

NEW FILM AND VIDEO ACT 2008

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Intellectual Property

“Bangkok: It’s corrupt, dirty, and dense.” With these words, Joe London, a hit man portrayed by Nicolas Cage in *Bangkok Dangerous*, defines the City of Angels upon his arrival in Thailand. But Thailand is more than just the place depicted in this 2008 movie. From its congested capital to its luxuriant jungles to its turquoise waters juxtaposed with white sand beaches, Thailand is now the scene where numerous movies, both Thai and foreign, are shot.

After more than 77 years under the previous legislation of 1930, a new Film and Video Act replacing its predecessor finally entered into force in Thailand on June 4, 2008. The new Act has considerable consequences for foreign producers shooting films in the Kingdom as well as for foreign films intended to be screened in the country. Thailand is also unfortunately well known for the large number of pirated videos being sold on its streets. This new Act thus integrates certain provisions which may provide useful new options for sanctioning those selling such counterfeit products.

Board of Film and Video Censors

The Board of Film and Video Censors is responsible for a host of duties including inspecting and rating movies to be screened, rented, exchanged, or sold in Thailand; permitting the projection, exchange, rental, or sale of movies and videos; authorizing the advertisements of motion pictures; approving their exportation outside Thailand; and controlling foreign movies shot in Thailand. Because of its ability to engage in censorship, the Board has broad powers in determining the content of viewable films, which should be counterbalanced by the new rating system.

A New Ratings System

The new Act establishes for the first time in Thailand a rating system for films and videos. The Act creates seven categories:

- General audience (no age restriction)
- 13-year-olds and above
- 15-year-olds and above
- 18-year-olds and above
- 20-year-olds and above
- Banned films
- Educational films

In spite of the creation of these classifications by the Act, no ratings have been set up as yet pending the promulgation of Ministerial Regulations which will determine the criteria to be taken into consideration for each rating category. A draft has recently been finalized by the Ministry of Culture and submitted to the National Video and Film Committee and the Cabinet for approval. The draft regulation states that since ratings will be implemented based on age categories, the cutting of scenes or censorship will no longer be necessary. The draft apparently considers that films which do not contain sex scenes, strong language, or violence may obtain the rating “general audience”. Films authorized for viewers who are 20 years old and above may include sexual activity but still cannot include any explicit scenes, any scenes where a person is committing a crime, or any scenes involving drug use.

It is mandatory to file an application for inspection by the Board in order to obtain the necessary approval for screening, renting, and selling movies in Thailand. The criteria, procedures, and conditions of the application and approval will be determined by the Board and published in the Government Gazette. However, foreign movies which are screened in a film festival in Thailand may not be required to obtain approval from the Board.

Foreign Films

The new Act states that directors who are planning to shoot foreign films in Thailand shall first file an application containing the screenplay, the plot, and a

short description of the movie to the Office of Tourism Development for approval by the Board and the governmental agencies in charge of the locations used for the shootings. The criteria, procedures, and conditions of the application shall be described by the Board and are to be published in the Government Gazette. Even if the film is intended to be screened only overseas and not in Thailand, the approval from the Board is mandatory.

Piracy

The new Act does not directly refer to the piracy of movies in Thailand. Nevertheless, two sections can be used against those who sell, exchange, or rent fake DVDs or VCDs. Indeed, any business renting, exchanging, or selling videos should request a license from the Registrar. The conditions to be granted such license will be provided in ministerial regulations. Non-compliance may lead to an initial fine of up to Baht 500,000 and additional fines of Baht 10,000 per day for each day the violation continues.

Moreover, each video rented, exchanged, or sold in these stores shall contain on their packages a regulated label, which will define the type of motion picture and indicate the code number. All videos also need to pass the same type of inspection as motion pictures, which should include the rating on each movie. Non-compliance by any licensed store may result in a fine of up to Baht 100,000.

Overall, the new Act includes various measures that attempt to deal with the current issues faced by the film industry, including the increase in the number of foreign and Thai movies shot and screened in Thailand, the upsurge in piracy, and the need for an established ratings system. ♦