



The Fundamental Acts Relating to  
Telecommunications and Broadcasting Services  
(UNOFFICIAL TRANSLATION)



## Preface

The National Broadcastings and Telecommunications Commission (NBTC) is an independent regulatory body of Thailand established in accordance with “the Act on Organization to Assign Radio Frequency and to Regulate the Broadcasting and Telecommunications Services B.E. 2553 (2010)”. NBTC is an independent convergence regulator comprising of eleven commissioners who were formally appointed by His Majesty the King in September of 2011. NBTC has a major duty to supervise broadcasting and telecommunications industries by promoting free and fair competition, and regulating the spectrum usages for the utmost benefit of the public interest and the country. To successfully realize such role, the NBTC takes into account the appropriateness, necessity and sufficiency of spectrum available for the commercial use, public services, state security and public facilitation. Sustainable national policies have been issued to liberalize Thailand’s broadcasting and telecommunications industries by allowing more market competition which would alleviate competitiveness and increase efficiency.

Apart from the regulatory duty, NBTC also actively plays an important role internationally by engaging in international cooperation, international forums, as well as international agreements in all levels, bilaterally, regionally, and and multilaterally. The NBTC also joins other fellow ASEAN members’ regulators in entering the ASEAN Economic Community (AEC) where the rising level of its intra-regional investment shows an undeniable sign that ASEAN is becoming more than ever economically interlinked. Given an important roles that NBTC plays internationally, a translation of NBTC fundamental laws from Thai into English version is essential in order to provide information and the understanding of Thai’s broadcasting and telecommunications regulations to international regulators, organizations, as well as foreign investors. This book gathers and translates fundamental Acts Relating to Telecommunications and Broadcasting Services to English version. However, this is an unofficial translation with an aim to enable our foreign counterparts to have a better understandings of our fundamental laws. This translation is of the non-binding nature and only the Thai text is contractually binding. Should any disputes or legal cases arise, any legal deliberation and judgment shall be based solely on the Thai version.

January 2015  
NBTC Thailand

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# **UNOFFICIAL TRANSLATION**

## **ACT ON ORGANIZATION TO ASSIGN RADIO FREQUENCY AND TO REGULATE THE BROADCASTING AND TELECOMMUNICATIONS SERVICES B.E. 2553 (2010)**

**UNOFFICIAL TRANSLATION**

**ACT ON ORGANIZATION TO ASSIGN  
RADIO FREQUENCY AND  
TO REGULATE THE BROADCASTING  
AND  
TELECOMMUNICATIONS SERVICES  
B.E. 2553 (2010)**

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**BHUMIBOL ADULYADEJ, REX;**

Given on the 17<sup>th</sup> Day of December B.E.2553;

Being the 65<sup>th</sup> Year of the Present Reign.

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

Whereas it is expedient to amend the Act on the Organizations to Assign Radiofrequency Spectrum and to Regulate the Broadcasting, Television Broadcasting and Telecommunication Services;

This Act contains certain provisions in relation to the restriction of rights and liberties of persons, in respect of which Section 29 together with Section 35,



Section 36, Section 41, Section 43, Section 45, Section 46 Section 47, Section 61 and Section 64 of the Constitution of the Kingdom of Thailand so permit by virtue provisions of law;

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

**Section 1** This Act is called the “Act on Organization to Assign Radio Frequency and to Regulate the Broadcasting and Telecommunications Services B.E. 2553 (2010).”

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

**Section 3** The Act on the Organizations to Assign Radio-frequency Spectrum and to Regulate the Broadcasting, Television Broadcasting and Telecommunication Services B.E. 2543 (2000) shall be repealed.

**Section 4** In this Act:

**“Radio Frequency”** means radio waves or hertzian waves which are electromagnetic waves of frequencies lower than 3,000,000 megahertz that are propagated in space without artificial guide;

**“Telecommunications”** means the emission, transmission or reception of signs, signals, writing, digits, images, sounds, codes or intelligence of any nature by radio frequency, wire, optical, electromagnetic system, or by other system;

**“Radiocommunication”** means the emission, transmission or reception of signs, signals, writing, digits, images, sounds, codes or intelligence of any nature by means of hertzian waves ;

**“Sound Transmission”** means radiocommunication emitting or transmitting sounds for direct reception by the public;

**“Television Transmission”** means radiocommunication transmitting sounds and visual images for direct reception by the public;

**“Sound Broadcasting Service”** means a service which provide public news services or programs for reception by means of receiving apparatus, either by means of radio frequency, wire, optical, electromagnetic, or any other system, or a

combination thereof, or other similar services prescribed by the NBTC as sound broadcasting services;

**“Television Broadcasting Service”** means a service which provide public news services or programs for viewing and listening by means of receiving apparatus, either by means of radio frequency, wire, optical, electromagnetic , or any other system, or a combination thereof, or other similar services prescribed by the NBTC as television broadcasting services;

**“Radiocommunication Service”** means a service for the reception and emission of signs, signals, writing, digits, images, sounds, codes or intelligence of any nature by means of hertzian waves intended for special telecommunications affairs or ad-hoc purpose which is not the telecommunications business under the law on telecommunications business, or sound or television broadcasting services under the law on broadcasting business;

**“Telecommunications Service”** means a service which provides the emission, transmission or reception of signs, signals, writing, digits, images, sounds, codes or intelligence of any nature by means of hertzian, wire, optical, electromagnetic, or any

other system, or a combination thereof, and shall include the communication satellite service or other business prescribed as telecommunications services by the NBTC but not including sound broadcasting, television broadcasting, and radiocommunication services;

**“Table of Frequency Allocations”** means the allocation of a given frequency band of the sound broadcasting, television broadcasting, radiocommunication, telecommunications services or other purpose under conditions specified by the NBTC;

**“Frequency Plan”** means the allotment of radio frequency channel for the sound broadcasting, television broadcasting, radiocommunication, and telecommunications services for the use under conditions required by the NBTC;

**“Frequency Assignment”** means an authorization given for radio stations, television stations or radiocommunication stations to use radio frequencies or radio channels as specified in the Table of Frequency Allocations or Radio Frequency Plan for the use under conditions required by the NBTC;

**“Community”** means a group of people living in a common location, either in urban or rural areas,

and shall include group of people that is organized around common interest within a shared geographical location, or linked via communication. The group is attributed with social and cultural cohesion, collaborating continuously in lawful and moral activities under proper management and with the intent expressed on behalf of the group.

“**Fund**” means the Broadcasting and Telecommunications Research and Development Fund for the Public Interest;

“**Commissioner**” means a commissioner(s) of the National Broadcasting and Telecommunications Commission;

“**Officer**” means a person appointed by the National Broadcasting and Telecommunications Commission to perform duties under this Act.

**Section 5** The Prime Minister shall have charge and control of the execution of this Act.

# **CHAPTER I**

## **National Broadcasting and Telecommunications Commission**

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### **Part 1**

#### **Components, Qualifications and Prohibitions of the Commissioners**

**Section 6** There shall be a National Broadcasting and Telecommunications Commission called the “NBTC” in short, consisting of eleven commissioners as follows:

(1) one expert in sound broadcasting services, and another in television broadcasting services;

(2) two experts in telecommunications services;

(3) two legal experts, two economists beneficial to regulate the broadcasting and telecommunications services;

(4) one expert in consumer protection or people’s right and promotion of freedom of people

which will be beneficial to regulate broadcasting services, and another expert beneficial to regulate telecommunications services;

(5) one expert in education, culture, or social development which will be beneficial to regulate broadcasting and telecommunications services.

The Secretary-General of the Office of NBTC shall be secretary of the NBTC.

**Section 7** The commissioner shall have the qualifications and shall not be under any of the prohibitions as follows:

A. General qualifications

- (1) being of Thai nationality by birth;
- (2) being of not less than thirty-five years of age, but not more than seventy years of age;

B. Prohibitions

- (1) not being a person holding a political position;
- (2) not being a holder of any position of a political party;
- (3) not being of unsound mind or of mental infirmity;
- (4) not being addicted to drugs;

(5) not being a bankrupt or having been a bankrupt on the grounds of corruption;

(6) not having been sentenced by a judgment to imprisonment and being detained by a warrant of the Court;

(7) not having been sentenced by a final judgment except for an offense committed through negligence, a petty offense or defamation;

(8) not having been expelled, dismissed or removed from official service, state agency or state enterprise or private agency on the grounds of dishonest performance of duties or gross misbehavior or deemed as having committed dishonest act or malfeasant in the official service;

(9) not 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;

(10) not being a judge of the Constitutional Court, Election Commissioner, Ombudsman, member of the National Anti-corruption Commission, member of the State Audit Commission or member of the National Human Rights Commission;

(11) not having been removed from office by the resolution of the Senate;



(12) not being or having been in the past a member of the Board of Directors, executive officer, advisor, employee, shareholder or partner in a company or partnership or any other juristic person carrying out broadcasting or telecommunications business for the period of one year before having been nominated under Section 10 or before having been selected under Section 15;

(13) not being under the prohibition from holding a political position.

**Section 8** The commissioner shall not

(1) be a government official holding a permanent position or receiving salaries;

(2) be an official or employee of a state agency, state enterprise, or local administration, or be a member of the board or counsel of a state enterprise or state agency;

(3) engage in any other independent occupation or profession having a stake or conflict of interest either directly or indirectly in carrying out the duties of the member.

**Part 2**  
**Acquisition of NBTC Commissioner**  
**Candidates**  
**by Means of Nomination**

**Section 9** For the benefit of nominating suitable persons to be selected as a Commissioner under Part 4, the following associations, institutes or bodies shall be eligible to registration with the Secretariat of the Senate:

(1) a professional association of broadcasting which has been registered as a juristic person for not less than five years;

(2) a professional association of telecommunications business which has been registered as a juristic person for not less than five years;

(3) tertiary educational institute which is a juristic person and offers degree courses in mass communications, journalism or mass media for not less than five years;

(4) tertiary educational institute which is a juristic person and offers degree courses in telecommunications for not less than five years;

(5) tertiary educational institute which is a juristic person and offers degree courses in law for not less than five years;

(6) tertiary educational institute which is a juristic person and offers degree courses in economics for not less than five years;

(7) non-governmental organization not operating for profits or shared income which has the main objective being to protect consumers' rights or promote rights and freedom of people, and has been registered as a juristic person for not less than five years;

(8) non-governmental organization not operating for profits or shared income which has the main objectives relating to education, culture or social development, and has been registered as a juristic person for not less than five years;

The professional associations under paragraph one must have main objectives related with the professions whose members are professionals in broadcasting or telecommunications services.

Associations or bodies eligible for registration under (1) (2) (7) and (8) shall be the associations or bodies that carry out continued activities with apparent work records. If any association or body

having several main objectives, only one category of that association or body according to (1) (2) (7) or (8) may be registered.

When the Secretariat of the Senate has registered any association, institute or body according to paragraph one, it shall be deemed complete. Court ruling thereafter that the registration is void shall not jeopardize the act taken by the Secretariat of the Senate prior to that Court ruling.

Any association, institute or body having been objected to registration according to paragraph one shall have the right to file a case with the Administrative Court, but such proceeding shall not be deemed as the cause for a suspension or postponement of nomination or selection under this Act.

The registration of associations, institutes or bodies according to paragraph one shall be in accordance with the criteria, procedures and conditions prescribed by the Secretary-General of the Secretariat of the Senate.

The Secretariat of the Senate shall announce the name list of the registered associations, institutes or bodies to the public. The list shall be in effect until

further correction as may be prescribed by the Secretary-General of the Secretariat of the Senate.

**Section 10** When the cause of selection and appointment has occurred, the Secretariat of the Senate shall announce through radio, television, newspapers and electronic media for at least seven consecutive days. The associations, institutes or bodies registered under Section 9 wishing to nominate a suitable person as NBTC Commissioner candidate shall submit the name together with his consent letter within time prescribed by the Secretary-General of the Secretariat of the Senate in accordance with the following criteria:

(1) each professional association under paragraph 9 (1) and tertiary educational institute under paragraph 9 (3) is entitled to nominating two persons according to Section 6 (1);

(2) each professional association under paragraph 9 (2) and tertiary educational institute under paragraph 9 (4) is entitled to nominating two persons according to Section 6 (2);

(3) Each tertiary educational institute under paragraph 9 (5) is entitled to nominating two persons having apparent work records or knowledge and

expertise or experience in the field of legal matters according to Section 6 (3);

(4) each tertiary educational institute under paragraph 9 (6) is entitled to nominating two persons having apparent work records or knowledge and expertise or experience in the field of economics according to Section 6 (3);

(5) each non-governmental organization under paragraph 9 (7) is entitled to nominating two persons according to Section 6 (4);

(6) each non-governmental organization under paragraph 9 (8) is entitled to nominating two persons according to Section 6 (5).

Any association, institute or body registered under Section 9 not nominating any candidate according to paragraph one for whatever reasons shall not jeopardize the selection process being carried out.

**Section 11** When the time prescribed under Section 10 has elapsed, the Secretariat of the Senate shall examine qualifications of the nominees to verify compliance with Section 7 and Section 10. In the case where any of the nominee lacks proper qualifications in accordance with Section 7 or Section 10, the Secretariat shall inform respective associations,

institutes or bodies to nominate other candidate within a specified period of time by the Secretary-General of the Secretariat of the Senate. If the associations, institutes or bodies fail to nominate a candidate when the specified time has elapsed, it shall be deemed that they disclaim the right to make such nomination.

When the nomination period according to paragraph one or Section 10 as the case may be has elapsed, and if any nominee was deceased, or revoked his consent to the nomination, or disqualified for whatever reasons, the Secretariat of the Senate shall proceed without needing to obtain any other nomination.

**Section 12** When the nomination period has elapsed and if the number of nominees is less than twice the number as specified by category under Section 13 (1) (2) (3) (4) and (5), the Secretary-General of the Secretariat of the Senate shall extend the nomination period for not more than thirty days as from the due date specified in Section 10.

When the extension period under paragraph one has elapsed, and the number of nominees is still less than the number specified in paragraph one, the Permanent Secretary of the Office of the Prime

Minister, the Permanent Secretary of the Ministry of Defense and the Permanent Secretary of the Ministry of Information and Communications Technology shall collaboratively nominate suitable persons to be selected as Commissioners who have the qualifications and not be under any of the prohibitions according to Section 6 and Section 7 to fulfill the number for each category as specified in paragraph one.

**Section 13** When the nomination period under Section 10, section 11 or Section 12 as the case may be has elapsed, the Secretariat of the Senate shall arrange a meeting of all nominees in order to elect among themselves in accordance with the following procedures:

(1) nominees under Section 10 (1) from professional associations under Section 9 (1) shall elect two among themselves to be the NBTC Commissioners under Section 6 (1), one each in sound broadcasting service and television broadcasting service; and nominees under Section 10 (1) from institutes under Section 9 (3) shall elect two among themselves to be the NBTC Commissioners under



Section 6 (1), one each in sound broadcasting service and television broadcasting service;

(2) nominees under Section 10 (2) from professional associations under Section 9 (2) shall elect two among themselves to be the NBTC Commissioners under Section 6 (2); and nominees under Section 10 (2) from institutes under Section 9 (4) shall elect two among themselves to be the NBTC members under Section 6 (2);

(3) nominees under Section 10 (3) and Section 10 (4) shall separately elect eight among themselves to be the NBTC Commissioners under Section 6 (3), four each in the field of law and economics;

(4) nominees under Section 10 (5) shall elect four among themselves to be the NBTC Commissioners under Section 6 four of which two to regulate broadcasting service and two to regulate telecommunications service ;

(5) nominees under Section 10 (6) shall elect two among themselves to be the NBTC Commissioners under Section 6 (5).

The voting shall be in accordance with the criteria and procedures prescribed by the Secretary-General of the Secretariat of the Senate. The persons

obtained highest votes ranked in order of scores shall be selected.

Upon the selection of persons according to paragraph one and paragraph two, the selected persons under (1) (2) (3) (4) and (5) shall be deemed as qualified persons in accordance with Section (6) (1) (2) (3) (4) and (5) and the decision shall be final. The selection shall be completed in a period not exceeding ninety days as from the date of announcement made to the registered associations, institutes or bodies to make their nomination of suitable persons to be selected as Commissioners.

**Part 3**  
**Acquisition of the List of NBTC**  
**Commissioners**  
**by Means of Selection**

**Section 14** When the cause of selection and appointment of the NBTC Commissioners has occurred, there shall be a Scrutinizing Committee having duty to select qualified persons to be appointed as the Commissioners. The Scrutinizing Committee consists of fifteen members as follows:

- (1) The Chairman of the National Human Rights Commission;
- (2) The Chairman of the National Economic and Social Advisory Council;
- (3) The Permanent Secretary of the Office of the Prime Minister;
- (4) The Permanent Secretary of the Ministry of Defense;
- (5) The Permanent Secretary of the Ministry of Information and Communications Technology;
- (6) Director of Thailand National Electronics and Computer Technology;
- (7) The President of Council of Engineers;

(8) The Chairman of the Council of Disabled People of Thailand;

(9) The Chairman of the Communication Arts Association of Thailand;

(10) The Chairman of the Confederation of Radio and Television Profession Associations;

(11) The Chairman of the Coordinating Committee of the Non Governmental Organizations;

(12) The Chairman of Broad of Directors, the Thai Institute of Directors Association;

(13) The Chairman of the Thai Broadcast Journalists Association;

(14) The Chairman of the National Federation of Community;

(15) The Chairman of the Confederation of Consumer Protection Organizations.

The Chairman and members of the Scrutinizing Committee shall not be eligible for application as a Committee of the NBTC, and the organizations under paragraph one shall not be eligible for a registration in order to make a nomination under Part 2.

The members of the Scrutinizing Committee shall elect one among themselves to be Chairman and the other one to be secretary of the Scrutinizing Committee.

If it is unable to have the entire members of the Scrutinizing Panel or if any member thereof is unable to perform his duty, the Scrutinizing Committee not less than half of the total members shall consist of its remaining members.

The Secretariat of the Senate shall be secretariat unit for the selection and appointment of the members.

**Section 15** In the scrutinizing process under this Part, the Secretariat of the Senate shall make open announcement for application of qualified persons according to Section 6 through radio, television, newspapers and electronic media for at least consecutive thirty days.

A person eligible for application to be selected for appointment as Commissioners shall not be the person being nominated by the associations or bodies under Section 10.

When the period specified according to paragraph one has elapsed, the Scrutinizing Committee shall select the persons suitable for appointment as Commissioners in the double number of the members according to Section 6 (1) (2) (3) (4) and (5).

The criteria and procedures for selection shall be prescribed by the Secretary-General of the Secretariat of the Senate. The persons obtained highest votes ranked in order of scores shall be selected.

The provision of Section 13 paragraph three shall apply *mutatis mutandis* to the selection of suitable persons for the committee of the Scrutinizing Committee.

Any person damaged from the scrutiny may file his case with the Administrative Court, but this shall not cause a suspension or postponement of any procedures carried out except as otherwise ruled or ordered by the Administrative Court. In the case where the Administrative Court has ruled or ordered that the selected person is unqualified and is under any of the prohibitions or is selected unlawfully, that person shall be removed from office from the date the Administrative Court has the ruling or order.

## **Part 4**

### **Selection and Appointment of Commissioners**

**Section 16** Upon receiving the name list of persons suitable for appointment as NBTC Commissioners by means of nomination according to Part 2, and by means of selection according to Part 3, the Secretary-General of the Senate shall compile the said name list into one. If the number of suitable persons for appointment as Commissioners is not less than twice the number of members as specified in Section 6 (1) (2) (3) (4) and (5), the name list together with the said persons' bio-data and work records, which must be clearly stated together with evidences declaring that they are qualified in accordance with Section 6, shall be submitted to the President of the Senate within thirty days as from the date of obtaining the name lists according to Section 13 and Section 15 for further consideration and resolution of the Senate.

In the case where the process of nomination according to Part 2, or selection according to Part 3 is not complete by due date specified in Section 13 paragraph three, the Secretary-General of the Secretariat of the Senate shall submit the name list of

suitable persons for appointment as Commissioners obtained by due date together with the said persons' bio-data and work records, which must be clearly stated together with evidences declaring that they are qualified in accordance with Section 6, to the President of the Senate within thirty days as from the date that has elapsed according to Section 13 and Section 15 for further consideration and resolution of the Senate.

**Section 17** The Senate shall pass a resolution selecting the nominated persons from the name list submitted by the Secretary-General of the Secretariat of the Senate within sixty days as from the date receiving the name list for appointment as Commissioners under Section 6. For this purpose, the persons who receive the highest votes in respective order shall be selected as Commissioners. The voting shall be conducted by secret ballot. The selected persons shall be notified accordingly.

When the time specified under paragraph one has elapsed, if the number of selected Commissioners is less than the number specified in Section 6, the President of the Senate shall notify the Prime Minister. The Prime Minister shall thereby submit the



name list to the Council of Ministers for consideration and action in order to obtain a complete number of the Commissioners in accordance with Section 6 within thirty days as from the date of notifying the Prime Minister. The persons selected as Commissioners under paragraph one or paragraph two as the case may be shall meet and elect one Chairman and two Vice Chairman within fifteen days as from the day of obtaining complete number of persons selected as Commissioners, the result of which shall be reported to the Prime Minister. The Prime Minister shall thereby propose the names to the King for a Royal Command appointing the said positions.

**Section 18** In the case the selected person under section 17 is under any of the prohibition according to Section 8 (1) (2) or (3), the King will appoint, with the advice of the Prime Minister, only when that person has resigned from the position according to Section 8 (1) or (2), or has adduced evidence to the satisfaction that his engagement in the occupation or profession according to Section 8 (3) has ceased to exist. This shall be done within fifteen days as from the date of being selected. If that person has not resigned or ceased to engage in the occupation

or profession within the specified time, it shall be deemed that that person has never been selected as Commissioners and the Senate shall select another member from the name list submitted by the Secretary-General of the Secretariat of the Senate according to Section 16.

## **Part 5**

### **Term and Vacation of Office**

**Section 19** The Commissioners shall hold office for a term of six years as from the date of being appointed by the King and shall serve for only one term.

Commissioners who vacate office at the expiration of term shall remain in office to continue to perform their duties until the King issues a Royal Command appointing new Commissioners.

Before an expiration of term for a period not less than ninety days, the Secretariat of the Senate shall arrange for nomination process and appointment of new Commissioners without delay.

**Section 20** In addition to the vacation of office at the expiration of the term, Commissioners vacate office upon:

- (1) death;
- (2) having attained the age of seventy years;
- (3) resignation;
- (4) being disqualified or being under any of the prohibition under section 7;

(5) violation of Section 8;

(6) being expelled by a resolution of the Senate under Section 21;

(7) being removed by a resolution of the Senate under the Organic Act on Counter Corruption;

The vacation of office under (1) (2) or (3) shall be brought to the King for His acknowledgment. If the vacation of office is under (4) (5) (6) or (7), the matter shall be proposed to the King for Royal Command removing the Commissioner from office. The said Royal Command shall take effect from the date the person has been disqualified, or has been under any of the prohibition, or the date of conducting violating act, or the date the Senate has the resolution for the person to vacate office, or the date he was removed as the case may be.

