personal interview, December 19, 2004), “there are too many uncertainties associated in converting our concession; and we, as a private company, are not able to bear with them. In fact, I believe that all other concessionaires also think the same way.” Besides, the Minister of ICT also comes to a similar verdict; he argues that the concession partners (both private companies and SOTEs) could not decide whether they should convert the concession as long as they do not know of all the associated costs in running the business under the supervision of the regulator; therefore, they prefer to wait until the regulator is in place (Sueb Wonglee, personal interview, November 25, 2004).

The political reasons

Apart from structural unreadiness, politically related reasons also significantly contributed to the failures of the conversion attempts in the past.

Indecisive policies

According to Kusripituck (personal interview, November 24, 2004), the government’s indecisive policy was one of the principal factors that played a key role in the failure of conversions. At the beginning, the fact that the governments simply discarded the first two conversion frameworks made all involved parties suspect the seriousness of the government’s conversion policy. Later, the

seriousness of the next two attempts made it clear that the recent governments had a real intention to convert all the existing BTOs. However, the intention by itself was not enough to accomplish the objective. Experiences revealed that all the previous governments had scarcely decided upon the sensitive issues that were not already mentioned in the conversion frameworks (which were actually proposed by the consultants). These policy ambiguities turned out to be serious risk factors that deterred both contract partners from pursuing the conversion process. For example, the governments were unable to answer what would happen if one company decided to convert the concession, while the others decided not to. Or what would happen if the concessionaires established new companies, asked for new licenses from the regulator, and transferred the customers to the new companies.

Without certainty, both concession partners understandably had justification for hesitation (Juruphan, personal interview, December 14, 2004). From the private operator's perspective, they had no guarantee of the consistency of the conversion policy from the current government to any subsequent one; they were not sure whether converting the concession at the present would be based on the same conditions as doing so would in the future (Bencharongkakul, personal interview, December 3, 2004). As for the SOTEs, they were anxious to know whether or not, how, and how much they would be compensated for their "easy money" (the revenue-sharing) that would be terminated after the BTO had been converted (Naksrinuan, personal interview, December 7, 2004). All in all, without decisive policies on relevant aspects, both SOTEs and their concessionaires would prefer

to wait for a clear direction. It was this kind of indecisiveness that eventually led to the dead-end of the concession conversion attempts.

Involvement from involved parties

Although the BTO is a legal contract signed by two partners, the process of conversion in practice seems not to involve only the initial two partners; there were a number of parties (e.g. the government, the consumers, the NGOs, the labour unions, etc.) who became involved with the BTO at the later time. The widespread use of the BTO within the Thai telecommunications industry had made it part of the balance of the industry. Any change in the BTO thus had to impact somebody. The lack of definite parameters in the new environment made everybody even more vulnerable to change. As a result, all the involved parties became embroiled in order to protect their own interests and it was these interventions that eventually caused a number of problems in the conversion attempts.

Lack of common interest

In most cases, the failure of the conversion attempts can be attributed to the conflict of interest among reform's involved parties. As the conversion of BTO concessions put a huge amount at stake, the issue drew a lot of attention from various interested parties. It was evident that the interests among these involved

parties had to differ. Apparently, these parties strove hard either to promote their interests or to avoid getting hurt from the conversion policy.

As stated by Bencharongkakul (personal interview, December 3, 2004), one of the problems of the concession conversion was the lack of common interest among involved parties. It is arguably true that the lack of common interest is not an unusual situation in politics. However, in the context of the concession conversion, it seems that it is very difficult to reconcile all these diffused interests in the conversion package, especially considering the fact that, by law, no one can force BTO contract partners to convert their concession. This appears to be the case, as each party obviously cared more for personal benefit. On one side, both SOTE management and labour unions actually share the same standpoint that they do not want to convert the BTOs. Explained by Chareonwan (personal interview, December 14, 2004), the SOTEs enjoy the revenue-sharing and the transferred assets; they keep the SOTEs growing strongly. Therefore, there is no point in trying to change it. On the other hand, the private concessionaires want to convert the BTO, as they find that the conditions of the BTO (e.g. the revenue-sharing and the limitation on the pricing) prevented them from achieving their optimal efficiency and competitiveness. However, according to Vimolvanich (personal interview, December 19, 2004), no matter how much the private sector wanted to be free from the concession's obligations, they would convert their concessions only under an acceptable level of risk.

The lack of common interest to convert the BTO concessions became even more apparent when the CUIPI announced its conversion framework. It is very interesting to see that, with the same problem to solve, there were such big differences between the frameworks proposed by the two most renowned academic institutions of the country. When compared to TDRI's version, CUIPI's was almost diametrically opposed (Suebwoonglee, personal interview, November 25, 2004). The TDRI's version was obviously on the side of SOTE, as the main concern of the TDRI framework was that the SOTEs must not be disadvantaged, which eventually led to the refusal by the concessionaires. On the other hand, the CUIPI version seemed to lean more to the private company side, which was equally unacceptable for the SOTEs. In fact, the CUIPI framework drew a lot of attention from many other involved parties, whose interests were also affected; together with the SOTEs' management and labour unions, the NGOs, the academics and, especially, the public in general began to severely oppose the CUIPI framework. A number of public talks had been arranged to criticise the framework. Surprisingly, it was the first time that the public had openly entered the telecommunications political arena to express their disagreement. The wide opposition finally led to the failure of the fourth attempt.

All in all, although the last two attempts had been made seriously, both of them failed partially due to the fact that none of them was able to reconcile the interests of all involved parties, which consequently called for resistance and ultimate failure.

Sincerity of the involved parties

The sincerity of the involved parties in converting the BTO is another issue that is worth addressing. Some industry gurus questioned if all involved parties really wanted a conversion.

It is hardly surprising if the SOTEs do not agree to convert the BTOs, as it is an important source of growth and income. However, the situation is different for the private operators. Although the conversion would lead to a number of potential benefits for the private operators, the benefits obtained from the old fashioned BTO concessions are still convincing for few incumbents. Under the umbrella of the BTO, the concessionaires are still operating under the right of the SOTEs. Indeed, in the future when the regulator collects the fees from operators (e.g. the interconnection charge or the license fee), the BTO concessionaires will be exempted from all these costs since the concession owners will be responsible for them; besides, the concessionaires will also enjoy their exclusive rights to use their transferred assets until the end of concessions. These would be the reasons that made some incumbents prefer the old environment. They felt no rush for conversion, unless they were sure that they would be better off. Such an observation is consistent with the comment from a local telecommunications academic and a regulator (Yoonaidharma, personal interview, December 16, 2004) that it is impossible to wrap up the conversion if there is no new pressing factor; contract partners seem to be happy and enjoy the BTO, while other involved parties are accustomed to the old environment and therefore still

maintain their composure. A high-level manager of a concessionaire (Anonymous D) further asserts that it is possible that the attempts of conversion in the past were more or less mere pretence. No one really wanted change; the SOTEs tried as the government ordered them to, while the private companies only tried to incorporate or to find imagined advantages. Nonetheless, it is further found that the need to convert concessions among the private companies is also unequal. The uneven conditions between concessions made the concessionaires who already had better conditions less motivated for conversion, as the longer the old conditions remained, the more advantage they would enjoy over other competitors¹²².

Conflict of interest

The conflict of interest is an issue that recently became most apparent after the arrival in office of PM Thaksin Shinawatra. According to Chareonwan (personal interview, December 14, 2004), Chevapruek (personal interview, December 8, 2004), and Iambumrung (personal interview, December 21, 2004), they all agree that the fact that the PM's family is the major shareholder in Thailand's biggest telecommunications operator put any reform attempt, especially the concession conversion, under the spotlight. In fact, it is not only the PM himself who has a strong interest in the telecommunications industry, but his intimates, and even several ministers in his cabinet also have huge stakes in the telecommunications business. As a consultant to the negotiation committee under the TDRI attempt

¹²² In this aspect, some industry experts (e.g. Reowilaisuk, 2003) even suspect that there were some dominant concessionaires who tried every possible way to prolong the conversion for as long as possible.

and the one who established the TDRI framework, Tangkitvanich (personal interview, December 28, 2004) provides interesting perspectives on the potential conflict of interest, i.e. the attempt under TDRI's framework was suddenly turned down by the private companies once it looked likely that the TRT would win the 2001 General Election and Thaksin Shinawatra was to become the new PM. Even more interesting, after his becoming PM, the new conversion framework proposed by the CUIPI leaned heavily to the private side in a very obvious way. These incidents were very suspicious and called forth public criticism, which finally put an end to the attempt.

However, the attempt to deal with the concession issue was not ended. The government under PM Thaksin Shinawatra came up with another interesting innovative strategy in order to avoid public criticism. The measure of excise tax on telecommunications services was first introduced and adopted in 2003 as an alternative answer to BTO conversion. According to the law, instead of paying the revenue-sharing to the SOTEs, telecommunications operators are required to pay excise tax directly to the Excise Department. The amount of tax will be calculated as a certain percent of the total revenue of operators, depending on the type of service¹²³. The government claimed that an excise tax was the alternative choice to concession conversion to improve fairness within the industry. Interestingly, since then, there have been no more calls for or attempts to implement conversion from any parties.

¹²³ The detailed discussion on telecommunications excise tax will be presented in Chapter 8.

CONCLUSION

This chapter has shown that the BTO concession is one of the major problems in reforming the telecommunications industry of Thailand. Although it used to be an important strategy to develop the telecommunications industry, as time passed, changes in the industry's environment have undermined its original justification. In fact, it turned out that fair competition and optimal efficiency are difficult to achieve if the BTO still exists. It is deeply-rooted in the industry and very difficult to change. No one can force the contract partners to convert the BTO contract, as it is legalised and validly honoured by the country's legislation. Therefore, the best effort that the government could make was to encourage both parties to convert their concession. Unfortunately, all the previous attempts were unable to arrive at a mutual agreement. There were many unfavourable factors that deterred the conversion attempts. The indecisive policies from the government as well as the unclear future conditions of the industry contributed to the failures. With these uncertainties, the conversion is obviously too risky for both contract partners to pursue. Relatively speaking, they are not pressing for the conversion; they remain at least to some extent satisfied with the current situation. The SOTEs are happy with the transferred assets and the revenue-sharing, while some concessionaires also enjoy their exclusive rights and abnormal profits. None of them wanted to jeopardise their interests.

All in all, it is not an overstatement to say that each involved party has tried to protect its own interests. It is not surprising to find that the SOTEs, the

concessionaires, the NGOs, or the public in general came out and criticised the conversion framework that potentially hurt their interests, which left the entire issue unresolved. Interestingly, apart from the fact that the conversion involves a huge amount at stake and a number of involved parties, the potential conflict of interest of PM Thaksin Shinawatra and his intimates also undermined the credibility of the conversion attempt, which makes the existence of an independent regulator and its rules and regulations the next best hope for resolving the issue.

CHAPTER 7
THE ESTABLISHMENT OF
THE INDEPENDENT REGULATORY BODY

INTRODUCTION

The two previous chapters covered the first two reform issues of the Thai telecommunications industry, which are privatisation of the SOTEs and conversion of the BTO concessions. This chapter will now focus on the final reform issue, which is the establishment of an independent regulatory body. The establishment of a regulator seems to be relatively the most important issue among the three in reforming the Thai telecommunications industry. It is logically the starting point to rectify the other two issues. The old-fashioned regulatory regime under state agency has revealed its inadequacy in supervising the industry under today's fast changing environment. In this regard, global practice suggests that the industry's regulatory authority should be carried out by a specific and independent professional organisation. Accordingly, the idea of regulatory reform in Thailand has been raised on several occasions, such as in the 1997 Constitution and the 1997 TMP, but the first concrete action on regulatory reform only emerged when the country enacted a specific law to establish a telecommunications regulator in 2000. After that, it is found that the establishment faced a number of political and technical obstacles, which resulted in a lengthy delay. While the law allows 120 days time for the entire

establishment process, it turned out that the establishment took more than four years in reality; certainly, the four years in conditions of rapid change have caused considerable damage to the industry and the country as a whole.

THE REGULATORY REGIME UNDER THE SOTES

Mentioned in Section 5 of the 1934 Telegraph and Telephone Act, the PTD was the sole body responsible for all kinds of telecommunications related activities within the country. Accordingly with the incorporations of TOT and CAT in 1954 and 1976, the PTD had transferred all the tasks relating to the provision of telecommunications services within the country to the two SOTEs, which means that TOT and CAT, since then, had taken on the dual responsibility for both providing and regulating the telecommunications services.

The fact that TOT and CAT had the monopoly right and were playing both the roles of regulator and operator led to regulatory complexity, especially when they later granted concessions to the private companies. It turned out that the concessions granted by TOT and CAT contained a number of disparities in their conditions¹²⁴, which unsurprisingly these unequal standards led to a strange form of regulation. It seemed that the Thai telecommunications industry has two different regulators in operation, as each concessionaire had to listen to and follow the conditions of the SOTE who granted it the concession. It is undeniable that

¹²⁴ Please find more details on the unequal concession conditions in Chapter 6.

the regulatory regime under the supervision of SOTEs did have problems; it was unclear, overlapping, and complex. In other words, the roles and responsibilities of policy-maker, regulator, and operator were neither independent nor yet clearly separated.

Problems of the regulatory regime under the SOTEs

The first problem of the regulation under the SOTEs was the overlapping of the roles and responsibilities of policy-maker, regulator, and operator. The SOTEs were taking both the roles of regulator and operator. Being state owned enterprises that have to be under strict government rules from the beginning, the working attitude of both SOTEs therefore did not differ from most other government agencies. The slow and conservative style was embedded and reflected in their regulatory practices. According to Bencharongkakul (personal interview, December 3, 2004), the conservative and out of date regulatory regime of SOTEs caused delay in technology development, slow response to new service demands, and, most importantly, lower competitiveness of the Thai telecommunications operators¹²⁵. Furthermore, the fact that the SOTEs were actually operators with regulatory authority led to criticism over the conflict of interest on many occasions. Although the problem seems less significant as long as the BTO concession is still valid and the SOTEs and their concessionaires still enjoy the same amount of income, the problem tends to be more severe once the SOTEs have been privatised and started operating commercially. In such

¹²⁵ Consistent to Hausman (1997), he finds that the delay of the new service introduction causes more damage to the economy than one would expect. In fact, it is one of the most costly problems in the modern economy (as happened in the United States).

circumstances, fair competition would be even more difficult to maintain since the privatised SOTEs will have so much advantage over their concessionaires. They are still the owners of the concessions; they are still the owners of all telecommunications assets; and, most importantly, they are still endowed with their regulatory authority as before.

The second drawback of the regulation under the SOTEs involves the independence of the SOTEs. Both TOT and CAT establishment laws clearly mentioned the superior power of the cabinet and the line ministry on the operation of the SOTEs. Consequently, the policy-maker did not only have a role in guiding the overall direction of telecommunications development, but it also had influence in other important aspects of the SOTEs' operations, such as the approval of SOTEs' high-value investment, or even the determination of rates of fees, rents, and service charges¹²⁶. The question that has always arisen was whether the SOTEs could do their jobs independently or whether outside political power had intervened. One obvious example is the tariff of the fixed line calling charge within the same local area, that had been fixed and never been allowed to go up for decades; the rate is fixed at THB 3 per call (or approximately GBP 0.04) regardless of the duration of the call. According to Pornsutee (personal interview, November 12, 2004), the rate was obviously unprofitable and drove TOT to a heavy loss; however, the loss was offset by the expensive domestic long-distance tariffs, which can be as high as THB 3 – 18 (or approximately GBP 0.04 – 0.24) per minute depending on the distance. The use of profits from the expensive long

¹²⁶ Please see details in the Section 23, 25, and 31 of the 1954 TOT Act and the Section 21, 29, and 39 of the 1976 CAT Act.

distance rate that is normally used by people in suburban areas who have a lower income to subsidise the losses from cheap urban local calls that are usually made by people who have higher income is undesirable and inconsistent with global best practice. Interestingly, all governments tried to maintain this peculiar tariff structure since the changes in price may affect their political popularity.

In summary, the current complex and overlapping telecommunications regulatory regime in Thailand is apparently unsuitable for the very dynamic and highly competitive present era. The lengthy process of decision-making, the disparate conditions, and the overlapping authority caused frustrations for all parties involved within the industry ranging from the SOTEs, private operators, investors, consumers, etc. Therefore, under the SOTEs' regulatory regime, free and fair competition together with the optimisation of industry efficiency and social welfare seem far from being reached.

THE NEED FOR AN INDEPENDENT REGULATORY BODY

Global practice suggests that the modern telecommunications industry needs an independent regulatory body to be responsible for the regulatory function.

Thailand is no exception; as previously pointed out, there is a body of evidence showing that the telecommunications industry under the SOTEs regime was no longer suited to the present environment. In fact, the need for a telecommunications regulator had been stressed on more than one occasion.

The first and foremost requirement is found in the 1997 Constitution. Section 40 clearly sets out the establishment of the telecommunications regulatory body in order to distribute and supervise the use of frequencies, with regard to maximising public benefit at both national and local levels. As a consequence, a specific law to establish the telecommunications regulator had been promulgated in 2000, known as the 2000 Spectrum Act. Section 46 of the 2000 Spectrum Act further underlines the need for a telecommunications regulator, as it mentions that the country will have a telecommunications regulatory body, namely the “National Telecommunications Commission (NTC).” The 1997 Constitution and its implementing law provided the first official clue that the regulatory regime under the control of SOTE was about to end, which in fact the 2000 Spectrum Act requires the establishment of the NTC to be done within 120 days after the promulgation of the act.

Secondly, the need for a regulator was also intensified from within the industry itself. As mentioned earlier, it was quite obvious that the old-fashioned regulatory regime neither enhanced the optimisation of efficiency, nor corresponded to the more liberalised environment. Real free and fair competition was unlikely to occur as long as the SOTEs were still both regulator and operator. All operators were unlikely to be on a level playing field as long as an independent regulatory body was conspicuous by its absence. Consumers tended to be exploited as long as the industry was protected. All these problems were awaiting the new regulator. In fact, in addition to the 2000 Spectrum Act, Thailand also has another new telecommunications legislation, namely the 2001 Telecommunications

Business Act. It provides guidelines for the regulator on how to manage the industry for the sake of all stakeholders. Up to late 2004, the law was almost useless since only a few parts of it were in effect; the delay in the existence of regulator gave no one the legal right to implement it.

Moreover, the need for an independent regulator was also indirectly urged by external forces like the WTO liberalisation agreement, the GATS's MFN conditionality, and the reputation for efficiency gained from free and fair competition. All in all, both internal and external factors indicated in concert that the regulatory regime under the control of the SOTEs had to be abandoned and replaced by a more efficient regime under the supervision of professionals who enjoy a real independence.

THE DELAY OF THE REGULATOR

Since the monopoly right of TOT and CAT had been repealed in 2001, the SOTEs and their concessionaires were literally frozen in action. None of them was able to expand or introduce new services to the market, unless the new licence has been granted by the regulator. Luckily, all the previous services were intact, as they were honoured by the Constitution. Unfortunately, the establishment of the NTC faced a number of difficulties that caused serious delay within the process. After four years of delay, the NTC was eventually set up in October 2004. During the absence of the NTC, it was hard to see a decent development within the Thai

telecommunications industry; in fact, the lengthy delay in the NTC establishment caused far-reaching undesirable consequences for the Thai telecommunications industry at large.

Infringement of the Constitution and laws

From the legal perspective, the delay in the establishment of the regulator infringed the 1997 Constitution, the 2000 Spectrum Act, and the 2001 Telecommunications Business Act. According to the Constitution and the Spectrum Act, the NTC should have been in place by October 2000; but in reality, the NTC establishment process was only finished in October 2004. This long delay had violated and has been detrimental to the credibility of these legislations. The infringement of either the 1997 Constitution or the 2000 Spectrum Act nonetheless does not entail punitive consequences, as punishment for violations was never mentioned in either legislation. Furthermore, the delay of the NTC also affected the effectiveness of the 2001 Telecommunications Business Act, since only a part of the law can be adopted in practice; while the rest of the law had to wait for the existence of the regulator.

The vacuum in the telecommunications industry

The promulgation of the 2001 Telecommunications Business Act served to terminate the state monopoly right, which had been embodied in the two SOTEs since their incorporation. After its declaration, the SOTEs' authority to allow

anyone to operate within the industry as well as to regulate the industry had been transferred to the independent industry regulatory body. Unfortunately, the delay of the regulator establishment placed the Thai telecommunications industry in a vacuum. Without the agency to issue the new license, new operators were unable to enter the industry, and new services were also unable to be introduced. In such circumstances, the consumers and the country were likely to be the real losers. Consumers lost the opportunity to receive the benefits of having more operators competing in the market and having more kinds of service options available. The country as a whole was also affected because the standstill of the industry development inevitably hurt the country's competitiveness and the overall economy. The obvious example in this regard was that the government policy to develop the country to become the telecommunications hub in the Southeast Asian region (as mentioned in 7th NESDP) was directly challenged and it may not even be achieved (Uthaisang, personal interview, November 18, 2004).

