

Thai Public Broadcasting Service Act, B.E. 2551 (2008)

Translation

BHUMIBOL ADULYADEJ, REX.

Given on the 5th Day of January B.E. 2551;

Being the 63rd Year of the Present Reign

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

Whereas it is expedient to have a law on Thai public broadcasting service;

This Act contains certain provisions in relation to the restriction of right and liberty of person, in respect of which Section 29, in conjunction with Section 43 and Section 45 of the Constitution of the Kingdom of Thailand so permit by virtue of law;

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

Section 1

This Act is called the "Thai Public Broadcasting Service Act, B.E. 2551 (2008)".

Section 2

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

Section 3

In this Act:

"Program" means any content produced for broadcasting via radio and television other than advertisement;

"Schedule" means detailed information relating to all programs to be broadcasted, their broadcasting periods and target group of each program;

"Producer" means a producer of a program to be broadcasted via radio and television;

"Independent producer" means a producer who is not attached to, or being officer or employee of, any radio or television station or an affiliated company of any radio or television station or any public media, including an independent producer carrying out small business enterprise and a producer at community level;

"Supporter" means anyone who provides support in form of finance, property or any other thing in the interest of the Organization;

"Levy" means money collected from a person who is liable to taxation under the law on liquor and the law on tobacco as prescribed by this Act;

"Organization" means Thai Public Broadcasting Service;

"Board" means the Board of Thai Public Broadcasting Service;

"Member of the Board" means a member of the Board of Thai Public Broadcasting Service;

"Executive Board" means the Executive Board of Thai Public Broadcasting Service;

"Executive Board member" means a member of the Executive Board of Thai Public Broadcasting Service;

"Director" means the Director of Thai Public Broadcasting Service.

Section 4

The Prime Minister and the Minister of Finance shall have charge and control of the execution of this Act.

CHAPTER I

Establishment and Fund

Section 5

There shall be established Thai Public Broadcasting Service being juristic person, to be called in brief in Thai as "Sor. Sor. Thor." and to be called in English as Thai Public Broadcasting Service, "TPBS" in brief. The Organization shall be public media on radio and television broadcasting and shall be State agency other than government agency or State enterprise under the law on budgetary procedure operating upon its fund, property and income.

Section 6

The Organization shall have its head office in Bangkok or any adjacent *Changwat* and may establish its branch office at any other place.

Section 7

The Organization shall have the following objectives:

- (1) to carry out radio and television broadcasting which may strengthen the development of social quality and virtue upon Thai's value through information service provided upon accurate, thorough, balanced and strict to code of conduct basis;
- (2) to produce varieties, with high quality, of information, education and entertainment program proportionally without political bias and commercial benefit but adhering to the public interest;
- (3) to equip the public with knowledge so as to be aware of global changes for the purpose of national and local benefits through information and other beneficial services;
- (4) to promote freedom of information in order to strengthen democratic society where people derive information upon equal basis;
- (5) to support direct and indirect public participation in determining the direction of services of the Organization for public interest;
- (6) to support other public interest activities.

In carrying out of the objectives under (2), (3), (4) and (5), regard shall be had to thorough and equitable access and utilization of the public.

Section 8

For the achievement the objectives under Section 7, the Organization shall have its principal powers and duties as follows:

- (1) to establish radio and television station, or to broadcast its programs through other systems or other advanced technologies, whereby service networks thereof covering the whole area of the country or establishing additional radio and television stations as its networks. In this regard, the Organization shall not collect membership fee and shall not generate income from advertisement, except for the support provided by its supporter;
- (2) to provide audiovisual media production service or other information network system services or any other service related or beneficial to program broadcasting;
- (3) to support and develop potential and creativity of independent producer in the production of program;

- (4) to coordinate with government agency, private agency, community or foreign agency or international Organization or radio or television station of foreign public media in the production of program that enhances public knowledge or establishes cross-cultural cooperation;
- (5) to perform any act related to, or connected with, the management for the achievement of its objectives.

