

SOUND BROADCASTING AND TELEVISION BROADCASTING BUSINESSES ACT

B.E. 2551 (2008)

**DISCLAIMER:** THIS TEXT HAS BEEN PROVIDED FOR EDUCATIONAL/ COMPREHENSION PURPOSES AND CONTAINS NO LEGAL AUTHORITY. THE OFFICE OF THE NATIONAL BROADCASTING AND TELECOMMUNICATIONS COMMISSION SHALL ASSUME NO RESPONSIBILITY FOR ANY LIABILITIES ARISING FROM THE USE AND/OR REFERENCE OF THIS TEXT. THE ORIGINAL THAI TEXT AS FORMALLY ADOPTED AND PUBLISHED SHALL IN ALL EVENTS REMAIN THE SOLE AUTHORITY HAVING LEGAL FORCE.

**SOUND BROADCASTING AND TELEVISION BROADCASTING BUSINESSES ACT**  
**B.E. 2551 (2008)**

---

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.

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

Whereas, it is expedient to enact the law on sound broadcasting and television broadcasting businesses.

This Act contains certain provisions concerning the restriction of the rights and liberties of persons, which Section 29 together 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 virtue provisions of law.

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 "Sound Broadcasting and Television Broadcasting Businesses Act, B.E. 2551 (2008)."

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**Section 3** The following shall be repealed:

- (1) Radio Broadcasting and Television Broadcasting Act, B.E. 2498 (1955);
- (2) Radio Broadcasting and Television Broadcasting Act (No. 2), B.E. 2502 (1959);
- (3) Radio Broadcasting and Television Broadcasting Act (No. 3), B.E. 2521 (1978);
- (4) Radio Broadcasting and Television Broadcasting 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 organization to assign radio frequency and to regulate the broadcasting and telecommunications services;

"Television Broadcasting Business" means the television broadcasting business under the law on the organization to assign radio frequency and to regulate the broadcasting and telecommunications services;

"Sound Broadcasting Business or Television Broadcasting Business using Frequency Spectrum" means a sound broadcasting business or television broadcasting business which are required to apply for spectrum allocation under the law on the organization to assign radio frequency and to regulate the broadcasting and telecommunications services;

"Sound Broadcasting Business or Television Broadcasting Business Not using Frequency Spectrum" means a sound broadcasting business or television broadcasting business which are not required to apply for spectrum allocation under the law on the organization to assign radio frequency and to regulate the broadcasting and telecommunications services;

"Network" means the link system of a group of audio or visual broadcasting equipment used by a sound broadcasting or television broadcasting operator to transmit public news or programs from a station to a receiver, whether by a conductor medium that is a wire, spectrum, light, electromagnetic waves or any other conductive media;

"Network Owner" means a person who owns network or who has the right to operate network service, whether or not he or she is a sound broadcasting or television broadcasting operator;

"Station" means a place used for the transmission of public news or programs of a sound broadcasting or television broadcasting business, whether transmitted through its own network or that of other person;

"Fund" means the Sound Broadcasting Business and Television Broadcasting Business Development Fund for Public Interest in accordance with the law on the organization to assign radio frequency and to regulate the broadcasting and telecommunications services;

"Sound Broadcasting Business and Television Broadcasting Business Master Plan" means the Sound Broadcasting Business and Television Broadcasting Business Master Plan in accordance with the law on the organization to assign radio frequency and to regulate the broadcasting and telecommunications services;

"Frequency Spectrum" means radio waves or Hertzian waves which are electromagnetic waves of frequencies lower than three million megahertz, propagated in the space without any invented conductive medium;

"Commission" means the National Broadcasting and Television Commission under the law on the organization to assign radio frequency and to regulate the broadcasting and telecommunications services;

"Commissioner" means the member of the National Broadcasting and Television Commission;

"Office" means Office of the National Broadcasting and Television Commission;

"Secretary General" means the Secretary General of the National Broadcasting and Television Commission;

"Competent official" means a person appointed by the National Broadcasting and Television Commission to perform the duties of 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 public hearing from the concerned persons.

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

### Sound Broadcasting Business and Television Broadcasting Business Operation

---

**Section 7** Any person operating the sound broadcasting business or television broadcasting business must obtain a license from the Commission under this Chapter.

The Commission shall have the power to determine the nature of the business which is not considered to be the operation of sound broadcasting business and television broadcasting business under this Act.

**Section 8** The applicant for a license under this Act must 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** The license to operate sound broadcasting business and television broadcasting business shall be the exclusive right of the licensee and shall not be transferable.

The licensee of the sound broadcasting business and television broadcasting business must operate the business by himself or herself, and the division of time for others to conduct the program shall be done in accordance with the criteria and procedures prescribed by the Commission under this Act.

### Part 1

#### Sound Broadcasting Business and Television Broadcasting Business using Frequency Spectrum

---

**Section 10** There are three types of licenses to operate sound broadcasting business or television broadcasting business using frequency spectrum as follows:

(1) the Public Service License means a license issued for the business operation with the main purpose of public service business, divided into three types:

(a) Type One of Public Service License shall be issued for sound broadcasting business or television broadcasting business whose main purpose is to promote knowledge, education, religion, art and culture, science, technology and environment, agriculture and to promote other occupations, health, sanitation, sport, or the promotion of the quality of life of the people;

(b) Type Two of Public Service License shall be issued for sound broadcasting business or television broadcasting business whose main purpose is the State security or public safety;

(c) Type Three of Public Service License shall be issued for sound broadcasting business or television broadcasting business whose main purpose is to disseminate news and information to promote good understanding between the Government and the people, and between the Parliament 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 disabled persons, disadvantaged persons or interest groups with activities in the public interest; or other information services in the public interest.