The continuation of monopoly

Although the monopoly right had been reclaimed from the SOTEs in 2001, the regulatory vacuum within the industry still nurtured monopolisation in the real world situation. Without the introduction of new competitors and sound regulations, all incumbents still enjoyed their consistently abnormal profits. Most operators continued to experience a dramatic growth of subscribers each year. In such circumstances, Tangkitvanich (personal interview, December 28, 2004) comments that it would make the competition in the future worse off. The longer

the vacuum situation dragged on, the more the incumbents could eat up the market share within the industry; such a situation makes the entrance of newcomers even more difficult when the market opens up for real competition. Moreover, another interesting comment from a recognised academic expert (Vongpanitlerd, personal interview, December 2, 2004) was that the striking growth in subscribers and the impressive advancement in technology that usually makes the price of telecommunications services lower in most economies, hardly showed any effect in the case of Thailand. Such evidence was actually a good indicator of the persistence of monopoly in the Thai telecommunications market. The limited competition and the continual monopoly gave consumers no choice, while the operators still had high market power, but had no incentive to reduce the price or to improve the quality of service. In short, it was once again the consumers and the country who were the ultimate losers.

Loss of investor confidence and business development opportunities

A clear industry picture (e.g. the market structure and the industry rules) under the new regulatory regime was critical for both local and foreign investors. The unknown regulatory regime made investors lose confidence and they were thus reluctant to invest. This consequently hurt the opportunity for development of the industry as a whole. The delay of the NTC establishment also affected the TOT and CAT privatisation programmes. Moe (2002) argues that, without clear regulatory direction, it was impossible to sell SOTEs' stocks at the optimal price. Investors would perceive the regulatory ambiguity as a major risk factor,

especially considering the fact that this uncertainty would have direct impact on the existing concessions. Unsurprisingly, the lack of confidence in the regulatory regime would make investors heavily discount the value of the SOTEs' stock or even decide not to invest entirely. According to Juruphan (personal interview, December 14, 2004), this was a reason that caused the delays in the privatisation of TOT and CAT for more than four years from the MOF's initial privatisation plan.

Loss of opportunity to prepare for liberalisation

The delay in the existence of regulator and regulations also impaired the competitiveness of the incumbents and the industry compared to international standards. Without a regulator, incumbents tended to enjoy exploiting benefits from a vacuum instead of trying to prepare themselves for full liberalisation in 2006. In addition, as the privatisation of SOTEs has been stalled, both TOT and CAT are still wholly owned by the state, which, as described earlier, is unlikely to be very efficient. Besides, it is true that the later the SOTEs are privatised, the less time they have to change their organisations and cultures to be ready for the fierce competition sure to arrive in the near future.

All in all, although the delay of the NTC establishment brought a lot of damages to the country, it did not face much pressure from the public. Uthaisang (personal interview, November 18, 2004) explains that most people were not aware of the shortcomings of not having a regulator or the losses from the delay of its

existence. The absence of the independent regulatory body did a great deal of damage to Thailand socially and economically. It gave consumers less choice and they were exploited by several market dominators who had high market power. Importantly, it also impaired the country's competitiveness as well as the level of development, which made the country fall behind other comparable countries (Suebwonglee, personal interview, November 25, 2004).

REGULATOR – NOT A PANACEA BUT A PREREQUISITE

The absence of an efficient regulator and regulatory regime effectively hindered the telecommunications reform programme of Thailand. Although the establishment of the regulator seemed to be a separate reform issue, it was closely interrelated with the country's other two reform issues. As revealed in previous chapters, it is not only political reasoning that impedes both the concession conversion and the privatisation, but, structurally, the absence of a regulator and a clear regulatory regime also contributes to the problems of both issues.

Looking back at the first two issues, the SOTEs were unable to privatise, as the uncertainties over BTO concessions were too daunting. Unfortunately, the concessions had to be there and were very difficult to convert or eliminate, as there were vast uncertainties on future industry rules and regulations. Even though the regulator does not (and should not) have the task of converting the concessions, it can facilitate the action by clarifying most of the unknown factors,

such as the number of licenses to be granted, the license fee, the interconnection charge, and so forth (Juruphan, personal interview, December 14, 2004 and Kusripituck, personal interview, November 24, 2004). The presence of the NTC is more or less a starting point to solve the problems that had obstructed the reform programme for a long time. Thus, it is not an exaggeration to say that, in the case of Thailand, the existence of the regulator, together with clear industry rules and regulations, is relatively the most critical issue in reforming the telecommunications industry.

However, it is certain that the presence of the NTC alone is not capable of solving all the industry's problems straight away; the best it can do is to stand as a good starting point for a sound reform programme (Uthaisang, personal interview, November 18, 2004). Even in the worst case that the BTO concessions still existed and the SOTEs and other incumbents still dominated the industry, the discretions and the authorities of the NTC provided by law should be versatile enough (if used rightly) to create a fairer and freer competitive environment within the industry, as well as to better protect the consumers, and all Thai citizens from exploitation¹²⁷.

¹²⁷ Section 51 of the 2000 Spectrum Act states the NTC's 21 authorities and duties. The section clearly shows that the regulator is equipped with a wide range of authority and high level of discretion.

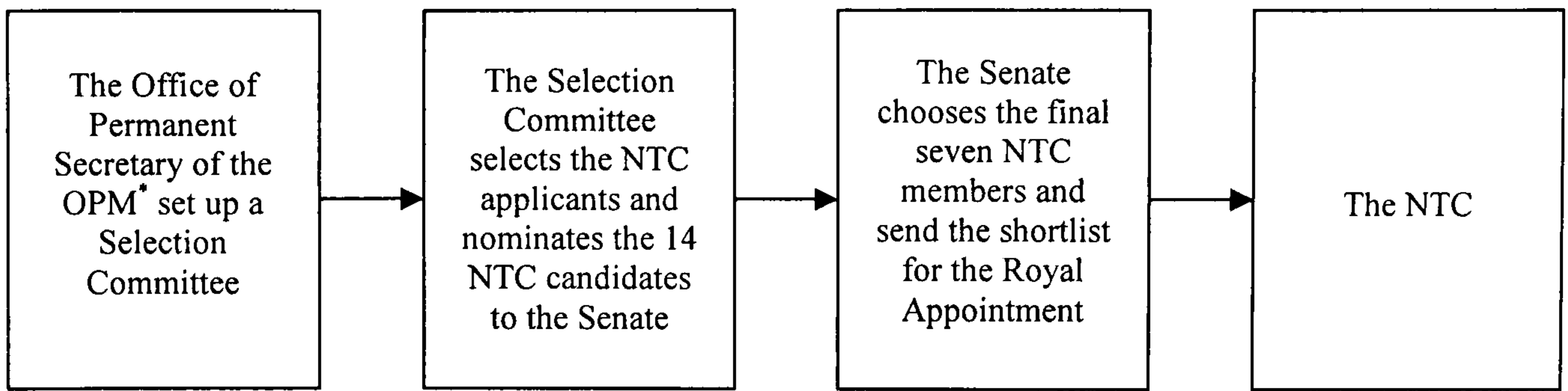
THE ATTEMPTS AT ESTABLISHMENT

The idea of establishing a telecommunications regulator had been raised on several occasions in the past. The 1997 TMP, the 1997 Constitution, the 1998 State Enterprise Master Plan, and the 2000 Spectrum Act all required the existence of the telecommunications regulator. Unfortunately, although the NTC was supposed to be in place since 2000, a number of difficulties occurred that made the establishment process only completed in the late 2004. Along the way, there were two official attempts of establishment. The first attempt began in August 2000 and was annulled in January 2003, while the second attempt was made in May 2003 and ended in August 2004.

The first attempt at establishment

The steps to the establishment of the NTC are addressed in the 2000 Spectrum Act; Section 49 states that the selection of the candidates to be members of the NTC must be carried out by a specific committee, namely the “Selection Committee”. The Selection Committee has a duty to screen the qualifications of all applicants from open recruitment, select the most appropriate 14 candidates, propose a shortlist to the Senate for further investigation and choose the final seven NTC members (see Figure 7.1).

Figure 7.1
Steps to establish the NTC



Note: *OPM = Office of the Prime Minister

Although the law clearly provides steps to establish the NTC, it fails to provide a clear guidance in selecting the 14 candidates. The Selection Committee therefore set up selection criteria according to their own judgement, and performed the selection in the manner they deemed appropriate. In October 2000, the Selection Committee came up with the list of 14 NTC candidates, which was handed to the Senate for final selection. Unfortunately, the attempt did not work out as expected, when the Senate passed a resolution to reject all the candidates. There were two reasons for the rejection, as will be seen.

Firstly, the Senate noticed that there were some candidates who potentially had conflicts of interest in being a NTC member since they had close relationships with some telecommunications companies. As revealed by the secretary of the Selection Committee (Vorathitipong, personal interview, January 6, 2005), there were some candidates who were also members of the BOD of the private telecommunications companies at the same time the selection process was ongoing. The second reason was derived from the concern whether or not the shortlist proposed by the Selection Committee was legitimate. To be more

precise, the Senate doubted that the composition of the Selection Committee was legal, especially regarding the representatives from the academic field (Ounsamran, personal interview, December 15, 2004). The Senate claimed that the four representatives from academic institutions in the Selection Committee were chosen unlawfully; they should have been chosen from more than 20 institutions around the country, rather than from only seven institutions from which the four representatives were actually selected from¹²⁸. Responding to notices from the Senate, PM Thaksin Shinawatra brought the issues to the Council of State¹²⁹ to see whether the applicants who had relationships with telecommunications companies were eligible to be NTC candidates and whether the composition of the Selection Committee was legal. Subsequently, the Council of State replied and announced the validity of both the eligibility of all 14 candidates and the composition of the Selection Committee.

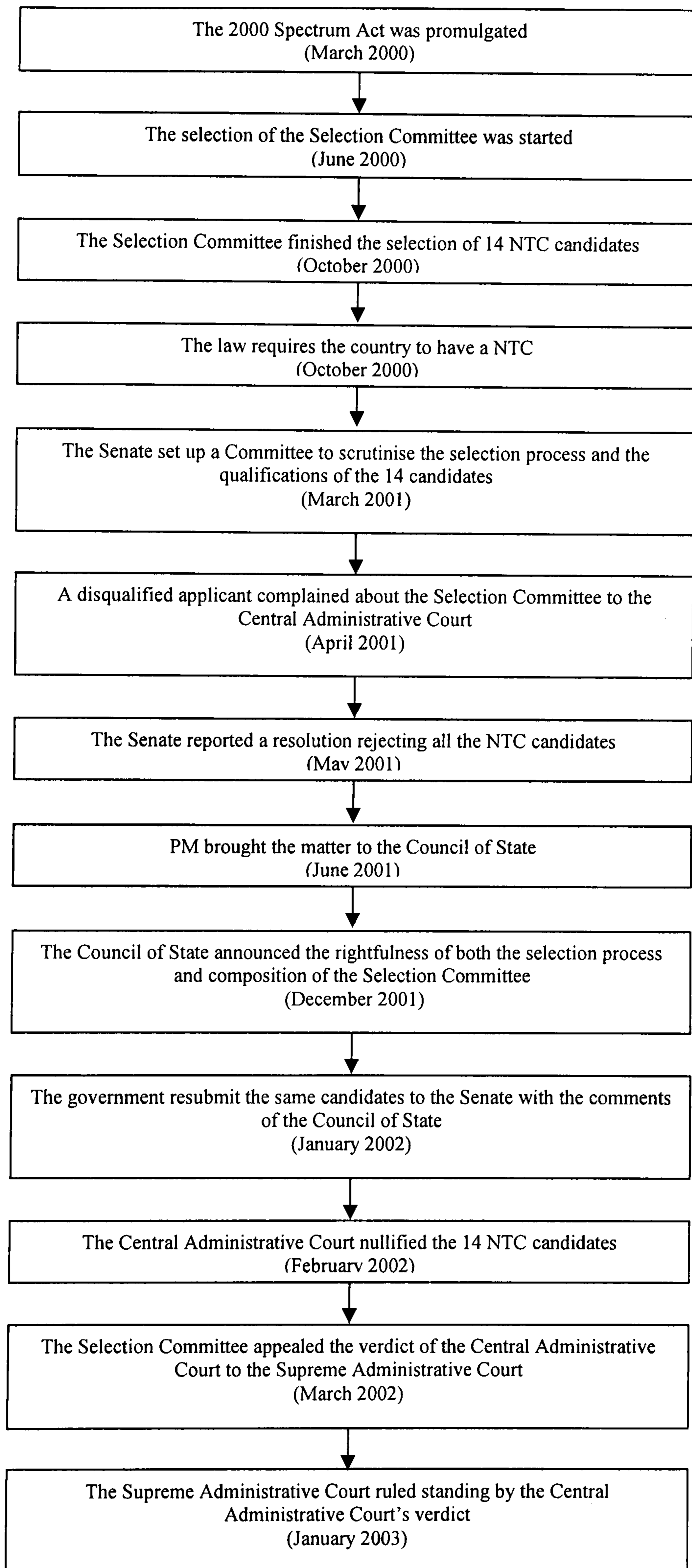
Nevertheless, the problems over the attempt did not come to an end as one of the applicants, Pramut Sutrabutra, who failed to be shortlisted, complained about the Selection Committee to the Central Administrative Court regarding the fairness and transparency of the selection procedure. Sutrabutra charged the Selection Committee with making several changes in the selection criteria, which had already been announced to the public, in favour of specific candidates. In February 2002, the Central Administrative Court decided to nullify all 14 NTC

¹²⁸ The 2000 Spectrum law requires every academic institution that teaches telecommunications subjects at bachelor level to present one representative; from them, only four representatives will be elected among themselves to become members of the Selection Committee.

¹²⁹ The Council of State is a legal advisor of the state. It was originally commissioned to advise the executive on matters relating to public administration and law drafting, and to consider and adjudicate administrative cases where private individuals became aggrieved in the course of public administration. However, the adjudicative function of the Council of State was transferred to the Administrative Court upon its establishment in 1999.

candidates proposed by the Selection Committee. The court found that the process of selecting the candidates was neither transparent nor fair as had been accused with justification by the prosecutor. As a consequence, the Chairman of the Selection Committee, Tawil Phuengma, filed an appeal with the Supreme Administrative Court in March 2002 to override the ruling. However, the Supreme Administrative Court ruled in January 2003, standing by the previous decision to nullify the selection process and the 14 NTC nominees. As a result, the whole NTC establishment process had to start again from the beginning. The summary of the important signposts of the first establishment attempt is shown in Figure 7.2.

Figure 7.2
The important events of the first NTC establishment attempt

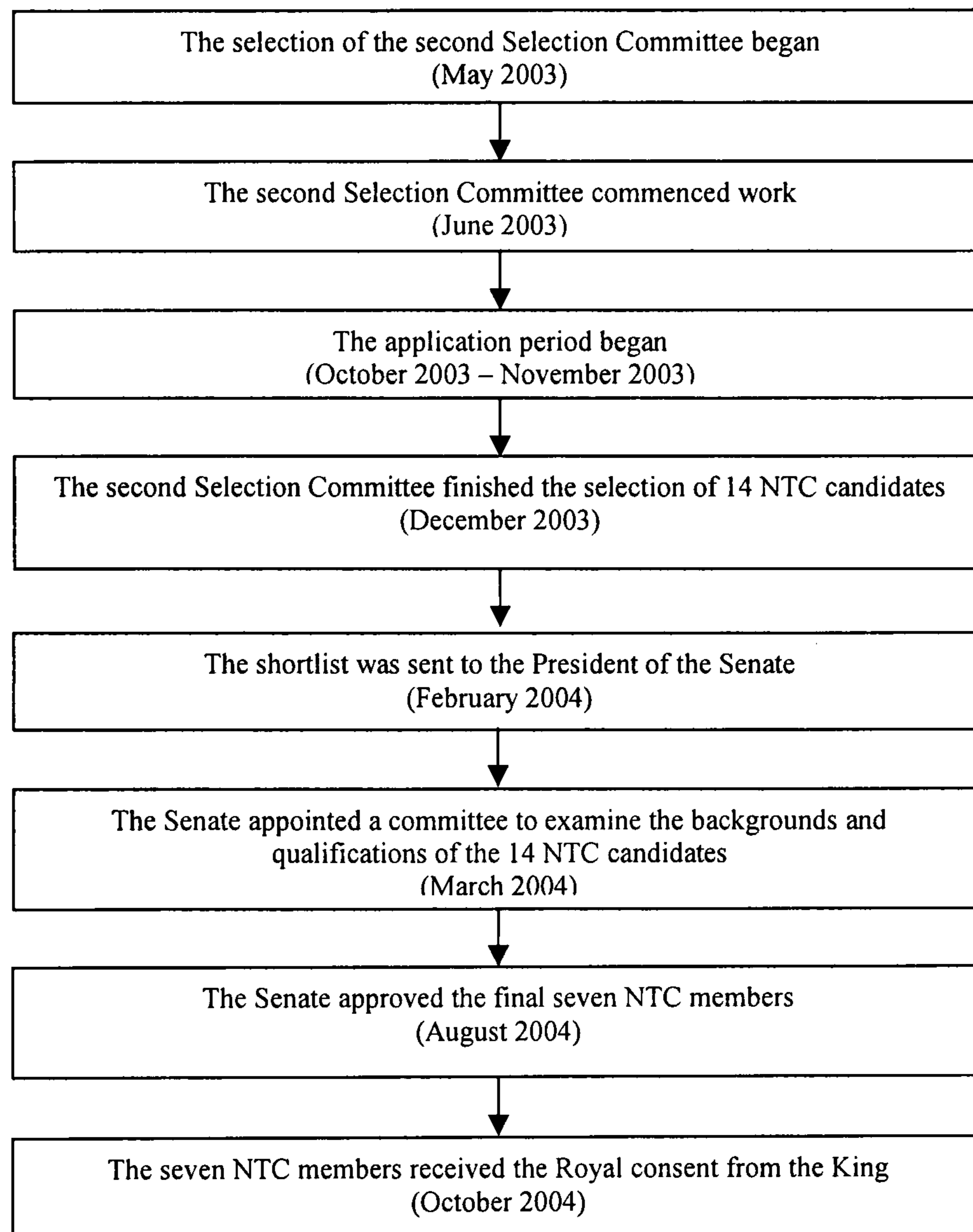


The second attempt of establishment

The resignation of the first Selection Committee to take responsibility for the failure officially ended the first selection attempt. The new Selection Committee had been carefully chosen and began to take on its responsibilities in May 2003. Mistakes from the first attempt were rectified and became valuable lessons for the second Selection Committee (Vorathitipong, personal interview, January 6, 2005). To promote transparency, the second Selection Committee conducted the public hearing on its new selection criteria to ensure the transparency and fairness in the selection process (Mongkolporn & Supsomboon, 2003). After spending considerable time setting up the criteria, the NTC selection process began again at the end of September 2003. The new set of the 14 NTC candidates were announced to the public in December 2003 and handed to the Senate in February 2004. In March 2004, the Senate appointed an ad-hoc committee, who examined the backgrounds and qualifications of all candidates. After close examination, the Senate eventually chose and approved the seven members of the NTC in August 2004. However, the historic date of the Thai regulatory reform was actually on October 1, 2004, when the seven NTC members received the Royal Assent from the King, which rightfully gave Thailand its first telecommunications regulatory body.

Figure 7.3

The important events of the second attempt of NTC establishment



THE DELAY OF THE ATTEMPT

In order to set up the first telecommunications regulatory body, Thailand took seven years from the first official mandate (which was the 1997 Constitution).

Almost four whole years were used in the establishment process; it is interesting to examine the reasons that so greatly delayed the establishment of the regulator.

Superficially, one can observe that the delay was attributed to flaws within the legislation and tardiness within the judicial system. However, with a closer look

and by incorporating the remarks obtained from direct interviews with a number of industry gurus, it is found that there are actually two main reasons that obstructed the establishment process.

The structural reasons

The first reason is the incompleteness of the law that was responsible for the establishment of the NTC itself. The 2000 Spectrum Act was actually the first legislation on the establishment of an industry's independent regulatory body in Thailand. As the country had no experience in such practice, it was not strange that the law to establish the NTC was not quite robust and contained some ambiguities.

