

Unofficial Translation

**BROADCASTING AND TELEVISION BUSINESSES ACT,  
B.E. 2551 (2008)<sup>1</sup>**

BHUMIBOL ADULYADEJ, REX.

Given on the 26th Day of February B.E. 2551;

Being the 63rd 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 broadcasting and television businesses;

This Act contains certain provisions in relation to the restriction of rights and liberties of a person, in respect of which section 29 in conjunction with section 32, section 33, section 35, section 36, section 41, section 43, section 45, section 46 and section 47 of the Constitution of the Kingdom of Thailand so permit by the virtue of law;

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

**Section 1.** This Act is called the “Broadcasting and Television Businesses Act, B.E. 2551 (2008)”.

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

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<sup>1</sup> Translated by Ms. Arriya Phasee under contract for the Office of the Council of State of Thailand's Law for ASEAN project.- Initial version- pending review and approval.

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**Section 3.** The following shall be repealed:

- (1) Radio Broadcasting and Television Act, B.E. 2498 (1955);
- (2) Radio Broadcasting and Television Act (No. 2), B.E. 2502 (1959);

**Remark:** Reference to Thai legislation in any jurisdiction shall be made to the Thai version only. This translation has been made so as to establish correct understanding about this Act to foreigners.

- (3) Radio Broadcasting and Television Act (No. 3), B.E. 2521 (1978);
- (4) Radio Broadcasting and Television Act (No. 4), B.E. 2530 (1987).

**Section 4.** In this Act:

“sound broadcasting business” means the sound broadcasting business under the law on the organisation to assign frequency spectrum and to regulate radio broadcasting, television and telecommunications businesses;

“television business” means the television business under the law on the organisation to assign frequency spectrum and to regulate radio broadcasting, television and telecommunications businesses;

“sound broadcasting business or television business using frequency spectrum” means the sound broadcasting business or television business which needs to obtain frequency assignment under the law on the organisation to assign frequency spectrum and to regulate radio broadcasting, television and telecommunications businesses;

“sound broadcasting business or television business not using frequency spectrum” means the sound broadcasting business or television business which does not need to

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<sup>2</sup> Published in the Government Gazette Vol. 125, Part 42a, Page 61, dated 4th March B.E. 2551 (2008).

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obtain frequency assignment under the law on the organisation to assign frequency spectrum and to regulate radio broadcasting, television and telecommunications businesses;

“network” means an interconnection system of the set of transmitters or sound or visual broadcasting equipment used by operators of sound broadcasting businesses or television businesses for the transmission of public news or programs from a station to a receiver, either through conducting wire, frequency spectrum, optical conductor, electromagnetic waves or any other conductors;

“network owner” means a person having his or her own network or a person having the right to operate a network business, whether or not he or she is the operator of sound broadcasting business or television business;

“station” means a place used for transmitting public news or programs of the operation of sound broadcasting business or television business, either through the operator’s own network or a network belonging to others;

“Fund” means the Broadcasting and Television Business Development Fund for Public Interest under the law on the organisation to assign frequency spectrum and to regulate radio broadcasting, television and telecommunications businesses;

“Master Plan for Broadcasting and Television Businesses” means the Master Plan for Broadcasting and Television Businesses under the law on the organisation to assign frequency spectrum and to regulate radio broadcasting, television and telecommunications businesses;

“frequency spectrum” means radio waves or hertzian waves which are electromagnetic waves of frequencies lower than three million megahertz that are propagated in space without artificial conductor;

“Commission” means the National Broadcasting Commission under the law on the organisation to assign frequency spectrum and to regulate radio broadcasting, television and telecommunications businesses;

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“commissioner” means a commissioner of the National Broadcasting Commission;

“Office” means the Office of the National Broadcasting Commission;

“Secretary-General” means the Secretary-General of the National Broadcasting Commission;

“competent official” means a person appointed by the National Broadcasting Commission to execute this Act.

**Section 5.** The Commission shall have the power to appoint competent officials and issue Notifications for the execution of this Act.

The Commission’s Notifications under this Act shall be subject to arrangement of a hearing from the persons concerned.

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

**Section 6.** The Prime Minister shall have charge and control over the execution of this Act.

## CHAPTER I

### BROADCASTING AND TELEVISION BUSINESSES OPERATION

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**Section 7.** Any person who operates sound broadcasting business or television business shall obtain a license from the Commission in accordance with the provision of this chapter.

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The Commission shall have the power to prescribe certain characteristics of the business that shall not be deemed as the operation of sound broadcasting business and television business under this Act.

**Section 8.** An applicant for a license under this Act shall be of Thai nationality and shall not be under license suspension nor shall have previously had a license revoked during a period of less than three years prior to the application.

**Section 9.** A license to operate sound broadcasting business and television business shall be the exclusive right of the person who has been granted such license and shall not be transferable.

A licensee authorised to operate sound broadcasting business and television business shall operate the business by itself. Time allocation to other persons to run the programme may be made in accordance with the criteria and procedures prescribed by the Commission under this Act.

#### Part 1

#### Sound Broadcasting Business or Television Business Using Frequency Spectrum

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**Section 10.** There shall be three types of license to operate sound broadcasting business or television business using frequency spectrum as follows:

(1) license to operate public services: being a license issued for the business operation which has the main objectives to provide public services. This can be divided into three types as follows:

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(a) Type One Public Services License, which shall be issued for sound broadcasting business or television business mainly intended for enhancing knowledge, education, religions, art and cultures, science, technology and environment and agriculture, and promoting other occupations, health, sanitation, sports or quality of life of the public;

(b) Type Two Public Services License, which shall be issued for sound broadcasting business or television business mainly intended for the State security or public safety;

(c) Type Three Public Services License, which shall be issued for sound broadcasting business or television business mainly intended for distributing news and information for promotion of good understanding between the Government and the public, and between the National Assembly and the public; distributing news and information for promotion and support of the dissemination and provision of education to the public with regard to the administration under the democratic form of government with the King as Head of State; providing news and information services publicly beneficial for the disabled, underprivileged or interest groups who conduct social activities; or providing news and information services for other public interests;

(2) license to operate community services: being a license for the business operation which has the same objectives as those of the public services business, provided that it must provide the benefit that meets the needs of the community or locality receiving the services;

(3) license to operate business services: being a license for the business operation which has the objectives as intended by the operator for profit making, in accordance with the criteria prescribed in the Notification by the Commission. This can at least be divided into three types:

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(a) Business Services License at National Level, which shall be issued for the sound broadcasting business or television business whose service areas cover all regions of the country;

(b) Business Services License at Regional Level, which shall be issued for the sound broadcasting business or television business whose service areas cover a group of provinces;

(c) Business Services License at Local Level, which shall be issued for the sound broadcasting business or television business whose service areas cover an individual province.

