

# Unofficial Translation

## Act on Organization to Assign Radio Frequency and to Regulate the Broadcasting and Telecommunications Services B.E. 2553 (2010)

**BHUMIBOL ADULYADEJ, REX;**

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

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

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

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

This Act contains certain provisions in relation to the restriction of rights and liberties of persons, in respect of which Section 29 together with Section 35, Section 36, Section 41, Section 43, Section 45, Section 46 Section 47, Section 61 and Section 64 of the Constitution of the Kingdom of Thailand so permit by virtue provisions of law;

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

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

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

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and to Regulate the Broadcasting, Television Broadcasting and Telecommunication Services B.E. 2543 (2000) shall be repealed.

**Section 4.** In this Act:

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

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

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

“sound transmission” means radiocommunication emitting or transmitting sounds for direct reception by the public;

“television transmission ” means radiocommunication transmitting sounds and visual images for direct reception by the public;

“sound broadcasting service” means a service which provide public news services or programs for reception by means of receiving apparatus, either by means of radio frequency, wire, optical, electromagnetic, or any other system, or a combination thereof, or other similar services prescribed by the NBTC as sound broadcasting services;

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

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

“telecommunications service” means a service which provides the emission, transmission or reception of signs, signals, writing, digits, images, sounds, codes or intelligence of any nature by means of hertzian, wire, optical, electromagnetic, or any other system, or a combination thereof, and shall include the communication satellite service or other business prescribed as telecommunications services by the NBTC but not including sound broadcasting, television broadcasting, and radiocommunication services;

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

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

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

“community” means a group of people living in a common location, either in urban or rural areas, and shall include group of people that is organized around common

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

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

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

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

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

## **CHAPTER I**

### **National Broadcasting and Telecommunications Commission**

#### **Part 1**

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

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

- (1) One expert in sound broadcasting services, and another in television broadcasting services;
- (2) Two experts in telecommunications services;
- (3) Two legal experts, two economists beneficial to regulate the broadcasting and telecommunications services;
- (4) One expert in consumer protection or people’s right and promotion of freedom of people which will be beneficial to regulate broadcasting services, and another expert beneficial to regulate telecommunications services;
- (5) One expert in education, culture, or social development which will be beneficial to regulate broadcasting and telecommunications services.

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

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

A. General qualifications

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

B. Prohibitions

- (1) Not being a person holding a political position;
- (2) Not being a holder of any position of a political party;
- (3) Not being of unsound mind or of mental infirmity;
- (4) Not being addicted to drugs;
- (5) Not being a bankrupt or having been a bankrupt on the grounds of corruption;
- (6) Not having been sentenced by a judgment to imprisonment and being detained by a warrant of the Court;
- (7) Not having been sentenced by a final judgment except for an offense committed through negligence, a petty offense or defamation;
- (8) Not having been expelled, dismissed or removed from official service, state agency or state enterprise or private agency on the grounds of dishonest performance of duties or gross misbehavior or deemed as having committed dishonest act or malfeasant in the official service;
- (9) Not having been ordered by a judgment or an order of the Court that his or her assets shall vest in the state on the grounds of unusual wealth or unusual increase of assets;
- (10) Not being a judge of the Constitutional Court, Election Commissioner, Ombudsman, member of the National Anti-corruption Commission, member of the State Audit Commission or member of the National Human Rights Commission;
- (11) Not having been removed from office by the resolution of the Senate;
- (12) Not being or having been in the past a member of the Board of Directors, executive officer, advisor, employee, shareholder or partner in a company or partnership or any other juristic person carrying out broadcasting or telecommunications business for the period of one year before having been nominated under Section 10 or before having been selected under Section 15;
- (13) Not being under the prohibition from holding a political position.

**Section 8.** The commissioner shall not

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

- (2) be an official or employee of a state agency, state enterprise, or local administration, or be a member of the board or counsel of a state enterprise or state agency;
- (3) engage in any other independent occupation or profession having a stake or conflict of interest either directly or indirectly in carrying out the duties of the member.