(2) the Community Service License means a license for business operation that has the same purpose as public service business but must be useful according to the needs of the community or locality receiving services.

(3) the Commercial Service License means a license for business operation with the purpose of the operator for seeking commercial profits in accordance with the criteria announced by the Commission and is divided into at least three types.

(a) the National Commercial Service License shall be issued for sound broadcasting business or television broadcasting business with a service area covering all regions of the country;

(b) the Regional Commercial Service License shall be issued for sound broadcasting business or television broadcasting business with a service area in the provincial group;

(c) the Local Commercial Service License shall be issued for sound broadcasting business or television broadcasting business with a service area in the province.

**Section 11** The applicant for a public service license must be:

(1) a Ministry, Bureau, Department, Independent Organization under the Constitution, Local Administrative Organization, Public Organization or any other state agency, that is not a state enterprise, having legal duty or the need to operate sound broadcasting business or television broadcasting business in accordance with the criteria announced by the Commission;

(2) an association, foundation or other juristic person established under Thai law for the purpose of operating business in the public interest without seeking commercial profit that is suitable for the operation of public services in accordance with the characteristics and criteria announced by the Commission;

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

**Section 12** The applicant for a community service license must be an association, foundation or other juristic person established under Thai law that is not a state agency and has the purpose of operating for the public interest without seeking commercial profit or a group of local people who is not a juristic person who gathers to strengthen the community. In this regard, 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 broadcasting business to be able to meet the diverse needs of the people in the community or locality as well as to prevent the domination of such business.

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

(1) the applicant for a regional and local commercial service license must be a juristic person with not less than one-third of the shareholders or investors are domiciled in that regional or local area, as the case may be, and must have a stable financial position, have an audit system and have any other characteristics that guarantee the stability of business operation as announced by the Commission;

(2) the applicant for a commercial service license other than (1) must be a state enterprise or a company established under Thai law with the main purpose of operating a sound broadcasting business or television broadcasting business.

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

(1) the person authorized to bind the license applicant must be a Thai national.

(2) No director or person authorized to bind the license applicant has ever been the director or a person authorized to bind other licensees whose license has been revoked as a result of the business management of such person and the period of revocation of the license has not yet reached three years.

**Section 15** The applicant for a license under Section 13, in addition to having the qualifications and not having the prohibited characteristics under Section 8 and Section 14, must meet the following qualifications:

(1) Being a juristic person in which the persons of Thai nationality invest or hold shares that amount to not less than three-fourths of the total capital of that juristic person;

(2) Being a juristic person in which the persons of Thai nationality have the authority by law or regulations or according to the agreement to vote not less than three-fourths of the total eligible votes of that juristic person;

In the case that the applicant for a license under Section 13 is a company, the directors not less than three-fourths of the total number of directors and the directors who are authorized to bind the juristic person must have Thai nationality.

In the case that the applicant for a license under Section 13 is a limited partnership or a registered ordinary partnership, the managing partner or the manager must be a person who has Thai nationality.

The Commission may impose a prohibition on acts that are of the nature of business take over by a foreigner that the applicant for the license shall perform.

For the benefit of this Section, it shall be deemed that a person who has Thai nationality means a person who is not a foreigner under the law on foreign business and a share held or invested by a person with Thai nationality shall be counted as one vote.

**Section 16** The application for a license and the granting of a license shall be in accordance with the criteria, procedures and conditions prescribed by the Commission, provided that the applicant for the license shall specify the station, system and procedure to be used for radio broadcasting or television broadcasting transmission, as well as propose a service plan for sound broadcasting business or television broadcasting business to the Commission for consideration.

The Notification under paragraph one must be consistent with the Sound Broadcasting Business and Television Broadcasting Business Master Plan and the Radio Frequency Plan in accordance with the law on the organization to assign radio frequency and to regulate the broadcasting and telecommunications services.

**Section 17** In granting permission to operate a sound broadcasting business or television broadcasting business using frequency spectrum, the Commission shall issue a license by taking into account the mission or purpose of the business operation and in accordance with the proportion of spectrum allocation prescribed in the law on the organization to assign radio frequency and to regulate the broadcasting and telecommunications services as follows:

(1) the issuance of a public service license shall take into account the legal obligations or necessity for public services by using frequency spectrum allocated for the government;

(2) the issuance of a community service license shall take into account the diverse needs, readiness and public benefits of the community by using frequency spectrum allocated for the public sector;

(3) the issuance of a commercial service license shall take into account the promotion of free and fair competition and encourage the operation of businesses that provide news and information in an appropriate proportion by using frequency spectrum allocated for the private sector.

**Section 18** The determination of the term of sound broadcasting business licenses and television broadcasting business licenses shall be in accordance with the criteria announced by the Commission by taking into account the break-even period, the purpose of the business operation, the business development guidelines of the license applicants, the needs of consumers, the equality of competition of the operators, as well as the results of the quality assessment of programs.

Sound broadcasting business licenses shall have a term not exceeding seven years.

Television broadcasting business licenses shall have a term not exceeding fifteen years.

