



SAFE AND CREATIVE MEDIA DEVELOPMENT FUND ACT,
B.E. 2558 (2015)

Office of the Council of State

Remark:

* Translated by Ms. Pataraporn Kasetsara under contract for the Office of the Council of State of Thailand's Law for ASEAN project. -Initial version- pending review and approval by the Office of the Council of State.

¹ The name “Safe and Creative Media Development Fund” is the same as the name “Thai Media Fund” which is currently used as the official English name of the Fund.

² Published in the Government Gazette, Vol. 132, Part 21a, page 30, dated 26th March B.E. 2558 (2015)

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SAFE AND CREATIVE MEDIA DEVELOPMENT FUND ACT,
B.E. 2558 (2015)

BHUMIBOL ADULYADEJ, REX.

Given on the 20th Day of March B.E. 2558;
Being the 70th Year of the Present Reign.

His Majesty King Bhumibol Adulyadej is graciously pleased to proclaim that:

Whereas it is expedient to have a law on the Safe and Creative Media Development Fund¹;

Be it, therefore, enacted by the King, by and with the advice and consent of the National Legislative Assembly, as follows:

Section 1. This Act is called the “Safe and Creative Media Development Fund Act, B.E. 2558 (2015)”.

Section 2. This Act shall come into force as from the day following the date of its publication in the Government Gazette.²

Section 3. In this Act:

“media” means a material which is displayed by an alphabet, a mark, a picture or a sound whether it is arranged in the form of a document, printed material, a drawing, a print, a painting, a picture, an advertisement, a mark, a photograph, a cinema, a video, a performance, computer information in a computer system or is arranged in any other form as prescribed in the Ministerial Regulation;

“safe and creative media” means media which has its content relating to promoting morals, ethics, culture and security, promoting creativity, learning how people live particularly for children and youths and promoting good relationship in family and society

including promoting people to live in harmony and having abilities to live in a society containing diversity pleasantly;

“Fund” means the Safe and Creative Media Development Fund;

“Office” means an Office of the Safe and Creative Media Development Fund;

“Committee” means the Committee of the Fund for development of safe and creative media;

“Committee for Assessment” means the Committee for Assessment of the Fund’s Operation;

“manager” means the manager of the Safe and Creative Media Development Fund;

“Minister” means the Minister having charge and control of the execution of this Act.

Section 4. The Minister of Culture shall have charge and control of the execution of this Act, and shall have the power to issue Ministerial Regulations and Notifications for the execution of this Act.

Such Ministerial Regulations and Notifications shall come into force upon their publication in the Government Gazette.

CHAPTER I ESTABLISHMENT OF FUND

Section 5. There shall be a Fund called the “Safe and Creative Media Development Fund”

The Fund shall be a juristic person and shall have following objectives;

(1) to campaign, promote and support the development of safe and creative media;

(2) to promote development of potentiality of a producer for safe and creative media;

(3) to promote and support people especially children, youths and families having skills in media literacy, to monitor unsafe and uncreative media, and to be able to use media for development of themselves, community and society;

(4) to promote and support wide participation of people in order to develop safe and creative media;

(5) to promote a conduct of study and research, training, development of knowledge and creativity of an innovation of safe and creative media;

(6) to promote a person, a community organization, a private organization, a public benefit organization, Government agency, State enterprise or other State agency performing activities relating to media to provide production and development of safe and creative media;

(7) to proceed and promote the safe and creative media which can be accessed by people and can be used widely.

Section 6. The Fund shall consist of money and property as follows;

(1) money received from allocation by the Fund for Research and Development of Broadcasting, Television and Telecommunication for public benefits under the law on organization for spectrum refarming and control in the business of radio broadcasting, television broadcasting and telecommunication;

(2) initial fund allocated by the government;

(3) fine which has been received from punishment of a copyright infringer or performing right infringer under the law on copyright and vest in the Fund under section 12;

(4) money received from foreign countries or international organizations;

(5) remuneration, service fee or income from carrying out business or privilege of the Fund;

(6) money or property being donated or given;

(7) money or property vested in the Fund or legally received by the Fund;

(8) profit or any benefit arising from the Fund's property.

Section 7. Business of the Fund is not under the provisions of the law on labour protection, the law on labour relations and the law on compensation; provided that a manager, an official and an employee shall receive remuneration not less than the amount prescribed in the law on labour protection and the law on compensation.