## **Part 2**

### **Acquisition of NBTC Commissioner Candidates by Means of Nomination**

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

- (1) a professional association of broadcasting which has been registered as a juristic person for not less than five years;
- (2) a professional association of telecommunications business which has been registered as a juristic person for not less than five years;
- (3) Tertiary educational institute which is a juristic person and offers degree courses in mass communications, journalism or mass media for not less than five years;
- (4) Tertiary educational institute which is a juristic person and offers degree courses in telecommunications for not less than five years;
- (5) Tertiary educational institute which is a juristic person and offers degree courses in law for not less than five years;
- (6) Tertiary educational institute which is a juristic person and offers degree courses in economics for not less than five years;
- (7) Non-governmental organization not operating for profits or shared income which has the main objective being to protect consumers' rights or promote rights and freedom of people, and has been registered as a juristic person for not less than five years;
- (8) Non-governmental organization not operating for profits or shared income which has the main objectives relating to education, culture or social development, and has been registered as a juristic person for not less than five years;

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

Associations or bodies eligible for registration under (1) (2) (7) and (8) shall be the associations or bodies that carry out continued activities with apparent work records. If any association or body having several main objectives, only one category of that association or body according to (1) (2) (7) or (8) may be registered.

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

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

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

The Secretariat of the Senate shall announce the name list of the registered associations, institutes or bodies to the public. The list shall be in effect until further correction as may be prescribed by the Secretary-General of the Secretariat of the Senate.

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

- (1) Each professional association under paragraph 9 (1) and tertiary educational institute under paragraph 9 (3) is entitled to nominating two persons according to Section 6 (1);
- (2) Each professional association under paragraph 9 (2) and tertiary educational institute under paragraph 9 (4) is entitled to nominating two persons according to Section 6 (2);
- (3) Each tertiary educational institute under paragraph 9 (5) is entitled to nominating two persons having apparent work records or knowledge and expertise or experience in the filed of legal matters according to Section 6 (3);

- (4) Each tertiary educational institute under paragraph 9 (6) is entitled to nominating two persons having apparent work records or knowledge and expertise or experience in the filed of economics according to Section 6 (3);
- (5) Each non-governmental organization under paragraph 9 (7) is entitled to nominating two persons according to Section 6 (4);
- (6) Each non-governmental organization under paragraph 9 (8) is entitled to nominating two persons according to Section 6 (5).

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

**Section 11.** When the time prescribed under Section 10 has elapsed, the Secretariat of the Senate shall examine qualifications of the nominees to verify compliance with Section 7 and Section 10. In the case where any of the nominee lacks proper qualifications in accordance with Section 7 or Section 10, the Secretariat shall inform respective associations, institutes or bodies to nominate other candidate within a specified period of time by the Secretary-General of the Secretariat of the Senate. If the associations, institutes or bodies fail to nominate a candidate when the specified time has elapsed, it shall be deemed that they disclaim the right to make such nomination.

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

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

When the extension period under paragraph one has elapsed, and the number of nominees is still less than the number specified in paragraph one, the Permanent Secretary of the Office of the Prime Minister, the Permanent Secretary of the Ministry of Defense and the Permanent Secretary of the Ministry of Information and Communications Technology shall collaboratively nominate suitable persons to be selected as Commissioners who have the qualifications and not be under any of the prohibitions according to Section 6 and Section 7 to fulfill the number for each category as specified in paragraph one.

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

- (1) Nominees under Section 10 (1) from professional associations under Section 9 (1) shall elect two among themselves to be the NBTC Commissioners under Section 6 (1), one each in sound broadcasting service and television broadcasting service; and nominees under Section 10 (1) from institutes under Section 9 (3) shall elect two among themselves to be the NBTC Commissioners under Section 6 (1), one each in sound broadcasting service and television broadcasting service;
- (2) Nominees under Section 10 (2) from professional associations under Section 9 (2) shall elect two among themselves to be the NBTC Commissioners under Section 6 (2); and nominees under Section 10 (2) from institutes under Section 9 (4) shall elect two among themselves to be the NBTC members under Section 6 (2);
- (3) Nominees under Section 10 (3) and Section 10 (4) shall separately elect eight among themselves to be the NBTC Commissioners under Section 6 (3), four each in the field of law and economics;
- (4) Nominees under Section 10 (5) shall elect four among themselves to be the NBTC Commissioners under Section 6 (4) of which two to regulate broadcasting service and two to regulate telecommunications service ;
- (5) Nominees under Section 10 (6) shall elect two among themselves to be the NBTC Commissioners under Section 6 (5).