In the case that the license under paragraph two expires, the licensee shall submit an application for a new license at least ninety days but not later than one year before the expiration date of the existing license, but in the case that the license under paragraph three expires, the licensee shall submit an application for a new license at least ninety days but not later than two years before the expiration date of the existing license.

Upon receipt of 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 which time the licensee may continue to operate the business until the Commission issues a refusal order. In issuing a refusal order, the Commission shall collect the business operation fee proportionately.

The submission of application for a license and the consideration of issuing an order under paragraphs four and five shall be in accordance with the criteria, procedures and conditions announced by the Commission.

**Section 19** The license fee shall be in accordance with the law on the organization to assign radio frequency and to regulate the broadcasting and telecommunications services.

The licensee shall pay the spectrum license fee for the operation of sound broadcasting business and television broadcasting business in each type of license on an annual basis at the rate prescribed by the Commission.

The determination of the fee rate under paragraph two shall not be unreasonably burdensome to the operator or service user, and the Commission shall take into account the public interest, cost-effectiveness, scarcity and method of resource allocation.

The Commission may reduce or waive 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 his or her sound broadcasting business or television broadcasting business has programs of news and information that beneficial to the public interest in a higher proportion than the programs that are news and information that beneficial to the public interest as announced by the Commission.

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

**Section 20** In the operation of sound broadcasting business and television broadcasting business, the Government Public Relations Department, the licensee of type one and type three of public service license shall not earn revenues from advertising, except by advertising or disseminating news about the work or business of a state agency or a state enterprise, association, foundation or other juristic person whose purpose is to operate for the public interest without seeking profits in business or to propose the image of an organization, company or business, without directly or indirectly advertising the qualifications, benefits or quality of related products in accordance with the rules announced by the Commission.

In operating the sound broadcasting business and television broadcasting business, the licensee under Type Two Public Services may generate enough advertising revenue to operate a business without focusing on profit-seeking.

**Section 21** In the operation of sound broadcasting business and television broadcasting business, 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 pay an annual contribution to the Fund at the rate specified by the

Commission, which shall not exceed two percent of the revenues before deducting expenses derived from direct and indirect advertising and other revenues related to the operation of sound broadcasting business and television broadcasting business as permitted.

In the case of a subscription commercial service business, the annual contribution under paragraph one shall be calculated from the subscription fee, direct or indirect advertising revenue and other service charges related to the provision of subscription services charged before deduction of expenses, in accordance with the criteria announced 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 any other means.

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

In the operation of paragraph one on subscription basis or by collecting service fees, the provision of Section 28 shall apply *mutatis mutandis*.

The licensee may amend the rate of subscription fees or service fees and the licensee's service conditions within the criteria announced by the Commission under paragraph three, but it must not affect the rights of the subscribers within the period specified in the existing agreement.

In announcing the criteria under paragraph two and paragraph three, the Commission shall take into account the cost of service provision and fair competition between different types of licensees and fairness to licensees and consumers.

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

**Part 2****Sound Broadcasting Business or Television Broadcasting Business not using Frequency Spectrum**

---

**Section 25** The operator of sound broadcasting business and television broadcasting business not using frequency spectrum must be qualified and not have prohibited characteristics under Section 8, Section 14 and Section 15.

The determination of the qualifications or prohibited characteristics of the license applicant shall apply the criteria and procedures as prescribed in Part 1 Sound Broadcasting Business and Television Broadcasting Business using Frequency Spectrum *mutatis mutandis*.

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

**Section 27** For the purpose of regulating the operation of sound broadcasting business and television broadcasting business not using frequency spectrum, whether or not there is a subscription or a service fee charge, the Commission shall have the power to prescribe the following criteria:

- (1) proportion of programs and program schedule;
- (2) generation of revenues;
- (3) recording of programs that have been broadcasted and the period of retention of such records.

**Section 28** In the operation of a licensee of broadcasting and television broadcasting business not using frequency spectrum on subscription basis or by collecting service fees, the Commission shall have the power to announce and prescribe the criteria for charging the service fee, the maximum period of advertising and business services and the conditions for the provision of services.

In order to earn money from advertising and business services under paragraph one, the Commission shall set a maximum duration of six minutes per hour in relation to advertising and business services, which, when included in the advertising and

business services time throughout the day, shall not exceed five minutes per hour on average.

The determination of the maximum period under paragraph two shall take into account the consumer protection, the market competition conditions, the costs of conducting business, and fairness between licensees of broadcasting or television broadcasting business using frequency spectrum and those operating broadcasting or television broadcasting business not using frequency spectrum.

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

### Part 3

#### Station Management

---

**Section 29** In the operation of sound broadcasting business or television broadcasting business, the licensee shall appoint a person of Thai nationality as the director of each station to supervise the broadcasting in accordance with the permission and shall be responsible for supervising the arrangement of programs, operating programs and broadcasts of the stations in accordance with the law and other notifications prescribed by the Commission.

**Section 30** The licensee shall be liable for the acts of the station director in supervising and managing the sound broadcasting business or television broadcasting business as 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 had taken reasonable precautions to prevent such acts.

### Part 4

#### Prevention of Monopoly

---

**Section 31** To prevent any person from dominating the business in a manner that restricts the opportunity to receive public news and information from diverse sources or acts that monopolize the operation of various types of mass media at the same time, the licensee shall be prohibited from holding the same type of business or holding cross-media

in the sound broadcasting business and television broadcasting business that using Frequency Spectrum in excess of the proportion announced by the Commission.