Section 9

In addition to the powers and duties under Section 8, the Organization shall have the following powers:

- (1) to have ownership, possessory right and real right;
- (2) to create right or engage any juristic act, within the Kingdom and abroad, for carrying out of its affairs;
- (3) to engage joint ventures with other persons or juristic persons, within the Kingdom and abroad, in any undertaking relevant to its objectives;
- (4) to collect fee, dues, service charge or any other consideration in return of its services;
- (5) to perform any act related to, or connected with, the achievement of its objectives.

Section 10

The affairs of the Organization shall not subject to the law on labor protection, the law on labor relations, the law on social security and the law on workers' compensation, but the Director, officer and employee of the Organization shall be entitled to benefits of not less than the benefits as prescribed by the law on labor protection, the law on social security and the law on workers' compensation.

Section 11

The fund, property and income of the Organization consist of:

- (1) levy collected by the Organization under Section 12;
- (2) transferred money and properties under Section 57 or under other laws;
- (3) start-up fund paid by the government as subsidy under Section 60;
- (4) fee, dues, service charge or consideration obtained in return of service;
- (5) money or property obtained from its supporter;
- (6) income or benefit arising from its intellectual property;
- (7) fruits arising from its money or property.

The obtainment of money under (5) shall not deprive the independence of the Organization in carrying out of its business or cause the Organization to act in contrary to, or inconsistent with, its objectives.

Income arising from the carrying out of business of the Organization other than incomes under (2) and (3) shall be spent in order to support and develop potential and creativity of independent producer at the rate prescribed by the Board, but not exceeding ten per cent of that income.

Income of the Organization under paragraph one shall not be remitted as State revenue under the law on treasury reserve and the law on budgetary procedure.

Section 12

The Organization shall have the power to collect levy from the person who is liable to taxation under the law on liquor and the law on tobacco at the rate of one point five per cent of taxes collected from liquor and tobacco under the law on liquor and the law on

tobacco to be its income, but not exceeding two thousand million Baht for each fiscal year. The Minister of Finance shall have the power to adjust the maximum amount of income under this Section every three years so as to assure that the Organization has sufficient income for the carrying out of its affairs in accordance with its objectives. In this case, regard shall be had to inflation rate of the preceding year in conjunction with the changing scope of work of the Organization and the result of business evaluation of the Organization under Section 50.

If income of the Organization exceed the maximum amount under paragraph one, it shall remit the excess amount as State revenue.

In calculating of levy under paragraph one, the fraction in *Stang* shall not be taken into consideration.

Section 13

For the purpose of collecting and remitting of levy:

- (1) the Excise Department and the Customs Department shall collect and remit levy for the Organization. In this case, the collected levy in an amount of not exceeding the maximum amount under Section 12 shall not be remitted as State revenue in accordance with the regulation prescribed by the Minister of Finance;
- (2) levy shall be deemed as tax, but shall not be calculated as tax value.

The Excise Department and the Customs Department shall, in remitting of levy, deduct their expenses at the rate prescribed by the Minister of Finance, but not exceeding one point five per cent of the collected levy.

Section 14

The person who is liable to taxation under the law on liquor and the law on tobacco shall have the duty to pay the levy in accordance with the rate prescribed under Section 12 paragraph one together with tax in accordance with the regulation prescribed by the Minister of Finance.

Section 15

In the case where a person who is liable to taxation under the law on liquor and the law on tobacco has been entitled to tax suspension, exemption, rebate or return, such person shall also be entitled to levy suspension, exemption, rebate or return in accordance with the regulation prescribed by the Minister of Finance.

Section 16

In the case where a person who is liable to levy fails to pay levy or pay later than the determined period or pay less than the determined amount, such person shall, apart from the liability under this Act, be liable to surcharge at the rate of one point five per cent per month of the unpaid amount or of the amount paid later than the determined period, as the case may be, from the due date until the date on which such levy has been paid. The calculated amount of surcharge shall not exceed the amount of levy and it shall also be deemed as levy.

In calculating the period of time under paragraph one, a fraction of a month shall be counted as one month.

CHAPTER II

Administration and Operation

Part 1

Board

Section 17

There shall be a Board of Thai Public Broadcasting Service consisting of the Chairperson and eight other members selected and appointed from qualified persons having knowledge, experience and apparent work or performance evidencing their knowledge or experience, as follows:

- (1) two qualified persons in the field of mass communications;
- (2) three qualified persons in the field of Organization management;
- (3) four qualified persons in the field of democratic promotion, community or local development, learning and studying, child, youth or family protection and development or promotion of the rights of the disadvantaged.