According to Suebwonglee (personal interview, November 25, 2004), these flaws led the establishment to serious problems and delayed the whole process. At the outset, the 2000 Spectrum Act failed to clarify at least three different aspects; the qualifications of the persons who were eligible to be on the Selection Committee, the details of the procedures to select the 14 NTC candidates, and the level of discretion of the Selection Committee. These ambiguities actually backfired in the implementation stage. Firstly, since the law does not provide a clear working procedural framework for the Selection Committee, the committee had to set up their own selection criteria, which at a later stage they decided to make several changes to the criteria that they had already announced to the applicants and the public. The Selection Committee claimed that those changes were valid under

their discretion; they changed the criteria based on reasons of appropriateness and for the good of the entire selection process. Unfortunately, the public and some NTC applicants were not impressed by this claim. The inconsistency of the selection criteria implied bias which therefore seriously impaired the credibility of the candidates as well as the Selection Committee itself. This eventually led to the lengthy dispute settlement in the Administrative Court.

Moreover, another loophole also appeared in the composition of the Selection Committee. Although the law clearly mentions the composition of the 17 committee members¹³⁰, the appointment of the committee members was still obscure in practice. As pointed out by Senator Ounsamran (personal interview, December 15, 2004), apart from the representatives from the five Ministries (group 1), the rest of the representatives from other groups were not easily picked. The law does not provide enough detailed guidance to do so. For example, the most ambiguous group was that made up of representatives from academic institutions. The law fails to provide the criteria that make an institution eligible to nominate a representative. It is unclear how many credits taught or how many telecommunications related subjects an institution has to have in order to be counted in. This vagueness appeared to be the case when the Senate raised it as

¹³⁰ The Selection Committee is consisted of 17 committee members from four different groups of relevant areas, which are (1) representatives of the Ministry of Defence, Ministry of Education, Ministry of Information Communications and Technology (former Minister of Transport and Communications), Ministry of Commerce, and the National Security Council; (2) representatives of permanent lecturers teaching telecommunications subjects in State or private universities that teach telecommunications at bachelor level, with one representative from each university; however, only four representatives will be elected among themselves; (3) representatives of telecommunications, computer, information technology or electronics professional associations, with one representative each, four representatives will be elected among themselves; and (4) representatives of private or non-profit organisations whose objective is to give protection to the consumer in respect of telecommunications or to use telecommunications for the public interest, with one person from each organisation, four representatives will be elected among themselves.

one of the reasons to refuse the shortlist from the first attempt. Further explained by Ounsamran (personal interview, December 15, 2004), the Senate found out that the list of eligible academic institutions used by the Selection Committee did not cover all the telecommunications-teaching institutions in the country. For example, the most reputed university of Thailand – Chulalongkorn University – was excluded from the list of eligible institutions, as the name “telecommunications” does not appear in the name of any department, whilst in fact “telecommunications” is taught as part of the Electrical Engineering Department at Chulalongkorn University. In fact, the representatives from groups 3 and 4 also contained similar ambiguities; there were no clear criteria to categorise which professional association or which private or non-profit organisation was eligible to nominate representatives. Once again, this came to be the case when several Selection Committee members who represented groups 3 and 4 were criticised as unlawful, as their original associations or organisations did not even match the law’s intention. For example, one member of the first Selection Committee was a representative of the “Sawang Boriboon Dharamasatarn”, a professional association that collects the dead without family.

Additionally, the inexperience of the country and the incompleteness of the law led the NTC establishment to involve another impediment, which was the country’s judicial system. Once the issue was under judicial process, this meant it was completely out of any individual’s hands. The verdicts on the case as well as the duration of the proceedings were simply uncontrollable; the process of investigation was independent and had its own protocol. That the industry

desperately needed a regulator was irrelevant in the judicial process. In this case, the court finally ruled to nullify the first establishment attempt and spent almost three years on the investigation process.

The political reasons

The second reason, although less explicit than the first, is based on comments from persons directly involved with the real events. Such comments insisted that political reasons were also critical and played an important role in hindering the NTC establishment. The establishment of the NTC inevitably became a political issue because the existence of the regulator impacts every party involved in the telecommunications industry. The SOTEs (who hold the monopoly right and were the market dominators) and the concessionaires (who enjoy the protected business and limited competition environment) seemed to be the most affected parties. Therefore, it is not surprising if these parties were not happy with the approaching drastic change of the industry.

However, the situation was different after the promulgation of the 2001 Telecommunications Business Act, as it froze the entire situation and put the telecommunications industry in a vacuum. It was soon found that the absence of the NTC provided even more substantial benefits to some specific parties. As long as the NTC did not exist, no new license could be granted; BTO contracts were still intact; SOTEs were not able to privatise to become more efficient and commercially oriented companies; competition was still limited; tariff was still

controlled and not responsive to the market mechanism; and interconnection and license fee were still uncharged. In other words, the longer the delay in the establishment of the NTC, the more opportunities some parties had to reap benefits from the industry's peculiar conditions.

This led to public suspicion as to whether former players were attempting to protect their interests by delaying the establishment of the NTC for as long as possible. In fact, this suspicion did not seem far-fetched according to comments from a senator (Pinthong) and a government official (Reowilaisuk). Senator Pinthong (2002) claims that the procrastination of the NTC establishment would harm the country as a whole; only several telecommunications companies gained from the further delay. As for Reowilaisuk (2003), he comments that the delay within the NTC establishment process seemed like deliberate continuous attempts starting from the severe criticisms of the background of candidates at the beginning to the challenge to the Selection Committee at the end. Interestingly, not only was there a similar comment from senator and government official, even the comments from some private operators (Anonymous D and E) also point in the same observation, i.e. that there were attempts to further exploit the industry abnormalities by trying to keep the vacuum for as long as possible.

Looking at the flip side of the coin, although it was true that there were some parties who were expecting benefits from the existence of the regulator (e.g. the public and the prospective newcomers), unfortunately, their support perhaps was of little significance compared to the support from parties that were still enjoying

the old environment. In this respect, the thought of Becker (1983) that the competition among interested groups (or policy opponents vs. proponents) contributes to the survival of policies that raise social output may not be held. The fact that the groups were not equally large and skilful at exerting political influence enhances the ability of the more politically powerful and well-organised groups (e.g. the special interest groups) to be winners over the less powerful and loosely-organised group (e.g. the consumers) in the policy making. The regulatory reform in Thailand rather seemed to be consistent with the interest theory of Olson (1982), which the outcome of the conflict may not necessarily raise the social outcome. Instead, it could distort efficient resource allocation, increase deadweight costs, which eventually would lead to productivity slowdowns and sluggish growth of the industry in the long run.

CONCLUSION

The chapter reveals that the Thai style telecommunications regulatory regime under the state and SOTEs' control is no longer suitable for the industry in the modern era. The need for changes became more apparent than ever in the late 1990s when internal demand, together with pressure from the outside, clearly indicated that telecommunications regulatory reform was inevitable and had to be carried out without further delay.

The Thai governments realised the need and therefore responded with the 1997 TMP and 1997 Constitution, which were basically the first official concrete policies reforming the old-fashioned regulatory regime. However, carrying out the regulatory reform entailed numerous problems, causing lengthy delays almost every step of the way. Keeping in mind the dynamics of the industry under the present ever changing environment, the opportunity that Thailand lost from the lack of a proper regulatory regime is vast. The delay in the establishment of a regulator is also significant in another aspect; it is the starting point to resolve the chronic and problematic telecommunications reform. Considering the other two reform issues, it is found that they were unable to be solved, as they needed a regulator and regulation as prerequisites.

Focusing on the obstacles of the establishment of the regulator, the country's structural impediments (such as the inexperience of the country, the problems embedded in the legislation, and the delay within the judicial system) are obviously the first culprit; however, the chapter further discloses that politics is another hidden ground. In fact, it was an important factor in the failure of the first establishment attempt and in driving the success of the second attempt. It is interesting to find that not only did the politics within the reform programme influenced the establishment of a regulatory body, but, when looking back to the two previous chapters, it is also found that the other two reform issues were also affected by industry politics in the similar fashion.

Interestingly, with closer consideration of the obstacles within the three reform issues, it is possible to stress the importance of institutionalism on the reform process. It is found that the unwieldy political environment and the conflicting interest among interested parties were the dominant institutional problems of the reform. The earlier analysis of this research revealed that each political regime yields different consequences for the reform process. It is found that political settings, either under the bureaucratic or pluralistic regime, were unfavourable in dealing with the interest dispersion problem; instead, both settings contained a number of loopholes. They allowed the affected parties, who were usually politically powerful, to exercise their powers either to protect or to promote personal interests at the expense of national benefit. However, the case of Thailand became even more interesting after a radical change in the country's politics in 2001. The coming of PM Thaksin Shinawatra drove Thailand and its telecommunications industry towards a new political regime. The old industry institutional arrangements that had been considered unfavourable to the reform were largely affected and changed to the new outlook. As shown in Chapter 3, the hegemonic regime makes political instability and weak government no longer a problem. However, it is still interesting to further study whether the hegemonic environment would have any meaningful consequences for the dispersion of interest among major interested parties and therefore for the reform programme as a whole.

CHAPTER 8

THE HEGEMONIC ERA AND ITS CONSEQUENCES ON THE TELECOMMUNICATIONS REFORM PROGRAMME

INTRODUCTION

The country's commitment to liberalise the telecommunications industry in 2006, combined with the considerable damage done to the country resulting from sluggish telecommunications development, made the need for industry reform more urgent than had previously been envisaged. The reform progress made in both the bureaucratic and pluralistic eras seemed to be insufficient to keep up with global change or even with the development of comparable countries in the region. Earlier in the thesis, it was already disclosed that the political settings (both at the national and industry levels) had been changed from being weak and unstable to very well-insulated, strong and centralised. As for this chapter, it rather focuses on another crucial institutional problem of the reform – the interest dispersion. It is interesting to understand the interrelationship between the new telecommunications politics and the patterns as well as the degree of involvement from various interested parties. It is undeniable that the telecommunications reform programme has seen a great deal of progress in this new regime. Upon close consideration, it is found that this impressive progress must be attributed to two main factors: firstly, the high level of insulation of the government that effectively prevented other involved parties from interfering in the reform and

secondly, the government's ability to exploit its political strength when dealing with the existing reform problems. Indeed, there was a body of evidence suggesting that the government was able to utilise its political superiority to overwhelm most reform participants who had once been active in the telecommunications political arena. This chapter therefore will cover the further studies on the consequences of the new political regime for the former powerful involved parties, as well as those on the three reform issues.

THE IMPACTS OF THE NEW TELECOMMUNICATIONS POLITICS ON THE INVOLVED PARTIES

The new telecommunications politics appeared to directly affect all of the involved parties. It is not surprising that such impact had brought the Thai telecommunications reform programme to another outlook, as, when seen from the historical institutionalist framework, the behaviour of these politically powerful actors are believed to be influential in identifying causal mechanisms. Therefore, the study of the involvement of these parties under the pluralistic era and hegemonic era obviously portray different pictures. In the pluralistic era, the involved parties included various groups who had an interest in the telecommunications industry. The degree of involvement of these parties varied from one reform issue to another; unsurprisingly, they put more effort into influencing particular issues that directly affected their main interests. Since the reform involved a number of parties, the tension that mounted from the dispersion

of “self-interest” among these involved parties usually became problematic for the whole reform process.

However, in the hegemonic setting, it seems that the government is able to deal with the dispersion of interest very effectively. In this respect, the fieldwork insights obtained from most interviewees was that under the era of PM Thaksin Shinawatra, it is difficult to find any party that is able to stand out independently and resist the government’s demand. Therefore, while the straightforward question in this regard would be how it came about that the various involved parties simply disappeared from the telecommunications political arena, the straightforward answer would be that they have not disappeared; they are merely subdued. The high level of stability and insulation from outside interferences of the government enables the PM to practice a centralised style of administration, and thus far it seems that the PM extensively utilises it.

Under the hegemonic regime, most of the former major involved parties either became weaker or less active as compared to the previous era. There is a great deal of empirical evidence which convincingly suggests that their movements were subdued by some forms of superior political pressure. Most of the involved parties have been captured by some kinds of political apparatus, either directly or indirectly, in order to make them defer to the government. This phenomenon, in a way, recalls the “capture” of Stigler (1971) when he proposed the chance of the regulator being captured by some strong interested parties (usually the private companies). However, what happened in the case of Thailand is that capture is

not only limited to the regulation, and it was not the private companies who tried to carry out the capture either. Instead, it was the hegemonic government who was able to utilise all its capabilities to capture every other involved party, either to make it defer to the government or to at least remain quiet. To justify this claim, every major involved party in the pluralistic era will be listed and analysed as to how and to what extent the new telecommunications politics have affected it.

Political parties

As the closest groups to the PM, both the government coalition parties as well as the opposition parties are directly affected by the new politics of PM Thaksin Shinawatra. It could be said that the situation was very calm compared to the previous era. Both the politics within the TRT itself as well as within the government coalition were centralised by the premiership, while conflict with opposition political parties was minimal due to the government's ability to exploit both its political superiority and the loopholes of the 1997 Constitution.

Focusing on politics within the TRT itself, the fact that PM Thaksin Shinawatra collected almost 200 MPs from various political parties when he established the TRT in 1999 caused the TRT to consist of many political factions. Among these, the biggest and most powerful faction was "Wang Nam Yen", led by Snoh Thienthong; this faction had around 45 MPs, mainly comprising Central and North-eastern representatives. However, all the factions within TRT were dominated at a later time, by the newly established but stronger "in-house"

faction, namely “Wang Bua Ban”. Yaowapha Wongsawat (the Wang Bua Ban leader and sister to the PM) was assigned to be the Northern campaign manager, where she managed to collect over 60 MPs by July 2001¹³¹. She was widely seen as a force to counterbalance every influence within the TRT. Apart from the strategy to dominate other political factions within the TRT, PM Thaksin Shinawatra also utilised his financial strength in “providing a handsome return to the party’s members in order to keep them in control” (Tailuctai, 2004, p. 256). According to Chang Noi (2004), it is estimated that TRT pays an extra THB 200,000 (approximately GBP 2,700) monthly allowance for each MP on top of the normal salary, which means this could amount to as high as a billion baht (approximately GBP 14.3 million) in total per annum. Consequently, all these factors keep TRT internal politics calm and totally centralised under the party leader.

In the larger picture, the politics among the coalition government parties was also peaceful and united. The fact that TRT alone could form its own government significantly reduced any disharmony (and also political bargaining) within the government coalition. Accordingly, TRT policies usually became the country’s policies. Suebwonglee (personal interview, November 25, 2004) argues that,

The unity within the government is very strong. The coalition political parties joined the government because they believe in PM Thaksin Shinawatra as a person and in TRT’s policies; thus, there has never been any division of ideas among the government coalition.

¹³¹ Yaowapha’s faction not only had MPs from Northern provinces. In fact, she (with the close cooperation of Suriya Jungrungruengkit – the TRT Secretary-General) was able to convince a number of MPs from Snoh’s faction (and other small factions) to move into her Wang Bua Ban faction.

However, such unity can also be explained from another perspective in that the coalition political parties realised their political inferiority and their need to bend to the core party if they wanted to keep their places in the cabinet, and avoid being expelled from the government. The case of the National Development Party (NDP) can serve as an example. The NDP joined the government coalition in March 2002; however, it was expelled from the government coalition in November 2003 after the attempt to merge the NDP with TRT failed. The NDP rejoined the government coalition again in June 2004 and eventually merged with the TRT in September 2004. On closer consideration, it appears that the PM effectively applied the “building more alliances” strategy to strengthen his political power and insulation. In fact, this is not the first time for this kind of technique, as it is more or less the same technique he used in gathering a number of local giant corporations to establish TRT in the first place.

As for the opposition political parties (e.g. the Democrat Party), they became weak when their popularity dramatically declined after having been the government during the economic crash between 1997 and 2001. They were severely criticised for their old-fashioned style and over-obedience to Western demands. Moreover, the new Constitution further complicates the job of opposition political parties. They are unable to officially scrutinise the PM’s decisions specifically because they do not have enough MPs to submit a motion of a no-confidence debate against the PM. They can only initiate a general debate on a member of the cabinet, which is not where everything is centralised. In fact, with regard to the specific issue of the telecommunications reform programme,

the opposition political parties are even more reluctant to criticise as it was the Democrat Party itself that put the telecommunications reform programme high on the agenda and led the country towards its international commitment (Uthaisang, personal interview, November 18, 2004). Moreover, the fact that TRT's network alliance is expanding and growing stronger has resulted in the opposition parties facing more financial hardship. None of the political patrons wanted to be on the opposite side of the government. It was hardly surprising to see the major longstanding backers of the Democrat Party like Chaleao Yoowittaya (owner of "Red Bull" energy drink) and Charoen Siriwadhanabhakdi (owner of "Beer Chang") shift their support from the Democrat Party to the TRT from 2003 ("Karn Torn Tua," 2003).

In a nutshell, with the majority of MPs and strong political insulation, PM Thaksin Shinawatra and TRT seemed to dominate the lower house of parliament. Internal resistance both within the TRT and the government coalition parties has significantly subsided, while on the other hand the battle with the opposition parties was also minimal as they became too weak politically and financially.

Government officials

The new politics in Thailand also directly impacted government officials. As a normal practice, the government officials have to follow orders from their superiors, above all, the minister who represents the government. Frankly speaking, government officials in practice cannot avoid being involved in politics;

whether beneficial or hazardous to their status. There were several cases when high-level government officials were demoted without a solid explanation from the government. The most notorious case occurred in July 2003 when the cabinet agreed to transfer two Permanent Secretaries, namely Dr. Wanlop Thai-Nua (the Permanent Secretary of Education) and Prodprasop Surasawadee (the Permanent Secretary of National Resources and the Environment), to inactive positions at the Office of the Secretariat of the PM with the justification that they could not effectively respond to government policies (“Demotion of Prodprasop,” 2003). This case was extraordinary since the transfer or demotion of high-level government officials normally has to pass through many committees and involve a number of lengthy investigative stages.

A high-level government official (Anonymous F) explains that most government officials are put under pressure and indirectly intimidated by the overbearing government. Singkanati (2004, p. 280) further describes the situation,

The institution of the government official has already been destroyed. They are losing their long-time prestige. The role of the government official is to follow what the politicians demand, which, in such circumstances, further strengthens the centralised characteristic of the government.

Such influence also applies to government officials responsible for the telecommunications reform programme. The hegemonic character of the government made the government officials, both in the MOTC (later the MICT) and the MOF, play a less active role in the reform process and merely follow direction from the politicians. One good example is that, in the past, there were always conflicts between the MOF (which takes care of the country’s finance) and

the MOTC (which takes care of the SOTEs) over the privatisation and concession conversion. Pornsutee (personal interview, November 12, 2004) raises the case of the concession conversion,

Each ministry was trying to do its job. The MOTC tried to convert concessions, while the MOF, as the owner of SOTEs, tried to maximise the proceeds. But unfortunately, the framework proposed by MOTC was not acceptable to the public and the MOF, while the framework endorsed by MOF was basically too rigid and impractical.

However, PM Thaksin Shinawatra's administration hardly encounters a single instance of disharmony between government officials. The strong unity within the government (also within the cabinet) made the policies of both ministries more synchronised, which consequently led the government officials in both ministries to adhere strictly to their superior's orders. Reflected by the party who can see the situation thoroughly, a SOTE employee accuses government officials in both MOF and MOTC of giving up working for the sake of the industry or the country; whereas now, a number of them are now working under the shadow of some powerful politicians in the government (Anonymous F).

The Senate

Although the Senate (or the Upper House) has virtually nothing to do directly with the telecommunications reform programme, it does have some indirect (but very important) involvement in some critical aspects of the reform. Firstly, as designated by law, the Senate has a duty to select the telecommunications regulator as well as to scrutinise whether the initial selection process, which was conducted by the Selection Committee, had been carried out fairly and lawfully.

As discussed in Chapter 7, the rejection of the shortlists in the first NTC establishment attempt clearly showed how the Senate had an impact on the reform programme. Apart from the relation to the establishment of a telecommunications regulatory institution, the Senate also has a crucial role in the legislative process. The passage of new laws or the amendment of telecommunications laws need approval from the Senate. Due to the Senate's legislative power, it appears that the government needs at least two rounds of cooperation from the Senate in the near future. Firstly, it is expected that the government is going to propose an amendment on the limitation of foreign ownership in the telecommunications companies from the current 25% to 49%¹³². Secondly, the government is going to need the Senate's approval on the already promulgated King's order on the telecommunications excise tax that the government has already enforced as a law (the details will be discussed later in the chapter). As such, the government realised that support from the Senate is necessary to smooth the whole reform programme. Consequently, it was believed that the Senate has been drawn into involvement with the new politics and there is in fact some convincing evidence to back up such a claim.

Though an accusation against the government made by Singkanati (2004) that its misuse of power has destroyed the autonomy and neutrality of all independent organisations seems excessive, it may not be a complete exaggeration. The fact that the 1997 Constitution requires that the senators be directly elected from the people presumes a Senate with real independence and neutrality, which is why the

¹³² Obviously, the 25% foreign ownership in the telecommunications business is an important limitation on the liberalisation.