In the case that the Licensee violates the notification of the Commission under paragraph one, the Commission has the power to order the licensee to correct the violation within ninety days so that the business holding complies with such notification.

**Section 32** To promote free and fair competition and prevent any act leading to monopoly, reduction or limitation of competition in the operation of the sound broadcasting business and television broadcasting business, the licensee's operation shall be subject to the Commercial Competition Law and specific measures announced by the Commission according to the nature of the operation of sound broadcasting business or television broadcasting business.

Acts that are monopolistic, reduce or restrict competition on the operation of sound broadcasting business or television broadcasting business shall include a business holding in a related business or the use of specially equipped materials or equipment to receive sound or visual signals in a manner that obstructs fair competition.

## CHAPTER II

### Programs of the Sound Broadcasting Business and Television Broadcasting Business

---

**Section 33** Each type of the licensee of the sound broadcasting business or television broadcasting business using frequency spectrum must arrange the program plan to have the following program proportions:

(1) the licensee of the public service license shall set up news or information programs that 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 that are beneficial to the community or the locality receiving services in the proportion of not less than seventy percent;

(3) the licensee of the commercial service license shall set up news or information programs that are beneficial to the public in the proportion of not less than twenty-five percent.

The licensee of the regional and local commercial service licenses must have self-produced programs in the proportion announced by the Commission.

News or information programs that are beneficial to the public under paragraph one shall include news programs, programs to promote knowledge and understanding of the democratic form of government, programs to promote education, ethics, arts and culture, and provision of knowledge and understanding in the development of the economy, society, quality of life and the environment.

**Section 34** The licensee must prepare a program schedule suitable to the purpose of the licensed operation in accordance with the criteria prescribed by the Commission for each type of license.

In the case of necessity to protect children and youths, the Commission may prescribe the timing of the broadcast of certain types of programs.

The licensee shall propose a program schedule to the Commission at least fifteen days before the date of commencement of sound broadcasting business or television broadcasting business.

In the case that the Commission deems that the program schedule does not comply with the criteria specified by the Commission, the Commission may order the licensee to amend the program schedule. When the Commission approves the revised program schedule, the licensee may start providing service of sound broadcasting business or television broadcasting business according to the program schedule approved by the Commission.

In the case that the licensee wishes to change the program schedule approved by the Commission, it shall propose to the Commission for consideration not less than seven days prior to the change and the provisions of paragraph four shall apply *mutatis mutandis*.

In case of urgent necessity, the licensee may proceed with a program that is different from the program schedule in accordance with the criteria announced by the Commission.

**Section 35** In the case of a disaster or emergency or any other case as prescribed by the Commission, which is necessary to broadcast news or warnings to the public, when the Government or the relevant state agency requests, the licensee shall perform as requested.

**Section 36** For the benefit of promoting and protecting the rights of disable persons and disadvantaged persons to have equal access to, or learn, and utilize the

programs of sound broadcasting business or television broadcasting business as equal to the general public, the Commission shall prescribe certain fundamental measures so that the licensee to provide appropriate services for the benefit of such persons.

The Commission may prescribe any additional promotional measures for the licensee to consider for appropriate actions, and the Commission may consider supporting expenses from the fund or supporting or promoting by other means.

In order for the measures prescribed under paragraph one to be appropriate for disable persons and disadvantaged persons, the Commission shall listen to opinions or provide opportunities for disable persons and disadvantaged persons to participate in the formulation of such measures.

Appropriate services for the benefit of disable persons and disadvantaged persons under paragraph one may include sound broadcasting services that broadcast full-time book reading programs or television broadcasting services that provide sign language interpreters, subtitle services, or audio subtitle services for programs that present public news and information.

**Section 37** Broadcasting of any program containing content that incites the overthrow of the democratic form of government with the King as Head of State, or that affects national security, public order, or the good morals of the people, or involves acts of obscenity, or has a serious detrimental effect on the mental or physical health of the public is prohibited.

The licensee has the duty to monitor and suspend the broadcasting of any program that falls under the circumstances specified in paragraph one. If the licensee fails to take action, the Commissioner assigned by the Commission has the authority to order, either verbally or in writing, the immediate suspension of the broadcast of such program and the Commission shall promptly investigate the facts of such case.

In case the Commission has investigated and deemed that such action was due to negligence of the licensee, the Commission shall have the power to order the licensee to take appropriate corrective action or may suspend or revoke the license.

**Section 38** The licensee must arrange for the recording of a program that has been broadcasted, which may be recorded on tape or other television materials, or by any means that can be replayed, and keep it for inspection by the Competent official.

The programs that must be recorded under paragraph one and the period of retention of such records shall be in accordance with the notifications prescribed by the

Commission. Such period shall not be less than thirty days and it shall not cause the licensee to bear unnecessary burden.

### CHAPTER III

#### Promotion and Control of Professional Ethics and Protection of Damaged Party from Operation of Sound Broadcasting Business and Television Broadcasting Business

---

**Section 39** The Commission shall promote the integration of licensees, program producers and mass media professionals related to sound broadcasting business and television broadcasting business into various forms of organizations in order to issue ethical standards of professional or occupational conduct and to self-regulate professional or occupational conduct under ethical standards.