The Director shall be secretary of the Board.

Section 18

There shall be a Selection Committee having duty to select the qualified persons to be appointed as the members of the Board. The Selection Committee consists of fifteen members as follows:

- (1) the President of the National Press Council of Thailand;
- (2) the President of Thai Broadcast Journalists Association;
- (3) the Chairperson of the Confederation of Radio and Television Profession Associations;
- (4) the Chairperson of the Council of the Mass Communication Academic Institutes of Thailand;
- (5) the Chairperson of the Coordinating Committee of the Non-Governmental Organizations;
- (6) the Chairperson of the Confederation of Consumer Protection Organizations;
- (7) the Chairperson of the National Council for Child and Youth under Royal Patronage;
- (8) the Chairperson of the Council of Disabled People of Thailand;
- (9) the President of the Lawyers Council of Thailand;
- (10) the President of Thailand Environment Institute;
- (11) the General Manager of Thai Health Promotion Foundation;
- (12) the Permanent Secretary of the Office of the Prime Minister;
- (13) the Permanent Secretary of the Ministry of Finance;
- (14) the Permanent Secretary of the Ministry of Culture;
- (15) the Permanent Secretary of the Ministry of Education.

In the case where a member under (1), (2), (3), (4), (5), (6), (7), (8), (9) or (10) is unable to attend a meeting, the person who attends the meeting on his behalf shall be approved by the Committee or Council of such institution.

Within thirty days as from the date the cause of selection has occurred, if there is unable to have the entire members of the Selection Committee or if any member thereof is unable to perform his duty, the Selection Committee shall consist of its remaining members, but not less than ten members.

A member of the Selection Committee shall not be eligible for nomination as a member of the Board.

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

The rule and procedure for selection shall be determined by the Selection Committee. In so determining, regard shall be had to transparency and fairness of the selection.

The Organization shall be secretariat unit for the selection.

Section 19

A person nominated as a member of the Board shall have the qualifications and shall not be under any of the prohibitions as follows:

- (1) being of Thai nationality;
- (2) being of not less than thirty-five years of age;
- (3) being able to perform duties independently, impartially and honestly;
- (4) not being a bankrupt, incompetent or quasi-incompetent;
- (5) not having been sentenced by a judgment to imprisonment for a term of two years or more and the punishment has undergone for a period of less than five years on the nomination date, except for an offence committed through negligence;
- (6) not having been expelled, dismissed or removed from official service, a State agency or a State enterprise on the grounds of dishonest performance of duties or gross misbehavior or deemed as having committed dishonest act or malfeasant in the official service;
- (7) not having been expelled, dismissed or removed from work on the grounds of dishonest performance of duties or deemed to conduct misbehavior in the performance of duty;
- (8) not having been ordered by a judgment or an order of the Court that his assets shall vest in the State on the ground of unusual wealth or unusual increase of assets.

Section 20

The Selection Committee shall, in the selection of a member of the Board, select a person having the qualifications under Section 17 and having the qualifications and not being under any of the prohibitions under Section 19 who gives his consent for nomination in the equivalent number of the member of the Board to be appointed.

After having the completion number, the nominees shall elect one among themselves to be the Chairperson of the Board.

The Selection Committee shall submit the Prime Minister the names of the Chairperson and the members of the Board together with evidences declaring that they are qualified and not being under any of the prohibitions as well as their consents for appointment as the Board.

The Prime Minister shall publish the names of the Board in the Government Gazette.

Section 21

While being in office, a member of the Board shall:

- (1) not being a government official holding a permanent position or receiving salary or an official or employee of a State enterprise or other State agencies, except a lecturer in a State's university;
- (2) not being a person holding political position, a member of a local assembly, local administrator or a member of the Board of Directors of, a person who is responsible for the administration of, or an official of, a political party;
- (3) not being a member of the Board of Directors of a State enterprise or other State agencies;

- (4) not being a partner, a member of the Board of Directors or an official of a partnership or company carrying out the radio, television or telecommunication business or of a partnership or company that produce the program for the Organization.