If there is the cause under paragraph one, the remaining Commissioners may continue to perform duties and it shall be deemed that the NBTC consists of the existing Commissioners but not less than six persons.

In the case where a Commissioner vacates office before completing his term, the person appointed in his replacement shall remain in office for the unexpired term of office of the person he replaces.

In the case where the remaining term is less than three years, he is eligible for an appointment for one more term.

In the case where the Chairman or Vice Chairman vacates office upon the cause under paragraph one, the Commissioners of the NBTC shall elect one among themselves to be the Chairman or Vice Chairman and inform the Prime Minister for his acknowledgment upon which the Prime Minister will propose the name to the King for appointing that person as the Chairman or Vice Chairman as the case may be.

**Section 21** Members of the House of Representatives or the Senate of not less than one-fourth of the total number of the existing members of each House have the right to lodge with the President of the Senate in order to request that the Senate pass a resolution removing a Commissioners from office due to gross misbehavior or gross negligence in the performance of duty. The resolution of the Senate under paragraph one shall be passed by votes of not less than three-fourths of the total number of the existing members of the Senate.

**Section 22** There occurs any event that the NBTC fails to perform their duties efficiently as stipulated by law, the following persons shall have the right to lodge with the President of the Senate in order to request that the Senate pass a resolution removing all NBTC Commissioners from office:

(1) members of the House of Representatives of not less than one-fourth of the total number of the existing members of the House;

(2) members of the Senate of not less than one-fourth of the total number of the existing members of the Senate;

(3) not less than 20,000 people who are service users affected by the act according to paragraph one. The complaint must be lodged with the President of the Senate in accordance with the criteria specified by the President of the Senate.

A resolution of the Senate under paragraph one shall be passed by votes of not less than two-thirds of the total number of the existing members of the Senate. In making the resolution, the Report of the Monitoring and Evaluation Committee submitted to the Senate in accordance with Section 72 must be taken into consideration.

In the case where all the Commissioners vacate office upon the cause under paragraph one, the vacating Commission shall remain in office only as necessary until the new Commissioners take office.

## **Part 6**

### **Meetings, Powers and Duties of the Commission**

**Section 23** The conduct of meetings, making resolutions and performing duties of the NBTC shall be in accordance with the rules and regulations prescribed by the NBTC.

Any Commissioner having interest in the matter under consideration shall not have right to attend the meeting.

In performing its duties, the NBTC may appoint one or more than one Commissioner to act on its behalf. The NBTC may not deny any liability on grounds that the Commissioners have been entrusted to perform such duties.

**Section 24** The conduct of duties of the NBTC, BC and TC in matters relating to or having impacts on public interest shall be undertaken by the resolution of the meeting. The minutes of the meeting and results of the decisions made individually and as a group shall be disclosed to the public through electronic media of the Office of the NBTC and any other appropriate mean as prescribed by the NBTC.



Any information contained in the minutes of the meeting which is not subject to disclosure according to the Official Information Act, the NBTC may pass a resolution that that particular information shall not be released.

Disclosure of the minutes of the meeting and results of the decisions under paragraph one shall be done within thirty days as from the date of passing the resolution, but may be extended for not more than fifteen days in necessary case. In this regard, the reasons and justifications for the extension must be given.

**Section 25** Commissioner(s) shall be deemed as person holding a high-ranking position under the Organic Act on Counter Corruption and shall be a competent official under the Penal Code.

**Section 26** The Chairman, Vice Chairman and other Commissioners shall perform full time work. The Chairman, Vice Chairman and other Commissioners shall receive remunerations on a monthly basis as specified in the Royal Decree.

The Chairman, Vice Chairman and other Commissioners may disburse for travel allowances

incurred from performing their duties in other areas not exceeding the rates specified in the Royal Decree.

**Section 27** The NBTC shall have the powers and duties as follows:

(1) to formulate a Frequency Management Master Plan, Table of Frequency Allocations , Broadcasting Master Plan, Telecommunications Master Plan, Frequency Plan, and Telecommunications Numbering Plan;

(2) to assign radio frequencies for the undertaking of sound broadcasting, television broadcasting, radiocommunication, and telecommunication services;

(3) to prescribe characteristics and categories of sound broadcasting, television broadcasting, and telecommunications services;

(4) to license and regulate the use of radio frequencies and radiocommunication equipments in the undertaking of sound broadcasting, television broadcasting and telecommunications services, or radiocommunication service; and prescribe licensing criteria and procedures, conditions, or licensing fees;

(5) to prescribe criteria for efficient use of radio frequency without causing interference to the same type of business and other type of business;

(6) to license and regulate the operations of sound broadcasting, television broadcasting and telecommunications services to allow service users to have choices of services with quality, efficiency, timeliness, reliability and fairness; and prescribe licensing criteria and procedures, conditions, or licensing fees;

(7) to license and regulate the use of telecommunications numbers; and prescribe licensing criteria and procedures, conditions, or licensing fees;

(8) to prescribe criteria and procedures for interconnection, and criteria and procedures for setting access charges or interconnection charges to be applied to the undertaking of sound broadcasting, television broadcasting and telecommunications services, both for the same type of business and other type of business, which shall be fair to service users, service providers and investors, or between the telecommunications service providers with due regard to public interest;

(9) to set tariff structure and price structure for sound broadcasting, television broadcasting and telecommunications services which shall be fair to

service users and service providers with due regard to public interest;

(10) to set standards and required technical specifications for sound broadcasting, television broadcasting, telecommunications and radiocommunication services;

(11) to prescribe measure for the prevention of anti-competitive conduct or unfair competition in sound broadcasting, television broadcasting and telecommunications services;

(12) to prescribe measure for the provisions of telecommunications services universally and equally in accordance with Section 50;

(13) to protect right and liberty of the people from being exploited by the operators; protect individual right of privacy and freedom to communicate by means of telecommunications; promote right, freedom and equality of the people in the access to, and use of frequencies in the sound broadcasting, television broadcasting and telecommunications services;

(14) to coordinate matters relating to frequency management, both at the national and international levels;

(15) to determine and resolve issues relating to interference of frequencies;

(16) to monitor and provide advice on the undertaking of sound broadcasting, television broadcasting and telecommunications services;

(17) to set forth regulation on merger, cross ownership-holding or broadcasting market dominance amongst mass media businesses or by any other person, which has the effect of impeding the liberty of the public in perceiving information or of obstructing public access to a diversity of information;

(18) to promote a formation of licensees, broadcasters, and mass media professionals in the radio and television businesses into diverse forms of organizations which will have the mandate to set forth ethical standards and self-regulation pertaining to the occupation or profession under the ethical standards;

(19) to issue rules or notifications according to Section 58;

(20) to approve the budget of the Office of the NBTC budgets, including the financing of the Fund under Section 55;

(21) to determine and approve financial allocation for the Fund as proposed by the Fund Management Committee under Section 55;

(22) to provide information and participate in negotiations or making agreements between the Kingdom of Thailand and foreign governments or

international organizations in matters relating to frequency management, sound broadcasting, television broadcasting, telecommunications services, or other related undertakings;

(23) to give advice to the Cabinet for an issuance of, or amendment to, legislation related with frequency allocation and other matters relating to frequencies, sound broadcasting, television broadcasting, and telecommunications services;

(24) to prescribe rules, notifications or orders under the powers and duties of the NBTC;

(25) to perform any other acts as prescribed in this Act or other laws.

In setting forth regulation on merger, cross right-holding or market dominance under (17), the NBTC shall hold a hearing from the public and parties concerned.

The exercising of powers and duties under paragraph one shall not be contrary to or inconsistent with the Broadcasting Business Act, the Telecommunication Business Act and the Radiocommunications Act.

Such rules, notifications or any orders shall come into force upon being published in the Government Gazette.

**Section 28** NBTC shall hold a hearing from the stakeholders and the public in order to take those opinions into its consideration before issuing rules, notifications, or orders pertaining to the supervision of sound broadcasting, television broadcasting and telecommunications services which shall be enforceable in general and related with the competition in the business or may have significant impacts on the public. The NBTC shall provide background information, reasons, justifications, and a summary of the matters, as well as the issues expected to obtain from the hearing. The time taken for a hearing shall not be less than thirty days, except for emergency case or compelling necessity that the NBTC may allow a shorter time allocated for that hearing.

The Office of the NBTC shall prepare a summary record of the hearing which consists of opinions obtained, NBTC's resolution or consideration regarding the said opinions, including reasons and proposed actions. This record shall be publicized through the Office of the NBTC's information network system.

**Section 29** In setting the rates for network access or interconnection charges, any fees or service charges for the undertaking sound broadcasting, television broadcasting and telecommunications services under this Act and the Broadcasting Business Act or the Telecommunications Business Act, the NBTC shall have due regard to the public interest and burden of the consumers, costs of providing service, optimization and efficient allocation of resources.

**Section 30** In performing duties of the NBTC, BC, TC, other committees and sub-committees established under this Act, including the Secretary-General of the NBTC and staff of the Office of the NBTC in relation to requests or complaints lodged according to the law, rules, regulations, notifications or contracts that the NBTC or the Office of the NBTC makes with private entities, and if a deadline is not specified in the said law, rules, regulations, notifications or contracts, the NBTC shall manage to have the deadline specified and make known to the public. For any matter to which a deadline is not given, the authorities must complete it within fifteen days as from the date of receiving the request.



In the case where the NBTC, BC, TC, other committees and sub-committees established under this Act, the Secretary-General of the NBTC and staff of the Office of the NBTC prolonged the performing of their duties to a date later than that specified in paragraph one without justifiable reasons and if it causes damage to any person, the Office of the NBTC shall be liable to make compensation to that person. The sum of money paid for such compensation shall be charged from the NBTC, BC, TC, other committees and sub-committees established under this Act, the Secretary-General of the NBTC and staff of the Office of the NBTC who are the cause of the delay as the case may be if such damage occurred from the act or the act refrained intentionally or with gross negligence.

**Section 31** For the benefit of consumer protection from being exploited by the sound broadcasting, television broadcasting and telecommunications operators, the NBTC shall have the duties to inspect the operators hereof to prevent them from taking any action that may be deemed as unfair treatment. The NBTC shall set up two subcommittees consisting of persons having

knowledge, expertise and experience beneficial to the NBTC's conduct of duties in consumer protection in the field of broadcasting service, and in consumers protection in the field of telecommunications service. The subcommittees shall have the duties and powers in making judgment and recommendations in matters relating to the lodged complaints and other duties as required by the NBTC.

In the case where the sound broadcasting, television broadcasting and telecommunications operators act in any way which may be deemed as an unfair treatment to the consumers by using their network or advertisement in the manner of undue profit making, or causing annoyance by whichever means as specified by the NBTC, the NBTC shall have the power to order the operators to refrain from taking such acts.

**Section 32** For the benefit of protecting individual right of privacy and freedom to communicate by means of telecommunications, the NBTC shall have the power to prescribe measures for protection of telecommunications service users' rights related to personal information, privacy rights and

freedom to communicate by means of telecommunications.

In the case where there is an offense of illegal interception, utilization or disclosure of message, information or any other data by means of telecommunications, it shall be deemed that the NBTC is the damaged person under the Criminal Procedure Code.

In the case where a telecommunications business licensee is the offender under paragraph two, or knows that the offense has been committed under paragraph two but refrains from noticing or taking action in accordance with the provision of the law within reasonable time, the NBTC shall have the power to suspend or revoke his telecommunications business license.

**Section 33** The NBTC shall have the power to appoint sub-committees, working groups, or assign competent officials to perform duties under this Act or other tasks that may be assigned. The sub-committees and working groups shall not be of any prohibitions under Section 7 B. (1) (2) (3) (4) (5) (6) (7) (8) (9) (10) and (11).

**Section 34** In performing the duties under this Act, the NBTC, BC, TC and the Monitoring and Evaluation Committee shall have the power to summon any state agency or person to solicit factual information, statements or relevant documents or evidence for the purpose of inquiry.

## **CHAPTER II**

### **Business Operation Regulation**

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#### **Part 1**

#### **Broadcasting Commission**

**Section 35** There shall be one Broadcasting Commission, called in short “BC” consisting of:

(1) Chairman appointed by the NBTC from NBTC Vice Chairperson;

(2) Four Commissioners appointed by the NBTC from Commissioners who are not the Chairman or Vice Chairman which shall consist of two members according to Section 6 (3) and one Commissioner according to Section 6 (4).

The Commission according to paragraph one shall not be appointed as the TC at the same time.

The Secretary-General of the NBTC shall appoint competent officials of the Office of the NBTC as a secretary and an assistant secretary when necessary.

**Section 36** The provision of Section 23 shall apply mutatis mutandis to the meeting of the BC unless the part of quorum where no less than one-half of the total number of Commissioners is required to constitute a quorum.

In the case where the Broadcasting Commissioners vacates office before completing his/her term and if the existing Commissioners are not less than three persons, the remaining Commissioners may continue to perform the duties.

**Section 37** The BC shall have the power to act on behalf of the NBTC under the provisions of Section 27 (4) (6) (8) (9) (10) (11) (13) (16) and (18) pertaining to the broadcasting services, and other duties as assigned by the NBTC.

## **Part 2**

### **Telecommunications Commission**

**Section 38** There shall be one Telecommunications Commission, called in short “TC” consisting of:

(1) Chairman appointed by the NBTC from NBTC Vice Chairman;

(2) our Commissioners appointed by the NBTC from Commissioners who are not the Chairman or Vice Chairman which shall consist of two Commissioners according to Section 6 (3) and one Commissioner according to Section 6 (4).

The Commissioners according to paragraph one shall not be appointed as a BC at the same time.

The Secretary-General of the NBTC shall appoint competent officials of the Office of the NBTC as a secretary and an assistant secretary when necessary.

**Section 39** The provision of Section 36 shall apply mutatis mutandis to the meeting and the conduct of duties of the TC.

**Section 40** The TC shall have the power to act on behalf of the NBTC under the provisions of Section 27 (4) (6) (7) (8) (9) (10) (11) (12) (13) and (16) pertaining to the telecommunications and radiocommunication services, and other duties as assigned by the NBTC.



## **Part 3**

### **Broadcasting Regulation**

**Section 41.** Any person wishing to use radio frequencies for the purpose of sound broadcasting or television broadcasting services shall obtain a license under this Act.

The License application and permission shall be in accordance with the criteria, procedures, and conditions as prescribed by the NBTC, unless for the purpose of business operation which the provision in paragraph six shall apply.

It shall be deemed that the application for radio frequency license according to paragraph one is also an application for operations of sound broadcasting or television broadcasting services under the Broadcasting Business Act; and when the NBTC permits the use of radio frequency, it shall be deemed that the applicant is permitted to operate the sound broadcasting or television broadcasting services under the Broadcasting Business Act and shall be deemed that the person is permitted to possess and use radiocommunication equipment and install the radiocommunication station under the Radiocommunications Act with respect only to the

radiocommunication equipment as specified in the application.

The permission to use radio frequency for the purpose of sound broadcasting or television broadcasting services shall be carried out with due regard to maximum public interests at the national, regional and local levels in education, culture, state security and other public interests, including free and fair competition, and shall be carried out in the manner of extensively and appropriately distributing the utilities as the national communications resource to all segments of enterprises for public interest.

For the benefit of promoting radio and television programs that contribute social constructive contents or programs for children and youths, the NBTC shall set licensing conditions requiring the licensee to broadcast these programs at a period appropriate for the target group.

In the case of licensing radio frequency for sound broadcasting or television broadcasting services which are the business operation as stipulated under the Broadcasting Business Act, the selection shall be carried out by means of spectrum auctions at the national, regional and local levels. The auctions shall be conducted separately for each level in accordance

with the criteria, procedures, date, and conditions as prescribed by the NBTC.

In specifying qualifications of persons who are eligible for auctioning under paragraph six, due consideration shall be given to the benefit from efficient and optimum allocation of spectrum resources, prevention of anti-competitive conduct, promotion of free and fair competition, efficient supplying of services, burdens on the consumers, and right protection for potential licensees to operate business at regional and local levels.

The licensing of radio frequency for the sound broadcasting and television broadcasting services that cause or may cause interference or duplication with the existing radio frequency shall be forbidden.

**Section 42** The NBTC shall have the powers to prescribe license fees under Section 41 by dividing into spectrum license fees and business license fees which shall be paid when the license has been granted. Payment shall be made yearly at an appropriate rate for the type of license in accordance with the Broadcasting Business Act , except for the spectrum license fees for business operation. The sum of money received from auctions under Section 41

paragraph six shall be deemed as spectrum license fees which must be paid upon having been licensed and remitted to the Fund under Section 52.

The license fees under paragraph one to be paid yearly shall be prescribed by the NBTC with due consideration given to the regulatory costs for spectrum utilization and business operations effectively at a gross rate of not more than two percent of income before deducting licensees' expenditure. The fees shall be remitted to the Office of the NBTC as its revenues.

Agencies exempted from complying with Broadcasting Business Act, either in whole or in part, shall pay the fees according to paragraph one. The NBTC shall reduce such fee as it deems appropriate with due regard to the agencies' objectives.

**Section 43** A radio frequency license for sound broadcasting and television broadcasting services is the exclusive rights of the licensee and not transferable.

The licensee who has been authorized to use spectrum for sound broadcasting or television broadcasting business operation shall carry out by himself or herself. Business management either in

whole or in part shall not be rendered or permitted to other to act on his/her behalf. But allocating the time slot to other person to run the program shall be allowed in accordance with the criteria and procedures prescribed by the NBTC.

**Section 44** The licensee who has been authorized to use spectrum for sound broadcasting or television broadcasting business operation has not carried out the business by using such spectrum within the limited time specified by the NBTC, or has used such spectrum in other service not relating to its objectives, or fails to comply with the business operation conditions, or conducts prohibitive acts as specified in Section 27 (11) and (17), or fails to comply with the provision of Section 43, the NBTC shall take an action to rectify the situation or issue an order to revoke the spectrum license in whole or in part.

## **Part 4**

### **Telecommunications Regulation**

**Section 45** Any person who wishes to use spectrum for the purpose of telecommunications business operation shall obtain a license under this Act by means of spectrum auctions in accordance with the criteria, procedures, duration, and conditions as prescribed by the NBTC. The provision of Section 41 paragraph four and paragraph seven shall apply mutatis mutandis. Income from spectrum auction after deducting expenditure shall be remitted to the state treasury.

It shall be deemed that the application submission for a spectrum license according to paragraph one is also an application for telecommunications business operation under the Telecommunications Business Act; and when the NBTC permits the use of spectrum, it shall be deemed that the applicant is permitted to carry out telecommunications business operation under the Telecommunications Business Act and shall be deemed that the person is permitted to possess and use radiocommunication equipment and install radiocommunication station under the

Radiocommunications Act with respect only to the radiocommunication equipment as specified in the application.

The NBTC shall have the powers to prescribe license fees under the Telecommunications Business Act and fee which shall be paid annually with due regard to the regulatory costs for spectrum utilization and business operations effectively at a gross rate of not more than two percent of income before deducting expenditure. The fees shall be remitted to the Office of the NBTC as its revenues.

**Section 46** A spectrum license for telecommunications business is the exclusive rights of the licensee and is not transferable.

The licensee who has been authorized to use spectrum for telecommunications services shall carry out the services by himself or herself. Business management either in whole or in part shall not be rendered or permitted to other to act on his/her behalf.

**Section 47** Any licensee who has been authorized to use spectrum for telecommunications services has not carried out the business by using such spectrum within period specified by the NBTC or by

using such spectrum in other services not relating to its objectives or fails to comply with the business operation conditions, or conducts prohibitive acts as specified in Section 27 (11), or fails to comply with the provision of Section 46, the NBTC shall take action to rectify the situation or issue an order to revoke the spectrum license in whole or in part.



## CHAPTER III

### Guidelines for Planning Formulation

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**Section 48** There shall be the Master Plan for Spectrum Management which shall contain at least the following items

- (1) details of Table all Frequency Allocations that Thailand could bring into use ;
- (2) implementation framework for International spectrum matters;
- (3) details of spectrum allocated to the sound broadcasting and television broadcasting services, telecommunications services, and other services;
- (4) guidelines for spectrum reframing for improving spectrum utilization.

The Master Plan for Spectrum Management shall come into force upon its publication in the Government Gazette and shall used as the criteria and preliminary conditions for licensing and any undertaking pertaining to the spectrum utilization.

The NBTC shall monitor and evaluate the implementation of the Master Plan for Spectrum Management and revise the said Master Plan for the benefit of efficient spectrum management and be in line with the advancement of changing technologies.

In preparing the Master Plan for Spectrum Management, the NBTC shall conduct hearing to gather opinions from the public, the business operators using the spectrum and state agencies concerned in order to take those opinions into consideration. The time taken for a hearing shall not be less than thirty days. The preparing of the Master Plan for Spectrum Management shall give due regard to the national security as necessary.

**Section 49** In the Telecommunication business regulation, the NBTC shall prepare the Broadcasting Master Plan and the Telecommunications Master Plan so as to be a five-year implementation guideline. The plans shall be in accordance with the Master Plan for Spectrum Management and shall at a minimum provide guidelines for development and promotion of free and fair competition among operators, guidelines for spectrum licensing and business licensing. On the part of broadcasting services, the people sector shall be permitted to use frequencies for public interest and nonprofit for community service in a proportion of not less than twenty percent of frequencies allocated in each licensing area.

In the preparation of the Master Plans under paragraph one, the NBTC shall hold a hearing from the public, the operators and state agencies concerned in order to take those opinions into its consideration. The time taken for a hearing shall not be less than thirty days.

In the case where the NBTC's decisions are conflicting with the opinions of the public, the operators or state agencies expressed at the hearing under paragraph two, the NBTC shall give further explanation and reasons to the said public, the operators or state agencies.

The public, operators and state agencies under paragraph three who consider that the Master Plans as prescribed by the NBTC is conflicting with the provisions of the Constitution of the Kingdom of Thailand. There shall have the rights to lodge the case with the Administrative Court. There shall be deemed that the said Master Plan be the rules under the Act on Establishment of Administrative Courts and Administrative Court Procedure.

The Master Plans under paragraph one shall oblige the NBTC and state agencies concerned upon the publication in the Government Gazette.

**Section 50** For the benefit of providing universal basic telecommunications and social services in accordance with the Telecommunications Business Act, the NBTC shall set forth a plan for universal basic telecommunications and social services in which it shall at least specify service areas and target groups, implementing period including estimated budgets for the operations.

In the preparation of the plan under paragraph one, the NBTC shall consult with other state agencies concerned and ensure that it is consistent with the government policies declared to the National Assembly.

The NBTC shall prescribe amount of costs which shall be charged from the licensees permitted to operate telecommunications business for the provision of telecommunication services according to paragraph one. In this regard, due consideration must be given to the licensee's income from its telecommunications business operation.

The NBTC shall prescribe amount of costs from the USO Fund under Section 53 (4) which shall be applied to support the licensees in providing the said universal services.