The preparation of the ethical standards of the organization under paragraph one must take into account the protection of public to access news and information and the protection of consumers from the operation of the sound broadcasting business and television broadcasting business, as well as the protection of the rights and freedoms of professional and occupational member of the organization.

In order to control the occupation or profession of an organization under paragraph one, each organization under paragraph one shall establish an ethics control committee with its composition and taking into account the appropriate proportion between professional and occupational member, academics and external experts.

An organization under paragraph one that has established ethical standards, the Commission may provide support from the Fund under Section 52.

**Section 40** A person who suffers damage due to a broadcast program that is false or infringes upon the rights, freedom, dignity, reputation, family rights or privacy of a person may file a complaint with the Commission.

The Commission shall send the matter with the opinion of the Commission to the occupational or professional control organization under Section 39 for prompt remedial action for the damaged party and the Commission shall follow up on the results of the operation of the occupational or professional control organization under Section 39. After the organization controlling the professional or occupational conduct under Section 39 informs the result to the Commission, the result shall be informed to the complainant promptly.

The results of the proceedings in this Chapter shall be part of the proceedings under Section 51(1).

#### CHAPTER IV

### Construction of Network Infrastructure, Access and Interconnection of Network in the Sound Broadcasting Business and Television Broadcasting Business

---

**Section 41** Subject to Section 49, in the operation of sound broadcasting business and television broadcasting business, if the licensee has a reason to set up or erect poles, lay wires or place ducts or install any associated equipment and it is necessary to exercise the right under this Section, the licensee shall prepare a plan showing details of the nature of the directions and boundaries of setting up or erecting poles, laying wires, placing ducts and installing any associated equipment for proposing to the Commission for approval before proceeding.

Once the Commission has given the approval under paragraph one, the licensee shall have the right to proceed such action. In this regard, the provision of Chapter IV of the Telecommunications Business Act, B.E. 2544 (2001) shall apply *mutatis mutandis*. The 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 prescribed to be assigned to the licensee of telecommunications business shall be the rights and duties of the licensee under this Act.

In the case of the provisions of Chapter IV of the Telecommunications Business Act, B.E. 2544 (2001) stipulates that any act is considered as an offense with the penalty provision, it shall also apply to the licensee with the same penalty rate.

**Section 42** The network owner shall allow the licensee to access or interconnect to his or her network in accordance with the criteria and procedures prescribed by the Commission.

The network owner may refuse the access or interconnection of network only in the following cases:

- (1) the existing network is insufficient for the licensee to access or interconnect;
- (2) the access or interconnection of the network may affect the State security;

(3) the access or interconnection to the network may cause interference or may be an obstacle to the provision of sound broadcasting business or television broadcasting business of the network owner or other network users;

(4) other cases as prescribed by the Commission.

The network owner who refuses to allow to access or interconnect to the network under paragraph two shall have the duty to prove the grounds for such refusal.

The collection of charge for the access or interconnection of the network must be reasonable and fair to the network owner and the licensee who applies for the access or interconnection of the network, and there must be equality between all licensees.

The determination of the criteria and procedures under paragraph one, the Commission shall arrange the hearing of opinions from the relevant licensee and network owner.

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

The consideration of using or connecting to the network under paragraph one shall take into account the safety and prevention of possible damage.

During the consideration of the Commission under paragraph one, if there are reasonable grounds to believe that the refusal to access or interconnect to the network is likely to be not in accordance with Section 42 paragraph two, the Commission may order the temporary access or interconnection of the network in accordance with the criteria and procedures prescribed by the Commission.

**Section 44** The agreement on the access or interconnection of 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 point of access or interconnection of the network must be clear, technically feasible and not cause an undue burden to the applicant for the access or interconnection with the network;

(3) the duties and responsibilities of the licensee who applies for the access or interconnection of the network and the owner of the network are clearly established;

(4) the charge rate for the access or interconnection of the network shall be determined in accordance with Section 42 paragraph four;

(5) other characteristics as prescribed by the Commission.

The network owner shall submit a copy of the agreement to the Commission within ten days from the date on which the agreement is signed. If the Commission considers that the agreement does not comply with the characteristics of paragraph one, the Commission has the power to order the network owner to take corrective action within the prescribed period of time. The network owner shall comply with the order of the Commission. Nonetheless, if the applicant for the access or interconnection with the network 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 access or interconnection of the network as well as the charge rate for the access or interconnection of the network in accordance with the procedures prescribed by the Commission.

**Section 46** In the case where the circumstances have been changed causing the charge for the access or interconnection of the network to not comply with Section 42 paragraph four and the parties are 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 notify the accurate and necessary information relating to access or interconnect with the network to the licensee accessing or interconnecting to the network.

The network owner shall not take any action that causes the access or interconnection of the network under paragraph one to not normally function.

In the case of any change of the network that affects the access or interconnection of the network, the network owner shall notify the licensee accessing or interconnecting to the network, but in the case where the change will affect the service user, the network owner shall notify such change at least six months in advance.

**Section 48** For the benefit of consumers in receiving sound broadcasting service or television broadcasting service and for environmental protection, if the state agencies, state enterprises or other state agencies in possession of the land, places, buildings, poles or other similar structures located in a suitable location for reception, transmission or emission of audio or visual signals, have permitted the use for any licensee or network owner

in the installation of materials or equipment for the reception, transmission or emission of audio or visual signals, they must also consent to the licensee or other network owners to install materials or equipment for such purposes, provided that suitable remuneration has been made. The provision of Section 44 shall apply *mutatis mutandis*.