A person appointed by the Prime Minister as a member of the Board that being under any of the prohibitions under paragraph one shall quit such prohibitions as from the date of appointment. If that person fails to quit such prohibitions within the prescribed period, it shall be deemed that that person has never been appointed as a member of the Board and the selection for a member of the Board in replace of that person shall be undertaken.

Section 22

The Chairperson and a member of the Board shall not have interest in any affair done with the Organization or in the affair competing against the affair of the Organization, whether directly or indirectly, except where he has been entrusted by the Board to take administration of, or enter into joint ventures with, any other person or juristic person.

Section 23

A member of the Board holds office for a term of four years.

At the outset, four members of the Board shall, after the completion of two years, vacate office by drawing lots and it shall be deemed that those members vacate office at the end of the term.

At the end of the term of office under paragraph one, if the new members of the Board have not been appointed, the members of the Board who vacate office shall remain in office to continue their duties until the newly appointed members have been appointed.

A member of the Board who vacates office may be reappointed, but not more than two consecutive terms.

Section 24

In addition to vacating office at the end of the term, a member of the Board vacates office upon:

- (1) death;
- (2) resignation;
- (3) being disqualified or being under any of the prohibitions under Section 19;
- (4) violating Section 21 or Section 22;
- (5) having been sentenced by a judgment to a term of imprisonment irrespective of whether the case becomes final or the sentence has been suspended, except for an offence committed through negligence, a petty offence or defamation where the case has not been final or the sentence has been suspended.

If there is the cause under paragraph one, a selection for the replacement shall be undertaken unless the remaining term of office of that member is less than ninety days. In this case, Section 17, Section 18, Section 19, Section 20 and Section 21 shall apply *mutatis mutandis* and such person shall remain in office for the unexpired term of office of the member he replaces.

During the course of selection under paragraph two, the remaining members of the Board shall continue to perform their duties. In this case, it shall be deemed that the Board consists of the remaining members unless the members of the Board are less than five.

Section 25

In the case where the Chairperson of the Board vacates office upon the cause under Section 23 paragraph two or Section 24, the members of the Board shall elect one among themselves to preside over the meeting temporarily.

The election for the new Chairperson of the Board shall be made upon the complete number of the members of the Board.

Section 26

At a meeting, the presence of not less than one-half of the total number of members of the Board shall constitute a quorum.

If the Chairperson is unable to present at the meeting, or is unable to perform his duty, the members of the Board shall elect one among themselves to preside over at the meeting.

Section 27

A decision shall be made by a majority of votes. In casting votes, each member shall have one vote. In case of an equality of votes, the person who presides over at the meeting shall cast an additional vote as a casting vote.

Section 28

The Board shall have the powers and duties as follows:

- (1) to lay down general policy of the Organization;
- (2) to protect and preserve an independence of the Executive Board, Director and official from any intervention;
- (3) to approve business administration plan and schedule plan of the Organization to be in line with the objectives under Section 7;
- (4) to approve budget of the Organization;
- (5) to control the Executive Board to function in compliant with the policy of the Board;
- (6) to organize research with a view to develop quality of the program;
- (7) to issue the code of conducts, together with penalties, of the Executive Board member, Director, administrative official of the Organization, official and employee of the Organization;
- (8) to supervise the consideration of public comments, suggestions, criticism and complaints in relation to the Organization to be carried out properly and rapidly;
- (9) to issue regulations on personnel administration, finance, budget and properties, on delegation of powers to the Executive Board and on execution of general affairs;
- (10) to appoint the Executive Board in accordance with Section 29;
- (11) to appoint and remove the Director in accordance with Section 31;
- (12) to determine salary and other benefits of the Director and Deputy Director in accordance with Section 37;
- (13) to issue the rule on professional ethics in relation to the production and broadcasting of the programs of the Organization in accordance with Section 42;
- (14) to appoint the Sub-Committee for Considering Public Complaint in accordance with Section 46;
- (15) to prepare and submit an annual report to the Council of Ministers, the House of Representatives and the Senate and to disseminate such report to the public in accordance with Section 52;
- (16) to carry out any duty as prescribed by this Act or by other laws.

Part 2 **Executive Board**

Section 29

The Board shall appoint an Executive Board consisting of the Director as *ex officio* Chairperson, not more than six administrative officials of the Organization and not more than four qualified members as Executive Board members.