Constitution assigns to the Senate a number of highly important tasks (e.g. the selection of every independent regulatory body, including the NTC). However, the independence and neutrality of the senators has become uncertain lately since they also tend to be overwhelmed by the government's political power.

Singkanati (2004) proposes five different reasons that make it difficult for a senator to escape entirely from government influence¹³³, thus making it difficult for them to maintain independence and neutrality. Generally speaking, partisan senators are not unusual in Thai society; in fact, the term "government-side senator" is commonly seen in the political articles of most local newspapers.

Focusing on the telecommunications reform programme, the chronic problem of the establishment of the regulator looked to be easily accomplished in the era of PM Thaksin Shinawatra. In the first attempt at establishment, there were two occasions on which the Senate rejected the shortlist proposed by the Selection Committee, as it claimed that there were some industry stooges on the list, and also that the composition of the Selection Committee seemed to be unlawful¹³⁴. Unlike the first attempt, the second attempt, which was restarted in the era of PM Thaksin Shinawatra, progressed amazingly well, especially in the final selection stage that was related to the Senate (Vongpanitlerd, personal interview, December 2, 2004). The 14 names on the shortlist were handed to the Senate in February 2004 and, without any reservation, the Senate voted for the final seven NTC members in August 2004. Although it is conceivable that it was the experience of

¹³³ The five reasons are as follows: (1) family linkage, (2) business benefits, (3) personal interest protection, (4) furtherance of career in politics, and (5) financial compensation. For more details, please see Singkanati (2004, pp. 270 – 3).

¹³⁴ Although the two rejections happened in the time of PM Thaksin Shinawatra, it also should be noted that the selection process of the first shortlist was carried out under PM Chuan Leekpai.

the first attempt which made the second attempt proceeded more smoothly, it is difficult to explain why the names and the vote scores of all seven NTC members were published in several local newspapers (e.g. *Dailynews*, *Telecom Journal*, and *Thairath*) before the Senate actually voted. Even more interesting, all the predicted names were correct (“X-Ray Jed Kor Tor Chor,” 2004), while the vote scores were only slightly different¹³⁵. One of Bangkok’s senators comments that he regretted the NTC vote result; at least four out of seven were obviously industry proxies and obviously had a conflict of interest. The vote scores undeniably weakened the Senate’s credibility, as it was almost impossible that the majority of senators would have an identical set of seven candidates at the first ballot (Pinthong, 2004). McCargo and Pathmanand (2005) further assert that the selection process for the NTC showed that the Senate is far from acting as an impartial and transparent arbiter dedicated to the public good; in other words, the Senate demonstrated that it had been captured by vested telecommunications interests.

SOTE management

The SOTE management used to be one of the highly influential groups in the telecommunications reform programme of Thailand. When the SOTEs possessed the monopoly right, the industry was practically under the domination of the SOTEs. In the past, they expressed quite clearly that they agreed with neither the

¹³⁵ The vote was arranged so that all 186 senators could vote for seven candidates out of the 14. The seven candidates, who earned the highest vote scores (which also has to be higher than 100 votes) would be the NTC members. The result was quite surprising when all seven candidates were selected only after one ballot and all of them had very close vote scores.

divestiture nor the conversion of BTO concessions. Without cooperation from the SOTE management, the reform hardly showed any progress. The BTOs were unable to convert since doing so requires agreement from both contracted partners. Neither can the privatisation nor the sale of SOTE stock could be done as long as the management did not agree. Therefore, as long as the SOTEs still dominated the industry and the private operators were still closely tied in with the SOTEs, any concept of fair and free competition did not exist.

Nonetheless, the situation has recently changed. Several new industry features successfully reduced the power of the SOTE management in the reform arena. Firstly, the promulgation of the 2001 Telecommunications Business Act stripped the monopoly power from the SOTEs. Both SOTEs consequently became merely ordinary telecommunications service providers which had to compete with other private operators without any privileges. This being so, the SOTE management realised the need to improve efficiency within their organisation, but they still did not agree with the concession conversion. The second reason that effectively subdued the SOTE management was done via the BOD. Like the old regime under the military era, overwhelming the BOD is always a classic and effective method to gain control over the management team¹³⁶. In this regard, insight obtained from interviews with key employees of both SOTEs confirms that the appointment of the BOD of most SOEs in the hegemonic era needs pre-approval from the government prior to official appointment by the MOF (Anonymous G and H). The last feature that the government used to control the SOTE

¹³⁶ For example, concurrent with the coming of TRT as the core government party in January 2001, the BOD of TOT was also reshuffled. The Chairman was changed from Sombut Uthaisang to Supachai Pisitvanich, who was also an advisor to the Minister of Finance at the same time.

management was exploitation of the 2000 Qualifications of Board of Director and Officers of State Owned Enterprise Act. This law stipulates that, instead of promotion from within the organisation as before, the top-level management of the SOTEs now has to be selected by the MOF, which could be anyone; either an SOTE employee or any expert from outside, and the final approval would have to come from the cabinet. Although the law intends to pull in capable managers from the outside, it also contains a significant loophole for political intervention¹³⁷.

On the whole, it does not seem to be an exaggeration to say that there are a number of loopholes that the powerful government exploited to gain and maintain influence over the SOTE management. These incidences could be the reasons why one member of the SOTE management revealed a degree of resentment that political intervention in the telecommunications industry is now more intrusive than ever (Anonymous A).

Private operators

The role of private operators in the telecommunications industry has also changed recently. In the previous era, all telecommunications operators had only a certain level of political power and were involved in telecommunication politics via the

¹³⁷ This was clearly the case, when the selection of CEOs of both TOT Corporation Plc. and CAT Telecom Plc. experienced a lot of problems. The selections were made and cancelled many times. In fact, like the selection of the NTC members, there were several prosecutions filed by the failed applicants at the Administrative Court over the unfairness of the selection process. According to Iambumrung (personal interview, December 21, 2004), the problems within the selection process hurt SOTE; in the case of CAT Telecom Plc., the damage of not having a CEO during the last two years is incalculable.

political parties (or the proxies). According to McCargo and Pathmanand (2005), before the 1997 crisis, all major telecommunications operators were very similar in terms of financial and political strength. They had to compete with each other for concessions and benefits. However, the crisis created a new structure among the private operators where SHIN Corp became a leader whose economic and political status was superior to that of other players¹³⁸.

The involvement of private operators in telecommunications politics changed dramatically in the era of PM Thaksin Shinawatra. It was the first time that a number of telecommunications operators entered politics directly and openly. Several telecommunications tycoons (e.g. Adisai Podaramic and Pracha Maleenond) decided to join the TRT from the beginning, and subsequently became members of the Thaksin cabinet. Henceforth, these operators seemed to have no further need for proxies in the executive administration branch (even though they probably still need front men or intermediaries in some other areas such as the regulatory branch).

However, there seemed to be divided opinions on the country's politics among the private telecommunications operators. Some (e.g. SHIN, Jasmine, and BEC World) believed in the new system as one where they should come out from the shadows and directly access the political system, while others (e.g. UCOM and SMART) still believed in the old system and avoided direct involvement. Unfortunately, the old-fashioned thinking appeared to be misguided. By having

¹³⁸ Unlike most private operators, SHIN Corp wisely hedged all of its foreign debts. Therefore, it was least affected from the devaluation of Thai Baht in 1997.

direct political support, the “new-thinking” operators became more politically powerful than before. On the other hand, those who adhered to the “old-thinking” seemed to be increasingly excluded from the telecommunications political arena, as their “proxies” (the politicians) were also struggling with loss of power in national politics. Tangkitvanich (personal interview, December 28, 2004) explains that the rise of the political power of the private sector in telecommunications politics did not confer any advantage on the private companies across the board; only a few companies gained, while the rest were on a par or even worse-off. Under the new telecommunications politics, the operators with no powerful alliance (e.g. UCOM and SMART) had barely any involvement in the political arena. A high-level management of a telecommunications operator (Anonymous E) reveals that, for some operators, there was no need to talk about the search for more benefits. They hardly made any move. What they did do was to follow more powerful operators and hope any benefit might be shared with them.

Labour unions

History clearly shows the considerable power and high level of involvement of the labour unions in the telecommunications reform programme of Thailand (Petrazzini, 1995). Since the beginning, the labour unions of both TOT and CAT were very strong and effectively did their job in protecting the interests of SOTE employees. They were strongest in status when they were backed by the military during the bureaucratic era (Niyomsilpa, 2000). Reform attempts proposed in that

era usually provoked the threat of a national strike and most of the time the threats appeared to be effective since the government always retreated (please find more details in Chapter 3). Later, when the power of the military significantly declined in the pluralistic era, the labour unions became correspondingly weaker.

However, they were still able to retain close links by finding new alliances such as NGOs, academics, or labour unions from other SOEs.

The attitude to the reform of SOTE's labour unions has recently altered. They cooperate well with both MOTC and MOF. Privatisation is welcomed¹³⁹, though the attitude towards concession conversion is still split. Upon closer inspection, there seem to be several factors that brought about the change in their attitudes.

First of all, as suggested by Chevapruek (personal interview, December 8, 2004), the continuous public relations on the necessity of the reform that had been practised for years started to pay off. In fact, such an attempt was started and extensively carried on since PM Chuan Leekpai's government; however, the return on it only began to be apparent in PM Thaksin Shinawatra's time.

Secondly, employees were satisfied with the very generous privatisation compensation package offered by the government. According to the presidents of SOTE labour union (Chareonwan, personal interview, December 14, 2004 and Iambumrung, personal interviews, December 21, 2004), they admit that the compensation package that consisted of both financial reimbursement (also

¹³⁹ According to MOF's government official (Juruphan, personal interview, December 14, 2004), there is now a situation where the labour union now keeps asking the MOF when their organisations will be traded on the stock market.

known as the 6, 2, 2 package¹⁴⁰) and guaranteed job security¹⁴¹ was a key inducement that attracted most employees. The last factor was that the employees started to realise the necessity of having an efficient organisation (Pornsutee, personal interview, November 12, 2004). Without monopoly rights as before, it seems likely that SOTEs may face problems from their embedded inefficiencies, which could well make them collapse in the near future; at any rate, the same old-fashioned operations are now known to be unlikely to help them to survive and flourish in the new industry environment.

All in all, considering the previous record of the labour unions in the telecommunications reform programme, it can be said that they have more recently become surprisingly easy to deal with. Although they seem neutral on the concession conversion, they became one of the supporters of the privatisation. This could be why a renowned academic (Anonymous B) states that the SOE labour unions have all been destroyed; they became more concerned with their personal interest rather than the benefit of the organisation or society as a whole.

The media

The media used to exert a great deal of influence on the telecommunications reform programme. Unlike some other involved parties (e.g. the labour unions or the NGOs), the media did not actually come out to either support or oppose the

¹⁴⁰ The 6, 2, 2 package comprises of (1) free cash equivalent to 6 months' salary, (2) free SOTE stock (once it is traded in the stock market) equivalent to 2 months' salary, and (3) special price of SOTE stock (at the Initial Public Offering (IPO) price) equivalent to 2 months' salary.

¹⁴¹ The government guaranteed that there would not be any lay-offs during the first three years after privatisation.

reform directly. Rather, its role was to critically analyse the situation of the government reform policies for their audiences. However, with their ability to reach the majority of the people, the media usually made a considerable impact. It had the ability to call for allies or public discussion, with the intention of promoting or opposing a particular issue. Binding the media to the government side thus seemed a sound strategy. Not only could it reduce the chances of resistance created by the media, but it could also be used as a tool to build government allies.

According to McCargo (2000), PM Thaksin Shinawatra applied both “carrot” and “stick” approaches to capture the media. It is found that the carrot approach was used to curry favour with the media in his earlier political career. He built up good relations with most reporters¹⁴². However, when he later became PM and the media started to criticise him more strongly, he also applied a range of sticks to discourage critical reporting and dissent. In this regard, there is a variety of evidence in support of such a claim.

With the state power in hand, the government of PM Thaksin Shinawatra easily captured most of the public media. The free television and the radio stations in the country are owned by either the government agencies (e.g. the Government Public Relations Department) or the military. The fact that the Chief Commander of the army, General Chaisit Shinawatra, is the PM’s cousin and that two out of six television stations are run by the PM’s intimates enabled the government to

¹⁴² McCargo and Pathmanand (2005) provide examples as follows: Thaksin Shinawatra used to give out free mobile phones to reporters covering his work. He also used to give out free gold necklaces hidden in pieces of cake at a business reporters’ party.

control the broadcasting industry¹⁴³. As for the press, they are also not too difficult to capture as long as the government is able to control the advertising budget of every government agency, and as long as TRT key figures still include businessmen whose companies pay a huge amount of money to the press for advertising every year¹⁴⁴. The statement issued by the Thai Journalists' Association (TJA) strengthens the claim,

It is known to the public that the Thai government and members of the cabinet are interfering with the media by using economic bargaining through government agencies' advertising budget and stock acquisition, therefore, there is growing concern about the editorial independence being threatened by the political forces (the TJA, 7 September 2005, www.tja.or.th).

Phipitkul (2004) further mentions that interference from the government began as early as its arrival in office in 2001¹⁴⁵; it also appeared that the degree of intervention has been increasing from one year to another. One of the obvious examples of intervention was the removal of all the television programmes produced by "*The Nation*" from the ITV timetable in 2001. This action was widely criticised, as *The Nation* usually produced programmes that criticised the government on various issues. Since then, audiences who want to watch *The Nation's* programmes had to set up separate antenna specifically to receive the channel. In fact, not only were *the Nation* TV programmes removed from normal

¹⁴³ There are six free television channels in Thailand. Channel 3 is run by BEC World Plc. (whereby the family of "Pracha Maleenond" – the Deputy Minister of Interior – is the major shareholder); channel 5 and 7 is owned by the Army; channel 9 is owned by a SOE (Mass Communication Authority of Thailand); channel 11 is owned by the Government Public Relations Department; and ITV is owned by SHIN Corporation (whereby the family of PM Thaksin Shinawatra holds the majority of the stocks).

¹⁴⁴ The income from advertising is critical for most press companies. On average, it accounts for approximately 70% of total income (Trirat & Chaiwat, 2003).

¹⁴⁵ In fact, the media intervention (via the "stick" approach) started as early as 2000 when the SHIN Corp took over the ITV and shortly after that, when more than ten ITV outspoken reporters who corresponded with Shinawatra's acquisition of power were fired (McCargo & Pathmanand, 2005).

broadcasting, “*The Nation Newspaper*” was also heavily impacted by a significant decline in advertising income. All this finally led “The Nation Group” to an operating loss. In 2002, the Nation Group suffered total losses of about GBP 3.5 million, compared to a profit of GBP 1.5 million in the previous year. Because of this heavy loss, in 2003, it appeared that a relative of the TRT Secretary-General (Suriya Jungrungruengkit) took further action to capture this media by purchasing around 20% of shares – more than twice as large a holding as the next two leading shareholders – of the Nation Group (McCargo & Pathmanad, 2005).

The fact that PM Thaksin Shinawatra received a letter from the International Federation of Journalists (IFJ) in March 2004 asking for a cessation of media intervention could also support the allegations of blatant attempts to capture the media by the government. With both carrot and stick approaches, it seems that most media companies have already been “tamed and co-opted” by the government (Rojanaphruk, 2003). Phipitkul (2004) summarises the situation as one where the media companies are now changing their role from being a consumer watchdog to a capital and politics poodle.

Academics and NGOs

The independence and the neutrality of academics and NGOs under the new politics are also questionable. In the past, these parties used to have a high level of involvement in various political issues, including telecommunications reform. The fact that these parties usually ally themselves with labour unions and the

public enhanced the voice of academics and the NGOs. Pronouncements from famous academics or NGOs usually drew a lot of attention from society.

Therefore, previous governments, especially the unstable ones, were quite considerate and usually paid attention to these groups.

As one of the parties who used to be influential in the political arena, the roles of both academics and NGOs have been challenged by the power of the new politics. Focusing on the telecommunications reform programme, these parties have a relatively low profile compared to what it used to be in the previous era¹⁴⁶.

Although the Minister of ICT (Suebwonglee, personal interview, November 25, 2004) explains that this was because these parties started to understand the government's determination and appreciate the benefits of the government reform policies, an argument obtained directly from the academics themselves provides a different explanation. Vongpanitlerd (personal interview, December 2, 2004), Tangkitvanich (personal interview, December 28, 2004), and Teeralarp (personal interview, December 20, 2004) all unanimously claim that both academics and NGOs have fewer opportunities to express their opinions and there are fewer channels for them to do so, and those who dared to express them risked "excommunication"¹⁴⁷ (McCargo & Pathmanand, 2005, p. 108). Moreover, not only were opinions from academics and NGOs hardly taken into consideration,

¹⁴⁶ The last time these parties actively moved was in 2001 when the government tried to use the CUIPI's framework to convert concessions, which obviously favours the private operators with the cost of the SOTEs and the country. The TDRI, who established the previous conversion framework, was the first who raised the issue to the public, and was able to call for a lot of public attention (see details in Chapter 5). In this respect, Vorathitipong (personal interview, January 6, 2005) reveals that, "There may not have been any resistance at all, if the TDRI did not start tackling the issue. The rest of the academics or NGOs were either too weak or already on the same side as the government."

¹⁴⁷ A prime example was Ammar Siamwallar, one of Thailand's leading economists, who then took a vow of public silence on the subject of PM Thaksin Shinawatra.

but there were also many times when PM Thaksin Shinawatra fiercely reacted against those opinions. One good example is cited in Phongpaichit and Baker (2004, p. 156),

When Thirayuth drew attention to the government's authoritarianism, Thaksin snapped back that "these people feel proud to be accorded quasi-hero status when in fact they have done nothing useful to the society." When Thirayuth criticised him again, Thaksin wondered, "I don't understand why he still lives on a public salary."

Therefore, it is not surprising that there are only a few academics who consistently criticise the government and PM Thaksin Shinawatra, and even less surprising that, their voices might not even be heard at all.

Consumers

It appears that the term "public" understood as meaning the Thai citizen may not be appropriately raised as one of the interest groups in telecommunications politics; the majority of Thai people (especially those who live in rural areas) have little opportunity to be part of the action in telecommunications politics.

Therefore, in the context of telecommunications reform, the "consumer" seems to be more appropriately the group of people who are directly involved with telecommunications (and therefore telecommunications reform)¹⁴⁸.

Obviously, consumers are relatively the largest group involved in telecommunications industry reform. Although they are large in size, they probably have the least degree of involvement with the reform programme.

¹⁴⁸ Interestingly, it is difficult to find concrete evidence suggesting direct involvement from the business consumers who played a key role in the cases of the UK or the US.