**Section 11.** The applicant for a license to operate public services shall be:

(1) a Ministry, Sub-ministry, Department, Independent Organisation under the Constitution, Local Administrative Organisation, public organisation or any other State agency which is not a State enterprise and has the duty under the law or the necessity to operate sound broadcasting business or television business in accordance with the criteria prescribed in the Notification by the Commission;

(2) an association, foundation or other juristic person established under Thai law which has the operational objectives for public interest on a non-profit basis and is appropriate for the operation of public services in accordance with the characteristics and criteria prescribed in the Notification by the Commission;

(3) a higher education institute for the benefit of learning and teaching purposes or for dissemination of knowledge to the society in accordance with the characteristics and criteria prescribed in the Notification by the Commission.

**Section 12.** The applicant for a license to operate community services shall be an association, foundation, other juristic person established under Thai law which is not a State

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agency and has the operational objectives for public interest on a non-profit basis, or a group of local people that are not juristic persons forming into a group to strengthen the community. The applicant shall be appropriate for the operation of community services in accordance with the characteristics prescribed in the Notification by the Commission.

In determining the characteristics under paragraph one, the Commission shall take into account the benefit of promoting an efficient operation of sound broadcasting business and television business that can respond to diverse needs of the people in the community or locality and prevent the business from being taken over.

**Section 13.** The applicant for a license to operate business services shall be a juristic person established under Thai law and shall have the following characteristics:

(1) the applicant for Business Services License at Regional and Local Levels shall be a juristic person in which at least one-third of the equity shareholders or investors have a domicile in such region or locality, as the case may be, and shall have stable financial status, an accounting audit system and any other qualifications that can guarantee the stability of the business operation as prescribed in the Notification by the Commission;

(2) the applicant for a license to operate any other types of business than (1) shall be a State enterprise or a company established under Thai law which has the main objectives for operating sound broadcasting business or television business.

**Section 14.** The applicant for a license under section 11 (2) and (3) and section 12, in addition to having the qualifications and possessing no prohibited characteristics under section 8, shall have qualifications and possess no prohibited characteristics as follows:

(1) the person(s) authorised to bind the applicant shall be of Thai nationality;

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(2) no director or person authorised to bind the applicant has ever been a director or a person authorised to bind other licensees whose license has previously been revoked due to his or her performing of management duties during a period of less than three years.

**Section 15.** The applicant for a license under section 13, in addition to having the qualifications and possessing no prohibited characteristics under section 8 and section 14, shall have the following qualifications:

(1) being a juristic person in which the persons of Thai nationality invest or hold equity shares in the amount of not less than three quarters of the total capital of such juristic person;

(2) being a juristic person in which the persons of Thai nationality have the power under the law or articles of association or through an agreement to vote of not less than three quarters of the total number of votes entitled to vote of such juristic person.

In the case where the applicant for a license under section 13 is a company, at least three quarters of the total number of the directors and the director(s) authorised to bind such juristic person shall be of Thai nationality.

In the case where the applicant for a license under section 13 is a limited partnership or registered ordinary partnership, the managing partner or the manager shall be of Thai nationality.

The Commission may prescribe the prohibition of any act which has the nature of business takeover by a foreigner to be observed by the applicant.

For the purpose of this section, it shall be deemed that a person of Thai nationality means a person who is not a foreigner under the law on foreign business, and in casting a vote, each share held or invested by a person of Thai nationality shall be counted as one vote.

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**Section 16.** The filing of the application for a license and the granting of permission shall be in accordance with the rules, procedures and conditions prescribed in the Notification by the Commission. The applicant shall specify the station, system and method to be used for radio-broadcasting or television transmission and shall propose a service plan for sound broadcasting business or television business to the Commission for consideration.

The Notification under paragraph one shall be consistent with the Master Plan for Broadcasting and Television Businesses and the Frequency Plan under the law on the organisation to assign frequency spectrum and to regulate radio broadcasting, television and telecommunications businesses.

**Section 17.** In granting permission for the operation of sound broadcasting business or television business using frequency spectrum, the Commission shall issue a license for business operation, taking into account the mission or objectives of the business operation, which shall be in accordance with the proportion of frequency assignment as stipulated in the law on the organisation to assign frequency spectrum and to regulate radio broadcasting, television and telecommunications businesses as follows:

(1) the issuance of a license to operate public services shall take into account the duties under the laws or the necessity for providing public services by using the frequency spectrum allocated for the public sector;

(2) the issuance of a license to operate community services shall take into account diverse needs, availability and public benefits of the community by using the frequency spectrum allocated for the public;

(3) the issuance of a license to operate business services shall take into account the promotion of free and fair competition and support for certain types of business that provide proper proportion of news and documentary by using the frequency spectrum allocated for the private sector.

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**Section 18.** Determination of the term of sound broadcasting business license and television business license shall be in accordance with the criteria prescribed in the Notification by the Commission, taking into account a break-even period, objectives of the business operation, the applicant's business development direction, consumers' demands and equal competition among the operators as well as programme quality assessment.

The sound broadcasting business license shall have a term of not exceeding seven years.