The qualified members under paragraph one shall have the qualifications and shall not be under any of the prohibitions under Section 19 and Section 21 and their knowledge or experience and apparent work in mass communications, management, society, culture or law have been disseminated publicly.

The Executive Board member shall not have interest in any affair done with the Organization or in the affair competing against the affair of the Organization, whether directly or indirectly, except where he has been entrusted by the Board or the Executive Board, as the case may be, to take administration of, or enter into joint ventures with, any other person or juristic person.

In the case where the Director vacates office, the Executive members under paragraph one shall also vacate office.

The provisions under paragraph Section 24 paragraph one shall apply *mutatis mutandis* to the vacation of office of the Executive Board member.

The Executive Board shall perform its duties in compliance with the policy laid down by the Board and shall have the powers and duties as follows:

- (1) to control the production or creation of the program of the Organization to be in line with the policy laid down by the Board;
- (2) to supervise the operation of the Organization to be accorded to laws or its rules and regulations if there is a complaint from the public against the Organization;
- (3) to propose administrative and program production plans to the Board for approval;
- (4) to propose Organizational and personnel development plans and financial plan to the Board;
- (5) to prepare master plan for network development;
- (6) to conduct quality evaluation of broadcasted programs;
- (7) to carry out any duty as entrusted by the Board.

Section 30

The Chairperson of the Board, members of the Board and members of the Executive Board under Section 29 shall be entitled to remuneration as prescribed by the Royal Decree.

Part 3 Director

Section 31

The Organization shall have one Director and Deputy Director in the number as determined by the Board.

The Board shall have the power to appoint and remove the Director.

The rule and procedure for selection of the Director shall be in accordance with the rule of the Policy Board.

In the case where there is no Director or where the Director is unable to perform his duty, the most senior Deputy Director shall be Acting Director. If there is no Deputy Director, the Board shall appoint one of the Executive Board members to be Acting Director.

Section 32

The Director shall perform full time work for the Organization and shall lead and be responsible for the administration of the Organization and the production of programs in accordance with the policy of the Board. The Director shall have the qualifications and shall not be under any of the prohibitions as follows:

- (1) being of Thai nationality;
- (2) being of not more than sixty-five years of age on the appointment date;
- (3) having knowledge, skill or experience in radio or television broadcasting or mass communications;
- (4) not being under any of the prohibitions under Section 19 (4), (5), (6), (7) or (8);
- (5) not being a person holding political position, a member of a local assembly, local administrator or a member of the Board of Directors of, a person who is responsible for the administration of, an advisor to, or an official of, a political party;
- (6) not being a member of the Board of Directors of a State enterprise or other State agencies, official or employee of the Organization or advisor or expert contracted with the Organization;
- (7) not having interest in any affair done with the Organization or in the affair competing against the affair of the Organization, whether directly or indirectly, except where he has been entrusted by the Board or the Executive Board to take administration of, or enter into joint ventures with, any other person or juristic person.

In administering the Organization, the Director shall be responsible to the Board.

Section 33

An appointment of the Director shall be made by an employment agreement in the form designed by the Board. The Chairperson shall be the signatory of the employment agreement.

The employment agreement under paragraph one shall, at least, contain the provisions relating to the holding of office, working conditions, performance evaluation, vacating office, termination, remuneration and other benefits of the Director.

Section 34

The Director may, with the approval of the Board, appoint the person having qualifications under Section 32 (1), (2), (4), (5), (6) and (7) not exceeding the number determined by the Board to be Deputy Director to assist the Director in the performance of his duties.

The appointment of the Deputy Director shall be made by employment agreement in accordance with the rules and conditions approved by the Board. The Director shall be the signatory of the employment agreement.

The provisions of Section 33 paragraph two shall apply *mutatis mutandis* to the employment agreement of the Deputy Director.

Section 35

The Director and Deputy Director hold office for the period specified in the employment agreement, but not exceeding four years, and may be reappointed.