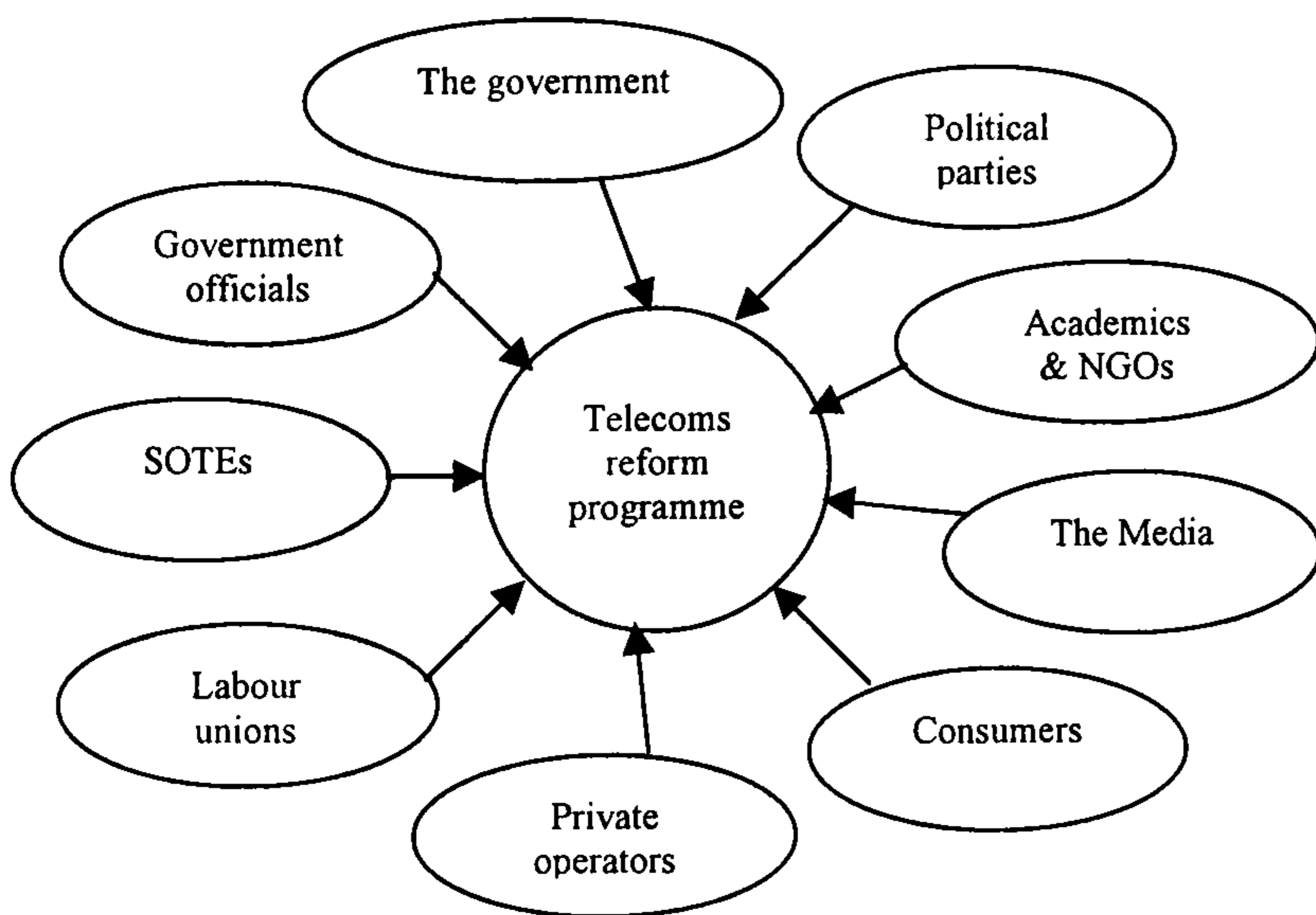
According to Uthaisang (personal interview, November 18, 2004), this could be derived from the fact that they are accustomed to limited services and the high prices set from the beginning. As telecommunications had been monopolised and dominated by the SOTEs for a long time, the industry's inefficiencies were already internalised and perceived as the industry standard by most. The fact that the shortage of telecommunications services in the late 1980s had been greatly alleviated by the introduction of BTO concessions already made the people feel satisfied with such an improvement. As for a more recent example, the intense selling campaigns among several major operators deceived people about the existing level of competition within the industry, while in reality it was only competition in marketing techniques, not in the quality of service or in the price (Teeralarp, personal interview, December 20, 2004). As such, it is unlikely that the consumer in general would come out and call for their rights in the telecommunications political arena (Uthaisang, personal interview, November 18, 2004).

At the same time, the consumer seems to be the group that remains most impervious to political influences. The considerable size and the scattered interests of individuals make them difficult to be captured. Although Thaksinomics policies seem to work well in creating popularity among many, it does not mean that such policies can exclude telecommunications consumers from telecommunications politics. In fact, the middle and high-levels consumers have a tendency to participate in telecommunications politics, as they tend to be knowledgeable and know their rights. Therefore, the fact that the government

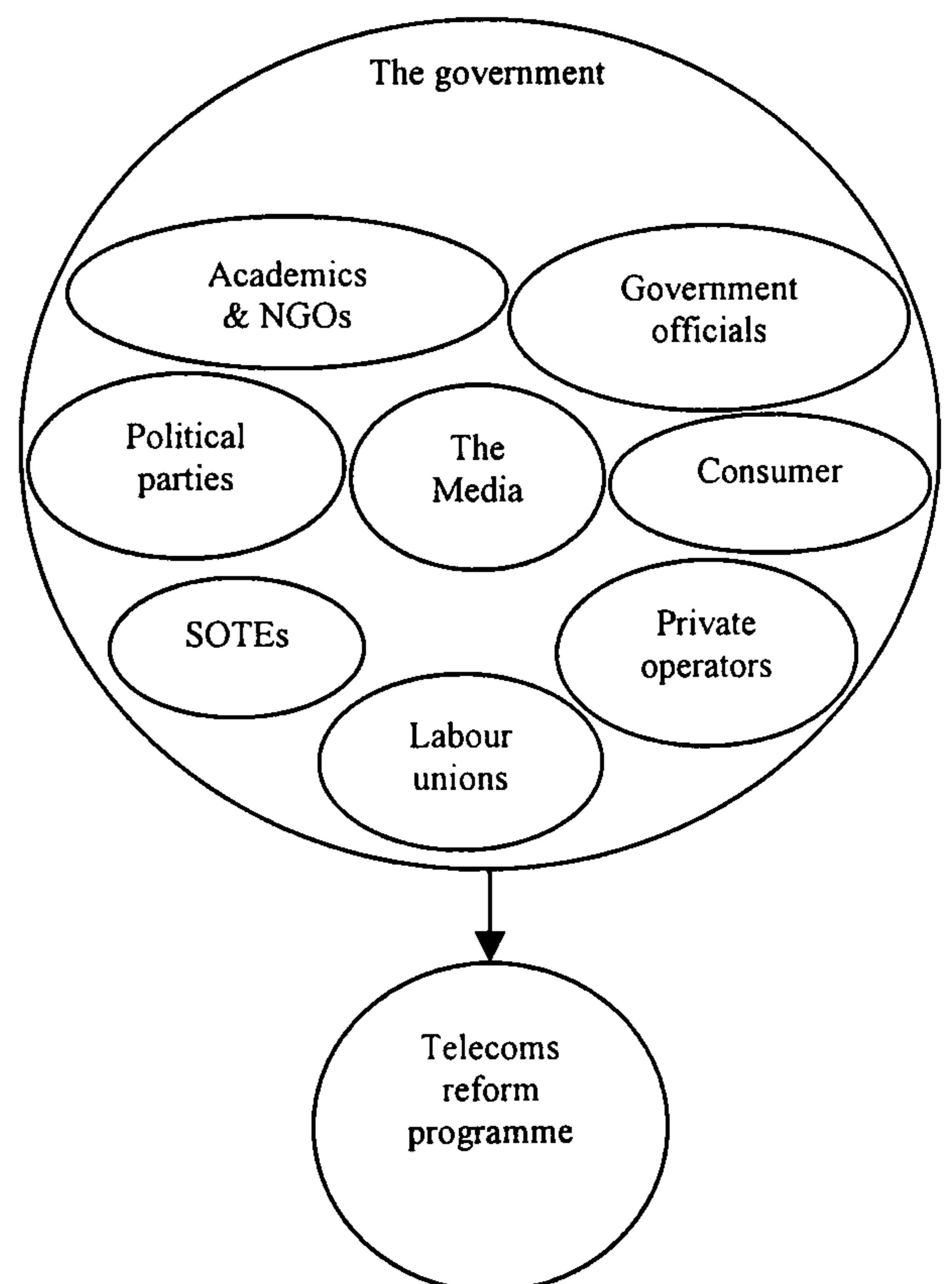
gained popularity from the majority of people does not necessarily mean that the telecommunications consumers would be totally captured. The case of the public resistance to the concession conversion in 2001 was a good example. After the TDRI stirred up the issue by raising the issue of the country's potential damage if the conversion were to follow the CUIPI's framework, it was the first and only time, which finally forced the government to retreat. Therefore, it seems that the telecommunications consumers are the only party that the powerful government cannot directly control. The best the government can do is to build up popularity and expect obedience from them. With the exception of the concession conversion under the CUIPI framework, the government seems to be doing a good job up to date.

Figure 8.1
Thailand's telecommunications political space in the pluralistic and hegemonic eras

Telecommunications political space in the pluralistic era



Telecommunications political space in the hegemonic era



In summary, the new telecommunications politics have changed the degree of involvement among involved parties compared to the previous era. The predominant role of PM Thaksin Shinawatra's government overwhelms most involved parties. It is arguable that, in politics, popularity and political power could easily dissipate. However, the impacts on the telecommunications industry as well as on the reform programme already made by the PM Thaksin Shinawatra and his government are not easy to overlook. In this particular era, most involved parties become less active in the telecommunications political space (please see Figure 8.1); in fact, it is no exaggeration to say that the government capitalises on its superior power to capture most involved parties and subdue them from involvement in reform politics. To do this, the government applied different strategies such as the use of administrative authority, financial inducement, compulsory inducement, and so forth. Apart from these direct capture actions, indirect capture is also used as another effective tool. The political networks that the government had prepared throughout society in almost every field also perform their jobs (see Appendix B). In brief, the power of the state in the hands of government, combined with the power of its networks and proxies, effectively pose a threat to anybody who is set on disobeying the government. The roles of parties who are involved in the telecommunications reform programme have been kept to a minimum in this era, as they are either suppressed by state authority or by indirect threat.

CONSEQUENCES OF THE NEW TELECOMMUNICATIONS POLITICS FOR THE REFORM ISSUES

Until 2001, the three telecommunications reform issues had made only modest progress. However, the fact that the new telecommunications politics altered the previous industry institutionalism made the whole situation change. The decreasing strength of the involved parties who used to actively participate in the reform apparently enhanced the progress of each reform issue. Although it is too soon to see the end results of the overall reform programme when the reform has not yet been completed, it is clear thus far that the political settings under the era of PM Thaksin Shinawatra make reform proceed faster and more smoothly.

The consequences for the concession conversion

The new telecommunications politics affected the conversion of the BTOs since it had not actually arrived. The conversion attempt during the Chuan Leekpai II government failed partly because the private operators expected the victory of PM Thaksin Shinawatra; they simply put off negotiations and hoped for a more favourable conversion from Thaksin Shinawatra's government (Pornsutee, personal interview, November 12, 2004).

Those expectations were realised when PM Chuan Leekpai's concession conversion committee quit without a single case of successful conversion. The new conversion committee, chaired by Deputy PM – Pongpol Adireksarn – from

the TRT, was set up to be responsible for the conversion¹⁴⁹. The new advisory team of the new conversion committee, the CUIPI, was also specifically hired by a special procurement method¹⁵⁰. The new round of conversion negotiation was carried out under the CUIPI's framework, which was very controversial as regards favouritism for the private sector. The conversion under the CUIPI framework did not progress rapidly, as there was strong resistance led by the TDRI. The resistance worked well to a surprising degree since it was the first time that a number of ordinary people (who were enthusiasts in telecommunications) joined the telecommunications political arena to protect their interests¹⁵¹. As a result, the government did not persist: it abandoned the conversion attempt by passing the buck to the regulator¹⁵². The actions taken were very sensible since PM Thaksin Shinawatra knew that he and his cabinet were quite vulnerable on the issue, especially when a number of people had been involved.

Although the government did not succeed in converting the BTOs in the way it proposed, it finally came up with an innovative alternative option in dealing with the inappropriateness of the revenue-sharing scheme. The King's Order on the excise tax on telecommunications services was introduced in January 2003.

¹⁴⁹ The concession conversion committee during the time of PM Chuan Leekpai was obviously free from conflicts of interest. The committee members were chosen from among qualified persons in various fields who had no background in telecommunications. In contrast, PM Thaksin Shinawatra's conversion committee is consisted of many politicians as well as a lot of high-level government officials from MOTC and MOF.

¹⁵⁰ The special procurement method was quite unusual as the selection of the consultant was normally open.

¹⁵¹ The TDRI, together with many industry analysts (e.g. Richard Moe from SG Securities) forecasted that the SOTEs would lose considerably if they followed the CUIPI conversion framework.

¹⁵² By law, although the regulator cannot and does not have a duty to convert the existing concessions, it has a duty to create a level playing field among players within the industry. Therefore, the new industry outlook as well as the regulatory regime stipulated by the regulator should be convincing enough to awaken both BTO partners to resume the conversion negotiation with a more serious approach.

According to the legislation, every service provider on the designated services (which are the fixed line and mobile phone services at the introductory stage) is expected to pay a certain percent of its revenue (which are 2% for the fixed line service and 10% for the mobile phone service during the trial period) as excise tax. The tax will be paid directly to the state coffers via the Excise Department. Unlike the old system where the whole amount of revenue-sharing was paid to the SOTEs, the amount of excise tax to be paid will be directly deducted from the amount of revenue-sharing that the concessionaires are supposed to pay to the SOTEs. The government put forward two main reasons to justify the use of excise tax on telecommunications services. Firstly, it is a measure to improve the level playing field among operators, as the private operators do not have to pay the whole amount of revenue-sharing to the privatised SOTEs (or in other words, their own competitors). Secondly, it is a measure to protect the state's interest. The government claimed that, once the SOTEs have been publicly traded on the stock market, the real beneficiaries from the revenue-sharing would be investors, not the state or the public in general (Sueb Wonglee, personal interview, November 25, 2004). Investors will enjoy the extra revenue that the SOTEs gained since the monopoly era, which, in fact, the amount of revenue-sharing that is beyond the real cost of SOTEs of having concessionaires¹⁵³ should be sent directly to the state coffers to use for public purposes. Although it is true that the trial rates of 2% (for the fixed line service) and 10% (for the mobile phone service) are only small in proportion compared to the percentage of the revenue-sharing, the legislation

¹⁵³ SOTEs also bear some costs of having concessions (e.g. the billing system or the call centre).

allows the government to use its discretion to increase such rates up to a ceiling of 50% at a later time.

Unfortunately, despite a number of benefits, the excise tax policy was not proven to be a win-win solution for all stakeholders. The legislation states that the amount of the tax paid can be directly deducted from the amount of the revenue-sharing. That means the use of the excise tax does not make any difference in financial terms for the concessionaires, as they will have the same amount of expense. The policy on the other hand directly hurt the SOTEs; not only did they have to pay taxes like other operators, but they also received less revenue-sharing from their concessionaires. Unsurprisingly, TDRI and some other academics opposed this idea, but without support from the public (as was the case in the time of CUIPI's concession conversion) or even the SOTEs themselves, the opposition from the academic perspective was unable to win over the government at this time (Vongpanitlerd, personal interview, December 2, 2004). Since then, there has been no additional attempt; in fact, no one else has even mentioned the conversion of BTOs.

In summary, the concession conversion might well be an issue where the government could not intervene much since it was very sensitive for the government. Although the new politics were unable to make the conversion happen, they were capable of enhancing the introduction of the controversial alternative policy on the telecommunications excise tax. Obviously, if it was not for PM Thaksin Shinawatra's government, such an alternative was unlikely to

occur. The introduction of an excise tax needed strong political backing; experiences in the past clearly indicated that an amendment or promulgation of the law is extremely difficult, especially for a weak or coalition government¹⁵⁴. Besides, while the alternative policy virtually has no impact on private incumbents, it obviously created more burdens for the SOTEs and newcomers; however, once again, it seems to be the government's power that makes the disadvantaged parties acquiesce.

The consequences for the privatisation

Apart from the technical reason of the unresolved concessions, the resistance from SOTE management, labour unions, academics, and NGOs was simply another main reason that previously had put off the privatisation of Thai SOTEs. On each occasion that the government mentioned the topic of privatisation, it was usually attacked by these parties for selling off national assets, jeopardising national security, or being too obsequious to the Western trend. Therefore, there was not much progress in the privatisation of the SOTEs in the past.

However, the fact that the political activity from these involved parties has decreased since 2001 has provided a good chance to push the privatisation forward. The clear policy on privatisation from the government was transmitted

¹⁵⁴ In fact, the introduction of the telecommunications excise tax through the King's Order even more strongly stressed the confidence of the government. Generally, the use of King's Order is a very rare case, as the government has to resign if either the Lower House or the Upper House does not agree with the legislation that was already promulgated. Therefore, the government must be very confident with its proposal, and that it would not be disagreed by either the Lower or Upper House.

directly to the ministers and government officials, respectively. Unlike before, the clear policy with serious follow-up forced the MOF and MOTC (later MICT) to work together with minimal disagreement. To cite an example, the long unresolved privatisation compensation package for SOTE employees was settled when the MOF easily went along with the MOTC's 6, 2, 2 proposal. Without strong support from the politicians, the MOF would not have accepted such a package. It was much better than the stipulations that the MOF already announced; it was also much better than what had been given to other SOEs that were already privatised (e.g. the Petroleum Authority of Thailand or Internet Thailand). As affirmed by Juruphan (personal interview, December 14, 2004), the 6, 2, 2 package is the best ever privatisation compensation package; after seeing it used with TOT and CAT, all other SOEs that are about to privatise have called for a similar reimbursement. Besides, the government also provided another convincing encouragement to SOTE employees by assuring a no lay-off policy during the first three years after the privatisation. The entire package appealed to the strongest party such as the labour unions; it hit the right point as the employees were most concerned about their job security and remuneration rewards (Chareonwan, personal interview, December 14, 2004 and Naksrinuan, personal interview, December 7, 2004). Since then, the resistance from the labour unions has dramatically subsided.

At the same time, the objections from the academics and NGOs over privatisation, which used to be found in all kinds of media, started to become minimal. The Minister of ICT (Suebwonglee, personal interview, November 25, 2004) explains

that the resistance over privatisation has lessened from the previous era because the resistant parties started to realise the necessity of privatisation and take account of the good intentions of the government. It is however hard to completely believe such a claim, especially considering the evidence surrounding the capture issue discussed previously. In any case, with minimal levels of resistance, both SOTEs were eventually corporatised as public companies under PM Thaksin Shinawatra. However, both the TOT Corporation Plc. and the CAT Telecom Plc. have been unable to sell their stocks on the stock market since there was still substantial uncertainty over the concessions. It appeared that the excise tax on telecommunications services was not the final answer for the investor; it looked rather like a stop-gap policy (Naksrinuan, personal interview, December 7, 2004). Most investors want a more concrete commitment from the government and from the regulator in order to decide whether to invest in the SOTE stocks.

All in all, in the context of privatisation under the new telecommunications politics, it can be said that progress is visible. The government has pushed forward the issue as far as it could. The SOTEs are already corporatised, the labour unions are in agreement with the privatisation, and most importantly the other involved parties have already acquiesced.

The consequences for the establishment of a regulator

Resulting from the 2000 Spectrum Act, the NTC was supposed to be in place within 120 days after the promulgation. However, problems seemed to emerge at

each step of the establishment process. Not only did problems arise in relation to the various participants in the establishment process, they also arose from flaws in the law itself¹⁵⁵. Yoonaidharma (personal interview, December 16, 2004) explains that the inexperience of the country as regards establishing an independent industry regulator caused a number of loopholes in the establishment process, which allowed some parties who still preferred the old monopoly environment and wanted to prolong the new regime to exploit it, which effectively caused serious delays.

While the first establishment attempt began under PM Chuan Leekpai II and failed in Thaksin Shinawatra's premiership, the second attempt was initiated and accomplished by Thaksin Shinawatra. The establishment of the NTC in October 2004 can be accounted the magnum opus of the government in telecommunications. The government's strong insulation from other involved parties proved its worth; the establishment procedures went smoothly from the beginning to the end without a hitch. According to Tangkitvanich (personal interview, December 28, 2004), "it was amazingly easy. It was totally opposite to the previous attempt." In fact, the insight obtained from the fieldwork reveals that the ease of the last establishment attempt raised a great deal of suspicion among industry insiders in every related field. There was suspicion surrounding the selection process, both in the Selection Committee and the Senate, in terms of

¹⁵⁵ Tangkitvanich (personal interview, December 28, 2004) explains, "The gist of Thailand's new Constitution to involve more participants in any political activities was also reflected in the drafting of the 2000 Spectrum Act. There were many participants involved in the drafting process, which made this law less robust and lacking in sufficient academic back up, such as Section 51 of the 2000 Spectrum Act that allows the NTC to have the power to set policies which may later cause conflicts between the NTC and the government. In fact, there were many other problems that already emerged and caused delay in the establishment of the regulator."

whether there was intervention by a hidden superior power. Most importantly, there was serious doubt about whether the regulator would be able to work neutrally with full independence under the powerful government.

Unsurprisingly, the government insisted that the selection process was carried out lawfully with full transparency. The smoothness of the procedure was attributed to the experience gained from the previous failure (Suebwonglee, personal interview, November 25, 2004). The Senate, which has a high level of involvement in this issue, also assured its honesty. According to Senator Ounsamran (personal interview, December 15, 2004), the fact that the liberalisation deadline was closely approaching allowed less room for errors; it forced the Senate to carry out the selection by the book, even though rushed at the time. In addition, he explains that he has no idea why the names of the seven NTC finalists as well as their vote scores had been published in the newspapers before the judgement day; it was possibly only a mere coincidence.

Even though there were strong suspicions, there is no clear evidence to support any particular allegation. However, the insight gained from the NTC establishment experience is that the powerful and well-insulated government mattered a great deal in the establishment process. This was unlike the first attempt where McCargo and Pathmanand (2005, p. 46) explain that, “numerous people closely affiliated with telecoms companies or associated interests sought election to the NTC, thereby politicising the selection process. The initial selection process begun under the Chuan government in 1999 was badly flawed”.

The minimal involvement from outside parties in the second attempt finally made the establishment successful after four years in the making.