The television business license shall have a term of not exceeding fifteen years.

In the case of an expiry of the license under paragraph two, the licensee shall file the application for a new license at least ninety days but not more than one year prior to the expiry of the existing license. In the case of an expiry of the license under paragraph three, the licensee shall file the application for a new license at least ninety days but not more than two years prior to the expiry 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 its business until the Commission issues a refusal order. In issuing a refusal order, the Commission shall collect the business operation fee proportionately to the period over which the operations were conducted.

The filing of the application for a license and the consideration of issuing an order under paragraph four and paragraph five shall be in accordance with the rules, procedures, conditions and period of time prescribed in the Notification by the Commission.

**Section 19.** The license fee shall be as prescribed by the Commission under the law on the organisation to assign frequency spectrum and to regulate radio broadcasting, television and telecommunications businesses.

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The licensee shall pay the fees for the use of frequency spectrum and the operation of sound broadcasting business and television business for each type of license annually at the rate prescribed by the Commission.

The determination of the rate of fees under paragraph two shall not cause unreasonable burden to the operators or the service users. In this regard, the Commission shall take into account public interest, worthiness, scarcity and allocation procedure of such resources.

The Commission may reduce or exempt the applicant for a license or the licensee under this Act from the license fee under paragraph one and paragraph two if such person can demonstrate to the Commission that its operation of sound broadcasting business or television business provides news and documentary which are beneficial to the public in the proportion higher than that prescribed in the Notification by the Commission.

The criteria and procedures under paragraph four shall be in accordance with the rules prescribed by the Commission.

**Section 20.** In operating the sound broadcasting business and television business, the Government Public Relations Department and the licensees under Type One Public Services and Type Three Public Services may not generate revenue from advertisements unless the revenue generation activities are dealing with advertisements or dissemination of news related with the work or activities of State agencies or State enterprises, associations, foundations or other juristic persons which have the operational objectives for public interest on a non-profit basis, or dealing with the featuring of images of organisations, companies and enterprises without advertising the properties, advantages or qualities of the related products either directly or indirectly, in accordance with the criteria prescribed in the Notification by the Commission.

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In operating the sound broadcasting business and television business, the licensee under Type Two Public Services may generate revenue from advertisements sufficient only for the business operation without emphasis on profit making.

**Section 21.** In operating the sound broadcasting business and television business, the licensee authorised to operate community services may not generate revenue from advertisements.

**Section 22.** The Commission shall require the licensees authorised to operate business services to make a contribution to the Fund annually at the rate prescribed in the Notification by the Commission, which shall not exceed two percent of the revenue before deducting expenses derived, either directly or indirectly, from advertisements and other revenues in connection with the operation of the licensed sound broadcasting business and television business.

In the case of the operation of subscription business services, the annual contribution under paragraph one shall be calculated from subscription fees, revenue before deducting expenses derived, either directly or indirectly, from advertisements and from other service fees collected from the service provision to the subscribers, in accordance with the criteria prescribed in the Notification by the Commission.

**Section 23.** In operating the business services, the operator may proceed to generate revenue from advertisements, business service provision, collection of subscription fees or any other means.

For the operation under paragraph one with an application of advertisements and business service provision, the Commission shall have the power to prescribe in the Notification the criteria of the nature and the maximum amount of time for advertisements

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and business service provision, which shall not exceed twelve and a half minutes per hour and the total amount of time for advertisements for a whole day shall not exceed an average of ten minutes per hour.

For the operation under paragraph one with an application of subscription or collection of other service fees, the provision of section 28 shall apply, *mutatis mutandis*.

The licensee may change the rate of subscription fees or service fees and conditions of service provision of the licensee subject to the criteria prescribed in the Notification by the Commission under paragraph three, but this shall not affect the rights of the subscribers within the period under the existing agreement.

In prescribing the criteria in the Notification under paragraph two and paragraph three, the Commission shall take into account the cost of service provision and fairness brought to competition among the different types of licensees as well as fairness brought to both the licensees and the consumers.

**Section 24.** The licensee shall prepare a financial status report demonstrating true and correct revenues and expenses for proposing to the Commission in accordance with the criteria prescribed in the Notification by the Commission.

## Part 2

### Sound Broadcasting Business or Television Business Not Using Frequency Spectrum

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**Section 25.** An operator of sound broadcasting business or television business not using frequency spectrum shall have qualifications and possess no prohibited characteristics under section 8, section 14 and section 15.

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In the consideration of the qualifications or prohibited characteristics of the applicant for a license, the criteria and procedures stipulated in Part 1: Sound Broadcasting Business or Television Business Using Frequency Spectrum shall apply, *mutatis mutandis*.

**Section 26.** The provisions of section 18 and section 19 shall apply, *mutatis mutandis*, to the issuance of a license to operate sound broadcasting business and television business under section 25.

**Section 27.** For the benefit of the supervision of the operation of sound broadcasting business and television business not using frequency spectrum, whether or not with an application of subscription or collection of service fees, the Commission shall have the power to prescribe in the Notification the following criteria:

- (1) programme proportion and schedule;
- (2) revenue generation;
- (3) recording of the programmes which have been broadcasted and duration of record retention.

**Section 28.** In the business operation of the licensees authorised to operate sound broadcasting business and television business not using frequency spectrum with an application of subscription or collection of other service fees, the Commission shall have the power to prescribe in the Notification the criteria for collection of service fees, the maximum amount of time for advertisements and business service provision and conditions of service provision.

With regard to the revenue generation from advertisements and business service provision under paragraph one, the Commission may prescribe the maximum amount of time in relation to advertisements and business service provision not exceeding six minutes

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per hour and the total amount of time for advertisements and business service provision for a whole day shall not exceed an average of five minutes per hour.

In prescribing the maximum amount of time under paragraph two, the Commission shall take into account the consumer protection, conditions of market competition, cost of business operation and fairness between the licensees authorised to operate sound broadcasting business or television business using frequency spectrum and the licensees authorised to operate sound broadcasting business or television business not using frequency spectrum.