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

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

### **Part 3**

#### **Acquisition of the List of NBTC Commissioners**

##### **by Means of Selection**

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



- (1) The Chairperson of the National Human Rights Commission;
- (2) The Chairperson of the National Economic and Social Advisory Council;
- (3) The Permanent Secretary of the Office of the Prime Minister;
- (4) The Permanent Secretary of the Ministry of Defense;
- (5) The Permanent Secretary of the Ministry of Information and Communications Technology;
- (6) Director of Thailand National Electronics and Computer Technology;
- (7) The President of Council of Engineers;
- (8) The Chairperson of the Council of Disabled People of Thailand;
- (9) The Chairperson of the Communication Arts Association of Thailand;
- (10) The Chairperson of the Confederation of Radio and Television Profession Associations;
- (11) The Chairperson of the Coordinating Committee of the Non Governmental Organizations;
- (12) The Chairperson of Broad of Directors, the Thai Institute of Directors Association;
- (13) The Chairperson of the Thai Broadcast Journalists Association;
- (14) The Chairperson of the National Federation of Community;
- (15) The Chairperson of the Confederation of Consumer Protection Organizations.

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

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

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

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

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

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

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

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

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

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

## **Part 4**

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

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

In the case where the process of nomination according to Part 2, or selection according to Part 3 is not complete by due date specified in Section 13 paragraph three, the Secretary-General of the Secretariat of the Senate shall submit the name list of suitable persons for appointment as Commissioners obtained by due date together with the said persons' bio-data and work records, which must be clearly stated together with evidences declaring that they are qualified in accordance with Section 6, to the President of the Senate within thirty days as from the date that has elapsed according to Section 13 and Section 15 for further consideration and resolution of the Senate.

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

When the time specified under paragraph one has elapsed, if the number of selected Commissioners is less than the number specified in Section 6, the President of the Senate shall notify the Prime Minister. The Prime Minister shall thereby submit the name list to the Council of Ministers for consideration and action in order to obtain a complete number of the Commissioners in accordance with Section 6 within thirty days as from the date of notifying the Prime Minister.

The persons selected as Commissioners under paragraph one or paragraph two as the case may be shall meet and elect one Chairperson and two Vice Chairpersons within fifteen days as from the day of obtaining complete number of persons selected as Commissioners, the result of which shall be reported to the Prime Minister. The Prime Minister shall thereby propose the names to the King for a Royal Command appointing the said positions.

**Section 18.** In the case the selected person under section 17 is under any of the prohibition according to Section 8 (1) (2) or (3), the King will appoint, with the advice of the Prime Minister, only when that person has resigned from the position according to Section 8 (1) or (2), or has adduced evidence to the satisfaction that his engagement in the occupation or profession according to Section 8 (3) has ceased to exist. This shall be done within fifteen days as from the date of being selected. If that person has not resigned or ceased to engage in the occupation or profession within the specified time, it shall be deemed that that person has never been selected as Commissioners and the Senate shall select another member from the name list submitted by the Secretary-General of the Secretariat of the Senate according to Section 16.

## **Part 5**

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

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

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

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

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

- (1) death;
- (2) having attained the age of seventy years;
- (3) resignation;
- (4) being disqualified or being under any of the prohibition under section 7;
- (5) violation of Section 8;
- (6) being expelled by a resolution of the Senate under Section 21;
- (7) being removed by a resolution of the Senate under the Organic Act on Counter Corruption;

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

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

In the case where a Commissioner vacates office before completing his term, the person appointed in his replacement shall remain in office for the unexpired term of office of the person he replaces. In the case where the remaining term is less than three years, he is eligible for an appointment for one more term.