In summary, telecommunications politics under PM Thaksin Shinawatra clearly differed from those of previous times. The most obvious difference is the decrease in strength and the level of involvement of interested parties. The benefits of less strong involvement were reflected in the progress of each reform issue. It has reached the limit where the government cannot push it any further. The NTC is already established. The SOTEs are already corporatised and ready for full privatisation. The BTO, though it has not yet been converted, has put up with the alternative policy of the excise tax. Therefore, by setting aside the unproven suspicions on the NTC's neutrality, its recent presence is expected to move the Thai telecommunications reform programme to the next level. The unfinished concession conversion and privatisation seem to have better chances of being solved since the prolonged bottleneck (the absence of regulator and regulatory regime) has now been loosened (please see Table 8.1). In short, it would not be an exaggeration to say that, in the case of Thailand, the telecommunications politics under the hegemonic era has permitted the more enhancing arrangement than either the bureaucratic or pluralistic eras had. It is undeniable that all the problems within the industry could not have been completely solved by the coming of PM Thaksin Shinawatra. However, it is quite clear thus far that the country's new political setting is capable of suppressing most of the political dissent that used to be the major root of all the reform issues,

which seems to be the reason that there has been significant progress made in the telecommunications reform programme only in this particular era.

Table 8.1

The summary of the important reform actions and their problems during the last two governments

	Chuan II government (Nov 1997 – Feb 2001)		Thaksin I government (Feb 2001 – Jan 2005)	
	Action(s)	Problem(s)	Action(s)	Problem(s)
Privatisation	- The promulgation of the 1999 Corporatisation Act	- Resistance from SOTEs management and labour unions - Resistance from NGOs and academicians	- The corporatisation of TOT and CAT	- No clear picture on the concession conversion
Concession Conversion	- The first conversion attempt under the TDRI framework	- Resistance from private operators - Uncertainties from not having a regulator	- The second conversion attempt under the CUIPI framework - The introduction of excise tax on telecommunications services	- Resistance from TDRI and the public - Uncertainties from not having a regulator
Establishment of the regulator	- The first establishment attempt	- The Senate had reached its full-term before the final selection	- The nullification of the first shortlist - The start of the second selection attempt - The NTC has been established	- n/a

THE NEW TELECOMMUNICATIONS POLITICS AND THE REFORM PROGRAMME

Reflected from the new politics at the national level, the new telecommunications politics under the PM Thaksin Shinawatra era has some features that differentiate it from the previous eras. The exploitation of popularity, the utilisation of financial strength, the coalition of political and economic networks, the use of authority power are all aimed at creating political power. Although it seems that the political power of the government (or of the PM) came from arguable sources,

the government's hegemonic character, paradoxically, emancipated the telecommunications reform programme of Thailand from the long-term unresolved problems.

Looking at the reform progress made during PM Thaksin Shinawatra's administration, such achievements were simply unable to be brought to fruition under the previous political environments. For example, weak governments were unlikely to order the MOF to accept the labour unions' 6, 2, 2 compensation package; weak governments were unlikely to withstand the political friction from the anti-reform coalition (e.g. academics, NGOs, and most importantly opposition political parties); and weak governments were unlikely to unify even their own coalition political parties. Although the government's hegemonic style of administration could be criticised as to whether it affects the country's democratic character, one could also argue that the TRT and PM Thaksin Shinawatra came to power lawfully under the democratic system. The majority of Thai people trusted and chose them as the head of the executive branch¹⁵⁶.

However, responding to the question on whether the change in political environment in the time of PM Thaksin Shinawatra means a fundamental change in Thai politics, the reasonable answer is likely to be "no". Focusing specifically on telecommunications politics, the decrease of involvement from other actors in the reform arena does not necessarily mean that they are already eliminated. The examples raised before reveal that they are only suppressed to some extent by

¹⁵⁶ The results on the General Elections on the Party's list basis could be good evidence. TRT was voted 40.6% in 2001, while its popularity increased to 60.7% in 2005 (source: the ECT).

superior political powers. However, these political superiorities are unlikely to be transferred to the next PM or next government (even though he/she will probably come from the TRT). It is worthwhile to note that the power and the insulation of the government exist because of PM Thaksin Shinawatra. McCargo and Pathmanand (2005) argue that the strong power of the government is entirely dependent upon – and subordinated to – Thaksin Shinawatra’s personal power and authority. There is no prospect of it becoming institutionalised; it relates entirely to a single individual and is based largely on patronage¹⁵⁷.

In fact, considering PM Thaksin Shinawatra’s administration, it is possible to make a theoretical link to the “charismatic leadership” of Weber (1947)¹⁵⁸, which is usually found in various authoritarian states, autocracies, dictatorships and theocracies. Weber finds that even though the charismatic leader tends to have a high degree of influence on his followers, charismatic authority is inherently unstable and tends to easily disappear with the person who created it. Sooner or later, it is true that the era of Thaksin Shinawatra has to come to an end.

Therefore, responding to the further question on what is going to happen in Thai politics post-PM Thaksin Shinawatra, McCargo and Pathmanand (2005, p. 233) propose that, “Whenever, Thaksin’s political power comes to an end, the network

¹⁵⁷ Although PM Thaksin Shinawatra assigns crucial roles to several of his relatives (Yaowapa Wongsawat within the TRT and the Parliament, Chaisit Shinawatra within the army, and Priewphan Damapong within the police), all of these roles are supporting acts. He does not share power with these relatives; he assigns them power, which they simply exercise on his behalf (McCargo & Pathmanand).

¹⁵⁸ Weber defines the term “charisma” as “resting on devotion to the exceptional sanctity, heroism or exemplary character of an individual person, and of the normative patterns or order revealed or ordained by him” (1978, p. 241). Kendall, Murray and Linden (2000) further explain the power of charismatic leader that it legitimised on the basis of a leader’s exceptional personal qualities or the demonstration of extraordinary insight and accomplishment, which inspire loyalty and obedience from followers.

he has created will either completely collapse or assume an entirely new form.”

Anyhow, it cannot be confirmed at this stage whether telecommunications politics will go back to what it used to be before the coming of PM Thaksin Shinawatra.

Progress made during the hegemonic era has largely affected the industry institutionalism as well as the structural power of the many involved parties. For example, the involvement from the labour unions may not be as strong as before because they have already become companies' employees; or, the resistance from the NGOs or academics may be no longer useful as the reform has been too far advanced.

However, what can be reasonably expected after the end of the hegemonic era is that the end of centralisation of power should release all the suppressed actors, which means more or less the recall of the multiple-participant political environment. If it really happens, the return of pluralism after a number of reform actions have been carried out, should offer different prospects for the reform programme. At least, the crucial reform issues that seemed to be a deadlock in the previous era have already been dealt with in the PM Thaksin Shinawatra era. For example, the telecommunications regulator has already been established, the SOTEs were corporatised and made ready for further divestiture, the SOTEs no longer have a monopoly or any special privileges, and the problem of the BTO obstructing fair competition was alleviated by both the introduction of an excise tax on telecommunications services and the existence of the regulator. The revival of interested parties from suppression in the hegemonic era, in a way, tends to offer some benefits to the industry. At least, it can be supposed to

improve the industry's democratic character (especially, the counterbalance of power among the involved parties). For instance, the corporatised SOTEs, together with the newcomers, that obviously lost out from telecommunications excise tax policy would become able to voice their grievances to the regulator (or even the Administrative Court); the NGOs, academics, media, and political parties would become able to regain their freedom to work. As such, Thai telecommunications politics would thus more resemble that of most democratic countries where there is no particular actor dominating the whole industry politics. Perhaps, the return of political actors to telecommunications politics after the crucial reform issues had been dealt with could be a positive scenario compared to the continuance of hegemonism; however, the unanswered and largely unanswerable question is, when will the power of PM Thaksin Shinawatra and TRT be dissipated from Thai and from telecommunications politics?

CONCLUSION

In reforming an industry, it is not extraordinary to find that each involved party tries to exercise its power to intervene in the reform actions for the sake of its own interest. The reform experiences in Thailand reveal that it was difficult to reconcile the interests of every interested party, as they were usually diffuse and conflicted with each other. At the same time, it is also found that the reform hardly progresses if some of the politically powerful parties are against it. In fact,

it appears that these unsolved problems were the main reasons for the stumbles within the Thai telecommunications reform programme from the beginning.

However, the situation in telecommunications reform turned out differently under PM Thaksin Shinawatra. The hegemonic character of telecommunications politics cannot only help defend the reform programme from other involved parties' interventions, but it is also able to yield influence over those dispersed interests. The Thai experience reveals that the government utilised its political strength to capture most of the involved parties that used to be actively participated in the reform politics. Consequently, since the resistance has either become neutral or even cooperative, some reform progress can be seen under PM Thaksin Shinawatra's premiership. However, the government's hegemonic management style is inevitably criticised, especially considering the shadow of interests in telecommunications of many senior figures in the government. In fact, from time to time, the government was criticised in terms of whether it used the resources at its disposal (e.g. authority power, political power, financial pressure, and so forth) with full honesty. That the government's controversial moves were not illegal does not justify the appropriateness of the policies or the straightforwardness of its actions; the real intentions of the government on reform policies as well as the possible consequences of those moves are instead more important and required to be considered closely.

The minimal resistance from other politically powerful actors allowed the government to progress the telecommunications reform programme to the next

step. As of 2005, the government has pushed forward all the key reform issues (the privatisation, the concession conversion, and the establishment of NTC) to a point where further development requires only minimal involvement from the government. From this point, the government is supposed to take only the role of guiding the country's overall direction, and let the regulator, operators, and market mechanisms do the rest. Nevertheless, whether the hegemonic government will take only the role of steerer or will continue to enjoy dominating telecommunications politics, remains yet to be seen.

CHAPTER 9

CONCLUSION

INTRODUCTION

The thesis has presented a study of the Thai telecommunications reform programme during the last two decades (between 1986 and 2005). It has contributed to the existing body of research in two main ways. Firstly, it has highlighted the major reform problems as well as the unresolved reform issues that the reform programme has experienced. It has also stressed the institutional arrangements (both structural and political) that had significant influences on the reform process. Secondly, it has explored one of the least investigated areas in the literature, which is the impact of the different temporal political settings within a broad perspective derived from historical institutionalism and therefore impacts on the reform programme itself. This concluding chapter will recapitulate the key strands of the previous chapters in order to provide an overview of what has been observed in the study. It will identify the academic implications that can be drawn from the case. Towards the end, the chapter will finally discuss the limitations of the current research, as well as suggest further interesting research opportunities to be explored in the future to enrich the study of the telecommunications reform programme in relation to politics.

FINDINGS AND IMPLICATIONS

The analyses provided in the central chapters (Chapter 4 – 7) clearly showed the picture of the telecommunications reform programme in Thailand as well as its unresolved reform issues. These chapters revealed that although Thailand has several specific industry arrangements (e.g. the BTO and the industry structure) that have been developed and are deeply rooted within the industry settings, these arrangements did not lead the country to have a unique reform programme in terms of both the major reform issues and the causes of the existing reform problems. Like most countries in the world, the main issues experienced in the reform debate were how to bring about privatisation, how to create a satisfactory system of regulation, and how to ensure greater competition and liberalisation. Ultimately, the study of the Thai case also revealed that the impediments that hindered the process of reform derived from both structural and political causes.

The thesis further stressed the connection between the telecommunications reform programme and the country's political environment. The Thai experience revealed that local political contexts and the reform programme are closely interrelated. Different political environments produced varying consequences for domestic contextual factors and therefore the reform process. In fact, the case of Thailand seemed to be a perfect example of the attempt to study such a relationship. The rapid change of the political environment from an open and politically vulnerable government under PM Chuan Leekpai to the closed, centralised and well-insulated government of PM Thaksin Shinawatra in 2001 was

sudden enough to keep most other affecting factors constant. For instance, the attitudes towards telecommunications reform among the interested parties (e.g. labour unions, academics, or SOTE management) were unlikely to change much in such a short period of time (nor was there any evidence of any substantial change). It is therefore arguable that any change in the level of involvement or any change in the involved parties' attitudes was derived mostly from the effects of the new industry environment created by the new politics.

Although the thesis used the Thai reform experience as a case study, it is also argued that, as the thesis investigated domestic politics (which is essential because national institutional change involves debates and decisions by actors within countries) in relation to their consequences for other institutional arrangements, this is actually able to provide some insights that are relevant in a wider context. The detailed study of this topic is situated within the broader research paradigm of institutionalism, or more specifically historical institutionalism, which argues that domestic institutions (as well as their contextual factors) contribute a great many influences on a given policy such as a reform programme of a particular country.

The telecommunications reform programme in Thailand

Before 1997, the eagerness to reform telecommunications in Thailand seemed to be of a fairly limited nature. The initiation of the BTO concessions in the mid 1980s to alleviate the telecommunications crisis made the need to reform to meet local consumer demands less strong than might have been expected.

Vongpanitlerd (personal interview, December 2, 2004) explains that the granting of the BTO was somewhat comparable to a light degree of industry privatisation, as certain kinds of service had come to be provided by private operators. Most local interested parties appeared to be satisfied with the industry framework after the introduction of the BTO concessions (Uthaisang, personal interview, November 18, 2004). The parties who seemed to be disadvantaged by such an environment (e.g. the consumers) either did not appear bothered (or, as a relatively diffuse interest, could not be mobilised), while the parties who benefited substantially (e.g. the SOTEs and the concessionaires) were undoubtedly satisfied with the protected and monopolised environment. Therefore, if there had been no reform pressure from other sources, it was possible that the Thai telecommunications industry would have remained unchanged until the end of all the concessions. Although the idea to improve the telecommunications industry for the sake of greater efficiency and competitiveness was a policy preference held by the governments, the fact that the country already enjoyed impressive growth during the late 1980s and the early 1990s, combined with the resistance from some interested parties, was strong enough to suppress the necessity for telecommunications reform during that time (Niyomsilpa, 2000).

The seriousness of the need for reform increased significantly after 1997. Apart from the domestic pressure that arose from the inefficiency of the monopolised service provision (e.g. high prices, cross-subsidisation, or limited competition), several other factors also significantly contributed to the opening up of opportunity for outside pressures to enter the country. The result of the major

economic crash in 1997 that forced the country to accept a bail-out package from international financial institutions, as well as the global ideational emphasis on globalisation and liberalisation, appeared intense enough to force Thailand into a serious attempt at telecommunications reform. In fact, it is reasonable to claim that the exogenous pressure was the real trigger for the full scale reform attempt in Thailand¹⁵⁹. Since then, the Thai government has put in a great deal of effort (e.g. the new telecommunications legislations, the SOTE's privatisation schedule, the conversion of the BTO concessions) to implement the reform. Unfortunately, the external pressures (e.g. the Asian financial crisis, the Washington Consensus, the IMF, or the WTO) that were able to overcome the national institution's inertia in the first place were unable to push the reform through to final success. Rather, it appeared that the reform momentum created by these forces was usually intercepted by a number of domestic problems that were embedded deep within the industry.

Focusing on the domestic problems hindering the reform, it is found that even though Thailand had some distinctive local institutional features, the unresolved issues were not dissimilar to those encountered in other economies. There are three distinct but closely related issues, which are SOTE privatisation, industry liberalisation, and regulatory reform. The analyses provided in the central chapters revealed that the reasons that kept these issues alive derived internally from both structural and political causes. In terms of structural impediments, the

¹⁵⁹ According to Dempsey (2000), the high economic growth of Thailand during the mid 1980s to the mid 1990s made the need for economic reform less pressing. The inefficiency of SOTEs, the insufficiency and low quality of services were simply over shadowed by the economic boom and the high growth of the GDP.

study showed that the lack of a regulator, as well as regulatory regime, was the most important factor. It bottlenecked the solving of the other two critical issues. Although it was not impossible to privatise the SOTEs or to convert the BTOs in the absence of the NTC, the results of doing so might not have been as good or might even be worse than what the industry was used to¹⁶⁰ (Vorathitipong, personal interview, January 6, 2005). Therefore, among the three unresolved reform issues, it can be concluded that the establishment of the NTC was the most important issue that had to be solved first.

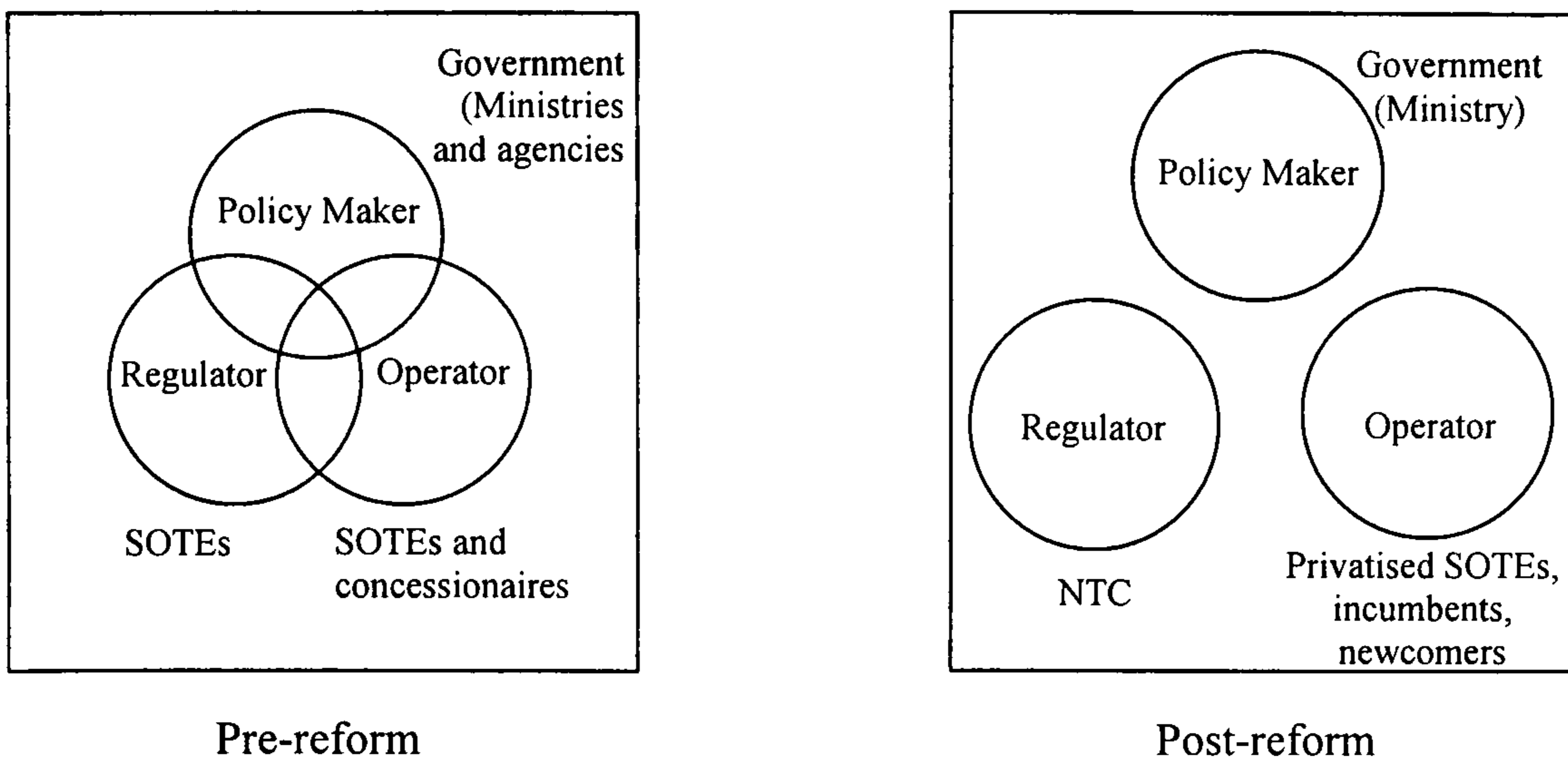
Apart from the structural problems, politics within the telecommunications industry also showed up as a common reason for every reform issue. It appears that the country's (and industry's) political environment and the dispersion of interest among involved parties are appeared to be the two main factors that have always been heavily influenced the reform process. It can be contended that the dispersion of interest among the involved parties, who usually had a certain level of political power, if only to veto or block change, was a foremost problem in reforming the telecommunications industry. Under the bureaucratic regime, the reluctance to reform from the militarist government who were more concerned about the loss of national security as well as the benefits to the state were the main reason for the failure. Nonetheless, later on, politics within the industry became more open to involvement from more political actors (in other words, became exposed to more pertinent institutions). It was not surprising to find that a party who tended to be affected by the reform sought to involve itself in the reform

¹⁶⁰ Not only in Thailand is the claim that a well-defined regulatory regime is needed in the early stage of reform, but it is also true in other countries. Experiences from some Latin American countries (especially Argentina) can be raised to strengthen this claim (see Hill & Abdala, 1996).

process in order to either protect or promote its particular interest, which was usually found to be in conflict with others. Unfortunately, the country's weak politics and weak government in the past were basically unable to withstand such political friction or to conciliate the interests of these parties in the reform package, which eventually led to the chronic failure of the reform programme.