The provisions of section 22, section 23, paragraph one, paragraph four and section 24 shall apply to the licensee under section 25, *mutatis mutandis*.

### Part 3 Station Management

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**Section 29.** In operating the sound broadcasting business or television business, the licensee shall appoint a person of Thai nationality as the director of each station to supervise and oversee the broadcasting to ensure compliance with the authorisation and to be responsible for supervising the programming, programme hosting and broadcasting of the station to ensure compliance with the laws and Notifications prescribed by the Commission.

**Section 30.** The licensee shall be liable to any conduct of the station director in performing the supervision and management of the sound broadcasting business or television business as if it is its own conduct unless it is proven that such conduct is committed without its acknowledgement or consent and reasonable caution has been taken for the prevention.

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**Part 4**  
**Prevention of Monopoly**

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**Section 31.** To prevent any person from taking over the business in a way that restricts the opportunity to obtain public news and information derived from diverse sources of information or committing an act that simultaneously monopolises several categories of mass media business, a licensee shall be prohibited from holding in the same category of business or cross right-holding in the sound broadcasting business and television business using frequency spectrum in excess of the proportion prescribed in the Notification by the Commission.

In the case where the licensee violates the Commission's Notification under paragraph one, the Commission shall have the power to order the licensee to rectify such violation within ninety days to ensure that the business holding is in compliance with such Notification.

**Section 32.** To promote free and fair competition and to prevent an act that is monopolistic, or that reduces or limits the competition on the operation of sound broadcasting business or television business, the business operation of a licensee shall be subject to the law on trade competition and the specific measures prescribed in the Notification by the Commission according to the characteristics of the operation of sound broadcasting business or television business.

An act that is monopolistic, or that reduces or limits the competition on the operation of sound broadcasting business or television business shall include a holding in related businesses or use of materials or equipment specially installed to receive sound or visual signals in the way that hinders fair competition.

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CHAPTER II  
BROADCASTING AND TELEVISION BUISNESSES PROGRAMMES

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**Section 33.** A licensee for each type of sound broadcasting business and television business using frequency spectrum shall set up a programme schedule in accordance with the following programme proportion:

(1) a licensee authorised to operate public services shall set up news or documentary programmes which are useful for the public in a proportion of not less than seventy percent;

(2) a licensee authorised to operate community services shall set up news or documentary programmes which are useful for the community or locality receiving the services in a proportion of not less than seventy percent;

(3) a licensee authorised to operate business services shall set up news or documentary programmes which are useful for the public in a proportion of not less than twenty five percent.

A licensee authorised to operate business services at regional and local levels shall have its own produced programmes in a proportion prescribed in the Notification by the Commission.

The news or documentary programmes which are useful for the public under paragraph one shall include news programmes, programmes for promotion of knowledge and understanding on the administration under the democratic form of government, programmes for promotion of education, ethics, art, cultures and provision of knowledge and understanding in the development of economy, society, quality of life and the environment.

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**Section 34.** A licensee shall set up a programme schedule that is suitable with the objectives of the licensed business operation, in accordance with the criteria prescribed in the Notification by the Commission for each type of license.

In the case of necessity to protect children and youths, the Commission may prescribe in the Notification the broadcast time for certain categories of programmes.

The licensee shall propose the programme schedule to the Commission at least fifteen days prior to the commencement date of its service provision of the sound broadcasting business or television business.

In the case where the Commission deems that the programme schedule fails to comply with the criteria prescribed in the Notification by the Commission, the Commission may order the licensee to correct its programme schedule. When the Commission has approved the corrected programme schedule, the licensee may commence its service provision of the sound broadcasting business or television business in accordance with the programme schedule approved by the Commission.

In the case where the licensee wishes to change the programme schedule which has already been approved by the Commission, the proposed change shall be submitted to the Commission for consideration at least seven days prior to the change and the provision of paragraph four shall apply, *mutatis mutandis*.

In the case of urgent necessity, the licensee may run the programme deviating from the programme schedule in accordance with the criteria prescribed in the Notification by the Commission.

**Section 35.** In the case of disaster or emergency or any other case as prescribed in the Notification by the Commission, which is necessary to broadcast news or a warning to

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the public, if requested by the Government or relevant State agencies, the licensee shall perform as requested.

**Section 36.** For the benefit of the promotion and protection of the rights of the disabled and underprivileged to access or learn and utilise the programmes of sound broadcasting business and television business equally to general individuals, the Commission shall prescribe certain fundamental measures to ensure that the licensees arrange to have the services suitable for the benefit of these persons.

The Commission may prescribe additional incentive measures for the licensees to consider acting forthwith as appropriate. In this regard, the Commission may consider subsidising related expenses payable from the Fund or granting support or promotion by other means.

In order to making the measures under paragraph one suitable for the disabled and underprivileged, the Commission shall listen to opinions or provide opportunity for the disabled or underprivileged to take part in formulating such measures.

The services suitable for the benefit of the disabled and underprivileged under paragraph one may include a sound broadcasting service that broadcasts a full time book reading programme or a television service that provides sign language interpreter, scrolling display or audio description for the public news programmes.

**Section 37.** Broadcasting of programmes containing issues induced to overthrow the administration under the democratic form of government with the King as Head of State or having effects on the State security, public order or good morals of the people or having the nature of obscenity or causing serious deterioration of the mind or health of the people shall be prohibited.

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A licensee shall have the duty to examine and suspend the broadcasting of programmes having the nature according to paragraph one. If the licensee fails to perform such action, a commissioner assigned by the Commission shall have the power to order, verbally or in writing, to suspend such broadcasting immediately and the Commission shall promptly investigate the facts on such matter.

In the case where the Commission has conducted the investigation and found that such act is due to the licensee's negligence, the Commission shall have the power to order the licensee to carry out rectification work as appropriate or suspend or revoke the license as the case may be.

