

Order of the Head of the National Council for Peace and Order

No. 9/2561

Re: Measures to Mitigate Impact on Operators of Sound Broadcasting, Television Broadcasting, and Sound Broadcasting and Television Broadcasting Businesses

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Order of the Head of the National Council for Peace and Order**No. 9/2561****Re: Measures to Mitigate Impact on Operators of Sound Broadcasting, Television Broadcasting, and Sound Broadcasting and Television Broadcasting Businesses**

Pursuant to the Head of the National Council for Peace and Order No. 76/2559; Re: Measures to Promote Sound Broadcasting, Television Broadcasting and Telecommunications Businesses for Public Interest, dated 20th December B.E. 2559 (2016), to provide assistance to honest operators affected by economic and social circumstances, who are therefore unable to pay the spectrum license fee within the stipulated time frame.

Whereas the current circumstances persist and are expected to escalate into more severe issues due to business competition, while revenue shares from operations continue to decline, and the public's media consumption behaviors have shifted as a result of rapid, unforeseen technological advancements in communications and telecommunications (Technological Disruption). This is particularly evident in addressing the transition to digital television broadcasting. Although these challenges present business risks and depend on the preparedness and adaptability of operators, certain aspects remain the responsibility of the government, which must implement measures to prevent negative impacts on access to information, information perception, education for improving the quality of life, and citizens' liberties. Furthermore, if damages were to occur to investors or operators licensed by the State in sectors with high investment value, which constitute essential economic and social chains generating extensive employment and related professions, such crises would inevitably impact other sectors and the public at large. Therefore, the State should implement measures to alleviate damages for operators of sound broadcasting, television broadcasting, and sound broadcasting and television broadcasting businesses, stemming from the aforementioned impacts. These measures would enable operators to conduct business and eventually fulfill their obligations to pay

spectrum license fees grounded in social realities, without creating undue advantage or undermining investor confidence, while ensuring fairness between the public and private sectors. Such measures should aim to prevent harm to the State and the public compared to strictly enforcing the original regulations, and also grant operators the necessary time, opportunities, and resources to develop the service capabilities and produce or disseminate high-quality content that aligns with the rapidly evolving social and technological demands. Simultaneously, it is appropriate to allow the Government Public Relations Department, a state media organization, to generate advertising revenue necessary to sufficiently support the development of high-quality and effective sound broadcasting and television broadcasting businesses that meet the needs of the State and society, as well as keep pace with technological advancements. This revenue generation must not constitute profit-oriented business activities and must comply with the criteria and procedures prescribed by the National Broadcasting and Telecommunications Commission. These damage mitigation measures have incorporated feedback from various relevant sectors and are deemed necessary for the benefit of reforming the mass communication industry, thereby enhancing the overall stability and maximizing the efficiency of the national economy.

By virtue of Section 265 of the Constitution of the Kingdom of Thailand, in conjunction with Section 44 of the Constitution of the Kingdom of Thailand (Interim), B.E. 2557 (2014), the Head of the National Council for Peace and Order, with the approval of the National Council for Peace and Order, hereby issues the following Orders:

Clause 1 This Order shall come into force as from the date of its publication in the Government Gazette.

Clause 2 In appropriate circumstances, the Prime Minister or the Cabinet may propose to the National Council for Peace and Order to amend this Order.

Part 1
Spectrum Licensee for
Providing Digital Television Services

Clause 3 In this part:

“Order No. 76/2559” means the Order of the Head of the National Council for Peace and Order No. 76/2559, Re: Measures to Promote Sound Broadcasting, Television Broadcasting and Telecommunications Businesses for Public Interest;

“Notification” means the Notification by the National Broadcasting and Telecommunications Commission on Criteria, Procedures and Conditions for the Spectrum Auction for Providing Digital Television Services in the National Commercial Service Category, B.E. 2556 (2013);

“Licensee” means the person who has been granted a license to use frequency spectrum for the provision of digital television services by the National Broadcasting and Telecommunications Commission.

Clause 4 The Licensee required to pay the spectrum license fee under Order No. 76/2559, shall pay the remaining spectrum license fee starting from the second installment onwards.