**Section 51** To enhance the people sector's capability in utilizing spectrum in a proportion specified in Section 49 paragraph one, the NBTC shall set out criteria and procedures for supporting communities having potentiality to be qualified for obtaining a broadcasting license for the type of community service, the earnings, and supporting quality community service operators. For this purpose, there shall hold a hearing from the public, state agencies concerned which is comprised of:

Income of the community service operators shall be derived from donations, contribution to the stations or other sources which are not dealing with advertisements or broadcasting business operation.

In supporting the quality community service operators, there shall be a contribution for the stations' administration, not for any particular programs, with a proportion of no more than half of the operators' total income. In addition, there shall have an evaluation on the quality of services and efficiency of budget expenditures derived from the contribution, taking into consideration for each contributory distribution.

## CHAPTER IV

### **Broadcasting and Telecommunications Research And Development Fund for the Public Interest**

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**Section 52** There shall be a fund established within the Office of the NBTC called “the Broadcasting, and Telecommunications Research and Development Fund for the Public Interest” with the following objectives:

(1) to open to the people in universal accessing the sound broadcasting, television broadcasting and telecommunication services, as well as promote community services and support community service operators under Section 51.

(2) to promote and support communication resources development, research and development in the broadcasting and telecommunications sector, as well as to increase people’s capabilities in keeping pace with the media’s technology in the aspect of spectrum utilization, information technology, facilities for the disabled, elderly, or underprivileged as well as telecommunications industries and related industries;

(3) to promote and support human resource development in the broadcasting and

telecommunications sector, information technology, as well as for the implementation of the organizations which is responsible for setting ethical standards of the occupations or professions under the law on broadcasting and television business operation;

(4) to support, promote and protect the broadcasting, television and telecommunication services consumers;

(5) to support implementation under the Act on Safe and Creative Media Development Fund by allocating some money to the Safe and Creative Media Development Fund.

**Section 53** The fund under Section 52 shall consist of:

(1) started-up fund allocated by the government;

(2) money from spectrum auctions under Section 41 paragraph six;

(3) money having been allocated under Section 65 paragraph two;

(4) money remitted to the Fund under the Broadcasting Business Act and the Telecommunications Business Act;

(5) administrative fines imposed on the offenders under this Act and the Broadcasting Business Act and the Telecommunications Business Act;

(6) money or property which is donated to the Fund;

(7) money or property which have been transferred under Section 91;

(8) interests and revenues of the Fund, including revenue from the research and development in broadcasting and telecommunications services;

(9) other money and property that are transferred to the Fund.

The funds under (4) and (7) shall be exclusively used for serving the objectives under Section 52 (1).

The funds under (4) allocated by respective business shall be used in favor of that business, except those from the broadcasting and television businesses which shall be used for either broadcasting or television business.

**Section 54** There shall be a Fund Management Committee consisting of

(1) Chairman of the NBTC as the Chairman of Fund Management Committee;



(2) permanent secretary of the Office of the Prime Minister, Secretary-General of the Office of the National Economic and Social Development Board, Director General of the Comptroller' Department, and Director of the National Electronics and Computer Technology Center as members;

(3) one expert who has knowledge and experience in human resources development and media profession in sound broadcasting, another in television selected by the members under (1) and (2);

(4) one expert who has knowledge and experience in supplying universal basic telecommunications service or in rural area, including telecommunications service for the underprivileged selected by the members under (1) and (2);

(5) one expert who has knowledge and experience in consumer rights protection or people's rights and freedom promotion selected by the members under (1) and (2);

(6) one expert who has knowledge and experience in promotion and protection of the rights of the disabled and underprivileged selected by the members under (1) and (2).

Secretary-General of the NBTC shall be a member and secretary and appoint competent official of the Office of the NBTC as assistant secretary.

Members under paragraph one (3) (4) (5) and (6) shall not be of any prohibitions under Section 7 B. (1) (2) (3) (4) (5) (6) (7) (8) (9) (10) and (11). The members shall hold office for a term of three years and may be reappointed but may not serve for more than two consecutive terms.

The provision of Section 23 shall apply mutatis mutandis to the meeting of the Fund Management Committee.

**Section 55** The Fund Management Committee shall have the duties and powers in the management of the fund and provide recommendations on the fund allocation for the objectives outlined in Section 52 to the NBTC for its approval. In the case where the NBTC's opinions differ from those of the Fund Management Committee, the NBTC shall give reasons for further consideration.

The Fund Management Committee shall disclose details of fund allocation and performance under paragraph one to the public through electronic media of the Office of the NBTC by giving information about request entities and recipients including the total amount of funds allocated.

Maintenance, expenditures, financial reports and accounting system shall be in accordance with the rules prescribed by the Fund Management Committee.

## CHAPTER V

### Office of the National Broadcasting and Telecommunications Commission

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**Section 56** There shall be an Office of the National Broadcasting and Telecommunications Commission, called in short “Office of the NBTC” which is a juristic person having a status of State agency and shall not be subject to the government agency under the law on public administration, or state enterprise under the law on budgetary procedure or other law and is under the supervision of a chairperson.

The affairs of the Office of the NBTC shall not be subject to the law on labor protection, the law on labor relations, the law on social security and the law on workers’ compensation.

**Section 57** Office of the NBTC shall have duties and powers as follows:

(1) be responsible for the Office of the NBTC’s revenues and expenditures;

(2) prepare the Office of the NBTC's annual budget and submit to the NBTC for endorsement. The said annual budget shall include any budget with respect to the conduct of official duties of the NBTC, BC, TC and Office of the NBTC;

(3) monitor and follow up spectrum utilization;

(4) receive and consider complaints with regard to the use of spectrum, the operations of broadcasting and telecommunications business in order to examine and solve the problems or propose recommendations to the NBTC for consideration in accordance with the criteria prescribed by the NBTC;

(5) study, compile and analyze information related to the spectrum, the use of spectrum, the operations of broadcasting and telecommunications business;

(6) be responsible for the administrative work of the NBTC, BC, TC and Fund Management Committee;

(7) perform other acts as entrusted by the NBTC, BC, and TC.

**Section 58** The NBTC shall have the power to issue regulations or notifications with respect to

general administration, personnel administration, budget, finance and property and other businesses of the Office of the NBTC, including the following matters:

(1) the division of works within the Office of the NBTC and the scope of duties of those works;

(2) the setting up of positions, salary scales and other remunerations of the Secretary-General of the NBTC, officers and employees of the Office of the NBTC, as well as remunerations and expenditures of other members and sub-committee members under this Act;

(3) selection or assessment of staff competency for the benefit of recruitment and appointment or increasing of salary scale, criteria for extension of employment contract and compensation in the case of termination of employment due to failed performance evaluation;

(4) personnel management including disciplinary action, petition and complaints;

(5) the acting for and acting as a person holding the office;

(6) the setting up of the uniform and dress code of the Office of the NBTC officer and employees;

(7) the employment and appointment of a person as an experts or specialists who are beneficial to the performance of duties of the NBTC as well as the rate of remunerations ;

(8) the administration and management of budget, property and inventories of the Office of the NBTC;

(9) the provision of welfare or other aid.

The regulations or notifications under paragraph one shall be signed by the Chairman and shall come into force upon the publication in the Government Gazette.

**Section 59** The Office of the NBTC shall disclose information pertaining to the management of the NBTC and Office of the NBTC to the public through an information network system or other means as it deems appropriate and at least shall disclose the following information:

(1) each licensee's license including the prescribed conditions;

(2) a summary of monthly revenues of the Office of the NBTC under Section 65;

(3) a summary of monthly expenditures of the NBTC and Office of the NBTC;

(4) detailed remunerations of each NBTC member, BC, TC, sub-committee, and advisor;

(5) results of the research studies and other work contracted out to outside agencies;

(6) lists of complaints, progress and results of consideration with respect to consumers' and licensees' complaints, and numbers of pending matters;

(7) results of procurement conducted by the Office of the NBTC in details and related contracts.

**Section 60** The Office of the NBTC shall have a Secretary-General of the NBTC who shall be responsible for the work performance of the Office and directly answerable to the Chairman and shall be the superior of officials and employees of the Office.

The Secretary-General shall represent the Office in its affairs vis-à-vis the third persons. For this purpose, the Secretary-General may delegate powers to any person to perform any particular acts, in accordance with the regulations prescribed by the NBTC and published in the Government Gazette. The said regulation shall not be prescribed in the manner of forcing the Secretary-General to delegate his power to other person.



**Section 61** The Chairman, with the consent of the NBTC, shall appoint and remove the Secretary-General of the NBTC. The Secretary-General shall be of not less than thirty five years of age on the date of appointment and shall have qualifications and not be under prohibitions under Section 7 including other qualifications as specified by the NBTC.

**Section 62** The Secretary-General shall hold office for a term of five years from the date of appointment and may be reappointed but shall not hold office for more than two consecutive terms.

**Section 63** In addition to vacation of office upon the termination of the term under Section 62, the Secretary-General vacates office upon:

- (1) death;
- (2) being sixty years of age;
- (3) resignation;
- (4) being a bankrupt;
- (5) having been imprisoned by a final judgment to a term of imprisonment;
- (6) being disqualified or being under any of the prohibitions under section 61 paragraph two;

(7) being dismissed by a resolution of the NBTC members, by votes of not less than two-thirds of the total number of the Commissioners on grounds of mismanagement, misbehavior, incompetency or inability to perform his tasks;

**Section 64** The Secretary-General and officers of the Office of the NBTC shall be deemed as state officials under the Organic Act on Counter Corruption.

The officials of the Office of the NBTC shall have qualifications and not being under prohibitions under the regulations prescribed by the NBTC and shall not be a member of the Board of Directors, executive officer, advisor, employee, shareholder or partner in a company or partnership or any other juristic person carrying out broadcasting or telecommunications business.

The Secretary-General shall be deemed as person holding a high-ranking position under the Organic Act on Counter Corruption.

In performing duties under this Act, the Secretary-General and competent officials shall be the officials under the Penal Code.

**Section 65** The Office of the NBTC's revenues shall be derived from the followings:

(1) spectrum license fees and business license fees under Section 42 paragraph two and Section 45 paragraph three;

(2) revenues or benefits accrued from the conduct of duties of the NBTC and the Office of the NBTC;

(3) revenues derived from the Office of the NBTC's property;

(4) money and property donated to the Office of the NBTC in accordance with the regulation set forth by the NBTC for the work of the Office;

(5) subsidies from the government. Revenues of the Office under (1) and (2) after deducting by expenditures for efficient conduct of the Office, necessary burden costs, and money allocated for the Fund under Section 52 and the Technology Development for Education Fund under the law on national education shall be remitted to the state treasury.

In the case where the Office's revenues are not sufficient for efficient conduct of the Office, including necessary burden costs, and other sources are not

available, the government shall allocate the national budget to the Office as necessary.

**Section 66** For the benefit of the national budget allocation for the Office of the NBTC under Section 65 paragraph three, the Office shall submit an estimated budget annual budget to the Council of Ministers in order to grant subsidies to the Office under the annual appropriation bill or additional budget bill as the case may be. In this regard, the Council of Ministers may comment on the Office appropriated budget in its submission for annual appropriation bill or additional budget bill. The House of Representatives or the Senate may request the presence of the Secretary-General in order to give information for the Houses' consideration.

**Section 67** All immovable property which the office of the NBTC has acquired by procurement of exchange from the revenues of the Office according to Section 65 (1) (2) or (3) or donation according to (4) shall be owned by the Office.

For state property under the *Rachaphatsadu land* under the law on *Rachaphatsadu land* which has been occupied by the Office, the Office shall have the authority in governing, taking care of, maintaining, using and seeking gain in accordance with the regulations prescribed by the NBTC.

Property of the Office of the NBTC shall be non-livable.

**Section 68** The financial accounts of the Office of the NBTC shall be prepared in accordance with the international accounting standard ruled by the Federation of Accounting Professions and there shall be an internal audit on finance, accounting and inventories of the Office of the NBTC in accordance with the regulations prescribed by the NBTC.

In conducting an internal audit under paragraph one, there shall be an Internal Audit Committee consisting of not less than three but not more than five members appointed by the NBTC from experts in internal auditing who have qualifications and are not under prohibitions according to Section 7 and Section 8. The Office shall appoint its officials in appropriate numbers as internal auditors responsible directly to

the Internal Audit Committee to assist the Committee in performing its duties.

The Internal Audit Committee shall be independent in its conduct of duties and the NBTC, Secretary-General of the Office of the NBTC and officials of the Office of the NBTC shall facilitate the work of the Internal Audit Committee and internal auditors as requested.

The Internal Audit Committee shall inform the NBTC of the audit results in every one hundred and eighty days.

Term of assignment, vacation of office and meeting of the Internal Audit Committee shall be in accordance with the regulations prescribed by the NBTC.

**Section 69** The Office of the NBTC shall prepare its balance sheet, financial statement and book of accounts and submit them to the auditor within sixty days after the end of fiscal year.

In each year, the Office of the Auditor-General shall be the auditor and audit the spending of money and property of the Office of the NBTC. In the audit report, it shall contain an analysis of effectiveness of budget spending and give statements as to whether or

not the spending is in accordance with the objectives and the degree of its achievements according to the targets. The auditor's report shall then be submitted to the NBTC, the Cabinet and the National Assembly.

The Office of the NBTC shall be an audited unit under the Organic Act on State Audit.

## CHAPTER VI

### Performance Management of NBTC Inspector and Evaluation Committee

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**Section 70** There shall be the Performance Management of NBTC Inspector and Evaluation Committee consisting of a chairperson and other four members having apparent work records or knowledge and expertise or experience as follows:

- (1) one expert in sound broadcasting service, and another in television broadcasting service;
- (2) one expert in telecommunications service;
- (3) one expert in consumer protection;
- (4) one expert in people's right and freedom promotion.

The Chairman of the Senate shall arrange a selection of persons suitable for appointment as committee in the double number of the members according to paragraph one before submitting the list to the Senate for its consideration in accordance with the criteria and procedures prescribed by the Chairman of the Senate.



The persons selected as the committee shall meet and elect one among themselves to be the chairperson.

**Section 71** The Performance Management of NBTC Inspector and Evaluation Committee shall hold office for a term of three years but shall not be appointed to hold office for two consecutive terms.

The Committee under paragraph one shall not be a member of the NBTC, BC, TC, sub-committees, Secretary-General of the NBTC, officials or staff of the Office of the NBTC. The provisions of Section 7, Section 8 and Section 20 (1) (3) (4) and (5) shall apply *mutatis mutandis*.

In the case where Performance Management of NBTC Inspector and Evaluation Committee vacates office due to any reason other than vacating on the completion of term, the remaining members may continue to perform duties and it shall be deemed that the Performance Management of NBTC Inspector and Evaluation Committee consists of the existing members but not less than three persons.

The conduct of meetings and making resolutions shall be in accordance with the rules and regulations prescribed by the Performance

## Management of NBTC Inspector and Evaluation Committee.

Remunerations and other allowances in selecting and performing of the duty of the Performance Management of NBTC Inspector and Evaluation Committee shall be in accordance with the rules and regulations prescribed by the NBTC.

**Section 72** The Performance Management of NBTC Inspector and Evaluation Committee shall have the duties and powers in monitoring, audit and evaluation of the performance and administration of the NBTC, BC, TC, Office of the NBTC and Secretary-General of the NBTC and report to the NBTC within ninety days as from the ending date of each accounting year. The NBTC shall submit the said report together with the NBTC annual performance report under Section 76 to the National Assembly. The said report shall be disclosed to the public through the information network system of the Office of the NBTC or any other means as appropriate.

The evaluation according to paragraph one shall be based on the facts and information and results of the hearings obtained from all stakeholders.

The Committee may assign other specialized agencies or bodies to carry on the tasks of compilation and analysis of information and evaluation for the purpose of report preparation.

**Section 73** The report under Section 72 shall at a minimum contain the following contents:

(1) performance of the NBTC, BC, TC, Office of the NBTC and Secretary-General of the NBTC;

(2) facts or observations with regard to the performance of duties of the NBTC in terms of its efficiency and compliance with the government policies as well as opinions and recommendations.

(3) comments on the annual report of the NBTC under Section 76;

(4) other matters deemed appropriate for acknowledgment of the NBTC, National Assembly or the public.

The NBTC, BC, TC, Office of the NBTC and Secretary-General of the NBTC shall render cooperation and facilitation as requested by the Performance Follow-up and Evaluation Committee.

## **CHAPTER VII**

### **Relationships with the Government and the National Assembly**

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**Section 74** In the conduct of its duties, the NBTC shall observe and act in accordance with the policies that the Cabinet declared to the National Assembly.

**Section 75** In the case where there is a negotiations or conclusion of agreement between the Government of the Kingdom of Thailand and the government of the foreign countries or international organizations in relation to spectrum management, sound broadcasting, television broadcasting, and telecommunications services, or other related undertakings, the NBTC and the Office of the NBTC shall have the duties to provide information and participate as notified by the government.

**Section 76** The NBTC shall prepare an annual performance report on the spectrum management, sound broadcasting, television broadcasting, and telecommunications services as the case may be

which shall demonstrate details of work plans and results, spectrum management, frequency assignment, sound broadcasting business, television broadcasting business and telecommunications business operation as the case may be, and future work plans, and submit to the Cabinet and the National Assembly within one hundred and twenty days as from the ending date of each accounting year. This report shall also be disclosed to the public.

The annual performance report under paragraph one shall at least contain the followings:

(1) results of the NBTC performance in the past year compared with the set work plans or projects;

(2) work plans, projects and budget plans for the upcoming year;

(3) Financial statement and report of the auditor, internal audit report;

(4) problems and obstacles in the undertaking of sound and television broadcasting, and telecommunications services that are significant to the public;

(5) quality and service charge rates of different types of telecommunications that are significant to the public;

(6) efficiency and effectiveness in the handling of consumers' complaints;

(7) efficiency and effectiveness of the Fund under Section 52;

(8) report on the competition in the sound and television broadcasting, and telecommunications markets, including observations regarding behaviors in the manner of market domination both directly and indirectly which cause impacts on the people and public interest.

The Prime Minister, the House of Representatives and the Senate may request that the NBTC or the Secretary-General of the NBTC explain any of the implementation matters in writing or verbal statement.

## CHAPTER VIII

### Penalties

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**Section 77** For any broadcasting or telecommunications business operator who fails to comply with the order under Section 31 paragraph two, the NBTC shall have the power to impose an administrative fine not exceeding five million Baht and a fine not exceeding one hundred thousand Baht per day at all time the order has not been observed.

**Section 78** Any person who uses the frequency for radio and television broadcasting or telecommunications business without obtaining permission under Section 41 paragraph one or Section 45 paragraph one shall be liable to the penalties as stipulated for the offense under Section 66 of the Broadcasting Business Act B.E. 2551 (2008) or Section 67 of the Telecommunications Business Act B.E. 2544 (2001) as the case may be.

**Section 79** Any NBTC official or person exercising NBTC power who becomes aware of or

has been notified about unlawful use of the frequency in violation of, or not compliance with, this Act, and if the official fails to enforce the law and if the act or refraining from such act is not an offense under Section 157 of the Penal Code, that NBTC competent official or person exercising NBTC power shall be liable to imprisonment for a term not exceeding three years or to a fine not exceeding sixty thousand Baht or to both.

### **Transitory Provisions**

**Section 80** During the absence of the NBTC under this Act, the National Telecommunications Commission established under the Organization to Assign Radio Frequency and to Regulate the Broadcasting and Telecommunication Services Act B.E. 2543 (2000) shall continue to perform the duties as the NBTC under this Act except for the broadcasting business under the Broadcasting Business Act, which shall be in accordance with that law.

The National Telecommunications Commission under paragraph one shall vacate office upon the appointment of the NBTC.



**Section 81** The Commission under the Broadcasting Business Act B.E. 2551 (2008), Commission under the Telecommunications Business Act B.E. 2544 (2001), and the National Commission on Radio and Television Broadcasting Service under Section 61 of the Thai Public Broadcasting Service Act B.E. 2551 (2008) shall mean the NBTC under this Act.

All powers and duties of the ministers, Director General of Post and Telegraph Department, and government licensing officials under the Radiocommunication Act shall become powers and duties of the NBTC under this Act.

**Section 82** When the NBTC has been appointed, government departments, state enterprises, state agencies or any persons who are assigned frequency or using frequency for the operations of sound broadcasting, television broadcasting, and telecommunications business on the date of the entry into force of this Act shall have the duties to inform the NBTC of the details of the use of frequency including reasons of holding the frequencies in

accordance with the criteria and timeframe specified by the NBTC.

In complying with paragraph one, the government departments, state enterprises, and state agencies shall inform the NBTC of the details of the permits, concessions, or contracts, including contract duration and concession fees or other benefits according to respective permits, concessions, or contracts in accordance with the criteria and procedures specified by the NBTC. The NBTC shall examine legality of those permits, concessions, or contracts, as well as disclose the information and results of the examination to the public.

**Section 83** Any person having been assigned frequency or using frequency for lawful operations of sound broadcasting or television broadcasting business on the date of the entry into force of this Act and in compliance with Section 82 shall be deemed to be licensed under this Act. The NBTC shall supervise the frequency assignees, or frequency users in accordance with this Act, other laws and the criteria specified by the NBTC until the expiry of the assignment under paragraph three.

The provision of Section 43 shall not apply to government departments and state enterprises whose assigned frequencies have been granted by means of authorization, concession or contract to other person for lawful business operation. The person granted authorization, concession or contract shall have the right to continue the business for the remaining period associated with such authorization, concession or contract until their termination.

The NBTC shall specify the exact duration for the frequency assignees, or frequency users to return the frequencies for reassignment or improvement as specified in the Spectrum Management Master Plan under Section 48 with due regard to public interest and necessity of the undertaking and frequency utilization. The reasons and necessity for holding frequencies as stated under Section 82 shall also be taken into consideration.

**Section 84** Any person having been assigned frequency or using frequency for lawful telecommunications business on the date of the entry into force of this Act and in compliance with Section 82 shall be deemed to be licensed under this Act. The NBTC shall supervise the frequency assignees or

frequency users in accordance with this Act, other laws and the criteria specified by the NBTC until the expiry of the assignment under paragraph four.

The provision of Section 46 shall not apply to government departments and state enterprises whose assigned frequencies have been granted by means of authorization, concession or contract to other person for lawful business operation. The person granted authorization, concession or contract shall have the right to continue the business for the remaining period associated with such authorization, concession or contract until their termination.

When three years have lapsed after the day on which this Act has come into force, the state enterprises' revenues, which are derived from the undertakings under the authorization, concession or contract according to paragraph two that the state enterprises operated under the law on private participation in state undertaking whether the undertaking is in whole or in part, shall be subtracted by the following expenses and remitted to the NBTC upon which it shall transfer the said money to the state treasury.

(1) business license fees calculated from income base which is generated from the authorization, concession or contract;

(2) expenses for supporting the provisions of universal basic telecommunications and social services in accordance with the government policies and Section 50 calculated from income base which is generated from the authorization, concession or contract;

(3) expenses incurred from the operation associated with the authorization, concession or contract as prescribed by the Ministry of Finance.

The NBTC shall specify a deadline for the frequency assignees or frequency users to return the frequencies for reassignment or improvement as specified in the Spectrum Management Master Plan under Section 48. For this purpose, the provision of Section 83 paragraph three shall apply *mutatis mutandis*.