**Section 38.** A licensee shall arrange to record the programmes which have already been broadcasted in a tape or other television materials or by any means that may be replayed and shall retain the materials for inspection by a competent official.

The programmes which are subject to recording under paragraph one and the duration for record retention shall be as prescribed in the Notification by the Commission. The said duration shall not be less than thirty days and shall not cause unnecessary burden to the licensee.

### CHAPTER III

#### PROMOTION AND CONTROL OF PROFESSIONAL ETHICS AND PROTECTION OF PARTY SUFFERING DAMAGE FROM THE OPERATION OF BROADCASTING AND TELEVISION BUSINESSES

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**Section 39.** The Commission shall proceed to promote a formation of licensees, programme producers and mass media professionals in sound broadcasting business and

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television business into various forms of organisations whose duty is to set forth ethical standards for the occupation or profession and to self-regulate the occupation or profession under the ethical standards.

The preparation of ethical standards of the organisations under paragraph one shall take into account the protection of public access to public news and information and the consumer protection in relation to the operation of sound broadcasting business and television business as well as the protection of the rights and liberties of the organisations' occupational and professional members.

In regulating the occupation or profession of the organisations under paragraph one, each of the organisations under paragraph one shall establish an ethical control committee with the composition and due consideration of the proper proportion of occupational and professional members, academicians and external experts.

The Commission may provide support from the Fund to the organisation under paragraph one which has prepared the ethical standards in accordance with section 52.

**Section 40.** A person suffering damage from the programme broadcasting false information or in breach of rights, liberties, dignity, reputation, family or privacy rights of a person may make a complaint to the Commission.

The Commission shall promptly forward the matter together with its opinions to the organisation regulating the occupation or profession under section 39 for the remedy to the person suffering damage and shall follow up the performance of the organisation regulating the occupation or profession under section 39. When the organisation regulating the occupation or profession under section 39 has notified the result of its performance to the Commission, the Commission shall immediately inform the complainant of the result.

The result of performance undertaken in this chapter shall be an integral part of the action under section 51 (1).

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CHAPTER IV  
CONSTRUCTION OF FUNDAMENTAL NETWORK, USE AND CONNECTION TO NETWORK  
FOR BROADCASTING AND TELEVISION BUSINESSES

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**Section 41.** Subject to section 49, in the operation of sound broadcasting business and television business, if the licensee has to insert or install poles or lay lines or place ducts or install any accessories and requires to exercise the rights under this section, the licensee shall prepare a diagram showing details of the characteristics of the directions and boundaries for inserting or installing poles, laying lines, placing ducts and installing any accessories for proposing to the Commission for approval prior to the implementation.

When the Commission has given the approval under paragraph one, the licensee shall have the right to implement such actions. In this regard, the provision of Chapter IV of the Telecommunications Business Act, B.E. 2544 (2001) shall apply, *mutatis mutandis*. Powers and duties of the National Telecommunications Commission shall be the powers and duties of the Commission under this Act and any rights and duties that are binding on the telecommunications business licensee 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 Act, B.E. 2544 (2001) stipulates that any act is an offence for which a penalty is imposed, the same shall apply to the licensee with the same penalties.

**Section 42.** A network owner shall allow licensees to use or connect to his or her network in accordance with the criteria and procedures prescribed in the Notification by the Commission.

A network owner may refuse the use or connection to the network only in the following cases:

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- (1) the existing network is inadequate for the use or connection by the licensees;
- (2) the use or connection to the network may affect the State security;
- (3) the use or connection to the network may cause disturbance or may be an obstacle to the service provision of the sound broadcasting business or television business of the network owner or other service users of the network;
- (4) other cases as prescribed in the Notification by the Commission.

The network owner who refuses the use or connection to the network under paragraph two shall have the duty to prove his or her grounds for such refusal.

Collection of compensation for the use or connection to a network shall be reasonable and fair for the network owner and the licensee requesting for the use or connection to the network and shall be equal for all of the licensees.

In determining the criteria and procedures under paragraph one, the Commission shall arrange to listen to opinions from the licensees and network owners concerned.

**Section 43.** In the case where there is a refusal of the use or connection to a network or there is disagreement on any particular matter in the negotiation on the contract for the use or connection to a network, the parties shall have the right to request the Commission to consider the matter in accordance with the criteria and procedures prescribed in the Notification by the Commission. The decision of the Commission shall be final.

The decision to permit the use or connection to the network under paragraph one shall take into account safety and prevention from any possible damage.

During the consideration of the Commission under paragraph one, if there are reasonable grounds to believe that the refusal of the use or connection to the network is not in accordance with section 42, paragraph two, the Commission may order to permit the

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use or connection to the network on a provisional basis in accordance with the criteria and procedures prescribed in the Notification by the Commission.

**Section 44.** The agreement concerning the use or connection to a network shall contain the terms in the following characteristics:

- (1) they must not discriminate against or hinder other licensees;
- (2) the technical specifications at the end-use points or at the point of connection to the network must be clear, technically feasible and do not create any undue burden on the person who requests to use or connect to the network;
- (3) duties and responsibilities of the licensee who requests to use or connect to the network and the network owner must be clearly established;
- (4) compensation for the use or connection to the network must be determined in accordance with section 42, paragraph four;
- (5) other characteristics as prescribed in the Notification by the Commission.

The network owner shall submit a copy of the agreement to the Commission within ten days from the execution date of the agreement. If the Commission views that the terms in the agreement do not comply with the characteristics under paragraph one, the Commission shall have the power to order the amendment within a specified period of time. The network owner shall comply with the order of the Commission. Nonetheless, if the person requesting to use or connect to the network does not comply with the order of the Commission, such agreement shall be invalid.

**Section 45.** The network owner shall disclose the agreement for the use or connection to the network including compensation for the use or connection to the network in accordance with the procedures prescribed in the Notification by the Commission.

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**Section 46.** In the case where there is a change to the facts causing the compensation for the use or connection to a network to no longer be compliant with section 42, paragraph four and the parties are unable to reach agreement thereon, the parties shall make a request to the Commission for a decision. The decision of the Commission shall be final.