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

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

The resolution of the Senate under paragraph one shall be passed by votes of not less than three-fourths of the total number of the existing members of the Senate.

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

- (1) Members of the House of Representatives of not less than one-fourth of the total number of the existing members of the House;
- (2) Members of the Senate of not less than one-fourth of the total number of the existing members of the Senate;
- (3) Not less than 20,000 people who are service users affected by the act according to paragraph one. The complaint must be lodged with the President of the Senate in accordance with the criteria specified by the President of the Senate.

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

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

## **Part 6**

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

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

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

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

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

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

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

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

**Section 26.** The Chairperson, Vice Chairperson and other Commissioners shall perform full time work.

The Chairperson, Vice Chairperson and other Commissioners shall receive remunerations on a monthly basis as specified in the Royal Decree.

The Chairperson, Vice Chairperson and other Commissioners may disburse for travel allowances incurred from performing their duties in other areas not exceeding the rates specified in the Royal Decree.

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

- (1) To formulate a Frequency Management Master Plan, Table of Frequency Allocations , Broadcasting Master Plan, Telecommunications Master Plan, Frequency Plan, and Telecommunications Numbering Plan;
- (2) To assign radio frequencies for the undertaking of sound broadcasting, television broadcasting, radiocommunication, and telecommunication services;
- (3) To prescribe characteristics and categories of sound broadcasting, television broadcasting, and telecommunications services;
- (4) To license and regulate the use of radio frequencies and radiocommunication equipments in the undertaking of sound broadcasting, television broadcasting and telecommunications services, or radiocommunication service; and prescribe licensing criteria and procedures, conditions, or licensing fees;
- (5) To prescribe criteria for efficient use of radio frequency without causing interference to the same type of business and other type of business;
- (6) To license and regulate the operations of sound broadcasting, television broadcasting and telecommunications services to allow service users to have choices of services with quality, efficiency, timeliness, reliability and fairness; and prescribe licensing criteria and procedures, conditions, or licensing fees;

- (7) To license and regulate the use of telecommunications numbers; and prescribe licensing criteria and procedures, conditions, or licensing fees;
- (8) To prescribe criteria and procedures for interconnection, and criteria and procedures for setting access charges or interconnection charges to be applied to the undertaking of sound broadcasting, television broadcasting and telecommunications services, both for the same type of business and other type of business, which shall be fair to service users, service providers and investors, or between the telecommunications service providers with due regard to public interest;
- (9) To set tariff structure and price structure for sound broadcasting, television broadcasting and telecommunications services which shall be fair to service users and service providers with due regard to public interest;
- (10) To set standards and required technical specifications for sound broadcasting, television broadcasting, telecommunications and radiocommunication services;
- (11) To prescribe measure for the prevention of anti-competitive conduct or unfair competition in sound broadcasting, television broadcasting and telecommunications services;
- (12) To prescribe measure for the provisions of telecommunications services universally and equally in accordance with Section 50;
- (13) To protect right and liberty of the people from being exploited by the operators; protect individual right of privacy and freedom to communicate by means of telecommunications; promote right, freedom and equality of the people in the access to, and use of frequencies in the sound broadcasting, television broadcasting and telecommunications services;
- (14) To coordinate matters relating to frequency management, both at the national and international levels;
- (15) To determine and resolve issues relating to interference of frequencies;
- (16) To monitor and provide advice on the undertaking of sound broadcasting, television broadcasting and telecommunications services;
- (17) To set forth regulation on merger, cross ownership-holding or broadcasting market dominance amongst mass media businesses or by any other person, which has the effect of impeding the liberty of the public in perceiving information or of obstructing public access to a diversity of information;
- (18) To promote a formation of licensees, broadcasters, and mass media professionals in the radio and television businesses into diverse forms

of organizations which will have the mandate to set forth ethical standards and self-regulation pertaining to the occupation or profession under the ethical standards;