**Section 85** At the outset, the provision of Section 49 pertaining to an allocation of not less than twenty percent of frequency to the civil sector for the purpose of television broadcasting service shall not

apply until the digital transmission system is prescribed by the NBTC.

The NBTC shall complete a formulation of the Spectrum Management Master Plan under Section 48 within one year as from the date on which the NBTC is established. The said plan shall specify the timeframe for which the transmission system must be changed to a digital system, and timeframe for assigning television broadcasting frequencies to the civil sector.

After the Spectrum Management Master Plan has been in effect, except for the digital transmission system, the NBTC shall allocate temporary frequencies to the civil sector for undertaking television service in certain areas where frequencies are sufficiently available.

**Section 86** The telecommunications business licensees who have been assigned by the National Telecommunications Commission to provide universal basic telecommunications and social services in accordance with the Telecommunications Business Act B.E. 2544 (2001) before the date of the entry into force of this Act shall be exempted from contributions to the Fund under Section 50 until the

termination as prescribed in the Notification of the National Telecommunications Commission on the Criteria, Procedures and Conditions for the Provision of Universal Basic Telecommunications and Social Services.

**Section 87** All licenses issued by virtue of the Radiocommunications Act B.E. 2498 (1955), the Organization to Assign Radio Frequency and to Regulate the Broadcasting and Telecommunication Services Act B.E. 2543 (2000), the Broadcasting Business Act B.E. 2551 (2008) and the Telecommunications Business Act B.E. 2544 (2001) before the date of the entry into force of this Act shall continue to be effective until expiry of term and shall be deemed as the licenses issued under this Act. The NBTC shall supervise the licensees in accordance with this Act, other related laws and the criteria prescribed by the NBTC.

Any license under paragraph one to hold or use frequencies in which expiry date is not specified may continue to be valid until the date of termination as shall be specified by the NBTC. For this purpose, the provision of Section 83 paragraph three shall apply *mutatis mutandis*.

**Section 88** Within one hundred and twenty days from the date of the entry into force of this Act, the NBTC shall issue a spectrum license and business license under the law on broadcasting business to the Thai Public Broadcasting Service according to the nature and categories of business operation including its existing scope of service as at the date this Act comes into force.

Using of frequencies for business undertaking other than the permit under paragraph one shall be in accordance with the Frequency Management Master Plan and shall be granted a permit from the NBTC. In this regard, the NBTC may set forth any conditions necessary for public interest.

The undertakings of the Thai Public Broadcasting Service shall be under the provisions of this Act insofar as it is not contrary to or inconsistent with the law on Thai public broadcasting service.

During the absence of the license according to paragraph one, the Thai Public Broadcasting Service shall be able to continue its broadcasting business.



**Section 89** All affairs, property, rights, duties, liabilities, officials and employees, and budget of the Office of the National Telecommunications Commission shall be transferred to the Office of the NBTC under this Act.

The officials and employees transferred under paragraph one shall receive salaries, emoluments, or wages, including entitlements and benefits at the same rates to their existing entitlements until recruitment and appointment to the Office of the NBTC under this Act is made. The appointment to receiving a salary or wage lower than the original rate is prohibited.

In the case of the officials or employees under regulations or contracts under which employment schedule is not specified, such the employment shall not be deemed to have entitlements or benefits under paragraph two.

**Section 90** At the initial stage, the appointment of the Secretary-General of the NBTC shall be completed within ninety days from the date the NBTC has been appointed under this Act.

During the absence of the Secretary-General of the NBTC under this Act, the Secretary-General of the National Telecommunications Commission under the

Organization to Assign Radio Frequency and to Regulate the Broadcasting and Telecommunication Services Act B.E. 2543 (2000), who holds office prior to the date of the entry into force of this Act, shall perform the duties as Secretary-General of the NBTC.

**Section 91** All money and property of the Radio and Television Broadcasting Development for Public Benefit Fund and the Telecommunications Development for Public Benefit Fund under the Organization to Assign Radio Frequency and to Regulate the Broadcasting and Telecommunication Services Act B.E. 2543 (2000) remaining on the date of the entry into force of this Act shall be transferred to the Fund under this Act.

**Section 92** All affairs, property, rights and duties of the Department of Public Relations, Office of the Permanent Secretary of the Office of the Prime Minister concerning with the Division of the National Broadcasting Committee of the Department of Public Relations, Office of the Permanent Secretary of the Office of the Prime Minister remaining on the date of the entry into force of this Act shall be transferred to the Office of the NBTC, except for the budget item

relating to salaries and wages of the existing personnel which shall be transferred to the Department of Public Relations, Office of the Permanent Secretary of the Office of the Prime Minister.

**Section 93** Government official and employee of the Division of the National Broadcasting Committee of the Department of Public Relations, Office of the Permanent Secretary of the Office of the Prime Minister holding office prior to the date of the entry into force of this Act who wishes to transfer to work as an official or employee of the Office of the NBTC and notifies their Chief in writing within ninety days from the date of the entry into force of this Act, the Office of the NBTC shall recruit and appoint that government official or employee as its official or employee in accordance with the criteria prescribed by the NBTC. In this regard, the scale of salary and wage shall not be lower than the previously received scale. Those who have not submit request for transfer within the said specified time shall return to work at the Department of Public Relations, Office of the Permanent Secretary of the Office of the Prime Minister.

During the absence of the NBTC under this Act, the powers of the NBTC under paragraph one shall be the powers of the National Telecommunications Commission appointed by virtue of the Organization to Assign Radio Frequency and to Regulate the Broadcasting and Telecommunication Services Act B.E. 2543 (2000).

**Section 94** The recruitment and appointment of government officials under Section 93 shall be deemed as a release from service due to official termination or dissolution of positions under the law on government pension or the law on government pension fund.

The recruitment and appointment of employees under Section 93 shall be deemed as a release from service due to official dissolution of positions or normal termination of employment, not on a count of any wrongdoing, and thus the person shall be entitled to receiving a severance pay in accordance with the regulations of the Ministry of Finance.

**Section 95** All rules, regulations, notifications or orders issued by virtue of the Organization to Assign Radio Frequency and to Regulate the Broadcasting and Telecommunication Services Act B.E. 2543 (2000) remaining in force on the date of the entry into force of this Act shall continue to be effective insofar as they are not contrary to or inconsistent with the provisions of this Act until rules, regulations, notifications or orders issued by virtue of this Act come into force.

Countersigned by:  
Abhisit Vejjajiva  
Prime Minister

**Note:** The reasons for promulgating this Act are that Section 47 of the Constitution of the Kingdom of Thailand stipulates that there shall be an independent regulatory agency having the duty to allocate the frequencies and supervise sound broadcasting, television broadcasting and telecommunications services as prescribed by law, and Section 305 (1) stipulates that such law shall at least, in its substance, make the provision for the establishment of specific commissions as internal bodies within such agency independent from one another to be in charge of supervising radio and television broadcasting businesses and supervising telecommunications businesses and contain details with regard to the supervision and protection of the operation of businesses, the provision of funds for the development of communication resources and the promotion of public participation in the operation of public mass media. Moreover, the Organization to Assign Radio Frequency and to Regulate the Broadcasting and Telecommunication Services Act B.E. 2543 (2000) has been in force for a considerable long period of time but it is not as effective as it should have been, and thus, resulted in a number of impediments to the implementation. Also the provisions are inconsistent with the Constitution of the Kingdom of Thailand.

Therefore, it is expedient to establish an independent regulatory agency having the duty to allocate the frequencies and supervise sound broadcasting, television broadcasting and telecommunications services, including to define the scope of the agency's mandate and the supervision of the said businesses, as well as to revise the Act on Organization to Assign Radio Frequency and to Regulate the Broadcasting and Telecommunications services to be in compliance with the provisions of the Constitution of the Kingdom of Thailand. This Act shall hence be enacted.





**UNOFFICIAL TRANSLATION  
TELECOMMUNICATIONS  
BUSINESS ACT,  
B.E. 2544 (2001)**

**TELECOMMUNICATIONS BUSINESS  
ACT B.E. 2544 (2001)**

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**BHUMIBOL ADULYADEJ, REX;**

Given on the 9th Day of November B.E.2544;

Being the 56th 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 telecommunications business;

Whereas it is aware that this Act contains certain provisions in relation to the restriction of rights and liberties of persons, in respect of which Section 29, in conjunction with Section 34, Section 37, Section 39, Section 48 and Section 50 of the Constitution of the Kingdom of Thailand so permit by virtue of law;

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

**Section 1** This Act is called the “Telecommunications Business Act, B.E. 2544 (2001)”.

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

**Section 3** The followings shall be repealed:

- (1) Telegraph and Telephone Act, B.E. 2477 (1934);
- (2) Telegraph and Telephone Act (No.2), B.E. 2517 (1974)

**Section 4** In this Act:

“**Telecommunications Service**” means the telecommunications service under the law on the organizations to assign radio-frequency spectrum and to regulate the sound broadcasting, television broadcasting and telecommunications services;

“**Telecommunications Business**” means the operation in the nature of supplying telecommunications services to other persons;

“**Telecommunications Number**” means digits, letters, or any other symbols or a combination thereof which indicate destination in telecommunications network for telecommunications purpose;

“**Telecommunications Network**” means the set of telecommunications equipment which is directly connected or connected through switching equipment or any other equipment for telecommunications between defined termination points by means of any wire, radio-frequency spectrum, optical, or any other electromagnetic systems or a combination thereof;

“**Interconnection**” means the connection of telecommunications networks under technical and commercial agreements in order to enable the users of a telecommunications operator to communicate with other users or to access the service of other telecommunications operators;

“**Commission**” means the National Telecommunications Commission under the law on the organizations to assign radio-frequency spectrum and to regulate the sound broadcasting, television broadcasting and telecommunications services;

“**Office**” means the Office of the National Telecommunications Commission;

**“Secretary-General”** means the Secretary-General of the National Telecommunications Commission;

**“Officer”** means a person appointed by the National Telecommunications Commission to perform duties under this Act as of its publication in the Government Gazette.

**Section 5** The Prime Minister shall have charge and control of the execution of this Act.

**Section 6** The Commission shall have the power to appoint competent official and to issue notification prescribing other affairs for the execution of this Act.

Such notification shall come into force upon its publication in the Government Gazette.

# CHAPTER I

## Telecommunications Business Licensing

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**Section 7** Any person who intends to operate a telecommunications business in accordance with the nature and categories prescribed in notification of the Commission under the law on the organizations to assign radio-frequency spectrum and to regulate the sound broadcasting, television broadcasting and telecommunications services shall obtain a license from the Commission.

There shall be three types of license as follows:

(1) Type One License: being a license granted to the telecommunications business operator who operates without his or her own network for telecommunications services which are deemed appropriate to be fully liberalized. The Commission shall grant a license once notified by a person who intends to operate such business;

(2) Type Two License: being a license granted to the telecommunications business operator who operates with or without his or her own network for telecommunications services intended for a limited group of people, or services with no significant

impacts on free and fair competition or on public interest and consumers. The Commission shall grant a license once a person who intends to operate such business has completely fulfilled the standard criteria prescribed in advance in notification of the Commission;

(3) Type Three License: being a license granted to the telecommunications business operator who operates with his or her own network for telecommunications services intended for general public, or services which may cause a significant impact on free and fair competition or on public interest, or a service which requires special consumer protection. A person who intends to operate such business can commence the operation only after he or she is approved and granted a license by the Commission.

The rights of Type One, Type Two or Type Three licensee to operate telecommunications business in which nature, categories and scope of service shall be in accordance with notification prescribed by the Commission, which shall be in conformity with the nature of telecommunications business for each type of license under paragraph two. In issuing such notification, the Commission shall

also have regard to the development of diverse telecommunications services and fairness among the operators.

In applying for a license, the applicant shall specify type of the license he or she requires as well as the nature or categories of telecommunications service he or she intends to operate. Should the operator intend to provide additional service of different nature or categories after the license is granted, he or she shall inform the Commission prior to the commencement of the operation. In such case, the Commission may prescribe certain conditions the operator has to fulfill.

**Section 8** The Commission shall prescribe in notification and disclose to general public the licensing criteria so that the person who intends to operate the business will be informed in advance of the applicant qualification, the application procedure, and the license-granting criteria. Those licensing criteria shall be differently prescribed in accordance with types of license under Section 7, the nature and categories of telecommunications service as well as being in accordance with the spectrum licensing guideline and telecommunications service licensing



guideline as stated in the Master Plan for Telecommunications Services and Frequency Plan under the law on the organizations to assign radio-frequency spectrum and to regulate the sound broadcasting, television broadcasting and telecommunications services.

In notification under paragraph one, the Commission shall prescribe details in relation to the applicant qualification, the application procedure, the document or information necessary for the licensing procedure, the licensing consideration procedure, the consideration period of the Commission, scope of license, maximum and minimum term of license as well as other conditions necessary for business operation.

The criteria in setting up the qualifications of the applicant shall be as follows:

(1) the applicant for Type Two and Type Three licenses shall not be a foreigner under the law on foreign business. In case of juristic person, the shareholding proportion of Thai national shall not be less than seventy-five percent of its total capital, and not less than three fourth of the total amount of the director as well as its authorized person shall be of Thai nationality . In this regard, the Commission may

prescribe the prohibition that the applicant for certain nature or categories of telecommunications business who is a juristic person, shall not commit any other act which has the nature of business takeover by a person who is not of Thai nationality;

(2) the applicant shall not be a bankrupt;

(3) the applicant shall never have a telecommunications business license revoked;

(4) the directors, managers or persons in authority of the applicant shall not be a person sentenced by a final judgment for an offence committed under this Act, or under the law on telegraph and telephone, the law on radio communication or the law on consumer protection during two years period prior to the date of submitting the application;

(5) the applicant for Type Three license shall have an investment plan and efficient telecommunications service plan;

(6) the applicant shall possess the qualifications and shall not be under any prohibition prescribed by the Commission for each type of license under Section 7.

**Section 9** Telecommunications business for Type Three license shall be of a term stated in the license which shall be within the maximum and minimum term of license prescribed in notification of the Commission.

For the renewal of Type Three license, the licensee shall submit an application prior to the license's expiration date, after which the applicant shall be deemed as a licensee until he or she is notified of the order declining the license renewal, and in this regard, the Commission shall consider and notify applicant of the order within thirty days as from the date of receiving the application.

The procedure for license renewal application and license renewal approval shall be in accordance with the criteria, procedures and conditions prescribed in notification of the Commission, which shall also be in conformity with the criteria under Section 8.

The Commission shall prescribe the term of license and its renewal, having due regard to timeframe according to the investment plan, scope of service, service development guideline of the licensee, protection of consumer in receiving uninterrupted service and business performance evaluation.

Telecommunications business for Type One or Type Two license can continue to operate throughout its service period. In the case where the licensee intends to terminate the service, he or she shall inform the Commission in advance at least one month. In this regard, the Commission may prescribe a condition to be complied by the licensee prior to the termination of service.

**Section 10** In applying for telecommunications business license, if that telecommunications business requires the use of radio-frequency spectrum, the applicant shall also require an authorization to use the radio-frequency spectrum under the law on the organizations to assign radio-frequency spectrum and to regulate the sound broadcasting, television broadcasting and telecommunications services.

In the case where the authorization to use the radio-frequency spectrum of the licensee is revoked, it shall be deemed that the telecommunications business license for the part that uses such radio-frequency spectrum is also revoked.

**Section 11** The licensee shall pay the spectrum fee, telecommunications numbering fee and business license fee according to the rates, criteria and procedures prescribed by the Commission. However, such fees shall not pose undue burden to the operators or the users.

In setting the rates and criteria for spectrum fee and numbering fee, the Commission shall have due regard to public interest, optimization, scarcity and allocation procedure of such resources.

In setting the rate and criteria for telecommunications business fee, the Commission shall have due regard to the type of license and the cost of regulating such telecommunications business under this Act.

**Section 12** In issuing a telecommunications business license which requires the use of telecommunications numbers according to the telecommunications numbering plan, the Commission shall also allocate the telecommunications numbers used for the supply of service or service area of such telecommunications business.

In supplying service to general public, the licensee shall provide only the telecommunications numbers allocated by the Commission.

In the case where it appears to the Commission that the licensee does not provide allocated numbers to users for use in connection with the supply of service without reasonable ground, or provides the telecommunications numbers which are not allocated to him or her, the Commission shall have the power to order the licensee to perform as authorized or suspend the use of such telecommunications numbers. In this regard, the licensee shall have no right to claim for any damages.

When technically feasible, in order to protect the user interest, the Commission shall prescribe the guideline and criteria for users to have the right to retain their existing telecommunications number when they intend to switch to new service provider, change location or category of service. In this regard, the Commission shall also hold a hearing from the licensees concerned.

Subject to the measure prescribed by the Commission under Section 50 paragraph one; the licensee shall have the duty to provide information on telecommunications numbers of the users to the

persons requesting it for the purpose of making user directory. In such case, the licensee can charge only for the cost of providing that information.

**Section 13** For the benefit of allocating telecommunications numbers to the licensees for the supply of services, the preparation of the telecommunications numbering plan of the Commission under the law on the organizations to assign radiofrequency spectrum and to regulate the sound broadcasting, television broadcasting and telecommunications services shall consist of the following criteria:

(1) there shall be sufficient telecommunications numbers for the supply of services;

(2) there shall be efficient and fair use of telecommunications numbers.

(3) the telecommunications numbering plan shall facilitate simple and clear identification to the nature and categories of services and equipment used in the telecommunications business;

(4) there shall be the revision to the telecommunications numbering plan only in the case of necessity;

In the case where the Commission sets up or revises, in whole or in part, the telecommunications numbering plan, the licensee shall have the duty to comply with the criteria prescribed by the Commission.

**Section 14** In the case where the licensee intends to expand the business by adding the telecommunications numbers for the supply of service or by expanding the service area, he or she shall submit the application to the Commission.

In the case where the Commission deems that the addition of the numbers and the expansion of the service area will be of public interest and does not pose the restrictions to fair competition on the telecommunications business, the Commission may authorize the licensee to proceed in accordance with the criteria and conditions prescribed by the Commission. In this regard, the Commission shall consider the application and inform the licensee within thirty days as from the date of receiving the application. The Commission shall charge the telecommunications business fee for the additional authorization in accordance with the criteria prescribed by the Commission.



**Section 15** In operating the telecommunications business, the licensee shall comply with the criteria prescribed under the law on the organizations to assign radiofrequency spectrum and to regulate the sound broadcasting, television broadcasting and telecommunications services and the conditions prescribed by the Commission.

In prescribing the licensing conditions, the Commission shall clearly state certain rights, duties and responsibilities of the licensee as well as a telecommunications operation plan to include at least the step and timeframe of service commencement, details on the nature and categories of the service, tariff, directory information service and other matters necessary for the supply of service for public interest.

In the case where there is a vital ground to protect public interest or there is a change in laws or circumstances, the Commission shall have the power to revise the licensing conditions as and when necessary.

**Section 16** In the case where a licensee is authorized to operate the business with the allocated telecommunications numbers or specified service area, if it appears to the Commission that the licensee

does not supply a service in accordance with a telecommunications operation plan prescribed as licensing conditions under Section 15 without reasonable ground, and the Commission deems that such circumstance may affect public interest, the Commission shall have the power to withdraw the certain amount of allocated telecommunications numbers or to down the size of authorized service area. In this regard, the licensee shall have no right to claim for any damages.

**Section 17** The Commission shall have the duty to administer the universal service obligation for basic telecommunications service and shall have the power to prescribe that the licensee shall provide the following telecommunications services:

(1) telecommunications services in rural areas, or low rate of return areas, or any area where there is no or insufficient service providers or where there is insufficient supply of service to meet the user demand;

(2) telecommunications services for educational institutions, religious institutions, medical institutions and other social assistance agencies;

(3) certain nature or types of public telecommunications services for low income person as prescribed by the Commission;

(4) services facilitating the use of public telecommunications service for disabled, children, senior citizen and under-privileged.

The criteria, procedures and conditions prescribed for the supply of telecommunications service of the licensee under paragraph one shall be in accordance with notification prescribed by the Commission.

The Commission shall issue notification under paragraph two in advance so that a person who intends to apply for a license will be informed of the scope of providing telecommunications services under paragraph one prior to the submission of the application.

The obligation to provide the telecommunications services under this Section shall not pose undue burden on the investment of the licensee, and shall not cause discrimination among the licensees of the same nature and type of telecommunications service.

**Section 18** In the case where the licensee is unable to provide the telecommunications services as prescribed by the Commission under Section 17, or in the case where it deems appropriate for the licensee to take part in the universal service obligation for basic telecommunications services, the Commission shall have the power to prescribe that such licensee shall allocate certain portion of his or her income from the supply of telecommunications service to the Telecommunications Development for Public Benefit Fund under the law on organizations to assign radio frequency spectrum and to regulate the broadcasting and telecommunications services for the provision of telecommunications services under Section 17.

**Section 19** The Commission shall have the power to prescribe any measure to support and promote the opportunity of new entrants to provide service in a certain area competing with other licensees in an efficient, equal and fair manner.

**Section 20** The licensee shall not suspend or terminate the service, in whole or in part, unless permitted by the Commission under the criteria and procedures prescribed by the Commission.

The licensee shall not decline the supply of service to a certain person without reasonable ground.

**Section 21** In operating the telecommunications business, the Commission shall, in addition to the law on business competition, prescribe specific measure according to the nature of telecommunications business, to prevent the licensee from committing any act that leads to monopoly, reduction or restriction of competition in supplying the telecommunications service in the following matters:

- (1) cross-subsidization;
- (2) cross-holding in the same category of service;
- (3) abuse of dominant power;
- (4) anti-competitive behavior;
- (5) protection of small-sized operators.

**Section 22** The licensee shall, without delay, inform the Secretary General of the following events:

- (1) the licensee suffers serious damage which may cause problems in the supply of telecommunications service;

(2) the licensee intends to operate telecommunications business other than that authorized;

(3) the licensee intends to make a contract that authorizes other persons, in whole or in part, to manage his or her business;

(4) the licensee commits an act, or is committed an act, having the nature of business takeover or business taken over under the law on securities and security exchanges;

(5) any case that affects, or may affect, the business operation or the supply of service of the licensee as prescribed in notification of the Commission.

In case of (2) and (3), the licensee shall inform the Secretary General before committing an act. In case of (1) (4) and (5), the licensee shall inform the Secretary-General immediately when the events occur.

The Secretary-General shall, without delay, submit the matter to the Commission after having been informed under paragraph two. In this regard, the Commission shall have the power to prescribe certain conditions for the licensee to perform for the prevention of damages to public interest.

**Section 23** The Commission may prescribe that the licensee shall arrange for the data recording system to record the use of telecommunications service that enable the user to make verification.

**Section 24** In the case where a telecommunications business of certain nature or categories has involved specific technologies so that the provisions under this Chapter cannot apply, the Commission shall have the power to prescribe conditions for the operation of telecommunications business of such nature and categories.

The prescription of conditions under paragraph one shall be in accordance with notification prescribed by the Commission.