Section 8. The Fund shall have the head office in Bangkok or other *Changwat* as prescribed by the Minister.

Section 9. The Fund shall have the powers to do all kinds of business within the objectives under section 5 and such powers shall include;

- (1) to hold ownership, have right to possess, and have all kinds of real right;
- (2) to establish rights or enter into any juristic act inside and outside the Kingdom;
- (3) to gain benefits from the Fund's property;
- (4) to carry out any other act relating to or in connection with the objectives of the Fund.

Section 10. The Fund has its position as a State agency which is not a Government agency or a State enterprise under the law on budgeting and revenues of the Fund shall not be remitted to the finance as public revenues.

Section 11. For the benefits of the Fund's operation, there shall be allocation of money of the Fund for Research and Development of Broadcasting, Television and Telecommunication for public benefits under the law on organization for spectrum refarming and control in the business of radio broadcasting, television broadcasting and telecommunication to the Fund every year regularly and sufficiently in order to operate task of the Fund efficiently.

Section 12. Half of the amount of fine, which has been paid by a judgment punishing a copyright infringer or performing right infringer under the law on copyright, shall vest in the Fund.

Remitting the fine to the Fund under paragraph one shall comply with the rules as prescribed by the Minister of Finance and published in the Government Gazette.

Section 13. The Fund shall have the power to pay money from the Fund under the rules and procedures as prescribed by the Committee as expenses as follows;

- (1) expenses for the Fund's operation;
- (2) expenses for activities under section 5 and section 9;
- (3) other expenses under the rules prescribed by the Committee.

CHAPTER II
ADMINISTRATION OF THE FUND'S BUSINESS

Section 14. There shall be a committee called the “Committee of the Safe and Creative Media Development Fund” consisting of

- (1) the Prime Minister as Chairperson;
- (2) the Minister of Culture as Vice-Chairperson;

(3) the Permanent Secretary Ministry of Defence, the Permanent Secretary Ministry of Finance, the Permanent Secretary Ministry of Social Development and Human Security, the Permanent Secretary Ministry of Information and Communication Technology, the Permanent Secretary Ministry of Interior, the Permanent Secretary Ministry of Culture, the Permanent Secretary Ministry of Education and the Secretary General of the National Broadcasting and Telecommunications Commission as *ex officio* members;

(4) nine qualified members appointed by the Council of Ministers from selected persons having knowledge, capability and experience in the fields of law, arts and culture, education, development of child, youth and family, mental health, person with disability and elderly person, consumer protection; one person from each field and two persons in mass communication.

Manager shall be secretary and the manager shall appoint an officer of the Office as assistant secretary.

Section 15. There shall be a Selective Committee having the duties to select a person who is suitable to be appointed as a qualified member under section 14 (4) which consists of

(1) the Chairperson of the Non-Governmental Organizations Coordinating Committee on Development;

(2) the President of the Broadcasting Journalist Association of Thailand;

(3) the President of the Publishers and Booksellers Association of Thailand;

(4) one representative being a qualified member of the National Children Protection under the law on children protection;

(5) one representative being a qualified member of the National Department of Empowerment of persons with Disabilities under the law on empowerment of persons with disabilities;

(6) one representative being a qualified member of the National Culture Commission under the law on national culture;

(7) one representative being a qualified member of the Higher Education Commission under the law on rules of public administration of the Ministry of Education;

(8) one representative being a Sub-Committee of consumer protection in the business of broadcasting and television under the law on spectrum reforming organization and control in the business of radio broadcasting, television broadcasting and telecommunication;

The Permanent Secretary Ministry of Culture shall appoint a representative from the Ministry of Culture to be member and secretary of the Selective Committee.

Members of the Selective Committee under (4), (5), (6), (7), and (8) shall be representatives entrusted by such organization's Committee.

The Selective Committee shall select a member of the Selective Committee to be the President of member of the Selective Committee.

In the case where members of the Selective Committee are less than the prescribed amount under paragraph one or there are members of the Selective Committee but they are unable to perform their duties within thirty days from when a ground for the selection occurs, the Selection Committee shall consist of the remaining members but not less than five persons.

The Office shall be responsible for administrative works for proceedings of the selection.