The government agencies, a state enterprises or other state agencies in possession under paragraph one may refuse to grant consent to any licensee or network owner to use land, places, buildings, poles or other similar structures only in the following cases:

(1) installation of additional materials or equipment will cause harm or disturbance to or have the effect of reducing the efficiency of the existing installed system;

(2) causing a burden or obstructing the use of the property more than necessary.

**Section 49** The access or interconnection of networks between sound broadcasting and television broadcasting businesses and telecommunications business shall comply with the criteria and procedures prescribed by the Joint Committee under the law on the organization to assign radio frequency and to regulate the broadcasting and telecommunications services.

**Section 50** The licensee under this Act, or telecommunications business licensee under the law on telecommunications business, or network owner shall be prohibited from providing service of transmission or dissemination of public information or programs that constitute the operation of sound broadcasting business or television broadcasting business to others who are not licensees under this Act.

## CHAPTER V

### Promotion and Development of Sound Broadcasting Business and Television Broadcasting Business

---

**Section 51** In the promotion and development of sound broadcasting business and television broadcasting business, the Commission shall perform the following actions:

(1) conduct to evaluate the efficiency and achievement of the operation of the sound broadcasting business and television broadcasting business in accordance with the Sound Broadcasting Business and Television Broadcasting Business Master Plan and the

compliance with this Act, the variety of opinions expressed, the service for disabled persons and disadvantaged persons, complaint handling, the opportunity to enter the market of new operators;

(2) arrange for the quality of the program to be evaluated by considering the benefits to society and the good morals of the people;

(3) arrange for the hearing of opinions of licensees, practitioners and consumers in the implementation of (1) and (2).

The evaluation under paragraph one shall be in accordance with the criteria and procedures prescribed by the Commission, which must at least demonstrate the facts in terms of effectiveness, efficiency, organizational development, public support and other details as necessary.

**Section 52** In the case that the Commission considers that any program is beneficial to society or that it is appropriate to encourage the production of the program or that any operator complies with the measures to promote and protect the rights of disabled persons and disadvantaged persons under Section 36, the Commission may consider providing support for expenses from the Fund in accordance with the criteria announced by the Commission.

## CHAPTER VI

### Supervision

---

**Section 53** When there are reasonable grounds to suspect that there is an act of violation or non-compliance with this Act, the Commission and its Competent official shall have the following powers:

(1) summoning relevant persons to clarify or submit documents or evidences for consideration;

(2) issuing written summons to any person to give a statement or to send any document or object for the purpose of consideration or to be used as evidence to prove of an offense under this Act;

(3) entering the building or place of operation of the licensee or any person during the time of sunrise to sunset or during the business hours of the premises to investigate the facts of the offense, search the object used in the commission of the offense, the object intended to be an offense or the object to be used to commit the offense, as

well as any act that may violate the provisions of this Act or fail to comply with the conditions prescribed in the license.

Entering a building or place of operation under (3) to investigate the facts by the Commission or Competent official must have a search warrant issued by the Court.

Once the inspection has been carried out under (3) and has not been completed, it may be carried out after sunset or outside the business hours of the place.

In the performance of the duties of the Commission or Competent official, the related person shall facilitate as appropriate.

The performance of the duties of the Commission or Competent official under this Section must be in accordance with the criteria announced by the Commission.

**Section 54** In the performance of duties, the Competent official must present his or her identification card to the related person.

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

**Section 55** Any person causes interference to the reception, transmission or emission of audio or visual signals of the licensee, the Competent official in charge shall have the power to order such person to suspend the act or to modify the material used in the act or to move such thing out of the interference zone or to order that person or other person to take any action as necessary to correct the interference. However, in the case where the interfering materials are the services authorized by other laws, the Competent official shall notify the officials authorized under such laws to consider solving the interference.

**Section 56** In the performance of the duties under this Act, the Commissioner and Competent official shall be officers under the Criminal Code.

**CHAPTER VII****Penalties**

---

**Part 1****Administrative Penalties**

---

**Section 57** Administrative fines are as follows:

(1) Class-1 administrative fine shall be a fine not exceeding fifty thousand Baht;

(2) Class-2 administrative fine shall be a fine from fifty thousand Baht to the amount not exceeding five hundred thousand Baht;

(3) Class-3 administrative fine shall be a fine from five hundred thousand Baht to the amount not exceeding five million Baht.

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

(1) violates or fails to comply with the criteria announced 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, measures or 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:

(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 or 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 offense which is punishable by an administrative fine is a continuous offense and the Commission considers imposing an administrative fine for that offense, the offender shall be liable to a daily fine at the following rate from the date of issuance of such administrative fine throughout the period of time in which the violation or noncompliance persists, or until due compliance:

(1) in case of a Class-1 administrative fine, a fine not exceeding five thousand Baht per day;

(2) in case of a Class-2 administrative fine, a fine not exceeding twenty thousand Baht per day;

(3) in case of a Class-3 administrative fine, a fine not exceeding fifty thousand Baht per day.

The Commission shall manage to have the daily fine enforced every fifteen-day period.

**Section 62** The Office shall be the one to collect facts about the offenses punishable by administrative penalties and propose to the Commission for the consideration to order administrative penalties in accordance with the criteria and procedures prescribed by the Commission.