## **CHAPTER II**

### **The Access and Interconnection of Telecommunications Network**

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**Section 25** The licensee who owns telecommunications network shall have the duty to allow other licensees to interconnect with his or her telecommunications network in accordance with the criteria and procedures prescribed by the Commission.

The licensee who owns telecommunications network shall allow other licensees to access his or her network in accordance with the criteria and procedures prescribed by the Commission.

Refusal of the access to telecommunications network can be made only in the following cases:

- (1) the existing network is insufficient for the access by other licensees;
- (2) the access to telecommunications network results in technical problem that may cause interference or obstruction to telecommunications business;
- (3) other cases as prescribed in notification of the Commission.



The licensee who owns telecommunications network and refuses the access to his or her own network under paragraph three shall have the duty to prove his or her ground for such refusal.

Charges for network access or interconnection shall be reasonable and fair for the licensee who owns the network and for the person who request for the network access or interconnection. There shall also be non-discrimination among those who request for the network access or interconnection.

In prescribing the criteria and procedures under paragraph one and paragraph two, the Commission shall hold a hearing from the licensees concerned.

**Section 26** In the case where there is a refusal of the access to telecommunications network, or there is unsettled disputes in contract negotiation for the access or interconnection of telecommunications network, parties shall have the right to request for the decision of the Commission in accordance with the criteria and procedures prescribed in notification of the Commission. The decision of the Commission shall be final.

During the consideration of the Commission under paragraph one, the Commission, in case of

necessity, may order the temporary network access or interconnection in accordance with the criteria and procedures prescribed by the Commission.

**Section 27** The contract concerning the access or interconnection of telecommunications network shall contain the provisions with the following characteristics:

(1) it shall not cause the loss of user's benefit;

(2) it shall not cause a discrimination, preference or obstacle to other licensees;

(3) the technical specifications at the access point or point of interconnection shall be clearly state, technically feasible and shall not cause undue burden to the person who requests for the access or interconnection of the network;

(4) the duties and responsibilities of the person requesting and the person providing network access or interconnection shall be clearly stated;

(5) charges for the access or interconnection of telecommunications network shall be set in accordance with the criteria under Section 25 paragraph five;

(6) other characteristics as prescribed in notification of the Commission.

The licensee who is the owner of the telecommunications network shall submit a copy of the contract to the Commission within ten days as from the date of signature. If the Commission deems that the provisions in the said contract do not comply with the characteristics in paragraph one, the Commission shall have the power to order for the amendment within the specified period. If the licensee who is the owner of the telecommunications network refuses to amend the contract as ordered by the Commission, the provisions of Section 65 shall apply, *mutatis mutandis*. If the person who requests the access or interconnection of the telecommunications network refuses to amend the contract, it shall be deemed that the contract is void.

**Section 28** The licensee shall provide the correct information necessary for the access or interconnection of the telecommunications network to other licensees who request the access or interconnection of the network, and shall not commit any act that obstruct normal access or interconnection of the network of other licensees.

Whenever there is a change to the telecommunications network which affects the access or interconnection, the licensee who owns network shall give the notice of changes in advance within a reasonable period, but not less than six months.

**Section 29** The licensee who is the owner of the telecommunications network shall publicly disclose the contract for the access or interconnection of the telecommunications network in accordance with the procedures prescribed by the Commission.

**Section 30** In the case where there is a change in economic or social situation or there is any matter which causes the charges for the access or interconnection of the network as stated in the contract no longer appropriate, leading to advantages or disadvantages among licensees which pose undue burden to either party, the parties to such contract may submit a request for the revision of charges to the Commission. In giving an approval, the Commission shall also have due regard to the impact on users.

**Section 31** For the benefit of national security, or for the prevention of disaster that may cause public harm, or for public interest, the Commission shall, if requested by the Government, take certain actions to provide the access or interconnection of the telecommunications network between licensees and relevant State agencies. In such case, the licensees shall have the duty to comply with the order of the Commission.

## CHAPTER III

### Standard of Telecommunications Network and Equipment

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**Section 32** The Commission shall have the power to prescribe in notification that certain categories of telecommunications network, telecommunications equipment or device used in telecommunications service which affect the supply of service shall conform to the specified technical standards.

The Commission may prescribe in notification that certain categories of device used in the telecommunications network, telecommunications equipment or device used in telecommunications service shall be tested and certified the conformity to standard before putting into service.

**Section 33** The licensee shall maintain, repair and modify telecommunications network, telecommunications equipment and device used in telecommunications service which the licensee uses for the supply of service in order to enable the

efficient use and conform to the technical standard as prescribed in notification issued under Section 32.

**Section 34** Type Three licensee shall have engineers with qualifications and being of numbers as prescribed by the Commission to supervise the operation of telecommunications service, the installation, the inspection as well as the maintenance of telecommunications network, telecommunications equipment and device used in telecommunications service to ensure the conformity to technical standard.

**Section 35** The Office shall have the power to conduct the test and certification of the device used in telecommunications network, telecommunications equipment and device used in telecommunications service, according to notification of the Commission issued under Section 32 paragraph two, or according to the request from any person who intends to have the test and certification.

The test and certification under paragraph one shall be in accordance with the regulations prescribed in notification of the Commission.

**Section 36** Any person who intends to conduct the test and certification of the device used in telecommunications network, telecommunications equipment and device used in telecommunications services shall establish a conformity assessment body who is a juristic person and operates under a license obtained from the Commission.

The applicant qualifications, the application procedure, the issuance of license, the term of license, the license renewal, and the fees for license issuance and license renewal shall be in accordance with the criteria, procedures and conditions prescribed in notification of the Commission.

The conformity assessment body shall have test and certification staff with qualifications and being of numbers as prescribed by the Commission.

In authorizing the establishment of the conformity assessment body, the Commission may prescribe any condition as it deems appropriate.

Charges for conducting the test and certification by the licensee under paragraph one shall be at the rates prescribed by the Commission.



**Section 37** The Commission shall have the power to revoke the license to establish the conformity assessment body in the following cases:

(1) the licensee authorized to establish the conformity assessment body lacks of the qualifications as prescribed in notification issued under Section 36 paragraph two;

(2) the conformity assessment body conducts the test, reports the test or conduct the certification in bad faith;

(3) the test, report of the test or certification is delayed without reasonable ground, causing serious damage to the applicant;

(4) the conformity assessment body lacks of test and certification staffs with qualifications or being of numbers as prescribed by the Commission.

The revocation of license under paragraph one shall not affect the certification of standard conformity which was conducted prior to the revocation of license, except for the certification of standard conformity which was conducted in bad faith, or was not conducted in conformity with the standard prescribed by the Commission. In such case, the Commission may order the revocation of that certification.

In the case where any person suffers from damages from the revocation of certification under paragraph two, if that person did not participate in the certification conducted in bad faith, the conformity assessment body whose license is revoked shall have the duty to compensate for the damages suffered by that person.

**Section 38** In the case where the telecommunications network, telecommunications equipment or any other device of the licensee is not functioning, is not functioning as usual, is causing interference to telecommunications service or is not in conformity with the standard prescribed in notification issued under Section 32, the competent official shall have the power to order the licensee for the correction, the modification or the suspension of that telecommunications network, equipment or device.

The provisions of paragraph one shall also apply to telecommunications equipment of the users, *mutatis mutandis*.

## **CHAPTER IV**

### **Rights of Licensee**

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**Section 39** In supplying the telecommunications service, if the licensee has to set up or erect poles, lay lines or place ducts or install any other associated equipment, and requires to exercise the rights under this Section, the licensee shall submit a diagram indicating details on direction and boundary profile of setting up or erecting poles, laying lines, placing ducts, and installing associated equipment to the Commission for the approval prior to the implementation.

When the Commission has given the approval under paragraph one, the licensee shall have the following rights:

(1) to lay lines or to install any associated equipment for the supply of telecommunications service on or along the poles, ducts or facilities used for similar purpose of other licensees, or State agencies or public utility providers. In such case, those other licensees or State agencies shall not refuse such implementation. Nonetheless, they may charge a necessary compensation;

(2) to set up or erect poles, lay lines or place ducts, or to install any associated equipment for the supply of telecommunications service on the land which is *domaine public of State*. In such case, the licensee shall inform the State official in charge of that land in advance and shall comply with the criteria and conditions set forth by that State official;

(3) to set up or erect poles, lay lines or place ducts, or to install any associated equipment for the supply of telecommunications service on another person's land. In such case, the licensee shall make an agreement with the land owner or land tenant according to the guidelines prescribed in notification of the Commission.

In the case where the licensee cannot proceed according to paragraph two because of the lack of permission or the unreasonably excessive level of charge or compensation, the licensee may request the Commission for the consideration. If the Commission deems that the implementation of the licensee is necessary and inevitable, and will not cause excessive damages to the State agency, the land owner or land tenant, or the property owner or property possessor, the Commission shall have the power to notify the use of land or property for that purpose to the State official in charge of the land or property, the land

owner or land tenant, or the property owner or property possessor not less than thirty days in advance together with the date, time and nature of implementation.

The person who has been notified under paragraph three may lodge a petition expressing that there is unreasonable ground for using land or property for such implementation or such implementation may cause serious damages to the utilization of land or property to the Commission for its decision within thirty days as from the date of receiving informing note. The decision of the Commission shall be final.

When the period notified by the Commission under paragraph three has lapsed and the licensee has paid the compensation for the use of land or property under Section 40, the licensee shall have the right to use land or property for the implementation under paragraph two and shall comply with the criteria prescribed in notification of the Commission which shall not cause annoyance or affect natural surroundings and shall not reduce, in excess of what is reasonable, the benefit from the utilization of that land.

**Section 40** The licensee shall pay the compensation for the use of land under Section 39 at the amount prescribed by the Commission.

In the case where the authorized official in charge of the land or property, the land owner or land tenant, or the property owner or property possessor does not accept the compensation under paragraph one, the licensee shall deposit that compensation with the Commission in accordance with the criteria prescribed by the Commission.

The licensee, the land owner or the official in charge of the land who is not satisfied with the compensation under paragraph one shall have the right to enter an action in the Administrative Court.

**Section 41** When the authorized State official in charge of the land or property, or the land owner or land tenant has been notified in advance under the criteria prescribed by the Commission, the licensee shall have the right to lay lines above or across the land which is *domaine public of State* or owned by another person without consent if such implementation does not affect the utilization of that land.

The authorized State official in charge of the land or property, the land owner or land tenant may inform the licensee to lay lines in the area where the utilization of land will not be affected. If any damage is caused from such implementation, they shall have the right to request for the compensation from the licensee. In this regard, the provisions of Section 39 and Section 40 shall apply, *mutatis mutandis*.

The provisions of this Section shall also apply to the implementation under Section 39 paragraph two (1), *mutatis mutandis*.

**Section 42** The licensee may enter the land on which the telecommunications network, poles, lines, ducts or other equipment are located for the purpose of inspection, maintenance, repair or prevention from possible harm or damage. In this regard, the licensee shall inform the land tenant, in writing, not less than thirty days in advance except for the case of emergency that requires immediate correction for which the licensee may promptly enter the land.

If there is any damage arising from the implementation under paragraph one, the injured person shall have the right to claim for the compensation from the licensee.

**Section 43** In the case where the telecommunications equipment of users causes interference or may cause damage to telecommunications network or device used for telecommunications business of the licensee, the licensee shall inform the user, in writing, to change or modify that equipment within a reasonable period.

In the case where the user does not take action as informed in writing under paragraph one and the use of such equipment still causes interference or may cause damage to the telecommunications network or device used for telecommunications business of the licensee, the licensee may suspend the service for that user until the action required has been taken.

In the case of necessity and compelling, the licensee may immediately suspend the supply of telecommunications service and inform the user later.

**Section 44** Any person is prohibited to cause damage, destruction, depreciation in value, or render useless to the telecommunications network, poles, lines, ducts, transmitters, receivers, or any other equipment used for the supply of telecommunications service, or telecommunications service station.



For the purpose of this Section, the Commission may prescribe in notification the measure for the protection of various objects under paragraph one, as it deems necessary.

# CHAPTER V

## Rights of User

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**Section 45** Any person who suffers from the supply of telecommunications service of the licensee shall have the right to lodge a petition, in writing, to the Commission, through the Office.

The petition under paragraph one shall specify definitive facts and shall be submitted together with other related evidences, if any.

During the petition consideration, the Commission shall, if requested by the petitioner, have the power to direct the licensee to take temporary action in order to remedy the damage caused to that petitioner.

**Section 46** The Commission shall complete the petition consideration within thirty days as from the date of receiving the petition. In this regard, the parties concerned shall have opportunities to give a responded statement of facts and produce evidence. In the case where the Commission deems that the licensee has committed an act that violated the laws, licensing conditions, contract for the supply of service

or did not comply with standard of service, the Commission shall have the power to order the licensee for the correction thereof within a specified period.

**Section 47** In the case where the user is of the opinion that the licensee has collected fee or tariff higher than the maximum rate prescribed by the Commission under Section 55 or higher than that collected from other users of similar nature or categories of service, or the user is of the opinion that the licensee has incorrectly collected fee or tariff, the user shall have the right to request information of his or her service usage from the licensee.

The licensee shall provide user the information under paragraph one within a reasonable period which shall not exceed thirty days as from the date of request. The licensee shall, if requested by the user, provide a document certifying the correctness of information. In this regard, the licensee may charge the user a fee which shall not be in excess of what is reasonable and shall be in accordance with the criteria prescribed by the Commission.

**Section 48** In the case where there is a reasonable doubt that the licensee has collected fee or service charge in any manner under Section 47 paragraph one, the user shall have the right to lodge a petition to the Commission, and the provisions of Section 45 and Section 46 shall apply, *mutatis mutandis*.

In the petition consideration under paragraph one, the licensee shall have the duty to verify the fact to confirm the correctness of the collection of fee or tariff.

**Section 49** The user shall have the right to use his or her own telecommunications equipment in obtaining the service from the licensee.

Collection of fee for using his or her own telecommunications equipment in obtaining the service from the licensee shall be in accordance with the rate and criteria prescribed by the Commission.

In supplying the telecommunications service, the licensee shall not specify the service conditions that force the user to use only the equipment supplied or specified by the licensee, except for certain telecommunications service which has a technical requirement to use only equipment specified by the

licensee. The licensee may specify such conditions only after obtaining the approval from the Commission. Nonetheless, such specification of the type of telecommunications equipment shall not bar the rights of users who can acquire by themselves, the specified telecommunications equipment in obtaining the service. In this regard, the licensee shall not refuse the user the supply of or the access to his or her own service.

**Section 50** The Commission shall prescribe the measure for consumer protection on matters pertaining to personal data, right of privacy and freedom to communicate by means of telecommunications

The licensee shall have the duty to comply with the measure prescribed by the Commission under paragraph one.

When it is found that there is a person who violates the rights of users under paragraph one, the licensee or the Commission shall take action to terminate such violation and inform the user without delay.

## CHAPTER VI

### Contract for the Supply of Telecommunications Service

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**Section 51** Any contract between the licensee and the user and any condition in relation to the supply of telecommunications service specified by the licensee including the amendment thereof shall be approved by the Commission before taking effect.

The contract and condition that are valid for approval by the Commission shall at least:

(1) contain provision which clearly and fairly defines duties and responsibilities of the licensee and the user;

(2) contain provision in relation to the standard of service supplied by the licensee;

(3) contain provision in relation to the category and scope of the service expense which shall be complete and fair, and also contain provision guaranteeing that there shall be no charges apart from that specified;

(4) contain no provision which limits the user's utilization without reasonable ground;

(5) contain no provision in a manner that causes a discrimination, preference or obstacle to other licensees, or unfairness to any party.

When the licensee obtained the approval from the Commission for any contract or condition, the licensee shall have the right to apply such contract or condition to the user.

For the purpose of this Section, the Commission shall have the power to issue notification prescribing the standard criteria of contract and condition regarding the supply of telecommunications service, and may also prescribing the contract or condition in particular matter that does not require the approval from the Commission.

In the case where there is a law providing criteria in making the contract for the supply of telecommunications service for consumer protection, the licensee shall also have the duty to comply with such criteria.

**Section 52** The licensee shall disseminate to the public the contract format and the imposition of condition for the supply of service according to the procedure prescribed by the Commission, and shall

display it at a conspicuous place in his or her office for public verification.

**Section 53** In the case where the licensee has advertised to guarantee standard of quality in the supply of telecommunications service, he or she shall have the duty to act in conformity with that advertisement.

If the licensee fails to supply the telecommunications service as advertised, the Commission shall have the power to order the licensee for the correction thereof.

**Section 54** Any contract or agreement for the business operation and the supply of telecommunications service prescribed in notification of the Commission, to be made by the licensee with foreign governments, international organizations and natural person or juristic person residing in a foreign country, including the amendment thereto or cancellation thereof, shall be approved by the Commission before taking effect, except for the case of regular procurement.

Within thirty days as from the date of making contract or agreement, the licensee shall submit the



copies of all contracts or agreements made with foreign governments, international organizations and natural person or juristic person residing in a foreign country to the Commission according to the criteria prescribed by the Commission, except the contract or agreement in relation to procurement, or a contract or agreement that the Commission prescribed in notification for the exemption of the submission.

In the case where the Commission deems that a contract or agreement is made without the approval under paragraph one, or its execution is different from that approved by the Commission, the Commission shall have the power to order the licensee for the correction thereof in accordance with the criteria and within the period prescribed by the Commission. If the licensee fails to take action within the specified period, it shall be deemed as a cause for license revocation.

## CHAPTER VII

### Fee and Tariff in Telecommunications Service

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**Section 55** The Commission shall prescribe in notification the categories and maximum rate of fee and tariff that the licensee can charge the user according to the nature and categories of telecommunications service.

**Section 56** The setting of the maximum rate of fee and tariff under Section 55 shall:

- (1) be expressed by clear calculating method;
- (2) be fair to both the licensee and the user;
- (3) not cause a discrimination, preference or obstacle to the user or any person.

**Section 57** Each licensee shall not charge fee or tariff other than or in excess of the maximum rate prescribed by the Commission under Section 55, and shall not set the rate of fee or tariff in such a way that causes an anti-competitive behavior which restricts a fair competition. In this regard, the licensee shall charge the user the same rate for similar nature or categories of telecommunications service.

The Commission may prescribe that the licensee reduce or exempt fee or tariff charged for the service that is used to provide information and knowledge for the benefit of promoting the knowledge of people in accordance with the criteria prescribed by the Commission.

**Section 58** The licensee shall not collect deposit or any other advanced payments.

Violation of or failure to comply with the provisions of this Section by the licensee shall be deemed as a cause of serious damage to the public interest.

The provision of this Section shall apply to the contract for the supply of telecommunications service made under this Act.

**Section 59** The licensee shall provide for the dissemination to the public, and shall inform all users the rate of fee and tariff in accordance with the procedure prescribed by the Commission, and shall display it at a conspicuous place in his or her office for public verification.

As it deems appropriate, the Commission may prescribe that the licensee shall provide for a

notification system on fee and tariff to inform the user, upon request, in advance prior to each usage. Such service shall be free of charge.

**Section 60** In the case where there is a change in economic or social situation, or there is any matter which causes the maximum rate for fee or tariff prescribed by the Commission under Section 55 no longer appropriate, leading to advantages and disadvantages among licensees or posing undue burden to the user, the Commission may revise the rate of fee or tariff to be appropriate.

## **CHAPTER VIII**

### **Regulatory Enforcement**

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**Section 61** To perform duty under this Act, the competent official shall have the power and duties as follows:

(1) to enter a building or operating site of the licensee between sunrise and sunset, or during the business hours of such place for the purpose of inspection of business operation, book of account, document or related information including any action that may violate this Act or fail to comply with the provision of the license;

(2) to address a writing to summon any person to give statements or to deliver any document or object for consideration;

(3) to inspect and gather facts, and report to the Commission in the case where the licensee has committed an offence or caused damages as a result of failure to comply with this Act or with the prescribed licensing conditions.

Relevant person shall appropriately facilitate the performance of duties of the competent official under paragraph one.

After having entered and inspected under paragraph one, if the inspection has not been completed, the competent official may continue the inspection even after sunset or after business hours.

The performance of duties of the competent official under this Section shall be in accordance with the criteria prescribed in notification of the Commission. Such notification shall also indicate the position of competent official who will exercise power and duties under this Section, and indicate the reason and necessity for his or her right to exercise the power and duties under this Section in each case.

In the performance of duties under this Act, the Commissioners and competent officials shall be officials under the Criminal Code.

**Section 62** In the performance of duties, the competent official shall present identification card to the person concerned.

The identification card shall be in accordance with the form prescribed by the Commission.

**Section 63** In case of emergency or necessity to maintain public order, national security or economic stability or to protect the public interest, the

Commission may order the competent official to take possession of and use the devices and equipment of the licensee for the operation, or authorize a State agency to temporarily take charge of such operation, or order the licensee or his or her employees to take certain action until the end of such emergency or necessity.

In the performance of duties under paragraph one, if the competent official has caused damages to the licensee, that licensee shall, on justifiable ground, have the right to claim for compensation for such damages from the Office.

## CHAPTER IX

### Administrative Enforcement

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**Section 64** In the case where it appears to the Secretary-General that the licensee violates or fails to comply with Section 9 paragraph five, Section 11, Section 12 paragraph two or paragraph three, Section 13 paragraph two, Section 15, Section 17, Section 18, Section 20, Section 22, Section 23, Section 24, Section 25, Section 26 paragraph two, Section 27, Section 28, Section 29, Section 33, Section 34, Section 38, Section 45 paragraph three, Section 46, Section 49, Section 50, Section 51, Section 52, Section 53, Section 54, Section 56, Section 57, Section 58 or Section 59, the Secretary-General shall have the power to order the licensee to terminate such violation, or to correct, or to act in appropriate manner within a specified period.

**Section 65** In the case where the licensee is not satisfied with the order of the Secretary-General under Section 64, he or she shall have the right to appeal to the Commission within fifteen days as from the date of receiving such order. The decision of the Commission shall be final.



**Section 66** In the case where the licensee does not comply with the order of the Secretary-General under Section 64 and the period for an appeal under Section 65 has lapsed, or the Commission decides to uphold such order of the Secretary-General, and the Secretary-General has addressed a warning writing to the licensee but there is no action taken in compliance with the order, the Secretary-General shall stipulate administrative fine under the law on administrative procedure which shall not be less than twenty thousand Baht per day.

In the case where the licensee neglects to act in appropriate manner or violates the license suspension order, or in the case of serious damage to the public interest, the Commission shall have the power to suspend or revoke the license.

Any offence that is subjected to the license suspension or license revocation shall be in accordance with notification prescribed by the Commission.

# CHAPTER X

## Penalties

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**Section 67** Any person who operates telecommunications business or uses the radio-frequency spectrum for telecommunications business without obtaining permission shall be liable to the following penalties:

(1) if an offence is a business operation that requires Type One license, that person shall be liable to a fine not exceeding one hundred thousand Baht;

(2) if an offence is a business operation that requires Type Two license, that person shall be liable to imprisonment for a term not exceeding two years or to a fine not exceeding one million Baht or to both;

(3) if an offence is a business operation that requires Type Three license, that person shall be liable to imprisonment for a term not exceeding five years or to a fine not exceeding ten million Baht or to both.