Section 16. The Selective Committee under section 15 shall have the duties to select and prepare a list of names of qualified members having qualifications and not being under the prohibitions under section 18 twice the number of each field and submit such list to the Council of Ministers with consent of the nominated persons; provided that such list shall be submitted to the Council of Ministers within sixty days as from the date when a ground for the selection of persons to be in such office occurs.

Members of the Selective Committee shall not have rights to be nominated as qualified members of the Committee.

Details of procedures and methods of selection shall be as prescribed by the Selective Committee.

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Section 17. The Council of Ministers shall consider and select qualified members from a list of names of qualified members nominated by the Selective Committee in full amount; provided that qualified members in each field who are not selected shall be assigned to a list of names of substitute in each field.

When the Council of Ministers appoints the qualified member in full amount, the duties of the Selective Committee shall terminate.

Section 18. Qualified members shall have qualifications and not be under the prohibitions, as follows:

(a) qualifications:

- (1) being of Thai nationality;
- (2) being not less than thirty five years of age;

(b) the prohibitions:

(1) being a person having direct or indirect interest in business doing with the Fund or business being contrary to or inconsistent with objectives of the Fund;

(2) being a person having behavior which is contrary to or inconsistent with objectives of the Fund;

(3) being a person holding political position, a member of local assembly or local administrator, a director of or a person holding any position responsible for the administration of a political party or an advisor or official of a political party;

(4) being bankrupt or having been bankrupt due to dishonesty, being an incompetent person or a quasi-incompetent person;

(5) having been served the sentence by a final judgment to imprisonment except for an offence committed through negligence or a petty offence;

(6) having been ordered by a judgment or an order of the Court that his or her assets shall vest in the State on the grounds of unusual wealth or unusual increase of assets.

Section 19. A qualified member shall hold office for a term of three years.

In the case where a qualified member in any field vacates office before the expiration of the term, the qualified member in a list of names of substitute in the same field under section 17 shall be a qualified member replacing the vacated member and the person appointed to replace the vacated member shall be in office for the unexpired term of office

of the replaced member. If there is no person in the list of names or such person does not intend to replace the vacated member, there shall be a process of selection of a new qualified member under section 16,

Upon the expiration of the term of office under paragraph one, if a new qualified member has not yet been appointed, the qualified member whose term of office has expired shall be in office until a new qualified member assumes his or her duties. A qualified member who vacates office upon the expiration of the term may be reappointed, but may not be appointed for more than two consecutive terms.

Section 20. In addition to vacating office on the expiration of term, a qualified member vacates office upon:

- (1) death;
- (2) resignation;
- (3) being dismissed by the Council of Ministers due to negligence in the performance of the duty, disgraceful behavior, or incapability;
- (4) being disqualified or being under any of the prohibitions under section 18.

Section 21. The Committee has the powers and duties to control and supervise the Fund to carry out business to be in accordance with the objectives prescribed in section 5, provided that such powers and duties shall include:

- (1) to prescribe policies, plans, and strategies relating to the development of safe and creative media;
- (2) to issue notifications prescribing category of unsafe and uncreative media;
- (3) to prescribe measures for promoting development and creation of skill in the media literacy including for promoting the use of media as a tool for learning and development of themselves, community, and society;
- (4) to prescribe measures for promoting participation of people for monitoring the media under section 5 (3);
- (5) to prescribe measures for reinforcing co-operation and co-ordinating among Government agency, State enterprise or other State agency including private sector for the development of safe and creative media;
- (6) to approve a plan of annual operation, a financial plan, and an annual budget of the Fund;

(7) to issue regulations on rules and procedures for allocating money to a project or an activity relating to the development of safe and creative media;

(8) to issue regulations on division of the Office's internal work and scope of duty of such department;

(9) to issue regulations on selecting a manager, performing work, and giving authority of a manager;

(10) to issue regulations on administrative work, personnel administration, finance, supply and property of the Office, and internal examination of the Fund;

(11) to issue regulations on determination of remuneration's rate or service fee for carrying out business of the Fund;

(12) to prescribe the amount of positions, duration of employment, rates of salaries and wages, salaries of officials and employees;

(13) to appoint an advisor, a Sub-Committee for promoting participation of people, a Sub-Committee for monitoring unsafe and uncreative media, a Sub-Committee for promoting innovation for the development of safe and creative media, and other Sub-Committee as it deems appropriate for consideration or performance as entrusted by the Committee;

(14) to carry out any other act which is necessary to achieve objectives of the Fund.