The Licensee under the Notification shall pay the remaining spectrum license fee starting from the fifth installment onwards, in accordance with the criteria, procedures, and conditions specified in Clause 12 of the Notification.

Clause 5 Any Licensee under Order No. 76/2559 or the Notification who is unable to pay the remaining spectrum license fee as specified in Clause 4 shall notify Office of the NBTC in writing within thirty days from the effective date of this Order, in order to request a suspension of the payment of the spectrum license fee under Order No. 76/2559 or the Notification.

Office of the NBTC shall consider granting a suspension of the payment of the spectrum license fee to the Licensee under paragraph one and shall specify the duration of the suspension, which shall not exceed three years from the date of approval by Office of the NBTC. In any case, the Licensee shall still comply with the criteria, procedures, and other conditions under Order No. 76/2559 or the Notification.

During the period of suspended payment of the spectrum license fee as specified in paragraph two, the Licensee shall pay interest on the due date for each installment of the spectrum license fee to Office of the NBTC. The interest rate shall be equal to the policy interest rate as announced by the Monetary Policy Committee of the Bank of Thailand.

Upon the completion of the period of suspended payment of the spectrum license fee as specified in paragraph two, the Licensee shall pay the remaining installments of the spectrum license fee as specified in Clause 4 in full thereafter.

Clause 6 The suspension of the spectrum license fee payment as specified in Clause 5 shall not preclude the Licensee from opting to pay the remaining installments as specified in Clause 4. The Licensee shall notify Office of the NBTC in writing at least thirty days in advance of the due date for the spectrum license fee payment under Order No. 76/2559 or the Notification.

Clause 7 The request for the suspension of the spectrum license fee payment as provided in Clause 5 shall not apply to digital terrestrial television operators in the national commercial service category who have requested to discontinue their operations or have had their television broadcasting business licenses and spectrum licenses revoked prior to the effective date of this Order.

Clause 8 The NBTC and Office of the NBTC or the Management Committee of the Broadcasting and Telecommunications Research and Development Fund for Public Interest, as the case may be, shall arrange the support of the expenses for leasing the digital terrestrial television network (MUX) for the spectrum licensees operating digital terrestrial

television services, in the amount of fifty percent of the leasing fee for such television network, for a period of twenty-four months from the effective date of this Order.

The implementation of paragraph one shall be financed by the Broadcasting and Telecommunications Research and Development Fund for Public Interest, which remains after the expenditure for the project supporting the public in transitioning to digital terrestrial television reception, with consideration for efficient, cost-effective spending, ensuring maximum benefit to the nation and the public.

Clause 9 The Licensee shall prepare a program schedule that is appropriate and in accordance with the objectives of the licensed business, produce or conduct programs of good quality, and provide accurate and clear information that is substantive and beneficial to society. The program content shall be diverse, not in violation of the law or public morals, and shall provide opportunities for persons with disabilities or disadvantaged individuals to access or benefit from the broadcasted programs on an equal basis with the general public. The Licensee shall comply strictly with Chapter II of the Sound Broadcasting and Television Broadcasting Businesses Act, B.E. 2551 (2008).

In the implementation of paragraph one, Office of the NBTC shall have the duty to monitor and, if it finds that the Licensee has failed to comply with the requirements specified in paragraph one, Office of the NBTC shall consider revoking the suspension of the spectrum license fee payment and require the Licensee to fully pay the spectrum license fee for the remaining installments in accordance with Clause 4.

Part 2

Measures to Promote Sound Broadcasting and Television Broadcasting Businesses

Clause 10 In the operation of sound broadcasting and television broadcasting businesses by the Government Public Relations Department under Section 20 of the Sound Broadcasting and Television Broadcasting Businesses Act, B.E. 2551 (2008), the Government Public Relations Department may generate revenue from advertising to the extent necessary

and sufficient for the production of programs according to its objectives, provided that it does not aim for business profit. This shall be in accordance with the criteria set forth by the NBTC.

In setting the criteria under paragraph one, the NBTC shall take into account consumers, the cost of program production, and fairness in competition which may impact other types of licensees. The maximum advertising duration shall be as prescribed by the NBTC.

Ordered on the 23rd May B.E. 2561 (2018)

General Prayut Chan-o-cha

Head of the National Council for Peace and Order