**Section 47.** The network owner shall notify correct information that is necessary for the use or connection to the network to the licensees who use or connect to the network.

The network owner shall not take any action that prevents the normal use or connection to the network under paragraph one.

In the case of any change to the network which affects the use or connection to the network, the network owner shall inform the licensees who use or connect to the network. If the change will have an impact on service users, the network owner shall give a notice of change at least six months in advance.

**Section 48.** For the benefit of the consumers in receiving sound broadcasting or television service and environmental protection, if official agencies, State enterprises or other State agencies in possession of the land, places, buildings, poles or other similar structures located at the site suitable for receiving, transmitting or broadcasting sound or visual signals have permitted any licensee or network owner to utilise the said things for the installation of materials or equipment for receiving, transmitting or broadcasting sound or visual signals, they shall also permit other licensees or network owners to install materials or equipment for such purpose, provided that an appropriate compensation has been made. The provision of section 44 shall apply, *mutatis mutandis*.

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The official agencies, State enterprises or other State agencies in possession of the said things under paragraph one may refuse to permit any licensee or network owner to use the land, places, buildings, poles or other similar structures only in the following cases:

- (1) the installation of additional materials or equipment will cause danger or disturbance to or result in reducing efficiency of the existing installed system;
- (2) the act will cause unnecessary burden or obstruction to the utilisation of the property.

**Section 49.** The use or interconnection between the networks for the operation of sound broadcasting business and television business and the operation of telecommunications business shall be in accordance with the criteria and procedures prescribed by the joint committee under the law on the organisation to assign frequency spectrum and to regulate radio broadcasting, television and telecommunications businesses.

**Section 50.** No licensee under this Act or telecommunications business licensee under the law on telecommunications business or network owner shall provide the service of transmitting or broadcasting public news or programmes with the nature of sound broadcasting business operation or television business operation to other persons who are not the licensees under this Act.

## CHAPTER V

### PROMOTION AND DEVELOPMENT OF BROADCASTING AND TELEVISION BUSINESSES

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**Section 51.** In the promotion and development of sound broadcasting business and television business, the Commission shall carry out the following:

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(1) to arrange to have assessment of efficiency and achievement of the operation of sound broadcasting business and television business under the Master Plan for Broadcasting and Television Businesses and the compliance with this Act, diverse expressions of opinion, service provision for the disabled and underprivileged, complaint handling and opportunity for market entry of new operators;

(2) to arrange to have assessment of programme quality, taking into account social benefit and good morals of the people;

(3) to arrange to listen to the opinions from licensees, professionals and consumers in the implementation under (1) and (2).

The assessment under paragraph one shall be in accordance with the criteria and procedures prescribed in the Notification by the Commission, which shall at least demonstrate the facts with regard to effectiveness, efficiency, organisational development, public support and other details as necessary.

**Section 52.** In the case where the Commission views that any programme is beneficial to the society or its production should be promoted or where any operator has complied with the measures to promote and protect the rights of the disabled and underprivileged under section 36, the Commission may consider subsidising related expenses payable from the Fund in accordance with the criteria prescribed in the Notification by the Commission.

## CHAPTER VI SUPERVISION

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**Section 53.** When there are reasonable grounds for suspicion that there is an act in violation or non-compliance with this Act, the Commission and a competent official shall have the powers as follows:

(1) to call the persons concerned to come to give explanations or submit any documents or evidence in support of consideration;

(2) to summon in writing any person to come to give statements or submit any documents or objects in support of consideration or for use as evidence for proof of an offence under this Act;

(3) to enter the building or premises of operation of a licensee or any person during the period from sunrise to sunset or during office hours of such places, to inspect the facts concerning the offence and search for objects used for committing the offence, objects of which possession is an offence or objects to be used for committing an offence including any action which may violate the provisions of this Act or fail to conform with the conditions stipulated in the license.

A search warrant issued by the Court shall be required for the entry into the building or premises of operation under (3) to inspect the facts performed by the Commission or a competent official.

When an entry and inspection have been executed under (3) but it is not completed, such action may continue to take place during the period after sunset or outside the office hours of such place.

In the execution of the duties of the Commission or the competent official, the person concerned shall render appropriate facilities.

The execution of the duties of the Commission or the competent official under this section shall be in accordance with the criteria prescribed in the Notification by the Commission.

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**Section 54.** In performing the duties, the competent official shall produce his or her identification card to the persons concerned.

The identification card of a competent official shall be in accordance with the form prescribed in the Notification by the Commission.

**Section 55.** In the case where any person causes disturbance to the transmission or broadcasting of sound or visual signals of a licensee, a competent official shall have the power to order such person to refrain from committing such act or modify the things used for committing such act or remove such things from the disturbance area or to order such person or other persons to carry out any act necessary for the correction of such disturbance. Nonetheless, if such things causing the disturbance are businesses authorised under other laws, the competent official shall notify a competent authority under such laws to consider performing correction.

**Section 56.** In the execution of the duties under this Act, the commissioners and the competent officials shall be officers under the Criminal Code.

## CHAPTER VII

### PENALTY PROVISIONS

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#### Part 1

#### Administrative Penalty

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**Section 57.** Administrative fines shall be as follows:

- (1) class-1 administrative fine shall not exceed fifty thousand baht;

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(2) class-2 administrative fine shall be from fifty thousand baht but not exceeding five hundred thousand baht;

(3) class-3 administrative fine shall be from five hundred thousand baht but not exceeding five million baht.

**Section 58.** Any licensee or person who:

(1) violates or fails to comply with the criteria prescribed in the Notification by the Commission under section 24;

(2) violates or fails to comply with section 44, paragraph two or section 47, paragraph one or paragraph three;

(3) violates or fails to comply with the order of the Commission under section 44, paragraph two;

shall be liable to a class-1 administrative fine.