The notifications under (2) and the regulations under (7) shall be published in the Government Gazette.

Section 22. At a meeting of the Committee, the presence of not less than one-half of members is required to constitute a quorum.

At a meeting of the Committee, if the Chairperson does not attend or is unable to perform the duties, the Vice-Chairperson shall preside over the meeting. If the Vice-Chairperson does not attend or is unable to perform the duties, the meeting shall elect one among themselves to preside over the meeting.

In performance of the duties, if there is a consideration of a matter in which the Chairperson or a member has a private interest, the Chairperson or such member has no right to attend such meeting.

A decision of the meeting shall be made by a majority of votes. In casting a vote, each member shall have one vote. In the case of an equality of votes, the presiding member shall have an additional vote as the casting vote.

Section 23. There shall be a Sub-Committee for Administration of the Safe and Creative Media Development Fund consisting of the Permanent Secretary Ministry of Culture as Chairperson, representative from the Ministry of Defence, representative from the Ministry of Finance and five qualified members appointed by the Committee from persons having knowledge, capability and experience in the fields of finance, law, social development or psychology, culture, and mass communication, one person from each field, as the Sub-Committee and a manager shall be the Sub-Committee and secretary.

The Sub-Committee under paragraph one shall have the powers and duties as follows:

- (1) to control expenditure of money or property of the Fund to be in accordance with the objectives and the regulations prescribed by the Committee;
- (2) to consider and to approve a project or an activity which is received promotion or support from the Fund according to the regulations prescribed by the Committee;
- (3) to follow and to assess proceedings of a project or an activity which is received promotion or support from the Fund;
- (4) to raise funds from different sources to the Fund with an approval of the Committee;
- (5) to submit opinions to the Committee for preparing regulations relating to administrative work, personnel administration, finance, supply and property of the Office, including prescribing the amount of positions, duration of employment, rates of salaries and wages, salaries of officials and employees;
- (6) to perform other duties as prescribed in this Act or as entrusted by the Committee.

Qualification, prohibition, a term of holding office, and vacating office of the Sub-Committee, qualified members including a meeting of the Sub-Committee shall be as prescribed by the Committee; provided that at the meeting, the meeting shall be set up at least every two months.

Section 24. The Chairperson, the members, the advisors, the Sub-Committee, and the members of the Selective Committee under section 15 shall receive meeting allowances or other remuneration in accordance with the rules as prescribed by the Council of Ministers.

Section 25. The Office shall have the powers and duties as follows:

(1) to be responsible for the administrative works of the Committee, the Sub-Committee for Administration of the Safe and Creative Media Development Fund, and the Sub-Committee under section 21 (13);

(2) to submit policies, plans, and strategies relating to the development of safe and creative media, a plan of annual operation, a financial plan, and an annual budget of the Fund including researching, analyzing, and assessing proceedings of the Fund to the Committee;

(3) to provide advice to a media producer in production of safe and creative media;

(4) to prepare a list and a report of annual performance of the Fund;

(5) to proceed other work as entrusted by the Committee, the Sub-Committee for Administration of the Safe and Creative Media Development Fund, and the Sub-Committee under section 21 (13).

Section 26. There shall be a manager of the Fund appointed by the Committee.

The manager shall be a person being able to work with the Fund on a full-time basis and shall have qualifications and not be under the prohibitions, as follows:

(a) Qualifications:

(1) being of Thai nationality;

(2) being not less than thirty-five years of age and not exceeding sixty years of age on the date of applying for selection;

(3) having suitable knowledge, capability and experience to business of the Fund;

(b) the prohibitions:

(1) being a person having direct or indirect interest in business doing with the Fund or business being contrary to or inconsistent with objectives of the Fund;

(2) being a person having behavior which is contrary to or inconsistent with objectives of the Fund;

(3) being a person holding political position, a member of local assembly or local administrator, a director of or a person holding any position responsible for the administration of a political party or an advisor or official of a political party;

(4) being bankrupt or having been bankrupt due to dishonesty, being an incompetent person or a quasi-incompetent person;

(5) having been served the sentence by a final judgment to imprisonment except for an offence committed through negligence or a petty offence;

(6) having been ordered by a judgment or an order of the Court that his or her assets shall vest in the State on the grounds of unusual wealth or unusual increase of assets.