- (19) To issue rules or notifications according to Section 58;
- (20) To approve the budget of the Office of the NBTC budgets, including the financing of the Fund under Section 55;
- (21) To determine and approve financial allocation for the Fund as proposed by the Fund Management Committee under Section 55;
- (22) To provide information and participate in negotiations or making agreements between the Kingdom of Thailand and foreign governments or international organizations in matters relating to frequency management, sound broadcasting, television broadcasting, telecommunications services, or other related undertakings;
- (23) To give advice to the Cabinet for an issuance of, or amendment to, legislation related with frequency allocation and other matters relating to frequencies, sound broadcasting, television broadcasting, and telecommunications services;
- (24) To prescribe rules, notifications or orders under the powers and duties of the NBTC;
- (25) To perform any other acts as prescribed in this Act or other laws.

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

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

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

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

The Office of the NBTC shall prepare a summary record of the hearing which consists of opinions obtained, NBTC's resolution or consideration regarding the said



opinions, including reasons and proposed actions. This record shall be publicized through the Office of the NBTC's information network system.

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

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

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

**Section 31.** For the benefit of consumer protection from being exploited by the sound broadcasting, television broadcasting and telecommunications operators, the NBTC shall have the duties to inspect the operators hereof to prevent them from taking any action that may be deemed as unfair treatment. The NBTC shall set up two sub-committees consisting of persons having knowledge, expertise and experience beneficial to the NBTC's conduct of duties in consumer protection in the field of broadcasting service, and in consumers protection in the field of telecommunications service. The sub-committees shall have the duties and powers in making judgment and recommendations in matters relating to the lodged complaints and other duties as required by the NBTC.

In the case where the sound broadcasting, television broadcasting and telecommunications operators act in any way which may be deemed as an unfair treatment to the consumers by using their network or advertisement in the manner of undue profit making, or causing annoyance by whichever means as specified by the

NBTC, the NBTC shall have the power to order the operators to refrain from taking such acts.

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

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

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

**Section 33.** The NBTC shall have the power to appoint sub-committees, working groups, or assign competent officials to perform duties under this Act or other tasks that may be assigned.

The sub-committees and working groups shall not be of any prohibitions under Section 7 B. (1) (2) (3) (4) (5) (6) (7) (8) (9) (10) and (11).

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

## **CHAPTER II**

### **Business Operation Regulation**

#### **Part 1**

### **The Broadcasting Commission**

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

- (1) Chairperson appointed by the NBTC from NBTC Vice Chairperson;
- (2) Four Commissioners appointed by the NBTC from Commissioners who are not the Chairperson or Vice Chairperson which shall consist of

two members according to Section 6 (3) and one Commissioner according to Section 6 (4).

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

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

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

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

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

## **Part 2**

### **Telecommunications Commission**

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

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

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

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

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

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

## **Part 3**

### **Broadcasting Regulation**

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

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

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

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

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

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

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

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

**Section 42.** The NBTC shall have the powers to prescribe license fees under Section 41 by dividing into spectrum license fees and business license fees which shall be paid when the license has been granted. Payment shall be made yearly at an appropriate rate for the type of license in accordance with the Broadcasting Business Act , except for the spectrum license fees for business operation. The sum of money received from auctions under Section 41 paragraph six shall be deemed as spectrum license fees which must be paid upon having been licensed and remitted to the Fund under Section 52.

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

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

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

The licensee who has been authorized to use spectrum for sound broadcasting or television broadcasting business operation shall carry out by himself or herself. Business management either in whole or in part shall not be rendered or permitted to other to act on his/her behalf. But allocating the time slot to other person to run the programme shall be allowed in accordance with the criteria and procedures prescribed by the NBTC.

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

## **Part 4**

### **Telecommunications Regulation**

**Section 45.** Any person who wishes to use spectrum for the purpose of telecommunications business operation shall obtain a license under this Act by means of spectrum auctions in accordance with the criteria, procedures, duration, and conditions as prescribed by the NBTC. The provision of Section 41 paragraph four and paragraph

seven shall apply *mutatis mutandis*. Income from spectrum auction after deducting expenditure shall be remitted to the state treasury.