Section 36

In addition to vacating office at the expiration of the term as specified in the employment agreements, the Director and Deputy Director vacate office upon:

- (1) death;
- (2) resignation;

- (3) being disqualified or being under any of the prohibitions under Section 32 or Section 34, as the case may be;
- (4) having failed the performance evaluation;
- (5) having been removed by the vote of not less than two-thirds of the existing number of the Board. This resolution shall clarify justification thereon and shall at least consist of the matter of fact, issues to be considered and supporting reasons for discretion. The Deputy Director shall be removed by the Director. In this case, the matter of fact and supporting reasons for removal shall be clarified;
- (6) termination of the employment agreement upon the conditions specified therein.

Section 37

Remunerations and other benefits of the Director and Deputy Director shall be determined by the Board with due regard to their knowledge, capacities, experiences and workloads comparable with remuneration rates of the executives having the same or similar responsibilities of private sector.

Section 38

In the performance of duties, the Director shall have the powers as follows:

- (1) to issue regulation on administration of the Organization as well as regulation and code of practices of the official and employee of the Organization which shall not contrary to or inconsistent with the regulation prescribed by the Board;
- (2) to enter into or terminate the employment agreement of, promote, reduce or cut salary or wage of, or conduct disciplinary actions against, the official and employee of the Organization in accordance with the regulation prescribed by the Executive Board;
- (3) to appoint station master and station administrative committee.

Section 39

The Director shall, in external affairs, be representative of the Organization. For this purpose, the Director may entrust any person to act on his behalf in accordance with the regulation prescribed by the Board.

The Organization is not bound by a juristic act concluded by the Director in violation of the regulation issued under Section 28 (9) or Section 38 (1) and (2), except where ratification has been given by the Board or the Executive Board, as the case may be.

Section 40

In the absence of both Director and Deputy Director simultaneously, the Board shall appoint a member of the Executive Board or an official of the Organization to be Acting Director.

The Acting Director shall have the powers and duties identical to those of the Director.

Section 41

The Chairperson of the Board, member of the Board, Executive Board member, Director, Deputy Director and official of the Organization shall be government official under the organic law on Counter Corruption.

The Chairperson of the Board, member of the Board, Executive Board member, Director and Deputy Director shall be high-ranking official under the organic law on Counter Corruption.

CHAPTER III

Rule on Professional Ethics

Section 42

The Board shall prepare the rule on professional ethics in relation to program production and broadcasting with due regard to opinions of the representatives of the officials and employees of the Organization, producers, audiences and qualified persons in the fields of communication arts, journalism and mass communications so as to be guideline for practicing and for the production, procurement and broadcasting of program of the Organization.

The rule on professional ethics under paragraph one shall, at least, covers the following matters:

- (1) accuracy, impartiality and fairness;
- (2) professional independence and accountability to the public;
- (3) respect for human dignity, privacy and the protection of personal rights;
- (4) protection of child and youth from the program that presents violence, illegal or immoral manner, allurements that leads to wrong-doing and coarse language;
- (5) practice in dealing with unfortunate victim and persons in sorrow condition;
- (6) payment to the source of information, receipt of reward or benefit in return of broadcasting news or in the participation of any act which may deteriorate fairness and professional independence;
- (7) fair protection and treatment to the source of information.

The Board shall disseminate the rule on professional ethics prepared under paragraph one to the public.

CHAPTER IV Broadcasting

Section 43

The program broadcasted by radio or television station of the Organization shall have the followings contents and values:

- (1) information that affects public is presented accurately, rapidly, reflectively, thoroughly and fairly and in appropriate proportion during the prime time;
- (2) program that enhances public participation in any public issue attached with various social point of views by means of discussion or expression of opinions upon accurate data, balancing of different opinions and critical analysis;
- (3) program that enhances public learning and development of the quality of life of the public and program that promotes education in various fields and heighten the learning of child and youth. These programs shall be proportionate and shall be broadcasted during the period which is convenient for viewing and listening;
- (4) sports and entertainment programs as well as program that promotes health and quality of life of the public;
- (5) program that promotes Thai's identity, multicultural society and social harmony as well as program that enables disadvantaged persons to present their views or information;
- (6) entertainment program that is creative, promoting good social values or uplifting public aesthetics;
- (7) program produced by an independent producer with appropriate broadcasting period.

The schedule shall be made upon discretion of the Organization and it shall not be made for the purpose of, or in return of, commercial benefit.