Section 27. A term of holding office, vacating office, and prescribing condition of probation in the duties of manager shall comply with an employment contract as prescribed by the Committee; provided that a term of employment shall not exceeding four years and when the employment contract expires, the Committee may renew the employment contract but not exceeding four years.

The manager shall receive wage, remuneration, and other payment as prescribed by the Committee.

Section 28. In addition to vacating office under the employment contract, the manager vacates office upon:

(1) death;

(2) resignation;

(3) being disqualified or under any of the prohibitions for being the manager under section 26;

(4) being dismissed by the resolution of the Committee.

Section 29. The manager shall be the superior of officials and employees of the Office and be responsible for business administration of the Office to comply with the objectives of the Fund, and to comply with laws, regulations and policies prescribed by the Committee.

In business relating to the third person, the manager shall be a representative of the Fund. In this regard, the manager may authorize any person to perform the particular tasks for him, but there shall be in accordance with regulations prescribed by the Committee.

Section 30. Accounting of the Fund shall be provided under the accounting standard of Government agency as prescribed by the Ministry of Finance; provided that an accounting year shall be in accordance with the budget year.

Section 31. The Fund shall provide an internal examination and report a result of the examination to the Committee at least once a year.

In an internal examination, there shall be an official of the Office having the duties to work as an internal examiner and to be directly answerable to the Committee under the regulations prescribed by the Committee.

Section 32. The Fund shall prepare the financial statement together with details within sixty days from the date of fiscal year for submitting to the Office of the Auditor General of Thailand or the third person appointed by the Committee with the approval of the Office of the Auditor General of Thailand to examine and approve the financial statement of the Fund.

Section 33. Within one hundred and eighty days from the date of fiscal year, the Fund shall prepare an annual report for submitting to the Committee in order to submit to the Council of Ministers, the House of Representatives and Senators; provided that this report shall mention works of the Fund in the last year, the financial statement and the report of an auditor together with the report of the Committee for Assessment under section 35 (3).

CHAPTER III

ASSESSMENT OF THE FUND'S OPERATION

Section 34. There shall be a Committee for Assessment of the Fund's Operation consisting of seven members, namely a Chairperson and six qualified members appointed by the Council of Ministers from persons having knowledge, capability and

experience in the fields of finance, mass communication, arts and culture, law, and assessment; provided that two persons having skill in the field of assessment shall be consisted in this amount.

The Committee for Assessment shall appoint a person whom it deems appropriate as secretary.

Section 18, section 19, section 20, section 22, and section 24 shall apply to members of the Assessment and the meeting of the Committee for Assessment *mutatis mutandis*.

Section 35. The Committee for Assessment shall have the powers and duties as follows:

- (1) to assess the Fund's policies and determination of activities;
- (2) to follow, examine and assess the proceedings of the Fund;
- (3) to report the performance of the Fund together with a recommendation to the Committee in every year.

The Committee for Assessment shall have the power to summon document or evidence involved in the Fund from any person or summon any person to give statements of facts for consideration of the assessment.

Section 36. In performance of the duties under this Act, the Committee for Assessment may appoint a Sub-Committee to consider and give opinion in any case or entrust the Sub-Committee to perform any act as it deems appropriate.

Section 22 and section 24 shall apply to the performance of duties of the Sub-Committee under paragraph one *mutatis mutandis*.

TRANSITORY PROVISIONS

Section 37. In initial term, the Committee shall consist of members under section 14 (1), (2) and (3). The Deputy Permanent Secretary Ministry of Culture entrusted by the Permanent Secretary Ministry of Culture shall be a member and a manager and temporarily perform the duty of the Committee under this Act until a qualified member under

section 14 (4) is appointed; provided that there shall not more than one hundred and twenty days as from the date when this Act comes into force.

Section 38. For the benefits of the performance of the Office, the Ministers shall provide officials, Government employees or employees of the Ministry of Culture to temporarily assist the performance of work of the Office, but there shall not more than one year as from the date when this Act comes into force; provided that the salary shall be paid by the former department and the manager shall be the superior.

The manager shall assess the performance of work the officials, the Government employees or the employees under paragraph one to submit to the former department.

Countersigned by

General Prayut Chan-o-cha

Prime Minister

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