However, the arrival of the hegemonic regime in 2001 changed the situation of the telecommunications reform programme greatly. Unlike all the previous governments, PM Thaksin Shinawatra's government was, in the period studied, very stable, centralised, and well-insulated from outside political interferences. In fact, it was not only that the government became stronger so that other reform actors were unable to have any substantial influence on it, but it was also the case that the government became capable of having influence over the various industry actors. It is true that the strong government was unable to solve all the problems by conciliating interests of every party; however, the fact that the strong government was capable of utilising its political resources to suppress the involvement of most reform actors was sufficient to drive the reform to make some progress. In fact, the government of PM Thaksin Shinawatra had already pushed every key reform issue to the furthest point under the government's responsibility. As such, it appeared that from this point, the only duty left for the government was to set the industry direction in broad strategic terms (or as a "policy maker"), while the rest of the jobs supposedly have to be done by the regulator, operators, and consumers (see the proposed reformed structure in Figure 9.1).

Figure 9.1
Structures of Thai Telecommunications industry



Source: The 1998 State Enterprise Master Plan

In summary, the Thai telecommunications reform experience reveals an interesting finding that local politics within the telecommunications industry was the key reason that hindered the reform programme between 1986 and 2001, but equally, it becomes the reason that enabled good progress afterwards. Local demand, the trend for liberalisation, and pressures to reform from the outside could only put the reform idea into action, but they were not the key determinants of the success of the reform. Even though the reform momentum generated by these factors was strong enough to put pressure on the government to treat telecommunications reform as a priority, the reform flow in real practice was intercepted by the problematic industry conditions and, more importantly, the dispersion of interest from interested parties. Later, when the interest dispersion had been contained by the powerful and centralised government, it appeared that the reform could make a lot of progress. All in all, as suggested by the Thai experience, it would be appropriate to stress the importance of the arrangements within the industry itself (especially, political environment and dispersion of

interest) as the key determinants of the reform progress, although it was ultimately forces exogenous to the sector, but not to the country, that accelerated reform.

Telecommunications reform and politics

During the past two decades, the telecommunications reform of Thailand has passed through three different political eras: the bureaucratic, the pluralistic, and the hegemonic. It was found that these eras produced different institutional arrangements within the industry, which therefore entailed different consequences for the reform programme.

As claimed by Petrazzini (1995), in the late 1980s, the telecommunications industry of Thailand had the poorest overall conditions compared to other similar countries in the Southeast Asian region. Although such a claim was based on the situation of the late 1980s, it was found that, by 2005, the situation within the Thai telecommunications industry was still somewhat poorer than other comparable countries. Countries in the region actually started the reform programme almost simultaneously, which was around the end of the 1980s; however the reform programmes in Malaysia, Indonesia, or the Philippines are in some respects ahead of that of Thailand¹⁶¹. Even though Thailand could manage to make significant progress after 2001, the overall industry environment was still inferior to these neighbouring countries. To cite examples, although the new telecommunications

¹⁶¹ Please see Brown et al. (2004) and Singh (2000) for details of the telecommunications reform programme of these countries.

laws were promulgated, they were still not fully enforced¹⁶²; although TOT and CAT were corporatised, they were still wholly owned by the state; although the telecommunications regulator was established, it was still very inexperienced and not fully functioning; although the SOTEs were no longer a monopoly, the unsolved problem of the BTO still hindered real free and fair competition. Interestingly, considering the similarities among these countries in that they had comparable fundamental economic backgrounds (e.g. per capita income and gross domestic product) and that they were all severely hit by the 1997 Asian Crisis (which therefore were influenced by the Bretton Woods organisations to reform their economies), the lagging telecommunications reform programme of Thailand could suggest some problems within the country itself.

The Thai experience shows that politics, either bureaucratic or pluralistic, inhibited the reform. Both regimes shared the same feature that appeared unfavourable to progress telecommunications reform: the dispersion of interest from the parties who were politically powerful in the telecommunications political arena and insufficient central authority to overrule them or at least a willingness to incur the political costs of doing so. At one extreme, the fact that the party which had absolute political power refused to push the reform programme was the main reason for the failure in the bureaucratic era. At another extreme, too much

¹⁶² The two new telecommunications laws of Thailand are not fully enforced at the present, as there are a number of duties that were under the responsibility of the “joint commission” between the telecommunications regulator (the NTC) and the broadcasting regulator (the NTSBC) such as the duty to arrange and allocate the radio frequency. As of the beginning of 2005, the establishment of the NTSBC is still in process. In fact, the NTSBC establishment experiences an even longer delay than the NTC’s, as both of them were set up as a consequence of the same legislation.

involvement from a number of politically powerful parties in the pluralistic era also resulted in the stalling of the programme on many occasions.

The bureaucratic era was overthrown by the mass uprising in 1992, which gave rise to pluralist governments. After being acknowledged as the country's symbol for a decade (Niyomsilpa, 2000), the pluralistic regime ended unexpectedly with the landslide victory of Thaksin Shinawatra and the TRT in 2001. Since then, a hegemonic political regime was introduced to Thailand at both the national and the industry levels. Such a rapid transition could raise doubts as to whether the new regime has been deeply rooted in the country's politics. In this respect, the Weberian idea of the general instability of charismatic authority would suggest that the hegemonic regime might have a limited survival time, indeed it may be easily ended when the popularity of the PM declines or when the PM has stepped down from his post¹⁶³. Nevertheless, the mere fact that the Thaksin Shinawatra I government was the first government in the history of Thailand that served out its whole four year term (2001 – 2005); that PM Thaksin Shinawatra and the TRT managed to achieve an even greater victory in the 2005 General Election; and that the telecommunications reform programme experienced extensive progress after the arrival of PM Thaksin Shinawatra would be enough to stress the significance of the hegemonic regime of Thailand. Even though opposition to the PM mounted after the end of the study period, one of the government's lasting achievements may still be an impressive telecommunications reform. The regime

¹⁶³ Ockey (2003) proposes that the new politics of PM Thaksin Shinawatra will not be sustainable. It will turn out to be only an expensive experiment of PM Thaksin Shinawatra. Ockey still believes that the keys to political power in the Thai context are still the political factions and the associated local electoral networks.

appears to have had very distinctive consequences which cannot be overlooked by anyone who wants to study any aspects of Thai politics either at the national or telecommunications industry level.

The hegemonic regime apparently produced different consequences for reform from the previous two eras. It was able to exploit its political strength to overcome (or suppress) the previous major reform's non-enhancing arrangements. Although it could be alleged that Thai telecommunications politics has moved backwards to the beginning when the military dominated the whole of politics, close consideration shows that they are not a similar situation. They actually have a different mindset towards the reform programme. The bureaucratic government opposed the reform, while the hegemonic government tries to promote it; the bureaucratic government exercised its power (via labour unions, the BOD, and the SOTE management) to put off the reform, while the hegemonic government exerts its political power to push forward the reform. Moreover, the difference is also found when comparing the progress made under the hegemonic and pluralistic regimes. The progress made during the four-year period of hegemonic authority compared to the progress made during the last whole decade of a pluralistic environment indicates that hegemonism provided a more suitable industry arrangement for carrying out the telecommunications reform of Thailand, where the industry was divided between the interests of a number of political powerful actors.

In fact, experience reveals several ways to deal with the interest dispersion problem. The UK experience could be raised as one of the ways. The interest conciliation method was strategically used in the time of PM Margaret Thatcher in dealing with the resistance to reform from interested parties. The UK government decided to privatise BT intact as an integrated and dominant firm in order to appease BT's labour union and management and smooth the way for the privatisation programme (Armstrong et al., 1994). Although such a move suggested an anti-competitive environment, it was offset to some extent by effective regulation and the creation of an initially asymmetric duopolistic competitive structure. On the other hand, the Thai experience shows another way to deal with interest dispersion. It represents a more autocratic solution in that the government exploited its political superiority to deal with the problems. It provides a lesson that, apart from the government's political will, strong and centralised politics seems to be an effective apparatus in advancing the reform programme in Thailand (and probably in other economies that have similar settings), as opposed to the previous open and decentralised one.

Implications

It can be seen that the current thesis is different from some other historical institutionalist studies which try to identify the importance of institutionalism on industry reform programme by using cross-national comparisons (e.g. those of Thatcher, 1999; 2000; 2002; 2005). Rather, this thesis explores the Thai telecommunications reform experience under the different political regimes to

reveal the significance of institutional arrangement. The findings found are largely consistent with those of the studies using cross-national samples. For instance, the Thai reform experience shows that domestic institutional arrangements (as well as their contextual factors) have a strong influence on reform policy-making, the problems within the process, and the outcome of the reform. It also strengthens the claim that existing institutions are resistant to change and difficult to be altered (e.g. the dispersion of interest among interested parties). However, the recent experience of Thailand also reveals that, though they are believed to be deeply-rooted, most institutions (apart from the monarchy) are actually not permanent. They can be overwhelmed by a force that is strong enough under the right circumstance (e.g. the change of political regime).

Moreover, although the telecommunications reform programme of Thailand has not yet been completed, the experiences gained since the mid 1980s to the mid 2000s are able to provide some interesting analytical findings. Among those, there are some pieces of evidence that substantiate the “already-found” findings, while on the other hand there are some other pieces that challenge existing knowledge.

The political environment

Most of the existing literature on Thai telecommunications reform proposes that political instability and weak government were the main reasons for the disappointing results. This thesis agrees with them to some extent; however, close

consideration of the more recent developments reveals some more interesting findings.

The historical institutionalist study on the Thai telecommunications reform experience reveals that the dispersal of interest among powerful involved parties and the non-enhancing political settings were the dominant problematic arrangements in the past. It is unsurprising to see minimal progress in the bureaucratic era since the governments (along other powerful interested parties like labour union) did not really want the reform. As for the pluralistic era, even though the government might have had good intentions, obvious reform progress was hardly seen because the governments were simply too weak while other interested parties were too strong and diffuse, producing a gridlock. The institutional arrangements in this era thus appeared to be unfavourable to enhance an effective reform. Most reform attempts were usually undermined one way or another by an interested party whose interest was potentially worse off from such policy. The problem was very difficult to solve since the dispersion of interest appeared deeply-rooted and difficult to alter. Therefore, without a super-strong central force, reform under the pluralistic regime could not be achieved. In fact, the supranational or transnational forces, which appeared to be an effective force to overcome national institutionalism in other places¹⁶⁴, were also unable to carry out the Thai telecommunications reform programme. The problematic institutional arrangements that were embedded within the industry appeared to

¹⁶⁴ For example, Thatcher (2004, p. 752) argues that, “in an internationalized world, there are also powerful cross-national forces that affect decision making within domestic arenas. These forces are broader than economic globalization. They can provide impetus for institutional reform and operate regardless of existing national settings. Hence, they may overcome national institutional rigidities to produce change and convergence across nations.”

counteract effectively against these external forces. It could therefore be argued that domestic institutions were the real explanatory factors that brought about the reform.

Furthermore, it is interesting to find that the change of political regime from pluralism to hegemonism made a great deal of impact to the industry environment; the strong policy and centralised style of administration of the new regime were not only able to overcome the institutional inertia of the industry, but they were also able to push forward a number of reform activities to the next step. Although the new industry settings were unable to completely solve every reform problem, it was able to suppress the major problem and give the reform an impressive progress. In other words, according to the Thai experience, it is possible to propose that the hegemonic character of the latest political regime is a necessary condition to execute reform. In fact, such finding in a way consistent to the ideas of Petrazzini (1995) and Williamson and Haggard (1994), as they propose that, among developing countries, a closed and centralised political environment is more suited to carrying out reform than an open and decentralised one¹⁶⁵.

At the same time, the finding on the new political environment of Thailand also contradicts every existing work that stigmatises Thai politics for weakness and instability. Although such claims, for example, the ones proposed by Keeratikrainon (2002); Niyomsilpa (2000) and Petrazzini (1995) might be true in

¹⁶⁵ However, some other scholars (e.g. Duch 1991) proposed the opposite finding when using the developed countries as case studies. Please find the detailed discussion in Chapter 2.

their time, the current thesis has shown their inappropriateness after the year 2001 until, at least, the decline of PM Thaksin Shinawatra's political power and networks (which cannot be forecast at the time of writing this thesis). In the meantime, the hegemonic political environment did not seem to be a hindrance to advance the reform as did the politics in the pluralistic era; instead it turned out that the autocratic and centralised characters of hegemonism contributed to substantial progress in the reform.

Moreover, the new politics of Thailand further suggests another interesting finding that there seems to be a revolution in the structure of politics. Looking at the structure of the TRT, it was a coalition of giant local private entrepreneurs (refer to Figure 3.7), which was led by the most successful businessman in the country, Thaksin Shinawatra. The fact that most senior figures of these corporations only entered politics for the first time suggested that the business class began to get directly involved in electoral politics¹⁶⁶. The ability to exploit their financial strength as well as their business knowledge (e.g. the populist policies or the modern marketing strategies) easily helped them to gain ground over the old political actors and to become the new "ruling class"¹⁶⁷ of the country. This observation leads to two implications. Firstly, it suggests the weakening of the career politicians from the traditional political class and the

¹⁶⁶ In this regard, the situation in Thailand is not distinctive. It is also reminiscent of Berlusconi's intervention in Italy. Interestingly, the recent politics in Thailand (under PM Thaksin Shinawatra) and Italy (under PM Silvio Berlusconi) share a number of similar features. Both of them are largely dominated by successful business tycoons who are able to effectively utilise their advantages (e.g. financial strength or modern marketing campaigns) to achieve political power. For more details on Italian politics, see Lane (2004) or Ginsborg (2004).

¹⁶⁷ According to Mosca (as cited in Berry, n.d.), there has never been a genuinely democratic regime. Every political society has two classes, a ruling class and a class that is ruled. He argues that a "revolution" is nothing more than the substitution of one ruling class for another.

associated political parties. The opposition political parties were unable to operate efficiently as they had only a handful of MPs and very limited financial resources (since many of their former patrons became united and joined the TRT party). As for politics on the government side, most highly-ranked positions both at the government level and the party level are taken by “businessmen turned politicians”; consequently, career politicians become more or less the subordinate base for the new political power. Secondly, it suggests the decline of the old proxy system. Under the new politics, the private sector does not want to be dependent on proxy alike before. They doubt whether the old-fashioned career politicians would be capable of handling the modern economy effectively, especially in a situation where the market is more open and competition is more intense; the stakes of their business are too high to take such a risk. In other words, the private sector seems no longer to see career politicians as the strategic tool to access power and gain advantages like in the past. They rather choose to transform their business power into political power by entering directly into politics, which seemed to be easier, quicker, and more effective.

All in all, although these changes (e.g. the more stable government or the end of the proxy system) could be seen as a shift to greater modernity within the Thai political system, it also could be argued that changes were done in a highly particular way and were potentially susceptible to the use of public office for private gain. Unless the consequences are unveiled in the longer term, such a query is difficult to precisely answer in either the short or even the intermediate term.

The capture

The case of Thailand shows that new power in politics can effectively deal with the problem of interest dispersion, which used to be the most problematic factor previously. As already shown in Chapter 8, most interested parties began to veer from their long-term stance and finally became either inactive or acquiesced in government reform policy. Such a finding suggests a situation where the reform pressure created by strong policy and centralised style of administration was strong enough to overcome the dispersion of interest among the involved parties. By considering analyses provided in the previous chapter, it would not be an exaggeration to say that this expected shift was a consequence of a kind of capture phenomenon, which occurred among the interested parties who found themselves with fewer political resources than the strong government.

The Thai experience reveals that the hegemonic character of the PM Thaksin Shinawatra's government is a necessary condition to execute the reform, as it appears to be an effective way to deal with the long-term unresolved arrangement – interest dispersion. It is also possible to propose that the way in which the hegemonic government utilised its power to capture other parties who held a stake in the reform programme in order to pursue a particular goal has reconfigured the capture theory to some extents. What happened in the case of Thailand is not that the regulator is captured by private companies to work in their favour. Rather, the incidents indicating “the capture” within the Thai telecommunications reform could actually be seen at an even earlier stage and it was not done by the private

operators. Close analysis discloses that there was a capture of the reform's interested parties to subdue their involvement. Therefore, if there is any capture, it is not of the regulator, but of the objects of regulation by the government, a capture in reverse. In other words, the Thai case tells a story that in order to deal with interest dispersion, not only does the government have to be well-insulated from the influence of interested parties, but it must also be able to exert influence over them (or capture them). In the nutshell, the Thai experience is persuasive in that the pressures to reform and the well-intentioned efforts of the governments were not enough on their own to accomplish the reform; rather, it is found that the exploitation of the government's political strength also seems to be another necessary condition to deal with problems within the reform process.

All in all, the capture may not only be limited to the case where private companies exploit their power to capture the regulator to work in their favour or to promote their interest. Capture, with a slight reconfiguration, is also capable of explaining the situation where the government exerts its political superiority over problematic parties to weaken their influence and to make the regulatory framework happen. A wide range of strategies was applied in the attempt at capture (e.g. authority power, direct or indirect pressure, financial inducement, and so forth). Apparently, the capture seemed to work well with most involved parties ranging from the opposition political parties, political factions, SOTEs management, labour unions, academics, or even the media. It was however found that the powerful government had difficulties in capturing the consumers. Their vast number with scattered interests made the consumers unlikely to be wholly

captured; unfortunately, at the same time, the facts of the size, the diversity of interests, the disorganised structure, and the passive nature of the consumer group have prevented them from active involvement in the telecommunications political space.

In summary, the Thai experience reveals that the industry arrangements under the pluralistic environment were not suitable for carrying out the country's reform programme. Although having more participants is supposed to provide more thorough reflections and be more consistent with democratic politics, involvement from a number of politically powerful actors who tried to be involved in the process for their own interests instead caused a lot of problems. The advent of hegemonic politics in 2001 yielded a different picture of the telecommunications reform of Thailand as it produced a significant impact on the previous industry settings. The strong government effectively utilised its political superiority to abate the disputes within the reform process, which consequently resulted in impressive reform progress. Many persistent disputes were resolved (or at least alleviated), such as the case of the approval of the privatisation compensation package or the introduction of the telecommunications excise tax. On the flip side, the fact that the government is so powerful and extensively involved in the telecommunications reform programme also leads to areas of concern. The doubts as to whether or not the reform has been proposed with honest intentions and whether or not the government has used its political power to serve any hidden agenda were usually raised in society. Although some moves (e.g. the excise tax on telecommunications services) might look suspicious, the explanation

from the government did not sound entirely nonsense either¹⁶⁸. Therefore, it is inappropriate to make a final verdict on the unknown and unproven future. It seems unfair for the government to be accused of corruption or rent-seeking at the stage where there is no such concrete evidence available or where the results of those suspicious moves are not even clear. Anyhow, the clear answer from the Thai experience is that, under the old bureaucratic or pluralistic arrangements, it was almost impossible to see the same level of progress in telecommunications reform. It is true that there might be an exploitation of political power to bring into line (either voluntarily or compulsorily) other interested parties, which may be seen as undermining democracy; however, if looking specifically at the previous unresolved reform problems, it is quite obvious that strong and centralised politics offered a better opportunity in solving those problems and making progress than that of the previous political eras.

LIMITATIONS AND FUTURE RESEARCH

The current thesis has been conducted within a definite time scale and is subject to some limitations. The fact that the telecommunications reform programme in Thailand is not complete at the time of writing means that some information is simply unavailable. However, as for this thesis, it was rather designed to put its

¹⁶⁸ The introduction of telecommunications excise tax in Thailand could be categorised as a “regulatory innovation”. The policy fits well with the definition of regulatory innovation proposed by Black (2005, p. 4) being that, “the use of new solutions to address old problems”. Black further argues that the outcome of innovation is thus unforeseen and unanticipated at the time of introduction; it could be either a success or failure. In any case, time is usually needed to conclude the clear outcome since analysing regulatory innovation should involve the analysis of not just enactment of ideas, but also their impact.

focus on the reform obstacles as well as the consequences of different industry environments for the reform programme, for which the information available at the cut-off point (at the beginning of 2005) did provide sufficient evidence.

Nevertheless the thesis does have some limitations but opens the way for further research in the relevant area.