The Director shall make and submit the schedule to the Executive Board for approval every three months.

If any significant change has been made to the schedule, the Director shall submit the schedule with that change to the Executive Board for approval.

In making of program under paragraph one, the Board shall conduct hearing of interested persons in order to enable disabled person to get access to or utilize the radio and television programs of the Organization.

Section 44

The Organization shall archive any material recording any broadcasted program interested by the public for historical purpose.

The Organization may collect service charge for an access to the archive under paragraph one.

CHAPTER V

Audience Council and Complaint

Section 45

In order to improve the provision of service and the production of program of the Organization to be in response of public service and social and audience needs and to enhance public participation in determining its policy, there shall be an Audience Council consisting of not exceeding fifty members who are representatives of people from various regions and groups as appointed by the Board upon variety and balance basis and having duties to conduct hearings from public at large in relation to the production of program of the Organization. The Audience Council shall meet at least once a year in accordance with the rules and procedure prescribed by the Board.

The Board may, with due regard to the needs of each region and social diversifications, establish a Regional Audience Council in any region.

The Executive Board shall compile and submit opinions and suggestions of the Audience Council under paragraph one together with proposal for improving the provision of service and the production of program of the Organization, or for improving the master plan for administering Organization's affairs and program to be in line with the changing of society, to the Board.

Section 46

The Board shall establish a Sub-Committee for Considering Public Complaint to consider public complaints in the case where the Organization or its producer, official or employee fails to act or produce program in accordance with the Rule on Professional Ethics under Section 42. The Sub-Committee for Considering Public Complaint shall consider and examine the complaint rapidly, accurately and equitably.

The procedure of the Sub-Committee under paragraph one shall include the corrective or remedial measures in the case where the production of a program is contrary to the Rule on Professional Ethics as well as corrective measure for false statement, right to defense and apology for error.

The submission of a complaint in accordance with the procedure under this Section shall not prejudice to the right of the person to use any other legal measure for the correction or remedy to such complaint.

Section 47

The Organization shall maintain the original record of all programs for at least thirty days as from their broadcasting date.

If any program causes dispute or complaint, the Organization shall maintain the original record of that program until the completion of such dispute or complaint.

CHAPTER VI

Accounting, Audit and Evaluation

Section 48

The Organization shall prepare its account according to international accounting standard and the rules determined by the Executive Board and shall cause to have an internal audit on its finance, accounting and procurement.

An audit report shall be submitted to the Board at least once a year.

The Organization shall, in conducting an internal audit, appoint its official to be internal auditor responsible directly to the Board in accordance with the regulations prescribed by the Board.

Section 49

The Organization shall prepare and submit its financial statement which at least states its financial status, income and expenditure and cash flow to the auditor within one hundred and twenty days as from the ending date of each accounting year.

The Office of the Auditor-General or the licensed accountant appointed by the Board with approval of Office of the Auditor-General shall audit the spending of money and property of the Organization. The auditor shall, in the audit report, give analytical statement as to whether such spending is consistent with its objective, economy, value for money and hit the target and shall then submit the audit report to the Board.

The Board shall coordinate with the Office of the Auditor-General regularly in relation to the plan for financial audit and improvement and review to be conducted in order to meet State audit standard.

Section 50

In order to strengthen the efficiency, result, accountability and public reliability in the performance of duties of the Organization and to monitor and inspect the performance of duties of the Organization to be in line with its objectives and established project and work plan, the Board shall organize performance evaluation annually by the external evaluation committee.

The performance evaluation shall provide the fact in respect of the effectiveness, efficiency, Organizational development, public support, number and satisfactions of the audience and other additional aspects to be determined by the Board.

Section 51

The Organization shall, at least every ten years as from the date this Act has come into force, propose to review the sources of its income and proportion of its subsidy so as to meet the necessity for the performance of its duties, to review the suitability for the remission of its excess accumulative income as State revenue or for the allocation of that income as social benefits and to review the creation of and promotions on public communications through the performance of its missions including the proposal to revise related laws.

CHAPTER VII

Inspection and Control

Section 52

In order to secure the quality and efficient program to be provided to the audience and to represent its impartiality, the Organization shall prepare and submit its annual report to the Council of Ministers, the House of Representatives and the Senate within six months as from the ending date of each accounting year. Such Report shall also be disclosed to public.