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

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

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

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

**Section 47.** Any licensee who has been authorized to use spectrum for telecommunications services has not carried out the business by using such spectrum within period specified by the NBTC or by using such spectrum in other services not relating to its objectives or fails to comply with the business operation conditions, or conducts prohibitive acts as specified in Section 27 (11), or fails to comply with the provision of Section 46, the NBTC shall take action to rectify the situation or issue an order to revoke the spectrum license in whole or in part.

## CHAPTER III

### Guidelines for Planning Formulation

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

- (1) Details of Table all Frequency Allocations that Thailand could bring into use ;
- (2) Implementation framework for International spectrum matters;
- (3) Details of spectrum allocated to the sound broadcasting and television broadcasting services, telecommunications services, and other services;

(4) Guidelines for spectrum refarming for improving spectrum utilization.

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

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

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

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

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

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

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

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

**Section 50.** For the benefit of providing universal basic telecommunications and social services in accordance with the Telecommunications Business Act, the NBTC shall set forth a plan for universal basic telecommunications and social services in which it

shall at least specify service areas and target groups, implementing period including estimated budgets for the operations.

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

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

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

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

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

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

## **CHAPTER IV**

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

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

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



- (2) To promote and support communication resources development, research and development in the broadcasting and telecommunications sector, as well as to increase people's capabilities in keeping pace with the media's technology in the aspect of spectrum utilization, information technology, facilities for the disabled, elderly, or underprivileged as well as telecommunications industries and related industries;
- (3) To promote and support human resource development in the broadcasting and telecommunications sector, information technology, as well as for the implementation of the organizations which is responsible for setting ethical standards of the occupations or professions under the law on broadcasting and television business operation;
- (4) To support, promote and protect the broadcasting, television and telecommunication services consumers;
- (5) To support implementation under the Act on Safe and Creative Media Development Fund by allocating some money to the Safe and Creative Media Development Fund.

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

- (1) started-up fund allocated by the government;
- (2) money from spectrum auctions under Section 41 paragraph six;
- (3) money having been allocated under Section 65 paragraph two;
- (4) money remitted to the Fund under the Broadcasting Business Act and the Telecommunications Business Act;
- (5) administrative fines imposed on the offenders under this Act and the Broadcasting Business Act and the Telecommunications Business Act;
- (6) money or property which is donated to the Fund;
- (7) money or property which have been transferred under Section 91;
- (8) interests and revenues of the Fund, including revenue from the research and development in broadcasting and telecommunications services;
- (9) other money and property that are transferred to the Fund.

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

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

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

- (1) Chairperson of the NBTC as the chairperson;

- (2) Permanent Secretary of the Office of the Prime Minister, Secretary-General of the Office of the National Economic and Social Development Board, Director General of the Comptroller' Department, and Director of the National Electronics and Computer Technology Center as members;
- (3) one expert who has knowledge and experience in human resources development and media profession in sound broadcasting, another in television selected by the members under (1) and (2);
- (4) one expert who has knowledge and experience in supplying universal basic telecommunications service or in rural area, including telecommunications service for the underprivileged selected by the members under (1) and (2);
- (5) one expert who has knowledge and experience in consumer rights protection or people's rights and freedom promotion selected by the members under (1) and (2);
- (6) one expert who has knowledge and experience in promotion and protection of the rights of the disabled and underprivileged selected by the members under (1) and (2).

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

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

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

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

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

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

## **CHAPTER V**

### **Office of the National Broadcasting and Telecommunications Commission**

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

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

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

- (1) Be responsible for the Office of the NBTC’s revenues and expenditures;
- (2) Prepare the Office of the NBTC’s annual budget and submit to the NBTC for endorsement. The said annual budget shall include any budget with respect to the conduct of official duties of the NBTC, BC, TC and Office of the NBTC;
- (3) Monitor and follow up spectrum utilization;
- (4) Receive and consider complaints with regard to the use of spectrum, the operations of broadcasting and telecommunications business in order to examine and solve the problems or propose recommendations to the NBTC for consideration in accordance with the criteria prescribed by the NBTC;
- (5) Study, compile and analyze information related to the spectrum, the use of spectrum, the operations of broadcasting and telecommunications business;
- (6) Be responsible for the administrative work of the NBTC, BC, TC and Fund Management Committee;
- (7) Perform other acts as entrusted by the NBTC, BC, and TC.