In the case where the Court gives a judgment declaring that the offender is guilty under this Act, the Court shall order to forfeit all equipment, devices and any object used in committing the offence.

**Section 68** Any licensee who expands the supply of service without permission under Section 14 shall be liable to imprisonment for a term not exceeding three years or to a fine not exceeding six hundred thousand Baht or to both.

**Section 69** Any licensee who violates Section 21 shall be liable to imprisonment for a term not exceeding three years or to a fine not exceeding six hundred thousand Baht or to both, and in the case of a repeated violation, the penalty shall be twice.

**Section 70** Any licensee who fails to comply with the order of the Commission under Section 31 shall be liable to imprisonment for a term not exceeding three years or to a fine not exceeding six hundred thousand Baht or to both.

**Section 71** Any person who conducts the test or certification of telecommunications equipment without permission under Section 36 shall be liable to imprisonment for a term not exceeding three months or to a fine not exceeding fifty thousand Baht or to both.

Any licensee who is authorized to establish a conformity assessment body fails to comply with the conditions prescribed by the Commission under Section 36 paragraph four, that licensee shall be liable to a fine not exceeding ten thousand Baht.

**Section 72** Any person who violates Section 44 paragraph one but does not cause malfunction to telecommunications system shall be liable to imprisonment for a term not exceeding six months or to a fine not exceeding one hundred thousand Baht or to both.

**Section 73** Any person who causes damage, destruction, depreciation in value or renders useless to the sign, buoy or any other object setting up to protect telecommunications system according to the measures prescribed in notification of the Commission under Section 44 paragraph two shall be liable to imprisonment for a term not exceeding two years or to a fine not exceeding four hundred thousand Baht or to both.

**Section 74** Any person who commits an act of illegal interception, utilization or disclosure of message, information or any other data by means of telecommunications shall be liable to imprisonment for a term not exceeding two years or to a fine not exceeding four hundred thousand Baht or to both.

**Section 75** Any person who fails to facilitate the performance of duties of the competent official under Section 61 paragraph one (1), or fails to give statements or fails to deliver any document or object as summoned in writing by the competent official under Section 61 paragraph one (2), shall be liable to imprisonment for a term not exceeding one month or to a fine not exceeding ten thousand Baht or to both.

**Section 76** Any person who obstructs the performance of duties of the competent official under Section 63 paragraph one shall be liable to imprisonment for a term not exceeding six months or to a fine not exceeding one hundred thousand Baht or to both.

**Section 77** The Commission shall have the power to settle all offences under this Act for which

the penalty is the imprisonment for a term not exceeding six months. In this regard, the Commission may appoint a sub-committee to settle the offence on its behalf, and may prescribe the settlement criteria or any condition for the performance of duties of the sub-committee.

In the case where the commission of the offence is appeared to an inquiry official and the offender consents to be settled, the inquiry official shall, without delay, deliver the matter to the Commission for the settlement of such offence.

When the offender has paid the fine under the settlement, the case shall be deemed as settled under the Criminal Procedure Code.

**Section 78** In the case where the offender who is subjected to the punishment under this Act is a juristic person, managing director, manager or any person responsible for the operation of that juristic person shall also be liable to the penalty as provided for such offence unless such action is proved to be committed without his or her acknowledgement or consent is proved.

## Transitory Provisions

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**Section 79** The Commission shall issue the telecommunications business licenses under this Act to the Communications Authority of Thailand and the Telephone Organization of Thailand according to the nature and categories of business operation, scope of service as well as the right to supply the telecommunications services which are under the responsibilities of the Communications Authority of Thailand and the Telephone Organization of Thailand on the date this Act comes into force. In this regard, the issuance of such licenses shall be performed no later than one hundred and eighty days as from the date the Commission has prescribed in notification the licensing criteria under Section 8.

In issuing the licenses under paragraph one, the Commission shall prescribe conditions in relation to the business operations of the Communications Authority of Thailand and the Telephone Organization of Thailand as appropriate, having due regard to the benefits of people who are currently using the services and to the development toward

quality and efficient service or any other matter in order to achieve the objectives of this Act.

The Communications Authority of Thailand and the Telephone Organization of Thailand shall furnish information in relation to their telecommunications businesses to the Commission within thirty days as from the date this Act comes into force.

During the absence of licenses under paragraph one, the Communications Authority of Thailand and the Telephone Organization of Thailand shall be able to continue their telecommunications businesses.

**Section 80** In operating the telecommunications business of the Communications Authority of Thailand or the Telephone Organization of Thailand under the license issued under Section 79, if those agencies have granted authorization, concession or contract to any person as a telecommunications business operator prior to the date this Act comes into force, that person shall have the right to continue the telecommunications business under the existing scope and right associated with such authorization, concession or contract until their termination.



The telecommunications business of the person who has been granted authorization, concession or contract under paragraph one shall be under the criteria prescribed under this Act, and in accordance with the conditions prescribed by the Commission on the basis of free and fair competition. In this regard, it shall be deemed that the person who operates such business shall have the same rights, duties and liabilities as the licensee under this Act. For any commission of the offence which is deemed as a cause of license revocation by the Commission, if such offence is committed by the person who has been granted authorization, concession or contract, the Commission shall have the power to order the revocation of that authorization, concession or contract.

Any agreement to amend the conditions of authorization, concession or contract which does not reduce or restrict the right to operate the telecommunications business in the remaining period of validity of that authorization, concession or contract shall not be deemed as an act that has effect on the validity of such authorization, concession or contract.

In the case where the person who has been granted authorization, concession or contract make an agreement with the Communications Authority of Thailand or the Telephone Organization of Thailand to convert such authorization, concession or contract into a license under this Act, the Commission shall issue a license to that person specifying the right to operate telecommunications business under the existing scope of service which is earlier agreed by the parties, and within the remaining period of validity of that authorization, concession or contract insofar as it is not contrary to or inconsistent with the provisions of this Act. Section 79 shall apply for the issuance of such license, *mutatis mutandis*.

The provisions of this Section shall apply, *mutatis mutandis*, to the person who has been granted authorization, concession or contract by other State agencies as existing on the date this Act comes into force.

**Section 81** When the Commission has prescribed in notification the licensing criteria under Section 8, if the person who is legally supplying the telecommunications service for the period of not less than one hundred and twenty days prior to the date the

Commission has prescribed the licensing criteria and who is not under the provisions of Section 79 and Section 80 intends to continue the supply of service, he or she shall submit an application for a license under this Act within ninety days as from the date the Commission prescribed such notification. During the consideration period, that person shall be able to continue the supply of telecommunications service. The Commission shall complete the consideration of license application within ninety days as from the date of receiving the application.

The provisions of paragraph one shall apply, *mutatis mutandis*, to the case where the Commission has prescribed in notification the additional nature and categories of telecommunications service after the notification under paragraph one.

Countersigned by:

Police Lieutenant Colonel Thaksin Shinawatra

Prime Minister



**UNOFFICIAL TRANSLATION**  
**TELECOMMUNICATIONS BUSINESS**  
**ACT (No. 2) B.E. 2549 (2006)**

**UNOFFICIAL TRANSLATION**  
**TELECOMMUNICATIONS BUSINESS**  
**ACT (No. 2) B.E. 2549 (2006)**

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**BHUMIBOL ADULYADEJ, REX;**

Given on the 9th Day of January B.E. 2549 (2006);

Being the 61st Year of the Present Reign.

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

Whereas it is expedient to amend the law on the telecommunications business; Whereas this Act contains certain provisions regarding the restriction of the rights and freedom of an individual as permitted to be done under the law by Article 29 together with Article 50 of the Constitution of the Kingdom of

Thailand; therefore, enacted by the King, by and with the advice and consent of the National Assembly, as follows:

**Section 1** This Act is called the “Telecommunications Business Act (No. 2) B.E. 2549 (2006).”

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

**Section 3** Section 8 paragraph three (1) of the Telecommunications Business Act B.E. 2544 (2001) shall be repealed and replaced by the following: “(1) the applicant for Type Two and Type Three Licenses shall not be a foreigner under the law on foreign business. In this regard, the Commission may prescribe the prohibition that the applicant for certain nature or categories of telecommunications

business who is a juristic person shall not commit any act which has the nature of business takeover by a person who is not of Thai nationality;”

**Section 4** Section 58 paragraph one of the Telecommunications Business Act B.E. 2544 (2001) shall be repealed and replaced by the following: “The licensee shall not collect deposit or any other payment of the deposit nature. The collection of pre-paid service charge shall be in accordance with the criteria or conditions prescribed by the Commission for the benefit of consumer protection or the public interest.”

**Section 5** The following shall be added as Section 80/1 of the Telecommunications Business Act B.E. 2544 (2001)

“Section 80/1. For the benefit of the operations under Section 79 and Section 80, the Communications Authority of Thailand or the Telephone Organization



of Thailand shall mean the companies established by converting the capital of the Communications Authority of Thailand or the Telephone Organization of Thailand into equity shares of the respective companies under the state enterprise corporatization law in order to operate the telecommunications business.”

Countersigned by: Pol. Lt. Col. Thaksin Shinawatra  
Prime Minister

**Remark :** There are a number of reasons for the promulgation of this Act. As certain nature or categories of telecommunications business are capital intensive and rely on high technology, dependence on foreign capital and technology is still necessary. The prescription of the qualification of the applicant for Type Two and Type Three licenses to have the shareholding proportion of Thai nationals of not less than seventy-five percent of the total capital has caused problems and hindrance to fund mobilization from foreign investors, or in case of joint venture with foreign parties, the mentioned foreign shareholding limit has posed a constraint. This has hindered both existing or new licensees' expansion of their telecommunications networks or technology to efficiently provide services to the public. It is therefore deemed appropriate to rectify the control on the shareholding proportion so as to facilitate fund mobilization from foreign investors. Besides, the provision that has prohibited the licensees from

collecting any other advanced payments besides the deposit may lead to an understanding that the collection of pre-paid service charge is also prohibited despite the fact that it is not a deposit taking. This could cause a negative effect on the pre-paid telecommunication service, a service which has become increasingly popular and recorded a very high market growth rate as the system provides the users with convenience and enables them to control their expenses.

It is therefore deemed proper to prescribe a provision to specifically state that the licensees are not allowed to collect deposit or any other payment of the deposit nature. In addition, as the Communications Authority of Thailand and the Telephone Organization of Thailand have now changed their status by virtue of the state enterprise corporatization law that may cause a confusion in the implementation in compliance with Section 79 and Section 80 of the Telecommunications Business Act B.E. 2544 (2001),

it is therefore deemed appropriate to define the two organizations as the companies established by corporatizing the assets in order to operate the telecommunications business. For all the above reasons, this law shall be enacted.

**UNOFFICIAL TRANSLATION**  
**OPERATION OF THE SOUND**  
**BROADCASTING SERVICE AND THE**  
**TELEVISION BROADCASTING**  
**SERVICE ACT B.E. 2551 (2008)**

**UNOFFICIAL TRANSLATION**

**OPERATION OF THE SOUND**

**BROADCASTING SERVICE AND THE**

**TELEVISION BROADCASTING**

**SERVICE ACT B.E. 2551 (2008)**

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**BHUMIBOL ADULYADEJ, REX.**

Given on the 26<sup>th</sup> Day of February B.E.2551  
(2008);  
Being the 63<sup>rd</sup> Year of The Present Reign.

By the royal command of His Majesty King Bhumibol Adulyadej, it is hereby proclaimed that:

Whereas it is appropriate to enact the law on the operation of the sound broadcasting service and the television broadcasting service;

This Act contains provisions pertaining to the restriction of the rights and freedom of persons by which the provisions in Article 29, in relation to Article 32, Article 33, Article 35, Article 36, Article

41, Article 43, Article 45, Article 46, and Article 47, of the Constitution of the kingdom of the Thailand authorize and require the enactment of the empowering law;

Therefore, His majesty the king, by and with advice and consent of the National Legislative Assembly, is graciously pleased to promulgate the Act as follows

**Section 1** This Act shall be called “Operation of the Sound Broadcasting Service and the Television Broadcasting Act B.E. 2551 (A.D. 2008)

**Section 2** This Act shall come into force on the day following the day on which it is published in the Government Gazette.

**Section 3** The following shall be repealed:

1. Radio Broadcasting and Television Broadcasting Act B.E. 2498 (A.D. 1955 )

2. Radio Broadcasting and Television Broadcasting Act (No.2) B.E. 2502 (A.D. 1959);

3. Radio Broadcasting and Television Broadcasting Act (No.3) B.E. 2521 (A.D. 1978);

4. Radio Broadcasting and Television Broadcasting Act (No.4) B.E. 2530 (A.D. 1987);

**Section 4** In this Act:

“**Sound Broadcasting Service**” means the sound broadcasting service under the law on the organization allocating frequencies and regulating the radio broadcasting, television broadcasting and telecommunications services.

“**Television Broadcasting Service**” means the television broadcasting service under the law on the organization allocating frequencies and regulating the radio broadcasting, television Broadcasting and telecommunication services.

“**Sound Broadcasting Service or Television Broadcasting Service Using Frequencies**” means the sound broadcasting service or the television broadcasting service required to apply for frequency allocation under the law on the organization allocating frequencies and regulating the broadcasting, television broadcasting and telecommunication service.

“**Sound Broadcasting Service or Television Broadcasting Service Not Using Frequencies**” means the television broadcasting service or the television broadcasting service not required to apply



for frequency allocation under the law on the organization allocating frequencies and regulating the radio broadcasting, television broadcasting and telecommunication service.

“**Network**” means connecting system among the groups of equipment transmitting or broadcasting sound or pictures which sound broadcasting service or television broadcasting service providers used in transmitting public information or program from a station to a receiver whether via wire conductor, frequencies, light, electromagnetic wave or any other conductor.

“**Network Owner**” means a person who owns network or has a right to operate network Service regardless whether he or she is a sound broadcasting service or television business operator.

“**Station**” means a place used for transmitting public broadcasting service either via its own network or networks of others information or programs of the operation of sound.

“**Fund**” means the fund for development of sound broadcasting service or television broadcasting service for public interest under the law on the organizations to assign radio-frequency spectrum and

to regulate the sound broadcasting, television broadcasting and telecommunications services.

**“Master Plan for Sound Broadcasting Service or television Broadcasting Service”** means the master plan for sound broadcasting service or television broadcasting service under the law on the organization allocating frequencies and regulating the radio broadcasting, television broadcasting and telecommunications services.

**“Frequencies”** means radio wave or Hertzian wave which is electromagnetic wave of frequencies lower than three million megahertz broadcasting in a space without any invented conductor.

**“Commission”** means the National Broadcasting and Telecommunications under the law on the organization allocating frequencies and regulating the radio broadcasting, television broadcasting and telecommunications services.

**“Commissioner”** means the member of the National Broadcasting and Telecommunications Commission

**“Office”** means the Office of the National Broadcasting and Telecommunications Commission

**“Secretary General”** means the Secretary General of the National Broadcasting Telecommunications Commission

**“Officer”** means a person appointed by the National Broadcasting Telecommunications Commission to perform duties under this Act.

**Section 5** The Commission shall have the authority to appoint the official and issue notifications for the implementation of this Act.

Notifications of the Commission under this Act are required to hold public hearing for comments of concerned persons.

Notifications of the commission under this Act are required to hold public hearing for comments of concerned persons.

The notification shall come into force upon publication in the Government Gazette.

**Section 6** The Prime Minister shall be in charge of the implementation of this Act.

## **CHAPTER I**

### **Operation Sound Broadcasting Service or Television Broadcasting Service**

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**Section 7** Any person operating the Sound Broadcasting Service or the Television Broadcasting service is required to obtain a license from the Commission pursuant to this CHAPTER.

The Commission shall have the authority to determine the nature of business not being considered as the operation of the Sound Broadcasting service and the Television Broadcasting Service under this Act.

**Section 8** The applicant for a license under this Act must be of Thai nationality and his or her license must not be under suspension or has been under a period of revocation having not yet been full three years.

**Section 9** The license for operating the Sound Broadcasting Service and the Television Broadcasting Service shall be an exclusive right of the licensee and shall not be transferred.

The licensee for the Sound Broadcasting Service and the Television Broadcasting Service Shall operate the service by himself or herself. Apportion of time to other persons to carry out a program shall be allowed in accordance with rules and procedures prescribed by the Commission Act.

## **PART I**

### **Sound Broadcasting Service or Television Broadcasting Service Using Frequencies**

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**Section 10** Licenses for operating the Sound Broadcasting or Television Broadcasting Service Using Frequencies are categorized three types as follows:

(1) the public service license, which is license granted for the service with main objectives to provide public services, shall be divided into three categories as follows

(a) the public service license category one is to be granted for the sound Broadcasting Service or the Television Broadcasting Service having the main objectives to promote knowledge, educations, religions, arts and cultures, sciences, technologies and environment, agricultures; and to promote other occupations, health, sanitary, sports or quality of life of the public.

(b) the public service license category two is to be granted for the Sound Broadcasting

Service or the Television Broadcasting Service having the main objectives on the national security or public safety.

(c) the public service license category three is to be granted for the Sound Broadcasting Service or the Television Broadcasting Service having the main objectives for distribution of news and information to promote good understandings between the government and the people, and between the Parliament and the public distribution of news and information to promote and support on dissemination and provision of education to the public pertinent to the administration as public interests to handicapped persons, less opportunity persons or the concerns with public benefit activities; or provision of other news and information being beneficial to other public interests.

(2) the community service license is a license granted for the service with the same objective as that of the public service license, provided that it must be beneficial to the needs of community or locality receiving the service.

(3) the commercial service license, which is a license granted for the service in accordance with the objective of the operator for seeking business

profit pursuant to the rules prescribed by the Commission, shall be at least categorized into three types:

(a) the national commercial service is to be granted for the Sound Broadcasting Service or the Television Broadcasting Service having service areas covering all regions of the country.

(b) the regional commercial service license is to be granted for the Sound Broadcasting Service or the Television Broadcasting Service having service areas covering group of provinces.

(c) the local commercial service license is to be granted for the Sound Broadcasting Service or the Television Broadcasting having service areas in provincial level.

**Section 11** The applicant for the public services license shall be:

(1) a ministry, government bureau, department, independent organization according to the Constitution, local administrative organization, public organization or any other government agency not being a state enterprise having the duties under the law or the necessity to operate radio or the sound broadcasting Service or the Television Broadcasting



Service pursuant to the rules prescribed by the Commission.

(2) an association, foundation or any other juristic person established under Thai law having the objective to provide public service without seeking business profits which is appropriate to the operation of public service pursuant to the nature and rules prescribed by the Commission.

(3) an educational institute learning and teaching or disseminating knowledge to society pursuant to the nature and rules prescribed by the Commission.

**Section 12** The applicant for the community services license shall be an association, foundation or other juristic person established under the Thai law not being governmental agency, and having the objective to provide public service without seeking business profits; or a group of people in the locality not being a juristic person which gathers to strengthen the community, provided that is must be appropriate to the operation of the community service pursuant to the nature prescribed by the Commission.

In prescribing the nature under paragraph one, the Commission shall take into account the benefit in

promoting the effectiveness of the Sound Broadcasting Service and the Television Broadcasting Service to respond to the diversified needs of people in the community and locality, including preventing the taking over of such service.

**Section 13** The applicant for the commercial service license shall be a juristic person established under Thai law and have the following qualifications:

(1) the applicant for the regional and local commercial service license shall be a juristic person with not less than one thirds of its holders of capital shares or investors having domiciles in such region or locality, as the case may be, and shall have stable financial status, accounting audit system and any other nature that guarantees the stability of the operation as prescribed by the Commission.

(2) the applicant for the types of service license other than those in (1) shall be a state enterprise or company established under Thai law with the main objective to operate the Sound Broadcasting Service and the Television Broadcasting Service.

**Section 14** The applicant for license under Section 11(2) and (3) and Section 12 shall, in addition to having the qualifications and not possessing the prohibitions under Section 8, have the qualifications and not possess the prohibition as follows:

(1) a person authorized for the applicant shall have Thai nationality;

(2) there shall be no director or person authorized to act for the applicant being a director or a person authorized to act for another licensee whose license was revoked as a consequence of business management of such person and it has not yet been three years since the revocation.

**Section 15** The applicant for the license under Section 13 shall, in addition to having the qualifications and not possessing the prohibitions under Section 8 and Section 14, have the qualifications as follows:

(1) being a juristic person having Thai nationals investing or holding capital not less than three fourth of the capital of such juristic person;

(2) being a juristic person having Thai nationals having voting power under the law or its Articles of Association or an agreement on voting

rights of not less than three fourths of the total eligible votes in such juristic person.

In case the applicant for the license under Section 13 is a company, not less than three fourths of the total number of directors and person authorized to act for such juristic person shall have Thai nationality.

In case the applicant for the license under Section 13 is a limited or registered ordinary partnership, its managing partners or managers shall have Thai nationality.

The Commission may prescribe the prohibition against any act in a manner of taking over by an alien for the applicant for a license to comply with.

For the purpose of this Section, it shall be deemed that a Thai national means a person who is not an alien under the law governing alien business operation and a share held or invested by a Thai national shall be counted as one share for one vote.

**Section 16** The filing of an application for a license and the granting of the license shall be made in accordance with the rules, measures and conditions prescribed by the Commission. The applicant for the license shall specify the Station, system and procedure to be used in transmission of radio broadcasting and

television broadcasting, including proposing the service plan for the Sound Broadcasting Service or the Television Broadcasting Service to the Commission for consideration.

The Notification under paragraph one shall be in consistent with the Master Plan for Sound Broadcasting Service and Television Broadcasting Service and a radio frequency plan under the law on the organization allocating frequencies and regulating the radio broadcasting television broadcasting and telecommunications service.

**Section 17** In granting the license to operate the Sound Broadcasting Service or Television Broadcasting Service Using Frequencies, the Commission Shall issue the license by taking into consideration the mission or objective of the service and the issuance shall be in compliance with the proportion of allocated Frequencies as prescribed by the law on the organization allocating frequencies and regulating radio broadcasting, television broadcasting and telecommunications services as follows:

(1) for the issuance of the public license, duties under the law or necessity for the public service

shall be taken into consideration and the Frequencies allocated for the government sector shall be used.

(2) for the issuance of the community service license, diversified needs, readiness and public benefits of the community shall be taken into consideration and the Frequencies allocated for general public shall be used.

(3) for the issuance of the commercial, the promotion of free and fair competition shall be taken into consideration and the service operation that provides news and information in proper portion shall be supported and the Frequencies allocated for private sector shall be used.

**Section 18** The determination of the terms of the Sound Broadcasting Service license and the Television Broadcasting Service license shall be in accordance with the rules prescribed by the Commission by taking into consideration the payback period, objectives of the service operation, business development directions of the applicant, demands of consumers, equal competition among operators including the result of program quality assessment.

The Sound Broadcasting Service license shall have a term not exceeding seven years.

The Television Broadcasting Service license shall have a term not exceeding fifteen years.