In considering an administrative penalty, the Commission must take into account the circumstances of the action and the damage caused by the action, but the Commission may warn the offender without imposing an administrative fine in the case that the Commission considers that the action has the following characteristics:

(1) it is an offense punishable by Class-1 administrative fine;

(2) it is not a continuous offense;

(3) it is the first offense committed unintentionally; and

(4) it does not cause damage.

**Section 63** When the Commission has issued an order to impose an administrative fine on any licensee, the Commission may, in the case that it deems appropriate, order that licensee to act or refrain from acting to prevent the repeated violation or the repeated commitment of the offense.

**Section 64** The Commission may consider suspending or revoking the license when the following facts appear:

(1) the licensee ignores the order of the Commission under Section 31 or Section 63;

(2) the licensee violates Section 37 causing serious damage;

(3) the licensee violates or commits an offense under this Act or the criteria or orders prescribed under this Act, or in case of serious damage;

(4) the licensee violates or commits an offense punishable by a criminal penalty under this Act;

(5) the licensee has been sentenced by a final judgement related to the broadcasting work which is an infringement of copyright in accordance with the copyright law;

(6) the licensee conducts business in the form of company that violates Section 15.

The suspension of the license shall be as prescribed by the Commission but must not exceed thirty days at a time.

**Section 65** In the case that a person who has been imposed an administrative fine refuse to pay the administrative fine or fails to pay it in full and correctly, the provisions on administrative enforcement under the law on administrative procedures shall apply *mutatis mutandis*.

**Part 2**  
**Criminal Penalties**

---

**Section 66** Any person uses the frequency spectrum for the operation of sound broadcasting business and television broadcasting business or operates sound broadcasting business and television broadcasting business or provides services other than sound broadcasting business and television broadcasting business without permission shall be liable to imprisonment for a term of not exceeding five years or a fine not exceeding five million Baht, or both; and a daily fine not exceeding fifty thousand Baht per day for the duration of the continued violation.

**Section 67** Any licensee who violates Section 9 or any notification issued by the Commission under Section 31 or Section 32 shall be liable to imprisonment for a term of not exceeding three years, or a fine not exceeding three million Baht, or both; and a daily fine not exceeding thirty thousand Baht for the duration of the continued violation.

**Section 68** Any licensee who causes interference with the reception, transmission or emission of audio or visual signals of another licensee shall be liable to imprisonment for a term of not exceeding three years, or a fine not exceeding three million Baht, or both; and a daily fine not exceeding thirty thousand Baht for the duration of the continued violation.

**Section 69** Any person who causes interference with the reception, transmission or emission of audio or visual signals of a licensee shall be liable to imprisonment for a term of not exceeding three years, or a fine not exceeding sixty thousand Baht, or both; and a daily fine not exceeding ten thousand Baht for the duration of the continued violation.

**Section 70** Any person who manufactures, imports, distributes or possesses with intent to distribute or provides instruments or equipment for other persons to use to receive or convert signals for the reception of programs of the sound broadcasting business and television broadcasting business which require subscription without the permission of the Commission shall be liable to imprisonment for a term of not exceeding two years or a fine not exceeding two million Baht, or both.

The provisions of this Section shall not apply to the possession or use of a receiver or equipment under paragraph one for education and research as authorized by the Commission.

**Section 71** Any person obstructs or fails to facilitate the performance of the duties of the Commission or Competent official under Section 53 shall be liable to imprisonment for a term of not exceeding one month or a fine not exceeding one thousand Baht, or both.

In the case that it appears that an offense has been committed under this Act, the Commission shall be deemed to be a damaged party according to the Criminal Procedure Code.

The provisions of this Section shall not preclude the actual damaged party of the right to exercise, the right to sue or take any action according to the law against the offender.

**Section 72** In the case where the offender is a juristic person, if the commission of the offense of the juristic person is caused by the act or omission of the duty of the managing director, manager or any person responsible for the operation of the juristic person, he or she shall also be liable for the penalty prescribed for the offense, unless it is proved that the act was committed without his or her knowledge or consent.

### Transitory Provisions

---

**Section 73** At the initial period, for benefit of public relations of the State, the provisions of Chapter I: Sound Broadcasting Business and Television Broadcasting Business Operation, Chapter II: Programs of the Sound Broadcasting Business and Television Broadcasting Business, Chapter VI: Supervision, and Chapter VII: Penalties, except for Section 20, Section 35, Section 36 and Section 38 shall not apply to the Government Public Relations as the public relations agency of the State and shall continue to operate the Sound Broadcasting Business and Television Broadcasting Business according to the existing scope of services until the Sound Broadcasting Business and Television Broadcasting Business Master Plan is established.

When the Sound Broadcasting Business and Television Broadcasting Business Master Plan comes into force, the Commission shall notify the characteristics, types and

scope of operation of the Government Public Relations as prescribed in the Sound Broadcasting Business and Television Broadcasting Business Master Plan to the Minister with the authority to supervise the Government Public Relations for compliance with the Sound Broadcasting Business and Television Broadcasting Business Master Plan.