**Section 58.** The NBTC shall have the power to issue regulations or notifications with respect to general administration, personnel administration, budget, finance and property and other businesses of the Office of the NBTC, including the following matters:

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

- (2) the setting up of positions, salary scales and other remunerations of the Secretary-General of the NBTC, officers and employees of the Office of the NBTC, as well as remunerations and expenditures of other members and sub-committee members under this Act;
- (3) selection or assessment of staff competency for the benefit of recruitment and appointment or increasing of salary scale, criteria for extension of employment contract and compensation in the case of termination of employment due to failed performance evaluation;
- (4) personnel management including disciplinary action, petition and complaints;
- (5) the acting for and acting as a person holding the office;
- (6) the setting up of the uniform and dress code of the Office of the NBTC officer and employees;
- (7) the employment and appointment of a person as an experts or specialists who are beneficial to the performance of duties of the NBTC as well as the rate of remunerations ;
- (8) The administration and management of budget, property and inventories of the Office of the NBTC;
- (9) The provision of welfare or other aid.

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

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

- (1) each licensee's license including the prescribed conditions;
- (2) a summary of monthly revenues of the Office of the NBTC under Section 65;
- (3) a summary of monthly expenditures of the NBTC and Office of the NBTC;
- (4) detailed remunerations of each NBTC member, BC, TC, sub-committee, and advisor;
- (5) results of the research studies and other work contracted out to outside agencies;
- (6) lists of complaints, progress and results of consideration with respect to consumers' and licensees' complaints, and numbers of pending matters;
- (7) results of procurement conducted by the Office of the NBTC in details and related contracts.

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

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

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

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

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

- (1) death;
- (2) being sixty years of age;
- (3) resignation;
- (4) being a bankrupt;
- (5) having been imprisoned by a final judgment to a term of imprisonment;
- (6) being disqualified or being under any of the prohibitions under section 61 paragraph two;
- (7) being dismissed by a resolution of the NBTC members, by votes of not less than two-thirds of the total number of the Commissioners on grounds of mismanagement, misbehavior, incompetency or inability to perform his tasks;

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

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

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

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

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

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

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

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

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

(5) Subsidies from the government.

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

In the case where the Office's revenues are not sufficient for efficient conduct of the Office, including necessary burden costs, and other sources are not available, the government shall allocate the national budget to the Office as necessary.

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

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

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

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

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

inventories of the Office of the NBTC in accordance with the regulations prescribed by the NBTC.

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

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

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

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

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

In each year, the Office of the Auditor-General shall be the auditor and audit the spending of money and property of the Office of the NBTC. In the audit report, it shall contain an analysis of effectiveness of budget spending and give statements as to whether or not the spending is in accordance with the objectives and the degree of its achievements according to the targets. The auditor's report shall then be submitted to the NBTC, the Cabinet and the National Assembly.

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

## **CHAPTER VI**

### **The Follow-up, Inspection and Evaluation of the Performance and Management**

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

- (1) One expert in sound broadcasting service, and another in television broadcasting service;
- (2) One expert in telecommunications service;

(3) One expert in consumer protection;

(4) One expert in people's right and freedom promotion.

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

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

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

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

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

The conduct of meetings and making resolutions shall be in accordance with the rules and regulations prescribed by the Performance Follow-up and Evaluation Committee.

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

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

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

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



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

- (1) Performance of the NBTC, BC, TC, Office of the NBTC and Secretary-General of the NBTC;
- (2) Facts or observations with regard to the performance of duties of the NBTC in terms of its efficiency and compliance with the government policies as well as opinions and recommendations.
- (3) Comments on the annual report of the NBTC under Section 76;
- (4) Other matters deemed appropriate for acknowledgment of the NBTC, National Assembly or the public.