In case of an expiration of the license under paragraph two, the licensee shall submit a renewal application at least ninety days but not exceeding one year prior to the expiration date of the existing license. In case of an expiration of the license under paragraph three, the licensee shall submit a renewal application at least ninety days but not exceeding two years prior to the expiration date of the existing license

Upon receiving the application under paragraph four, the Commission shall consider and issue an order within sixty days from the date of receipt of the application. During such period, the licensee may continue to operate the service until the Commission shall collect the fee for such service operated *pro rata*.

The submission of the application and issuance of the order under paragraph four and paragraph five shall be made in accordance with the rules, procedures, conditions and duration prescribed by the Commission.

**Section 19** The license fee shall be as prescribed by the Commission in accordance with the

law on the organization allocating frequencies and regulating radio broadcasting, television broadcasting and telecommunications service.

The licensee shall annually pay the fee for the use of the Frequencies and operation of the Sound Broadcasting Service and Television Broadcasting Service in each category of license at the rate prescribed by the Commission.

The determination of the fee under paragraph two shall not pose unreasonable burden to the operators or service users. The Commission shall take into consideration the public interest, worthiness, scarcity and allocation procedure of resources.

The Commission may reduce or exempt the license fee under paragraph one and paragraph two to the applicant or the licensee under this Act if such person can demonstrate to the Commission that its operation of the Sound Broadcasting Service or the Television Broadcasting Service contains news or information programs which are beneficial to the public in a higher proportion than that prescribed by the Commission.

The rules and procedures under paragraph four shall be in accordance with the regulations prescribed by the Commission.



**Section 20** In operating the Sound Broadcasting service and The Television Broadcasting Service, the Department of Public Relations, the licensee of the public service license category one and category three shall not generate revenues from advertisements except for revenues generated from: the advertisements or dissemination of news relating to the work or activities of the government agencies or state enterprises, associations, foundations or other juristic persons having objectives for public interest without seeking business profits; or the presentation of image of the organization, company and business without directly or indirectly advertising qualification, benefit or quality of related products in accordance with the rules prescribed by the commission.

In operating the Sound Broadcasting Service and the Television Broadcasting Service, the licensee of the public service license category two shall generate revenues from advertisements to the extent sufficient for its operation without emphasis on profit making.

**Section 21** In operating the Sound Broadcasting Service and the Television Broadcasting Service, the licensee of the community service license shall not generate revenues from advertisements.

**Section 22** The commission shall require the licensee of the commercial service license to make the annual contribution to the Fund in accordance with the rate prescribed by the commission which shall not exceed two percent of the gross revenue from direct and indirect advertisements and other revenues related to the operation of the Sound Broadcasting Service and the Television Broadcasting Service being permitted.

In case of the business operation on a subscription basis, the annual contribution under paragraph one shall be calculated from the subscription fee, gross revenue from both direct and indirect advertisements and other service fees related to the service provided to the subscribers in accordance with the rules prescribed by the Commission.

**Section 23** In the operation of the commercial service, revenues shall be generated from advertisements, business service provision, subscription fees or by other means.

In case of the operation under paragraph one with advertisements and business service provision, the Commission shall have authority to prescribe the rules on nature and maximum amount of time of advertisements and business service provision which shall not exceed twelve and a half minutes per hour provided that total amount of time for advertisements per day shall not exceed ten minutes per hour in average.

In case of the operation under paragraph one on a subscription basis or by collecting service fees, the provision of Section 28 apply *mutatis mutandis*.

The licensee may adjust or change subscription fees or service fees and the conditions of its service provision under the rules prescribed by the Commission under paragraph three provided that it shall not prejudice the rights of the subscribers during the period of the existing agreements.

In the notifications on the rules paragraph two and paragraph three, the Commission shall take into consideration the cost of service provision and fair

competition among licensees under each category of the licenses and fairness to licensees and consumers as well.

**Section 24** The licensee shall prepare the financial status report stating true and correct revenues and expenses and submit to the Commission in accordance with rules prescribed by the Commission.

## **PART II**

### **Sound Broadcasting Service or Television Broadcasting service Not Using Frequencies**

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**Section 25** The operator of Sound Broadcasting Service or Television Broadcasting Service Not Using Frequencies shall have the qualifications and not possess the prohibitions accordance with Section 8, Section 14 and Section 15.

In determining the qualifications or prohibitions of the applicant, the rules and procedures prescribed in PART I Sound Broadcasting Service or Television Broadcasting Service Using Frequencies shall apply *mutatis mutandis*.

**Section 26** The provisions of Section 18 and Section 19 shall apply to the issuance of the Sound Broadcasting Service and the Television Broadcasting Service licenses under Section 25 *mutatis mutandis*.

**Section 27** For the purpose of supervising the operation of the Sound Broadcasting Service or Television Broadcasting Service Not Using

Frequencies whether or not it operates on a subscription basis or by collecting service fees, the Commission shall have authority to prescribe the rules as follows;

- (1) proportion of programs and program schedule;
- (2) generation of revenues;
- (3) recording of programs broadcasted and the period of time in keeping such records .

**Section 28** Regarding the operation of the licensee of the Sound Broadcasting Service or Television Broadcasting Service Not Using Frequencies on a subscription basis or by collecting other service fees, the Commission shall have authority to prescribe the rules on service fee collection, maximum amount of time for the advertisements and business service provision, and the conditions for the service provided.

Regarding the generation of revenues from advertisements and business service provision under paragraph one, the Commission shall prescribe the maximum amount of time related to the advertisements and business service provision not exceeding six minutes per hour provided that the total

amount of time per day for advertisements and business service provision per day shall not exceed five minutes per hour in average.

In determining the maximum amount of time under paragraph two, the Commission shall take into consideration consumer protection, competition in the market, operating cost and fairness between the licensee of the Sound Broadcasting Service or Television Broadcasting Service Not Using Frequencies.

The provisions of Section 22, Section 23 paragraph one and paragraph four and Section 24 shall apply to the licensee under Section 25 *mutatis mutandis*.

## **PART III**

### **Management of Station**

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**Section 29** In operating the Sound Broadcasting Service and the Television Broadcasting Service, the licensee shall appoint a person of Thai nationality as the station director for each station to supervise the broadcasting in consistent with the license granted and to be responsible for the supervision of the program management, program operation and broadcasting of the Station in compliance with the laws and notifications prescribed by the Commission.

**Section 30** The licensee shall be liable for any act done by the station director in the supervision and management of the Sound Broadcasting Service and the Television Broadcasting Service as if it his or her own act unless it can be proved that he or she had No knowledge or gave no consent to such act and exercised due care for the prevention thereof.



## **PART IV**

### **Prevention against Monopoly**

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**Section 31** To prevent any person from take over a business in the manner or limiting opportunity to obtain public information from diverse sources or conducting any of monopoly of mass media business from several areas at the same time, the licensee shall be prohibited from holding the business of the same category or holding cross-media of the Sound Broadcasting Service and Television Broadcasting Service Using Frequencies in excess of the proportion prescribed by the Commission.

In the case where any licensee violates the notifications or the Commission under paragraph one, the Commission shall have authority to order such licensee for the correction thereof within ninety days so that his or her business holding accordance with such notifications.

**Section 32** To promote free and fair competition and to prevent any act leading to monopoly, reduction or limitation of competition in the operation of the Sound Broadcasting Service and

the Television Broadcasting Service, the operation of the licensee shall be subject to the law on business competition and specific measures prescribed by the Commission according to the nature of the Sound Broadcasting Service and the Television Broadcasting Service.

An act of monopoly, reduction or limitation of competition in the Sound Broadcasting Service and the Television Broadcasting Service shall include the holding in related business or using materials or equipment specifically installed to receive sound or visual signals in the Manner obstructing fair competition.

## **CHAPTER II**

### **Program of sound Broadcasting Service and television Broadcasting Service**

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**Section 33** Each category of the licensee of the Sound Broadcasting Service or Television Broadcasting Service Using Frequencies shall set up the program schedule in the proportion as follows:

(1) the licensee of the public service license shall set up news or information programs which are beneficial to the public in the proportion of not less than seventy percent;

(2) the licensee of the community service license shall set up news or information programs which are beneficial to the community or locality receiving the service in the proportion not less seventy percent;

(3) the licensee of the business service license shall set up news or information programs which are beneficial to the public in the proportion not less than twenty-five percent.

The license of the business service license at regional and local levels shall have its own produced programs in the proportion prescribed by Commission.

New or information programs beneficial to the public under paragraph one shall include news programs, programs promoting knowledge and understanding on democratic regime; programs promoting educations, ethics, arts and culture, and provision of knowledge and understanding in development of society, economics, quality of life and environment.

**Section 34** The license shall set up programs schedule in conformity with the objectives of the licensed service in accordance with the rules prescribed by the Commission regarding each category of the license.

In case of necessity for the protection of children and juvenile, the Commission may prescribe duration for broadcasting for certain programs.

The licensee shall submit the programs schedule to the Commission at least fifteen days prior to the commencement date of the, Sound Broadcasting Service or the Television Broadcasting

In the case where the Commission deems that the program schedules are not in accordance with the rules prescribed by the Commission, the Commission shall have the power to order the licensee to properly correct the program schedules. When the Commission has approved the corrected program schedules; the licensee shall be able to commence its Sound Broadcasting Service or the Television Broadcasting Service as approved by the Commission.

In case the licensee wishes to change the approved program schedule, the changed program schedule must be submitted to the Commission for consideration prior to such change not less than seven days and the provision in paragraph four shall apply *mutatis mutandis*.

In case of necessity or urgency, the licensee may broadcast the program differing from those in the programs schedules in accordance with the rules prescribed by the Commission

**Section 35** In the case where there is a disaster or an emergency or other events as prescribed by the Commission which is necessary to broadcast new or warnings to the public, upon request of the

government or relevant agencies, the licensee shall perform as requested.

**Section 36** For the benefit promoting and protecting the right of disabled persons or less opportunity persons to get access to or acknowledge or to gain benefit from the programs of the Sound Broadcasting Service or the Television Broadcasting Service as equal to ordinary person, the Commission shall have the power to prescribe some fundamental measures so that the license provides appropriate service for the benefit of such persons.

The Commission may prescribe any additional promoting measures for the licensee to consider for appropriate actions, provided that the Commission may consider providing support of the expense from the Fund or providing other support or promotions by other means.

In order to make the measures paragraph one suitable for the disabled persons or less opportunity persons, the Commission may seek opinions from or give opportunity to disabled persons or less opportunity persons to participate in decision making of such measures.

The appropriate service for the benefit of disabled person or less opportunity persons under paragraph one may include full time sound broadcasting service of book reading programs or television broadcasting service with sign language interpreter, subtitles or verbal description for programs presenting public information.

**Section 37** It is prohibited to broadcast a program containing substances constituting the overthrow of democratic regime with the king as Head of the State or having impact to the national security, good moral and public order, or having an act of the nature being obscenity or filthy or having impact to mental or health deterioration of the public in serious manner.

The licensee is obliged to review and suspend broadcasting of such program of the nature under paragraph one. If the licensee fails to do so, the Commissioner assigned by the Commission shall have power to order the licensee verbally or in writing to suspend the broadcasting service of such program immediately and the Commission shall examine the fact or such case immediately.

In case the Commission examines and deems that such action was due to ignorance of the licensee, the Commission shall have power to order the licensee to correct as suitable; or to suspend or cancel the license.

**Section 38** The licensee shall record the program broadcasted, by recording on cassette tapes or other television equipment or by other means which may be re-broadcasted and to be kept for examination by the Officer.

The program to be recorded under paragraph one and the period of time for keeping such records shall be in accordance with those prescribed by the Commission. In this regard, such period shall not be less than thirty days and it shall not cause the licensee to bear unnecessary burden.



## CHAPTER III

### Promotion and Supervision of Professional Ethics and Protection of Damaged Party from Operation of Sound Broadcasting and Television Broadcasting Service

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**Section 39** The Commission shall encourage the gathering of the licensees, program producer and mass communication practitioners of the Sound Broadcasting Service and the Television Broadcasting Service in any form of organizations in order to issue ethical standards of professional or occupational conduct and to control professional or occupational conduct among themselves under the ethical standards.

For the preparation of the ethical standards of the organization under paragraph one, the Commission shall take into account the protection of the public to access information and the protection of consumers for the operation of the Sound Broadcasting and the Television Broadcasting Service, including the protection of rights and

freedom of practitioners and occupational member of the organization.

To control professional or occupational conduct of the organization under paragraph one, each organization under paragraph one shall set up an ethical committee with components by considering suitable proportion among practitioners and occupational members, academic persons and expertise.

The Commission may provide support from the Fund under Section 52 to the organizations under paragraph one which prepares the ethical standards.

**Section 40** Any person damaged from false information of the programs broadcasted or the infringement of rights, freedom, prestige, reputation, family rights or privacy of any individual, may file a complainant with the Commission.

The Commission shall submit its comment to the organization controlling the professional or occupational conduct under Section 39 for immediately giving remedies to the damaged person, and the Commission shall follow up the result of the action taken by the organization controlling the professional or occupational conduct under Section 39

After the organization controlling the professional or occupational conduct under Section 39 informs the result, the Commission shall inform the complainant of the result promptly.

The result of such proceedings under this CHAPTER shall be part of the proceedings under Section 51(1).

## CHAPTER IV

### Construction of Network Infrastructure, Use and Interconnection in Operation of Sound Broadcasting Service and Television Broadcasting Service

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**Section 41** Subject to Section 49, for the operation of Sound Broadcasting Service and Television Broadcasting Service, if the licensee is necessary to set up or erect poles, lay wires or pipers or install any supporting equipment and it is necessary to exercise the right under this Section, the licensee shall prepare a diagram stating details of direction and boundary of setting up or erecting of poles, wiring or piping and installation of supporting equipment to the Commission for approval prior to the said action.

Upon the approval of the Commission under paragraph one, the licensee shall have the right to continue its action, and the provision in CHAPTER IV of the Telecommunications Business Operation Act B.E. 2544 (A.D. 2001) shall apply *mutatis mutandis*. The power and duties of the Telecommunications Business Commission shall be the powers and duties of the Commission under this

Act, and the rights and duties of the licensee for telecommunications business shall be the rights and duties of the licensee under this Act.

In the case where the provision of chapter IV of the Telecommunications Business Operation Act B.E. 2544 (A.D. 2001) stipulates that any action is considered as an offense with the penalty provision, it shall apply to the licensee with the same rate of penalty.

**Section 42** The network owner shall allow the licensee to use or interconnect with the Network in accordance with the rules and procedures as prescribed by the Commission.

The network owner may not allow the licensee to use or interconnect with the Network as follows;

(1) the existing Network is insufficient for the licensee to use or interconnect with;

(2) using or interconnecting with the Network may have an impact on the national security;

(3) using or interconnecting with the Network may cause interference or obstruction to the Sound Broadcasting or the Television Broadcasting Services of the network owner or other network users;  
or

(4) other cases as prescribed by the Commission.

The burden of proof in such cases shall lie upon the network owner not allowing the licensee to use or interconnect with the network.

The charge for Network access or interconnection shall be reasonable and fair to the network owners and licensees, and shall be equal among all the licensees.

In prescribed rules and procedures under paragraph one, the Commission shall arrange hearing from the licensees and network owners concerned.

**Section 43** In case where there is a refusal of using or interconnecting with the Network or there is any unsettled dispute arising from the contract negotiation about using or interconnecting with the Network, the party shall have the right to request the Commission for consideration in accordance with the rules and procedures as prescribed by the Commission. The decision of the Commission shall be final.

The consideration of using or interconnecting with the Network under paragraph one, the

Commission shall take in to account the safety and protection against damage that may occur.

During the consideration of the Commission under paragraph one, if there is a reasonable cause to believe that the refusal of using or interconnecting with the Network is likely not to be in accordance with Section 42 paragraph two, the Commission, in the meanwhile, may allow the licensee to use or interconnect with the Network in accordance with the rules and procedures as prescribed by the Commission.

**Section 44** An agreement on the use of or interconnection with the Network shall be of the following nature:

(1) there shall be no discrimination against or obstruction to other licensee;

(2) the technical specifications at the access point or the point of interconnection shall be clear and technically feasible, and not cause undue burden to the applicant for the access or interconnection with the Network;

(3) there shall be clear prescription of the duties and responsibilities of the licensee and the network owner;

(4) the charge for using or interconnection with the Networks shall be set in accordance with Section 42 paragraph four; and

(5) any other nature as prescribed by the Commission

The network owner shall submit the Commission a copy of the agreement within ten days from the date of signing the agreement. If the Commission consider of the agreement contains descriptions different from those in paragraph one, the Commission shall have power to order amendment of the agreement within a specified period of time, The network owner shall comply with the order of the Commission. If the applicant fails to comply with the order of the Commission, such agreement shall become invalid.

**Section 45** The network owner shall disclose the agreement on the use of or interconnection with the Network including the charge for using of or interconnecting with the Network in accordance with the procedures as prescribed by the Commission.



**Section 46** In the case where the circumstances have been changed causing the rate of charge for using or interconnecting with the Network not to be in accordance with Section 42 paragraph four and the parties become unable to reach an agreement, the parties shall submit a request to the Commission for decision. The decision of the Commission shall be final.

**Section 47** The network owner shall inform the correct and essential information relating to the use of and interconnection with the Network to the licensee using or interconnecting with such Network.

The network owner shall not commit any action causing the obstruction to normal use of or interconnection with the Network under paragraph one.

In case of any change to the Network affecting the use of or interconnection with the Network, the network owner shall inform the licensee using or interconnecting with such network. However, in case that the change may affect users, the network owner shall announce such change not less than six months in advance.

**Section 48** For the benefit of consumers in receiving the Sound Broadcasting Service or the Television Broadcasting Service and environmental protection, if the government agencies, state enterprises or any other government organizations occupying the land, premises, buildings, poles or other similar structures which are located at a suitable location for receiving, transmitting or broadcasting sound or visual signals, have permitted the use for any licensee or network owner in the installation of materials or equipment for the receiving or transmitting or broadcasting of sound or visual signals, they shall likewise allow the other licensees or network owners to use the place for installing materials or equipment for such purposes, provided that suitable remuneration has been made. The provision of Section 44 shall apply *mutatis mutandis*.

Government agencies, state enterprises or any other government organization staking the occupancy under paragraph one may refuse to allow licensees or network owners to use land, premises, buildings, poles or other similar structures only in the following cases:

(1) an additional installation of materials of equipment may harm or interfere with the existing

system or have an effect in the reduction of the efficiency of the existing system;

(2) causing unnecessary burden or obstruction to the use of the property.

**Section 49** The use of or interconnection with the Network between the Sound Broadcasting Service and Television Broadcasting Service and the Telecommunications Service shall be in accordance with the rules and procedures prescribed by the Joint Commission under the law on the organizations allocating frequencies and regulating radio broadcasting, television broadcasting and telecommunications services.

**Section 50** The licensee under this Act or the licensee for conducting telecommunications service under the law on the operation of telecommunications service of the network owner shall be prohibited from providing service of transmission or broadcasting public information or programs in the nature of conducting the Sound Broadcasting Service or the Television Broadcasting Service for other persons not being the licensee under this Act.

## CHAPTER V

### Promotion and Development of Sound Broadcasting Service and Television Broadcasting Service

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**Section 51** For the purpose of promoting and developing the Sound Broadcasting Service and the Television Broadcasting Service, the Commission shall carry out the followings;

(1) conducting the evaluation on efficiency and achievement of the operation of the Sound Broadcasting Service and the Television Broadcasting Service in accordance with the Master Plan for the Sound Broadcasting Service and the Television Broadcasting Service, and on the compliance under this Act, diversities on the expression of opinions, service provided to the disabled persons and less opportunity persons, complaint handling and opportunity for market entry of new operators;

(2) conducting the evaluation on program quality with regard to interest toward society and good moral of the people;

(3) conducting hearing from the licensees, practitioners and consumers in the undertaking under (1) and (2).

The evaluations under paragraph one shall be in accordance with the rules and procedures prescribed by the Commission which shall at least demonstrate the facts in terms of effectiveness, efficiency, organizational development, public support and other details as necessary.

**Section 52** In the case where the Commission deems that any program is beneficial to the public or the production of the program should be promoted or any operator complies with the measures for promotion and protection of the rights of disabled persons and less opportunity persons under Section 36, the Commission may consider providing financial support from the Fund in accordance with the rules prescribed by the Commission.

# CHAPTER VI

## Supervision

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**Section 53** When there is a reasonable ground to suspect that there is an act of violation of or noncompliance with this Act, the Commission and the Official shall have power as follows:

(1) to order relevant persons to clarify or to deliver any document for consideration;

(2) to order in writing any person to give statements or to deliver any document or object for consideration or for use as evidence to prove the commission of an offence under this Act;

(3) to enter into the building or place of business of the licensee or any person between sunrise and sunset or during the business hours of the place for the examination of fact on wrongdoing; searching for objects used in the commission of wrongdoing, objects possessed to be wrongdoing, or objects possessed for use in the commission of wrongdoing including any action which may be in violation of this Act or noncompliance with the conditions of the license.

Search warrant issued by the Court shall be obtained for the entry into a building or place of business of the licensee under Subsection (3) for the examination of the fact performed by the Commission or the Official.

After entering into the building and conducting an examination under Subsection (3), if the examination has not yet been completed, such action can be continued even after sunset or after business hours of such place.

Related person shall facilitate the performance of duties of the Commission or the Official as appropriate.

The performance of duties of the Commission or the Official under this Section shall be in accordance with the rules prescribed by the Commission.

**Section 54** In the performance of duties, the Officer shall present his or her identification card to the persons involved.

The identification card shall be in accordance with the form as prescribed by the Commission.

**Section 55** In the case where any person causes interference to the transmission or broadcasting of sound or visual signals of the licensee, the Officer shall have the power to order such person to refrain from committing such act or to modify the materials used for committing such act or to remove the said materials out of the interfered area or to order such person or other persons to take certain action as necessary to solve such interference, However, in the case where the interfering materials are the services authorized by other laws, the Officer shall notify the officials authorized under such laws to consider solving the interference.

**Section 56** In performing duties under the Act, the Commission and the Official shall be the competent officer under the Criminal Code.



## **CHAPTER VII**

### **Penalty**

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#### **PART I**

#### **Administrative Penalty**

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**Section 57** Administrative fine shall be as follows:

(1) administrative fine level 1 shall be a fine not exceeding fifty thousand Baht.

(2) administrative fine level 2 shall be a fine from fifty thousand Baht to the amount not exceeding five hundred thousand Baht.

(3) administrative fine level 3 shall be a fine from five hundred thousand Baht to the amount not exceeding five million Bath.

**Section 58** A licensee or any person who:

(1) violates or fails to comply with rules as prescribed by the Commission under Section 24;

(2) violates or fails to comply with the provisions in Section 44 paragraph two or Section 47 paragraph one or paragraph three;

(3) violates or fails to comply with an order of the Commission issued under Section 44 paragraph two shall be punishable by administrative lavall.

**Section 59** A licensee or any person who:

(1) violates or fails comply with the provisions in Section 34 paragraph five, Section 35 or Section 38;

(2) violates or fails to comply with rules, procedures, measures or notifications prescribed by the Commission under Section 34 paragraph one, Section 36 or Section 45;

(3) violates or fails to comply with an order of the Commission issued under Section 34 paragraph four or Section 37 paragraph one shall be punishable by administrative fine level 2.