**Section 74** The government agencies, state enterprises and other state agencies operating the sound broadcasting business or television broadcasting business on the effective date of this Act may continue to operate such business until date set forth in Sound Broadcasting Business and Television Broadcasting Business Master Plan has taken effect. If the government agencies, state enterprises or other state agencies wish to continue the business operation, they shall prepare a plan for the operation of the sound broadcasting business and television broadcasting business in order to obtain a license from the Commission and the Commission shall issue service licenses to the government agencies, state enterprises or other state agencies by taking into account the necessity of operating and using the Frequency spectrum.

**Section 75** Any person who has been granted permit, concession or contract from government agencies, state enterprises or other state agencies to operate sound broadcasting business or television broadcasting business on the effective date of this Act shall have the right to continue to operate the sound broadcasting business or television broadcasting business as permitted by such permit, concession or contract until the permit, concession or contract is terminated.

The Commission shall issue a business license to operate service under this Act to the persons receiving permit, concession or contract from government agencies, state enterprises and other state agencies according to characteristics, types and scope of the business operation under the permit, concession or contract. The licenses to operate the said service shall be valid for the remaining period of the permit, 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 submit to the Fund revenues equal to two percent of the revenues that government agencies, state enterprises or other state agencies must remit to the Ministry of Finance from the granting of permits, concessions or contracts for the operation of sound broadcasting business or television broadcasting

business that existed prior to the effective date of the Constitution of the Kingdom of Thailand, B.E. 2550 (2007) comes into force to the Fund until the permit, concession or contract is terminated.

**Section 77** After the lapse of five years from the effective date of this Act, the Commission shall consider revising the maximum amount of time for advertisements and business service provision under Section 8, but must not exceed the maximum amount of time for advertisements and business service provision as prescribed in Section 23 paragraph two.

**Section 78** During the establishment of an independent state organization having the duty to allocate frequency spectrum and regulate the operation of radio broadcasting, television broadcasting and telecommunications businesses under Section 47 of the Constitution of the Kingdom of Thailand has not yet been completed, the National Telecommunications Commission under the Act on the Organization to Assign Radio Frequency and to Regulate the Broadcasting and Telecommunications Services, B.E. 2543 (2000) shall perform the duties of the Commission under this Act on a temporary basis with the following powers and duties:

- (1) to execute the provisions of the Transitory Provisions in an orderly manner;
- (2) to proceed to provide the operators of community radio broadcasting business and operators of business not using frequency spectrum with licenses for community radio broadcasting business and licenses for business not using frequency spectrum for temporary basis as specified by the Commission. The temporary licenses for community radio broadcasting business and business not using frequency spectrum shall have a duration not exceeding one year;
- (3) to announce the proportion of programs and approve the program schedules of the licensees under (2);
- (4) to supervise the audio transmission or emission of the licensees under (2) in accordance with the specified transmission capacity and cover the permitted area.

**Section 79** In performing the duties under Section 78, the Commission shall have the power to appoint a sub-commission on radio broadcasting and television broadcasting 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 Defence or its representative, the Permanent Secretary of the Ministry of Education or its representative, the Secretary-General of the Council of State or its representative, the Director-General of the Government Public Relations Department or its representative, the Director-General of the Department of Provincial Administration or its representative, the Secretary-General 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 Faculty Members of Thailand or its representative, the President of the Thai Broadcast Journalists Association or its representative, the President of the Confederation of Radio-Television Broadcasting Profession Federation or its representative, the President of the National Council for Child and Youth Development or its representative, the Chairperson of the NGOs Coordinating Committee on Development or its representative, the Chairperson of the Council of disabled people of Thailand or its representative, and the President of the Confederation of Consumer Organization or its representative.

The Secretary General of the National Telecommunications Commission is the sub-commission member and secretary.

The sub-commission under paragraph one shall have the duty to propose opinions and perform other actions as assigned by the Commission with the authorities and duties under Section 53.

The law on administrative procedures on the parts relating to Meetings, Performance of Duties and Vacating from office shall apply to the sub-commission by *mutatis mutandis*.

**Section 80** The duties of the National Telecommunications Commission under Section 78 and the sub-commission on Radio Broadcasting and Television Broadcasting under Section 79 shall cease from the date on which the Commission of the independent state organization under Section 47 of the Constitution of the Kingdom of Thailand assumes its duties. This shall not affect any actions that the National Telecommunications Commission

and the sub-commission on Radio Broadcasting and Television Broadcasting have executed or performed during their tenure under this Transitory Provisions.

Countersigned by:  
General Surayud Chulanont  
Prime Minister

Remark:- The rationale for the enactment of this Act is that the government has a policy to organize public, private, and community media into genuine public media, and to use state communication tools for public benefit and for the political education of the people. This is in conjunction with the Organization to Assign Radio Frequency and to Regulate the Broadcasting and Telecommunications Services Act B.E. 2543 (2000), which establishes the National Broadcasting and Television Commission to regulate sound broadcasting business and television broadcasting business, and the National Telecommunications Commission to regulate telecommunications business operations. Subsequently, with the promulgation of the Constitution of the Kingdom of Thailand, B.E. 2550 (2007), there was an alteration in the key principles concerning single independent state organizations being responsible for allocating frequency spectrum and regulating the operations of such businesses, and compelling the enactment of the legislation regarding radio broadcasting and television broadcasting business to organize governmental, private, and community media into genuine public media. Therefore, with regard to the regulation of sound broadcasting and television broadcasting business, it is necessary to have legislation governing the operation of sound broadcasting and television broadcasting business in order to support the fulfillment of the duties of such independent state organization, thereby necessitating the enactment of this Act.