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

## **CHAPTER VII**

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

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

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

**Section 76.** The NBTC shall prepare an annual performance report on the spectrum management, sound broadcasting, television broadcasting, and telecommunications services as the case may be which shall demonstrate details of work plans and results, spectrum management, frequency assignment, sound broadcasting business, television broadcasting business and telecommunications business operation as the case may be, and future work plans, and submit to the Cabinet and the National Assembly within one hundred and twenty days as from the ending date of each accounting year. This report shall also be disclosed to the public.

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

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

- (2) Work plans, projects and budget plans for the upcoming year;
- (3) Financial statement and report of the auditor, internal audit report;
- (4) Problems and obstacles in the undertaking of sound and television broadcasting, and telecommunications services that are significant to the public;
- (5) Quality and service charge rates of different types of telecommunications that are significant to the public;
- (6) Efficiency and effectiveness in the handling of consumers' complaints;
- (7) Efficiency and effectiveness of the Fund under Section 52;
- (8) Report on the competition in the sound and television broadcasting, and telecommunications markets, including observations regarding behaviors in the manner of market domination both directly and indirectly which cause impacts on the people and public interest.

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

## **CHAPTER VIII**

### **Penalties**

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

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

**Section 79.** Any NBTC competent official or person exercising NBTC power who becomes aware of or has been notified about unlawful use of the frequency in violation of, or not compliance with, this Act, and if the official fails to enforce the law and if the act or refraining from such act is not an offense under Section 157 of the Penal Code, that NBTC competent official or person exercising NBTC power shall be liable to imprisonment for a term not exceeding three years or to a fine not exceeding sixty thousand Baht or to both.

## **Transitory Provisions**

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

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

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

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

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

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

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

The provision of Section 43 shall not apply to government departments and state enterprises whose assigned frequencies have been granted by means of authorization, concession or contract to other person for lawful business operation. The person granted

authorization, concession or contract shall have the right to continue the business for the remaining period associated with such authorization, concession or contract until their termination.

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

**Section 84.** Any person having been assigned frequency or using frequency for lawful telecommunications business on the date of the entry into force of this Act and in compliance with Section 82 shall be deemed to be licensed under this Act. The NBTC shall supervise the frequency assignees or frequency users in accordance with this Act, other laws and the criteria specified by the NBTC until the expiry of the assignment under paragraph four.

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

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

- (1) Business license fees calculated from income base which is generated from the authorization, concession or contract;
- (2) Expenses for supporting the provisions of universal basic telecommunications and social services in accordance with the government policies and Section 50 calculated from income base which is generated from the authorization, concession or contract;
- (3) Expenses incurred from the operation associated with the authorization, concession or contract as prescribed by the Ministry of Finance.

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

**Section 85.** At the outset, the provision of Section 49 pertaining to an allocation of not less than twenty percent of frequency to the civil sector for the purpose of television broadcasting service shall not apply until the digital transmission system is prescribed by the NBTC.

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

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

**Section 86.** The telecommunications business licensees who have been assigned by the National Telecommunications Commission to provide universal basic telecommunications and social services in accordance with the Telecommunications Business Act B.E. 2544 (2001) before the date of the entry into force of this Act shall be exempted from contributions to the Fund under Section 50 until the termination as prescribed in the Notification of the National Telecommunications Commission on the Criteria, Procedures and Conditions for the Provision of Universal Basic Telecommunications and Social Services.

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

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

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

Using of frequencies for business undertaking other than the permit under paragraph one shall be in accordance with the Frequency Management Master Plan and

shall be granted a permit from the NBTC. In this regard, the NBTC may set forth any conditions necessary for public interest.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Countersigned by:

Abhisit Vejjajiva

Prime Minister

Note The reasons for promulgating this Act are that Section 47 of the Constitution of the Kingdom of Thailand stipulates that there shall be an independent

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

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