**Section 60** A licensee or any person who:

(1) violates or fails comply with the provisions in Section 47 paragraph two, Section 48 paragraph one or Section 50;

(2) violates or fails comply with rules or notifications issued by the Commission under Section 22, Section 23, Section 34 paragraph two or Section 42 paragraph one;

(3) violates or fails comply with the order of the Commission under Section 43 shall be punishable by administrative fine level 3.

**Section 61** In case that the act which is punishable by administrative fine is a continuous offense and the Commission impose an administrative fine for such act, the offender shall also be imposed a daily fine as follows; starting from the date on which the Commission imposes the administrative fine throughout the period of time in which the violation or noncompliance persists, or until correct compliance:

(1) in case that the fine imposed is administrative fine level 1, the daily fine shall be a fine not exceeding five thousand Baht.

(2) in case that the fine imposed is administrative fine level 2, the daily fine shall be a fine not exceeding twenty thousand Baht.

(3) in case that the fine imposed is administrative fine level 3, the daily fine shall be a fine not exceeding fifty thousand Baht.

The Commission shall manage to have the daily fine enforced every fifteen-day period.

**Section 62** The office shall collect facts regarding acts punishable by administrative penalty for the purpose of presenting such facts to the Commission for taking into consideration when imposing administrative penalty, according to the rules and procedures as prescribed by the Commission.

In considering the imposition of administrative penalty, the Commission shall take circumstances of the act and damage caused by such act into consideration. However, the Commission may issue the offender a warning instead of imposing administrative fine where it considers that act has the following natures:

- (1) be an offense punishable with administrative fine level 1;
- (2) not be continuous offense;
- (3) be the commission of an offense for the first time and be committed without intent; and
- (4) not cause damage.

**Section 63** When the Commission imposes a licensee an administrative fine, if it deems appropriate, it may also order such licensee to act or refrain from any action in order to prevent the repetition of violation or commission of the same offense.

**Section 64** The Commission may order suspension or revocation of a license in case that the facts appear as follows:

(1) the licensee ignores an order of the Commission prescribed under Section 31 or Section 63;

(2) the licensee violates the provision in Section 37 and the violation causes severe damage;

(3) the licensee repeats the violation or commission of an offense under this Act, or repeats the act of noncompliance with rules or orders prescribed under the provisions of this Act, or such violation or noncompliance causes severe damage;

(4) the licensee violates or commits the offense with criminal penalty under this Act;

(5) the licensee is convicted by final judgment for the commission of an offense related to

the broadcasting work which is copyright infringement under copyright law;

(6) the licensee conducts business in the form of company in violation of Section 15.

The duration of a suspension shall be as ordered by the Commission, but shall not exceed thirty days for each suspension.

**Section 65** In case that the person imposed an administrative fine fails to pay the fine or does not pay the fine appropriately in full, the provisions regarding the administrative enforcement under the law on administrative procedures shall be applied *mutatis mutandis*.

**PART II**  
**Criminal Penalty**

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**Section 66** Any person who uses Frequencies allocated for the Sound Broadcasting Service or the Television Broadcasting Service; or operates the Sound Broadcasting Service or the Television Broadcasting Service; or provides any service other than sound broadcasting service or television broadcasting service without license shall be punishable by imprisonment for a term not exceeding five years or a fine not exceeding five million Baht or both; and shall be punishable by a fine not exceeding fifty thousand Baht per day throughout the period of time the violation persists.

**Section 67** Any licensee who violates Section 9 or notifications of the Commission prescribed under Section 31 or Section 32 shall be punished by imprisonment for a term not exceeding three years or a fine not exceeding three million Baht or both; and shall be punished by a fine not exceeding thirty thousand Baht per day throughout the period of time the violation persists.

**Section 68** Any licensee who causes interference with reception, transmission or broadcasting of sounds or pictures of another licensee shall be punishable by imprisonment for a term not exceeding three years or a fine not exceeding three million Baht or both; and shall be by a fine not exceeding thirty thousand Baht per day throughout the period of time the violation persists.

**Section 69** Any person who causes interference with reception, transmission or broadcasting of sounds or pictures of a licensee shall be punishable by imprisonment for a term not exceeding three years or a fine not exceeding sixty thousand Baht or both; and shall be punishable by a fine not exceeding ten thousand Baht per day throughout the period of time the violation persists.

**Section 70** Any person who manufactures, imports, distributes, possesses with intent to distribute or provides installation service of receiving, tools or equipment for use by any other person to receive or convert signals for purpose of receiving programs of the Sound Broadcasting Service or the Television Broadcasting Service which require subscription,



without license from the Commission, shall be punishable by imprisonment for a term not exceeding two years or a fine not exceeding two million Baht or both.

The provision in this Section shall not be applied to the possession or use of receivers, tools or equipment mentioned in paragraph one for educational purposes as by the commission

**Section 71** Any person who obstructs or fails to facilitate the performance of duty of the Commission or the Officer under Section 53 shall be punishable by imprisonment for a term not exceeding one month or a fine not exceeding one thousand Baht or both.

When it appears that an offense under this Act is committed, the Commission shall be deemed an injured person under the provision of The Criminal Procedure Code.

The provision of this Section shall not bar the actual injured person from exercising his or her rights to bring a lawsuit or pursuing any other action against the offender.

**Section 72** In case that the offender is a juristic person and the commission of an offense by such juristic person is caused by an action or omission of an action which is a duty of managing directors, managers, or any person who is responsible for the operation of such juristic person, such persons shall also be imposed the punishments for such offense, unless he or she can prove that the action is committed without his or her knowledge or consent.

## **Transitory Provisions**

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**Section 73** During the initial period, for benefit of public relation of the State, the provisions of CHAPTER I, Operation of Sound Broadcasting Service and Television Broadcasting Service, CHAPTER II Programs of Sound Broadcasting Service and Television Broadcasting Service, CHAPTER VI Supervision, and CHAPTER V II Penalty, except Section 20, Section 35, Section 36 and Section 38, shall not apply to the Public Relation Department as the government agency responsible for public relation and it shall be entitled to continue carrying out the Sound Broadcasting Service and the Television Broadcasting Service according to the existing scope of services until there shall be the Master Plan for Sound Broadcasting Service and Television Broadcasting Service.

Once the Master Plan for Sound Broadcasting Service and Television Broadcasting Service has already been put into force, the Commission shall inform the Minister supervising the public Relations Department of the nature, categories and scope of operation of the Public Relations Department

as stated in the Master Plan for Sound Broadcasting Service and Television Broadcasting Service for implementation in compliance with the Master Plan for Sound Broadcasting Service and Television Broadcasting Service.

**Section 74** Government agencies, state enterprises and other government organizations operating the Sound Broadcasting Service and the Television Broadcasting Service on the date when this Act comes into force shall continue the broadcasting service until the date set forth in the Mast Plan for Sound Broadcasting Service and Television Broadcasting Service has taken effect. If the government agencies, state enterprises and other government organizations wish to continue the service, a sound broadcasting service and television broadcasting service plan shall be prepared for application for licenses from the Commission. The Commission shall issue licenses to such government agencies, state enterprises and other government organizations with due regard to the necessity of service operations and the use of the frequencies.

**Section 75** If the government agencies, state enterprises and other government organizations have granted authorization, concession or contract to any person to operate the Sound Broadcasting Service and the Television Broadcasting Service prior to the date this Act comes into force, such person shall be entitled to continue the Sound Broadcasting Service or the Television Broadcasting Service in accordance with the authorization, concession or contract received until such authorization, concession or contract expires.

The Commission shall issue license to operate the service under this Act to the persons receiving authorization, concession or contract by the government agencies, state enterprises and other government organizations in accordance with the nature, categories and scope of operation associated with such authorization, concession or contract. The licenses to operate the said service shall be valid according to the remaining period of that authorization, concession or contract and it shall be exempted from license fee under Section 19.

The provisions of Section 16, Section 17, Section 18, Section 19 and Section 22 of this Act shall not apply to the licensees under paragraph two.

**Section 76** The Ministry of Finance shall submit the revenue equivalent to two percent of the revenues which the government agency, state enterprise, or other government organizations have to submit to the Ministry of Finance due to the granting of authorization, concession or contract to operate the Sound Broadcasting Service and the Television Broadcasting Service prior to the date the Constitution of the Kingdom of Thailand B.E. 2550 (A.D. 2007) comes into force to the Fund until the authorization, concession or contract expires.

**Section 77** After the lapse of five-year period from the date on which this Act comes into force, the Commission shall consider revising the maximum duration of the advertisement and business service provision under Section 8, however, it shall not exceed the maximum duration of the advertisement and business service provision specified under Section 23 paragraph two.

**Section 78** While the establishment of independent state organization having the duty to allocate frequencies and regulate radio broadcasting, television broadcasting and telecommunications

services under Section 47 of the Constitution of the Kingdom of Thailand has not yet been completed, the National Telecommunications Commission under the Organization Allocating Frequencies and Regulate Radio Broadcasting, Television Broadcasting and Telecommunications Services Act, B.E. 2543 (A.D. 2000) shall temporarily perform duties of the Commission under this Act and shall have the duties and power as follows:

(1) to proceed with the action as prescribed under the Transitory Provision in an orderly manner;

(2) to proceed with the action in order to enable the operators of community radio broadcasting service and the service not using Frequencies to receive licenses to operate community service and the service not using Frequencies for temporary basis as prescribed by the Commission, provided that the license to operate the community service business for temporary basis and the service not using Frequencies shall be of a term not exceeding one year;

(3) to announce the proportion of programs and to approve program schedules of the licensees under (2);

(4) to control and supervise the sound transmission or broadcasting of the licensees under (2)

to be in accordance with the specified transmission capacity and permitted coverage area.

**Section 79** In performing the duties under Section 78, the Commission shall have the power to appoint a Radio Broadcasting and Television Broadcasting Sub-commission consisting of:

(1) The Permanent Secretary of the Prime Minister's Office as the chairman of the Sub-commission;

(2) The Permanent Secretary of the Ministry of Defense or its representative, the Permanent Secretary of the Ministry of Education or its representative, the Secretary General of Council of State or its representative, the Director General of the Department of Administration Department or its representative, the Secretary General of the office of the National Culture Commission or its representative, and the Commissioner General of the Royal Thai Police or its representative, as sub-commission members;

(3) six qualified members appointed as the Sub-commission members by the cabinet from those with expertise and experience being: three members from the field of communication arts, journalism or



mass communication; two members from the field of public law and; one member from communication technology or other related fields beneficial to the supervision of the services.

(4) qualified members appointed as the Sub-Commission members by the Commission from the President of the Council of the Mass Communication Academic Institutes of Thailand or its representative, the Chairman of the Broadcast Journalist Association or its representative, the Chairman of the Confederation of Radio and Television Profession Association or its representative, President of the National Council for Child and Youth Development or its representative, the President of the Coordination Committee of Nongovernment Organization or its representative, the President of the Council of disabled people of Thailand or its representative, and the President of the Confederation of Consumer Organization or its representative.

Secretary General of the National Telecommunications Commission shall be a member and the secretary of the sub-commission.

The Sub-Commission under paragraph one shall have duties to propose recommendations and

perform other tasks assigned by the Commission and shall also have duties and powers under Section 53.

The law governing the official administrative procedures on the parts relating to the meeting, the performance of duties and vacating office shall apply to the Sub-commission *mutatis mutandis*.

**Section 80** The performance of duties the National Telecommunications Commission under Section 78 and the Radio Broadcasting and Television Broadcasting Sub-Commission under Section 79 shall end from the date the commission of the independent State organization under Section 47 of the Constitution of the Kingdom of Thailand assumes the office, provided that this shall not affect the matters permitted or undertaken by the National Telecommunications Commission and the Radio Broadcasting and Television Broadcasting Sub-Commission during the performance of their duties under this Transitory Provision.

Countersigned by:  
General Surayud Chulanont  
Prime Minister

**Remarks:** The reasons for promulgating this Act are the government policy to reorganize the government media system, private media system and community media system to become a genuine public media system and government communication tool shall be used for public utilization and educational utilization for people. Moreover the organization Allocating Frequencies and Regulating the Radio Broadcasting, Television Broadcasting and Telecommunications Services Act B.E. 2543 (A.E. 200) stipulated that there shall be the National Broadcasting and Commission (NBTC) having a duty to supervise sound broadcasting and television broadcasting services, and National Telecommunications Commission (NTC) has the duty to supervise telecommunications services, After the promulgation of the Constitution of the Kingdom of Thailand B.E. 2550, there was alteration in a major principle as to there shall be a single independent state agency having duties to allocate the frequencies and supervise such services, and compelling the enactment of the law on operation of radio broadcasting and television broadcasting services to reorganize the public media system, private media system and community media system to become a genuine public media system. Therefore, for the supervision of the operation of

radio broadcasting and television broadcasting services, it is necessary to enact the laws on the sound broadcasting and television broadcasting services to support the fulfillment of the duties of such independent state agency. It is therefore necessary to enact the act.



**UNOFFICIAL TRANSLATION  
RADIOCOMMUNICATIONS ACT  
B.E. 2498 (1955)**



**RADIOCOMMUNICATIONS ACT**  
**B.E. 2498 (1955)**

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**BHUMIPOL ADULYADEJ, REX.**

Given on the 22<sup>nd</sup> Day of January B.E. 2498;  
Being the 10<sup>th</sup> Year of the Present Reign.

By Royal Command of His Majesty King Bhumibol Aduladej, it is hereby proclaimed that:

Whereas it is appropriate to revise the law on radiocommunications;

His Majesty the King, by and with the advice and consent of the Assembly of the House of Representatives is graciously pleased to enact the following Act:



**Section 1** This Act shall be called the “Radiocommunications Act B.E. 2498.”

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

**Section 3** The followings are hereby repealed:

- (1) Radiocommunications Act B.E.2478;
- (2) Radiocommunications Act (No.2) B.E.2481;
- (3) Radiocommunications Act (No.3) B.E.2483;
- (4) Radiocommunications Act (No.4) B.E.2485;
- (5) Radiocommunications Act (No.5) B.E.2491;
- (6) Radiocommunications Act (No.6) B.E.2497;
- (7) all other laws, rules, and regulations insofar as they are provided for in this Act, or are contrary to, or inconsistent with this Act.

**Section 4** In this Act:

**“Hertzian Waves”** means electromagnetic waves having frequencies ranging from 10 kilohertz to 3,000,000 megahertz;

**“Radiocommunications”** means the transmission or reception of signs, signals, writing, images and sounds, or intelligence of any nature by means of hertzian waves;

**“Radiocommunication equipment”** means radiocommunication transmitter, radiocommunication receiver, or radiocommunication transceiver but does not include radio and television broadcasting receiver, and radiocommunication transmitter, radiocommunication receiver, or radiocommunication transceiver using hertzian waves which have the characteristics or types of service as specified in the Ministerial Regulations;

For the purpose of controlling the use of radiocommunication equipment, any radiocommunication component as specified in the Ministerial Regulations shall be deemed as radiocommunication equipment.

**“Radio Operator”** means any person who operates radiocommunication equipment;

**“Radiocommunication Station”** means the place where the radio-communications are taken place;

**“Make”** includes manufacture, modify, or re-assemble;

**“Import”** means import into the Kingdom;

**“Export”** means export out of the Kingdom;

**“Trade”** includes the possession for selling or repairing;

**“Authorized Licensing Officer”** means the officer appointed by the Minister under this Act;

**“Minister”** means the Minister who is in charge and controls the execution of this Act.

**Section 5** Except Section 11 and Section 12, this Act shall not be enforced upon:

(1) Ministries, Government Bureaux, Government Departments,

(2) The juristic persons as specified in the Ministerial Regulations.

**Section 6** Any person is prohibited to make, possess, use, import, export, or trade any radiocommunication equipment unless that person has

been granted a license from the Authorized Licensing Officer.

In case where it is deemed appropriate, the Minister shall have the authority to issue the Ministerial Regulations in which they specify radiocom-munication equipment of some characteristics or radiocommunication equipment used in some services to be exempted from all or some licenses indicated in paragraph one.

**Section 7** Any person is prohibited to perform the duties of a radio operator in a position specified in the Ministerial Regulations unless that person has been granted a license from the Authorized Licensing Officer.

**Section 8** Any person is prohibited to receive news by means of radio-communications from abroad for advertising purpose unless that person has been granted a license from the Authorized Licensing Officer.

**Section 9** Licenses under this Act shall be as follows :

(1) license for making, shall be valid for one hundred eighty days from the date of issuance;

(2) license for possessing, shall be valid for one year from the date of issuance;

(3) license for using, shall be valid as long as the radiocommunication equipment is serviceable for use;

(4) license for importing, shall be valid for one hundred eighty days from the date of issuance;

(5) license for exporting, shall be valid for thirty days from the date of issuance;

(6) license for trading, shall be valid for one year from the date of issuance, except one issued exclusively for repairing of which it shall be valid for five years;

(7) license for installing a radiocommunication station, shall be valid as long as the licensee uses the station in accordance with the terms and conditions specified in the license;

(8) radio operator's license, shall be valid for five years from the date of issuance;

(9) license for receiving news by means of radiocommunications from abroad for advertising

purpose, shall be valid for one year from the date of issuance.

Licensee under (1), (3), (4), (5), (6), or (7) shall be deemed that he is also granted to possess the radiocommunication equipment involved with each corresponding license mentioned.

**Section 10** The Minister shall have the authority to issue a special license to a person for the installation of aviation radiocommunication station exclusively for the safety purpose of civil aviation. The Minister may impose any condition upon the issuance of such special license.

The licensee shall observe all conditions imposed by the Minister.

**Section 11** Any person is prohibited to install a radiocommunication station unless that person has been granted a license from the Authorized Licensing Officer.

The radiocommunication station shall use the exact frequency as specified in the Radio Regulations annexed to the International Telecommunication Convention.

In order to conform with paragraph one and paragraph two, the Director General of the Post and Telegraph Department shall have the authority to impose the conditions for the installation of a radiocommunication station and the Director General or the designated person shall have the authority to control and specify the frequency used by the radiocommunication station.

In the case where it is deemed appropriate, the Minister shall have the authority to issue the Ministerial Regulations in which they specify the radiocommunication station used in some services to be exempted from licensing requirements as indicated in paragraph one.

**Section 11Bis** The Minister shall have the authority to make an announcement that those who use the assigned frequency for any services or any natures are required to pay to the Government an appropriate charge for the use of the assigned frequency.

The announcement as indicated in paragraph one shall be published in the Government Gazette.

**Section 12** A radiocommunication station is prohibited to operate radio-communication services for any other purposes except for those specified in its license, or for governmental services of the Ministries, Government Bureaux, Government Departments, or for the services of the juristic persons under Section 5.

**Section 13** Any vehicle is prohibited to use radiocommunication equipment unless its use is pursuant to the Ministerial Regulations or the special provisions temporarily granted by the Minister.

**Section 14** For the purpose of maintaining the public order or defending the realm, the Minister shall have the authority to issue a provisional order to the competent authority to seize, put to use, prohibit the use of, or prohibit the removal of radiocommunication equipment, or part thereof, within the period and under the conditions specified in the said order.

**Section 15** The Authorized Licensing Officer or the designated person shall have the authority to order that those who unintentionally cause interference or obstruction to radiocommunications shall cease such action or alter the article which



produces such action or remove the said article from the area of interference.

**Section 16** Any person is prohibited from transmitting or preparing to transmit, by means of radiocommunications, any message known to be false or any other messages unauthorized by the competent authority which might cause damage to the country or its people.

**Section 17** Any person is prohibited to intercept, utilize, or wrongfully disclose any news received by means of radiocommunications which are not intended for public interest or which might cause damage to the country or its people.

**Section 18** In order to inspect any radiocommunication equipment, part thereof, a radiocommunication station, an article which causes interference or obstruction to radiocommunications, or its license, the Authorized Licensing Officer or the designated person shall have the authority to enter the building, premises, or vehicle of any person at a reasonable time.

When it appears that any person has violated this Act or there is a reasonable cause to suspect him of committing such violation, the Authorized Licensing Officer or the designated person indicated in paragraph one, shall have the authority to arrest that person together with the exhibit used in the commission of that violation for proceeding with the case.

**Section 19** In case where the licensee acts in contrary to the provisions of this Act, the Ministerial Regulations issued pursuant hereto, or the conditions specified in his license, the Authorized Licensing Officer shall have the authority to order cancellation or suspension of such person's license.

The licensee may appeal to the Director General of the Post and Telegraph Department within thirty days from the date of cancellation or suspension of his license. The decision of the Director General of the Post and Telegraph Department shall be final.

**Section 20** The Government shall not be responsible in case of loss or damage of any sort which may arise from the difficulties in the use of radiocommunication equipment belonging to the

Government and shall not be responsible for the reception, transmission, or passing of any radiocommunication message.

In the case mentioned in the previous paragraph, the competent authority shall also bear no responsibility unless such authority has caused the loss or damage willfully, fraudulently or negligently.

**Section 21** The Authorized Licensing Officer shall have the authority to assess fine for violation of this Act.

**Section 22** Under judgment that a person is guilty of violation under this Act, the court may also order to forfeit the article used in such violation for the official use of the Post and Telegraph Department.

**Section 23** Any person who is in contravention of Section 6, Section 11 or Section 16 shall be guilty of an offence and shall, on conviction, be liable to a fine not exceeding one hundred thousand baht or imprisonment not exceeding five years or both.

**Section 24** In case there is any contravention of Section 12 or Section 13, the person in charge of the radiocommunication station or the person in charge of the radiocommunication equipment and persons involved in such contravention shall be guilty of an offence and shall, on conviction, be liable to a fine not exceeding forty thousand baht or imprisonment not exceeding two years or both.

**Section 25** Any person who is in contravention of Section 7, Section 8 or Section 17 shall be guilty of an offence and shall, on conviction, be liable to a fine not exceeding forty thousand baht or imprisonment not exceeding two years or both.

**Section 26** Any person who intentionally causes interference or obstruction to radiocommunications shall be guilty of an offence and shall, on conviction, be liable to a fine not exceeding one hundred thousand baht or imprisonment not exceeding five years or both.

**Section 27** Any person who is in contravention of the order of the Authorized Licensing Officer or the designated person, under the

provisions of Section 15, shall be guilty of an offence and shall, on conviction, be liable to a fine not exceeding forty thousand baht or imprisonment not exceeding two years or both.

**Section 28** All licenses and certificates issued under the laws on radio-communications prior to the date coming into force of this Act shall remain valid until their dates of expiration.

**Section 29** The Minister of Transport and Communications shall be in charge of this Act and shall have the authority to appoint an Authorized Licensing Officer and issue the Ministerial Regulations:

- (1) laying down rules for the application for, and issuance of licenses;
- (2) prescribing procedures for cancellation and suspension of licenses;
- (3) prescribing fee schedules in accordance with this Act;
- (4) prescribing specifications for radiocommunication equipment and qualifications for radio operators;

(5) prescribing any other matters for the carrying out of this Act.

Such ministerial Regulations shall come into force as of their publication in the Government Gazette

Countersigned by:

Field Marshal P' PIBULSONGGRAM

Prime Minister

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## The International Affairs Bureau

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