Limitations

The analyses in the main text suggested that the telecommunications reform of Thailand needs a strong political power and centralised decision making in order to deal with the reform problems, and it appeared to be true when the hegemonic settings were able to produce a lot of progress. However, such a finding is unable to indicate the ultimate outcome of the reform, due to two main reasons. Firstly, it is difficult to accurately analyse the long-term consequence of the progress achieved by the exploitation of government's political strength at the cut-off point. To be fair, one has to keep in mind that the outcome of the strong "government-led" policy does not necessarily have to be undesirable; there are examples elsewhere (e.g. the East Asian Economic Model: EAEM) where the government-led economic reform yielded a successful result (Singh, 2000). On the other hand, although it is arguably true that Thailand's centralised telecommunications reform may arouse some suspicions, no concrete evidence has been shown for the accusation of corruption or rent-seeking charge. Therefore, what the thesis can do is to point out the potential for such downside risks, while leaving the final judgment to the readers and future researchers.

Secondly, the thesis is unable to tell with any certainty what is going to happen to the telecommunications reform and to telecommunications politics after PM Thaksin Shinawatra's era. Given Weber's insight on the inherent instability of charismatic leadership, it is possible that all the changes of industry arrangement during the hegemonic era may not endure. Many of the changes could be easily dissipated once PM Thaksin Shinawatra's charismatic sway over events declines (and when that will be is unknown). Once this happens, the industry institutionalism may change to another form whereby it cannot be predicted at this stage what the arrangements (as well as the reform programme) are going to look like in the next political era.

Moreover, the fact that the country's liberalisation deadline is nearing potentially caused the collective findings for the thesis. Although the thesis has provided a substantial amount of evidence to explain the capture phenomenon among interested parties after the arrival of the new power structure in 2001, it cannot absolutely argue that the decrease in the level of interest dispersion was the consequence of a powerful government alone. The fact that certain interested parties (e.g. the labour unions or the SOTE management) began to agree with the reform would also partially be explained by the upcoming telecommunications liberalisation deadline in January 2006. It was very difficult to clearly disentangle the time pressure effect from the political pressure effect on these interested parties. Even though the interviews with either the SOTE management or the labour unions did not show much concern about the upcoming competition¹⁶⁹ (in

¹⁶⁹ According to interviews with Naksrinuan (December 7, 2004) and Chevapruek (December 8, 2004), the privatised SOTEs are ready for the real competition. Both TOT and CAT have realised

other words, the time pressure effect) and they rather appeared to be more concerned about the reform compensation package¹⁷⁰, it does not mean that the time pressure had no effect at all. Therefore, if the thesis is able to distinguish the time pressure effect out of the collective finding, it could be able to better exhibit the impact of the new politics on the interested parties.

Future research

Apart from the main focus of the thesis, there are several other relevant aspects that have been touched upon, but have not been explored in great detail. That was either because such aspects were not directly relevant to the main focus of this study or because the data required was unavailable and could not be readily obtained at the time of doing this research. However, these unexplored aspects are also interesting and surely deserving of further exploration in order to build a more comprehensive picture of the Thai political economy in relation to telecommunications industry reform. Proceeding from the current thesis, there are at least several major aspects that could be raised as future research opportunities.

The first future research opportunity derives directly from the limitation of the current thesis. Even though there was a lot of reform progress during the first four-year period of PM Thaksin Shinawatra, the telecommunications reform is still on-going. It is interesting to study further what the industry (and probably the

it is coming and prepared for it a long time ago; besides, they also claimed superiorities in terms of their experiences within the industry, their brand recognition, and their skilled employees.

¹⁷⁰ Direct interviews with Chareonwan (December 14, 2004) and Naksrinuan (December 7, 2004) reveal that the 6, 2, 2 compensation package was very influential to SOTE's employees; they said the package made the management easier to talk with the employees.

reform programme) is going to look like in the future, given the fact that some of the reform progress had been forced to happen by the hegemonic power. The scrutiny of whether the reformed industry contains any distortion (or inefficiency) within the competition, regulation, and consumer protection would be good indications of the achievements of the hegemonic politics as well as of the PM Thaksin Shinawatra's regime on the reform programme. In fact, in order to have a better picture, further analyses of sectoral policies in other industries (especially the ones that have less connections to the powerful politicians) would also be helpful to settle the argument as to whether Thaksin Shinawatra and his hegemonic regime have been desirable or not.

Secondly, it has been argued in the current thesis that compared to the bureaucratic and pluralistic regimes, the hegemonic political regime is relatively the most suitable environment for carrying out the telecommunications reform programme of Thailand so far. The progress made during the hegemonic era was more than what had been achieved during the last two decades of the previous eras. Unfortunately, as the reform is still not complete, it cannot be concluded at the time of writing this thesis whether the government-led economic development under the Thai context will be ultimately beneficial to the industry or even the country as a whole in the long run, especially given the possibility of corruption, or different forms of it, by the high-level politicians (as was criticised in the work of Phongpaichit & Baker, 2004). Only once the reform outcome has clearly seen will it be possible to tell whether the government-led economic development in Thailand is a success or failure. In any case, regardless of the outcome, the Thai

telecommunications reform experience can be even more interesting and useful for later researchers or enthusiasts if it is broadened out in scope to incorporate the comparison between the government-led reform programme of Thailand and those of other East Asian countries, which are widely recognised for their successful approach. Performing a cross-national historical institutionalist study would be academically useful as it would provide a clear picture on whether these countries have any similarities or differences in their institutional arrangements, and to what extent these institutions would have impacts on the policy formation as well as the policy outcomes.

Finally, as mentioned in the main text, there has recently been a major change in the Thai political structure. The advent of new form of politics under PM Thaksin Shinawatra suggests a regime change where successful businessmen became interested in directly entering politics, rather than accessing it via political proxies as before. In other words, it would not be an exaggeration to say that the business class in Thailand began to fuse with the political class and became the country's new "ruling class". The Thai telecommunications industry could be further used as an appropriate example to study the phenomenon. As suggested by the sobriquet of the era "telecom tycoons turned politicians", a number of telecommunications businessmen are taking high positions in this hegemonic government. It would be interesting to deepen the study to understand whether there were any particular reasons or incentives that drove them to become policy makers. A number of reasons could be presumed; whether for failing belief in the old politics' ability to care for the country's economy, for desiring to ensure their

businesses operate and compete in a better and more efficient industry environment, or for the ulterior motives of exploiting political power for the advantage of their business. The in-depth study in this particular aspect should be of value not only to Thailand, but also to other emerging economies. It appears to offer a good opportunity to visualise the extent that the development of the economy (the economic reform, to be precise) would have consequences for the outlook of the politics (both at the national and industry levels) of the reforming economy.

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Appendix A

The detailed list of interviewees

Table 1:

List of interviewees and their positions in the first round of fieldwork

	Name (Date of interview)	Field	Position
1	Bencharongkakul Vichai (8 January 2004)	Private operator	Co-CEO of Total Access Communications Plc. (DTAC)
2	Juruphan Pornpimol (5 January 2004)	Government official (MOF)	Deputy Director of the State Enterprise Policy Office (SEPO), MOF (responsible for the privatisation of SOTEs)
3	Kusripituck Sedthaporn (29 December 2003)	Government official (PTD)	Candidate to be the member of the National Telecommunications Commission (NTC) Former Director General of the PTD
4	Pornsutee Kraisor (23 December 2003)	Government official (MICT)	Deputy Permanent Secretary of the MICT Former Deputy Permanent Secretary of the MOTC Former the Chairman of the Board of the CAT
5	Uthaisang Sombut (19 December 2003)	Policy maker and government official	Former Advisor to the Minister of MICT Former Deputy Minister of the MOTC Former Deputy Permanent Secretary of the MOTC Former Director General of the PTD Former Chairman of the Board of TOT and CAT
6	Yupho Kitt (22 December 2003)	Government official (MOTC)	Former Deputy Permanent Secretary of the MOTC Former Director General of the Post and Telegraph Department (PTD)

Note: Positions mentioned are as of the interview date

Table 2:

List of interviewees and their positions in the second round of fieldwork

	Name (Date(s) of interview)	Field	Position
1	Bencharongkakul Vichai (3 December 2004)	Private operator	Co-CEO of Total Access Communications Plc. (DTAC)
2	Chareonwan Mittra (14 December 2004)	SOTE labour union	Chairman of the TOT labour union Former a member of the concession conversion committee (under PM Chuan Leekpai's era)
3	Chevapruek Ormsin (8 December 2004)	SOTE management	Senior Vice President of Thailand Post Plc. Former Deputy Governor of the CAT (responsible for telecommunications related tasks) Former a member of CAT's concession conversion negotiation team

	Name (Date(s) of interview)	Field	Position
4	Iambumrung Wattana (21 December 2004)	SOTE labour union	Chairman of the CAT labour union Former a member of the concession conversion committee (under PM Chuan Leekpai's era)
5	Juruphan Pornpimol (14 December 2004)	Government official (MOF)	Deputy Director of the SEPO, MOF (responsible for the privatisation of SOTEs) Former a member of the concession conversion committee (under both PM Chuan Leekpai's and PM Thaksin Shinawatra's eras)
6	Kusripituck Sedthaporn (24 November 2004)	Regulator	The member of the NTC Former Director General of the PTD
7	Naksrinuan Wichean (7 December 2004)	SOTE management	Senior Executive Vice President of the TOT corporation Plc. (former the TOT) Former a member of TOT's concession conversion negotiation team
8	Ounsamran Sakesan (15 December 2004)	Senator	The Senator Member of Committee on Communications, the Senate
9	Pornsutee Kraisoron (12 November 2004)	Government official (MICT)	Permanent Secretary of the MICT Deputy Permanent Secretary of the MICT Former Deputy Permanent Secretary of the MOTC Former the Chairman of the Board of the CAT
10	Sookmongkol Kusumaporn (20 November 2004)	Industry expert	Senior telecommunications analyst, Bualuang Securities Plc.
11	Suebwonglee Surapong (25 November 2004)	Policy maker	The Minister of MICT
12	Tangkitvanich Somkiat (28 December 2004)	Academician and industry expert	Research Director for Information Economy at Thailand Development Research Institution (TDRI)
13	Teeralarp Anuparb (20 December 2004)	Academician and industry expert	Director of the School of Telecommunications Business Management, Mahidol University
14	Uthaisang Sombut (18 November 2004)	Policy maker and government official	Former Advisor to the Minister of MICT Former Deputy Minister of the MOTC Former Deputy Permanent Secretary of the MOTC Former Director General of the PTD Former Chairman of the Board of TOT and CAT
15	Uthaisang Cherdpong (15 December 2004)	Senator	The Senator Member of Committee on Communications, the Senate
16	Vimolvannich Wanlop (19 December 2004)	Private operator	Senior Advisor of the Chareon Pokphand Group (CP, the parent company of the TA and the TA Orange)
17	Vongpanitlerd Sumeth (2 December 2004)	Academician and industry expert	Research Director for Telecommunications at Thailand Development Research Institution (TDRI)

	Name (Date(s) of interview)	Field	Position
18	Vorathitipong Anand (6 January 2005)	NGO	Member of both the first and second NTC selection committee Secretary General of the Telecommunications Association of Thailand Under the Royal Patronage Member of the National Economic and Social Advisory Council Member of the 1997 Telecom Master Plan Drafting Committee
19	Yoonaidharma Sudharma (16, 21 December 2004)	Regulator, industry expert, and legal expert	The member of the NTC Former Director General of Chulalongkorn University Intellectual Property Institute (CUIPI) Former a member of telecommunications laws drafting committee (both 2000 Spectrum Act and 2001 Telecommunications Business Act) Associated professor at the Faculty of Law, Chulalongkorn University

Note: Positions mentioned are as of the interview date

Table 3:

List of anonymous interviewees

Name	Field
Anonymous A	A manager of a privatised SOTE
Anonymous B	An academician and telecommunications expert
Anonymous C	A high level government official
Anonymous D	A manager of a private telecommunications operator
Anonymous E	A manager of a private telecommunications operator
Anonymous F	A high level government official
Anonymous G	A SOTE employee
Anonymous H	A SOTE employee
Anonymous I	An academician and telecommunications expert

Appendix B

Selected high-level officials who have close relationship with the PM.

	Name	Current position	Relationship to PM	Public's suspicion
1	General Shinawatra Chaiyasit	Commander-in-Chief of the Army	Cousin	Came into position from the army engineers, which was unusual since the Commander-in-Chief is normally promoted from the Deputy positions or from a combat unit.
2	Police General Damapong Priewpan	Deputy Commissioner-General	Brother-in-law	Was promoted to be a Deputy Commissioner-General from the least senior Assistant Commissioner-General, and expected to be Police Commissioner-General soon.
3	Mrs. Wongsawat Yaowapa	Member of the Parliament	Sister	Came from nowhere to be the Deputy Leader of the TRT party and the leader of the biggest fraction in the TRT to balance the power of other fractions within the TRT.
4	Mrs. Shinawatra Yaowares	Chairwoman of the National Council of Woman of Thailand (NCWT)	Sister	Came from nowhere, while the chairwoman of the NCWT normally is a person whose merits and contributions have been evident for a long time and must be accepted by the public.
5	Wongsawat Somchai	Permanent Secretary of the Ministry of Justice	Younger brother-in-law	Has been in the same position for longer than 6 years, under 2 special extensions after his age of retirement (60 years old), which is quite unusual for a big and powerful ministry.
6	Police Captain Piemsomboon Purachai	Deputy Prime Minister	Close friend	Used to be a university lecturer before becoming the Minister of Interior and Deputy Prime Minister, respectively
7	Police General Wannasatit Chitchai	Deputy Commissioner-General	Close friend	Was transferred from the Assistant Commissioner-General to be the Secretary General of the Office of the Narcotics Control Board before moved back to be the Deputy Commissioner-General.
8	Police Major General Sungkapong Surasit	The Director of the Government Lottery Office	Classmate	Resigned as Commissioner of the Crime Suppression Division and became the Director of the Government Lottery Office, which controls a lot of money to finance various government projects.

	Name	Current position	Relationship to PM	Public's suspicion
9	Police Lieutenant General Maneerin Vongkot	Assistant Commissioner-General of the Royal Thai Police	Husband of the Deputy Minister of Education (and also the treasurer of the TRT party)	Was promoted from Deputy Commissioner of the Metropolitan Police Bureau to Commissioner of the Central Investigation Bureau and to Assistant Commissioner-General within 3 years.
10	Air Chief Marshal Wantana Kongsak	Commander-in-Chief of the Air Force	Husband of personal secretary of PM Thaksin's wife	Was predicted to be the next Minister of Defence

Source: Leading newspapers in Thailand and Tailuctai (2004).

Appendix C

List of BTO concessions granted since 1986

Type of service	Concessionaires	Concession issuers	Concession Term (years)	Concession start year
<u>Fixed line</u>				
- 2.6 million lines	Telecom Asia Corporation (TA)	TOT	25	1991
- 1.5 million lines	Thai Telephone and Telecommunications (TT&T)	TOT	25	1992
<u>Public card phone</u>	Advance Info Service (AIS) Lenso Phone Card	TOT CAT	10 15	1990 N.A.
<u>Cellular Telephone</u>	Advance Info Service (AIS) Total Access Communication (TAC)	TOT CAT	20 22	1990 1990
<u>Paging</u>				
- Packlink	Pacific Telesis/Percom Service	CAT	10/15	1986/1990
- Phonselink	Shinawatra Paging	TOT	15	1989
- Page Phone	Hutchison Telecommunications	TOT	15	1990
- Easy Call	Matrix (Thailand)	CAT	15	1990
- World Page	World Page	TOT	15	1993
- Post Tel	Samart Paging	PTD	20	N.A.
<u>VSAT</u>	Samart Telecoms	PTD	15	1988
	CompuNet	PTD	15	1988
	Acumen	TOT	15	1991
	Siam Satellite Network	CAT	15/22	1992
	USAT	CAT	22	N.A.
	World Sat Corporation	CAT	22	N.A.
<u>Trunk mobile</u>	Radio Phone	TOT	15	1992
	Total Access Communication (TAC)	CAT	15	1992
<u>Data communication</u>	Shinawatra Datacom	TOT	10	1989
	United Communications (Mobile Date)	CAT	20	N.A.
<u>Satellite</u>	Shinawatra Satellite	MOTC	30	1991
<u>Optical fibre network</u>	Comlink (Thailand)	TOT	20	1990
	Jasmine Submarine Telecommunications	TOT	20	1991
<u>Others</u>				
- Videotex	Line Technology (Thailand)	TOT	15	1992
- Telepoint (CT2)	Fonpoint (Thailand)	TOT	10	1990
- Directories	Shinawatra Directories	TOT	5	1989

Source: The TOT Corporation Plc., the CAT Telecom Plc., the PTD, and the MOTC.

Appendix D

Comparison of selected telecommunications services

Table 1:
Comparison of the cost of mobile phones per month

Unit: THB per month

Minutes used (per month)	Thailand			Singapore	The Philippines	Hong Kong	Malaysia
	AIS	DTAC	TAO	Singtel	SMART	HK Orange	Celcom
100	942	914	775	682	864	1,157	613
200	1,242	1,164	965	682	1,547	1,157	991
300	1,362	1,314	1,075	966	2,231	1,179	1,369
400	1,642	1,614	1,075	1,251	2,915	1,448	1,747

Source: The TDRI

- Note: (1) The cost of mobile phone per month includes the price of handset and monthly fee and airtime charge.
 (2) All figures are as of May 2002
 (3) Singtel, SMART, HK Orange, and Celcom are the leading telecommunications operators in each mentioned country
 (4) The service fees and exchange rates are as of May 2002

Table 2:
Comparison of the price of mobile handsets

Unit: THB

Model	Thailand			The Philippines	Singapore	Hong Kong	Malaysia
	AIS	DTAC	TAO	SMART	Singtel	HK Orange	Celcom
Ericsson T68	23,900	23,900	-	8,616	10,413	16,385	10,721
Ericsson A3618	5,100	7,900	5,400	-	-	-	3,949
Ericsson T29	7,400	7,900	7,400	-	-	-	4,288
Motorola T190	4,900	4,900	-	-	-	4,288	-
Motorola V66	13,900	13,900	19,900	-	9,462	9,787	8,464
Motorola V70	27,900	27,900	-	-	18,734	19,685	16,928
Nokia 3310	5,900	5,900	3,999	-	4,516	4,288	2,948
Nokia 5210	15,900	15,900	-	3,879	8,749	8,138	7,568
Nokia 6510	18,900	18,900	-	9,047	13,741	13,086	11,968
Nokia 8250	15,900	14,900	9,900	6,465	6,609	9,787	8,448
Nokia 8310	17,900	19,900	19,400	7,323	10,413	14,186	11,968

Source: The TDRI

Note: The prices are as of May 2002

Appendix E

Selected foreign investment of Thai telecommunications corporations

Group	Company name	Country/ service area	Project
Shinawatra group	Cambodia Shinawatra Co.Ltd	Cambodia	- Joint venture with Cambodia government to install mobile network
	Laos Shinawatra telecom Co.Ltd.	Laos	- Provision of GSM mobile telephone, public phone, fixed line telephone, international gateway, and paging services
	Isla Communications Co.ltd	The Philippines	- Provision of fixed line network, GSM mobile telephone, international phone call, and paging services
	Microwave Communications Co.Ltd	India	- Provision of GSM mobile telephone and Paging services
	Etc.		
Jasmine group (TT&T)	TP Mobile Telecom Co.Ltd	Indonesia	- Provision of Trunked mobile Radio - Provision of Satellite Mobile telephone
	Digital Telecommunications Corporation Co.Ltd.	The Philippines	- Provision of fixed line telephone in Luzon area - Provision of radio paging services
	NewTel Co.Ltd	Vietnam	- Production of telecommunications equipment
	JT Mobiles Co.Ltd	India	- Provision of GSM mobile telephone in Andhra Pradesh and Karnataka areas
	Etc.	Nepal	- Radio paging services
UCOM group	Cell Call Core Co.Ltd.	United States	- Production of cellular handset
	UCOM International Myanmar Co.Ltd.	Myanmar	- Trading Company
	National Telecommunications Co.Ltd.	India	- Provision of paging service
	Inter-city Paging Co.Ltd	Sri Lanka	- Provision of paging service
	Etc.		

Group	Company name	Country/ service area	Project
CP group	Telecom Holding Co.Ltd	The Philippines	- Provision of 300,000 lines of fixed line telephone in Manila and Luzon areas
		China	- International Gateway Operator (IGF) service - Provision of Very Small Aperture Terminal (VSAT) and paging services
	Jai Ti International Communication Co.Ltd	China	- Joint venture in Apstar satellite project with APT Satellite Co.ltd
	Etc.		
SAMART group	Cambodia Samart Co.Ltd	Cambodia	- Selling of telecommunications equipment and mobile telephone handsets
	Cambodia Samart Communication Co.Ltd	Cambodia	- Provision of NMT 900 mobile telephone under the 35-year concession period
	Samart Malaysia Co.Ltd	Malaysia	- Selling of telecommunications equipment and mobile telephone handsets
	Samart Myanmar Co.Ltd	Myanmar	- Selling of telecommunications equipment and mobile telephone handsets
	Etc.		

Source: Companies' annual reports and web sites