**Section 59.** Any licensee or person who:

(1) violates or fails to comply with section 34, paragraph five, section 35 or section 38;

(2) violates or fails to comply with the criteria, procedures or measures prescribed in the Notification by the Commission or the Notifications prescribed by the Commission under section 34, paragraph one, section 36 or section 45;

(3) violates or fails to comply with the order of the Commission under section 34, paragraph four or section 37, paragraph one;

shall be liable to a class-2 administrative fine.

**Section 60.** Any licensee or person who:

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(1) violates or fails to comply with section 47, paragraph two, section 48, paragraph one or section 50;

(2) violates or fails to comply with the criteria prescribed in the Notification by the Commission or the Notifications prescribed by the Commission under section 22, section 23, section 34, paragraph two or section 42, paragraph one;

(3) violates or fails to comply with the order of the Commission under section 43.  
shall be liable to a class-3 administrative fine.

**Section 61.** If the offence for which the penalty is an administrative fine is a continual offence and the Commission has considered and ordered the imposition of an administrative fine for such offence, the offender shall be liable to an additional fine in respect of each day on which the violation or non-compliance continues starting from the date of the issuance of such administrative fine order until due compliance with legal requirements, at the following rate:

(1) in the case of class-1 administrative fine, a fine at a daily rate not exceeding five thousand baht;

(2) in the case of class-2 administrative fine, a fine at a daily rate not exceeding twenty thousand baht;

(3) in the case of class-3 administrative fine, a fine at a daily rate not exceeding fifty thousand baht.

The Commission shall proceed to enforce the payment of a daily fine every fifteen days.

**Section 62.** The Office shall gather the facts concerning the offence which is subject to administrative penalty for proposing to the Commission to consider imposing

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administrative penalty in accordance with the criteria and procedures prescribed in the Notification by the Commission.

In considering the imposition of an administrative penalty, the Commission shall take into account circumstances of the action and damage caused by such act. Nonetheless, the Commission may give an admonition to the offender without imposing administrative fine in the case that the Commission views that such offence has the following characteristics:

- (1) being an offence which is subject to class-1 administrative fine;
- (2) not being a continual offence;
- (3) being an offence committed unintentionally for the first time; and
- (4) no damage incurred.

**Section 63.** When the Commission has ordered to impose an administrative fine on any licensee, the Commission may, where deemed appropriate, issue an order requiring such licensee to act or to refrain from any act to prevent a repeated violation or repeated commitment of the offence.

**Section 64.** The Commission may consider ordering to suspend or revoke the license when the following facts are found to exist:

- (1) the licensee has ignored and failed to comply with the order of the Commission under section 31 or section 63;
- (2) the licensee has violated section 37 and such violation has caused serious damage;
- (3) the licensee has committed repeated violations or offences under this Act or the criteria or orders stipulated in this Act or serious damage has been incurred;
- (4) the licensee has violated or committed an offence which is subject to criminal penalty under this Act;

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(5) the licensee has been sentenced by a final judgment for an offence related to sound or visual broadcasting work which is copyright infringement under the law on copyrights;

(6) the licensee who is authorised to operate business services in a form of a company has violated section 15.

A license suspension order shall be as prescribed by the Commission, but the suspension period shall not exceed thirty days per occasion.

**Section 65.** In the case where the person on which administrative fine is imposed refuses to pay the administrative fine or pays the fine incompletely or incorrectly, the provision in relation to administrative enforcement under the law on administrative procedure shall apply, *mutatis mutandis*.

## Part 2

### Criminal Penalties

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**Section 66.** Any person who uses frequency spectrum for the operation of sound broadcasting business or television business or operates sound broadcasting business or television business or provides services beyond the scope of sound broadcasting business or television business without obtaining permission shall be liable to imprisonment for a term of not exceeding five years or to a fine not exceeding five million baht or to both and to an additional fine not exceeding fifty thousand baht in respect of each day on which the violation continues.

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**Section 67.** Any licensee who violates section 9 or the Notification of the Commission issued under section 31 or section 32 shall be liable to imprisonment for a term of not exceeding three years or to a fine not exceeding three million baht or to both and to an additional fine not exceeding thirty thousand baht in respect of each day on which the violation continues.

**Section 68.** Any licensee who causes disturbance to the transmission or broadcasting of sound or visual signals of other licensees shall be liable to imprisonment for a term of not exceeding three years or to a fine not exceeding three million baht or to both and to an additional fine not exceeding thirty thousand baht in respect of each day on which the violation continues.

**Section 69.** Any person who causes disturbance to the transmission or broadcasting of sound or visual signals of a licensee shall be liable to imprisonment for a term of not exceeding three years or to a fine not exceeding sixty thousand baht or to both and to an additional fine not exceeding ten thousand baht in respect of each day on which the violation continues.

**Section 70.** Any person who produces, imports, distributes or possesses for distribution or undertakes installation of receivers, tools or equipment for other persons for using in receiving or adapting the signals for the reception of programmes of subscription sound broadcasting business or television business without obtaining permission from the Commission shall be liable to imprisonment for a term of not exceeding two years or to a fine not exceeding two million baht or to both.

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The provision in this section shall not apply to the possession or use of receivers, tools or equipment under paragraph one for the purpose of education and research as permitted by the Commission.

**Section 71.** Any person who obstructs or fails to facilitate the performance of duty of the Commission or the competent official under section 53 shall be liable to imprisonment for a term of not exceeding one month or to a fine not exceeding one thousand baht or to both.

In the case where it appears that any offence under this Act is committed, it shall be deemed that the Commission is the victim under the Criminal Procedure Code.

The provision in this section shall not preclude the right of the person actually suffering from damage to exercise the right to file a lawsuit or take any legal action against such offender.

**Section 72.** In the case where the offender is a juristic person, if the offence committed by such juristic person is due to the act or omission of the act in the capacity of the managing director, manager or any person responsible for the operation of such juristic person, that person shall be liable for the punishment prescribed for such offence, unless such action is proved to be committed without his or her acknowledgement or consent.

#### TRANSITORY PROVISIONS

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**Section 73.** At the initial term, for the benefit of public relations of the State, the provisions of Chapter I: Broadcasting and Television Businesses Operation, Chapter II: Broadcasting and Television Businesses Programmes, Chapter VI: Supervision and Chapter VII:

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Penalty Provisions, except section 20, section 35, section 36 and section 38, shall not apply to the Government Public Relations Department as the State's public relations agency. It may continue to operate sound broadcasting business and television business according to the existing scope of services until the existence of the Master Plan for Broadcasting and Television Businesses.

When the Master Plan for Broadcasting and Television Businesses comes into force, the Commission shall inform the Minister in charge of the Government Public Relations Department of the characteristics, categories and scope of business operation of the Government Public Relations Department as stipulated in the Master Plan for Broadcasting and Television Businesses in order to perform in accordance with the Master Plan for Broadcasting and Television Businesses.

**Section 74.** Official agencies, State enterprises and other State agencies operating sound broadcasting business or television business on the effective date of this Act may continue their business operation until the date specified in the Master Plan for Broadcasting and Television Businesses takes effect. If the official agencies, State enterprises or other State agencies wish to continue their business operation, they shall prepare and propose a broadcasting and television business plan to the Commission for a license application. The Commission shall issue a license for business operation to such official agencies, State enterprises or other State agencies by taking into account the necessity of business operation and the use of frequency spectrum.

**Section 75.** Any person who has been granted permission, concession or contract from official agencies, State enterprises or other State agencies to operate sound broadcasting business or television business on the effective date of this Act shall have the right to operate the sound broadcasting business or television business under the

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permission, concession or contract until such permission, concession or contract is terminated.

The Commission shall issue a license to operate the business under this Act to the person who has been granted permission, concession or contract from official agencies, State enterprises or other State agencies in accordance with the characteristics, categories and scope of business operation under the permission, concession or contract. Such license shall have a term equivalent to the remaining term of that permission, concession or contract and shall be exempted from the 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 licensee under paragraph two.

**Section 76.** The Ministry of Finance shall remit into the Fund revenues in the amount equal to two percent of the revenues, obliged to be contributed by official agencies, State enterprises or other State agencies to the Ministry of Finance, which are derived from granting of permission, concession or contract to operate sound broadcasting business or television business, existing prior to the effective date of the Constitution of the Kingdom of Thailand, B.E. 2550 (2007), until such permission, concession or contract is terminated.

**Section 77.** When a five-year period from the effective date of this Act has expired, the Commission shall consider revising the maximum amount of time for advertisements and business service provision under section 8, which shall not exceed the maximum amount of time for advertisements and business service provision stipulated in section 23, paragraph two.

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**Section 78.** During the period when the establishment of an independent regulatory agency having the duty to assign frequency spectrum and to regulate radio broadcasting, television and telecommunications businesses under section 47 of the Constitution of the Kingdom of Thailand has not been completed, the National Telecommunications Commission under the Act on the Organisation to Assign Frequency Spectrum and to Regulate Radio Broadcasting, Television and Telecommunications Businesses, B.E. 2553 (2010) shall temporarily perform duty of the Commission under this Act and shall have the powers and duties as follows:

- (1) to execute the provisions of the Transitory Provisions in an orderly manner;
- (2) to proceed to provide the operators of community radio business and business not using frequency spectrum with a license to operate community services and business not using frequency spectrum on a provisional basis as prescribed by the Commission. A temporary license to operate community services and business not using frequency spectrum shall have a term of not more than one year;
- (3) to announce the determination of programme proportion and approve programme schedules of the licensees under (2);
- (4) to supervise and oversee the sound transmission or broadcasting of the licensees under (2) to ensure conformity with the specified transmission power and the authorised coverage area.

**Section 79.** In performing the duties under section 78, the Commission shall have the power to appoint a radio broadcasting and television sub-committee which shall comprise of:

- (1) the Permanent Secretary of the Prime Minister's Office as a chairperson of the sub-committee;

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(2) the Permanent Secretary of the Ministry of Defence or representative, the Permanent Secretary of the Ministry of Education or representative, the Secretary-General of the Council of State or representative, the Director-General of the Government Public Relations Department or representative, the Director-General of the Department of Provincial Administration or representative, the Secretary-General of the National Culture Commission or representative and the Commissioner-General of the Royal Thai Police or representative as members;

(3) six qualified members appointed by the Council of Ministers, three of which shall have the knowledge, expertise and experience in communication arts, journalism or mass communication, two of which in public laws and one of which in communication technology or other related field that is beneficial to the supervision of the businesses as members;

(4) qualified members appointed by the Commission from the President of Council of the Mass Communication Faculty Members of Thailand or representative, the President of the Thai Broadcast Journalists Association or representative, the President of the Radio-Television Broadcasting Professional Federation or representative, the President of the National Council for Child and Youth Development or representative, the Chairperson of the NGO Coordinating Committee on Development or representative, the Chairperson of the Council of Disabled People of Thailand or representative and the President of the Confederation of Consumer Organisation or representative as members.

The Secretary-General of the National Telecommunications Commission shall be a sub-committee member and secretary.

The sub-committee under paragraph one shall have the duty to provide opinions and perform other acts as assigned by the Commission and also have the powers and duties under section 53.

The law on administrative procedure on the parts relating to meetings, performance of duties and vacating from office shall apply to the sub-committee, *mutatis mutandis*.

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**Section 80.** The performance of the duties of the National Telecommunications Commission under section 78 and the radio broadcasting and television sub-committee under section 79 shall be terminated from the date on which the committee of the independent regulatory agency under section 47 of the Constitution of the Kingdom of Thailand assumes the duties, provided that the businesses permitted or undertaken by the National Telecommunications Commission and the radio broadcasting and television sub-committee during their performance of duties in accordance with these Provisional Provisions shall not be prejudiced.

Countersigned by:

General Surayud Chulanont  
Prime Minister

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