The report under paragraph one shall at least contain the following issues:

- (1) result arising from the performance of the Organization during the lapsed year comparable with its established target;
- (2) project, work plan and budget plan for the year to come;
- (3) schedule of the lapsed year and plan for change of schedule for the year to come;
- (4) financial statement and report of the auditor, internal audit report and report of the evaluation committee;
- (5) information of the juristic person owned or shared, directly or indirectly, by the Organization and information of the person in which the Organization has jointed business or venture;
- (6) program produced by an independent producer supported by the Organization, procurement method and name of that producer together with details for broadcasting of such program;
- (7) opinion of the Audience Council under Section 45 and the public and the improvement in response of such opinion;
- (8) complaint of the audience, consideration result and correction.

CHAPTER VIII

Penalties

Section 53

Whoever having duty to pay levy fails to pay levy or pay an incomplete amount shall be liable to imprisonment for a term of not exceeding one year or to a fine from five to twenty times of the levy to be paid or to both.

Section 54

If an offender under this Act is a juristic person, a managing director, manager or person responsible for the carrying out of the affairs of such juristic person shall be liable for the punishment as prescribed for such offence, except where he can prove that he does not acknowledge in so doing or does not give consent to do so.

Section 55

With regard to the offences under this Act, the Director-General of the Excise Department or his entrusted person shall have the power to settle them.

Section 56

Any act done by a person holding a political position or by a government official, whether directly or indirectly, which obstructs or interferes the broadcasting of the Organization with a view to make the Organization to broadcast the program which is contrary to, or

inconsistent with, its objectives under Section 7 or the performance of its duties under Section 8 or Section 9 or the Rules on Professional Ethics under Section 42 shall be deemed to be misuse of powers and duties willfully and shall be unenforceable, provided that such act has been done under the provisions of law.

Transitory Provisions

Section 57

All affairs, powers and duties, properties, budgets, obligations, rights, frequencies and charges of the Office of the Permanent Secretary to the Office of the Prime Minister in concerning with the performance of the UHF radio and television station and the Office of Interim Administration of UHF Radio and Television (Special Delivery Unit) under supervision of the Office of the Permanent Secretary to the Office of the Prime Minister and the Department of Public Relations on the date this Act comes into force shall be transferred to the Organization, but not including all challenges or disputes that existed or may exist between the Office of the Permanent Secretary to the Office of the Prime Minister and ITV Ltd. (Public Company) or any other person due to, or on the course of, joint ventures and agreement for operation of the UHF Radio and Television Station between the Office of the Permanent Secretary to the Office of the Prime Minister and Siam Infotainment Co., Ltd., dated 3rd July B.E. 2538, irrespective of whether it is pending in arbitration or court procedure, but the Organization shall provide financial support for the expense incurred from such challenges or disputes to the Office of the Permanent Secretary to the Office of the Prime Minister in accordance with the rules prescribed by the Council of Ministers.

Section 58

At the outset, the Council of Ministers shall appoint a Committee consisting of not exceeding five members to perform the duties of the Board under this Act temporarily until the Board under this Act becomes existence.

In this regard, the provisions under Section 17 shall not apply.

The Committee performing the duties of the Board under paragraph one shall appoint an Acting Director to perform the duties of the Director temporarily until there shall be the Director under this Act. In this regard, the provisions under Section 32 shall not apply.

The Office of the Permanent Secretary to the Office of the Prime Minister shall be secretariat of the Committee under paragraph one and shall perform other duties entrusted by the Chairperson until the Committee under paragraph one is of opinion that the Organization is able to perform its duties.

Section 59

At the outset, the Board shall be selected within one hundred and eighty days as from the date this Act comes into force. In this regard, the Office of the Permanent Secretary to the Office of the Prime Minister shall be secretariat for such selection. The Board shall select the Director from qualified person openly in accordance with the rules and procedure determined by the Board.

The selection of the Director under paragraph one shall be completed within one hundred and twenty days from the date the Board has been appointed.

Section 60

The government shall provide the started-up fund to the Organization in an amount of not exceeding the amount as prescribed by Section 12.

Section 61

During the absence of the National Commission on Radio and Television Broadcasting Service under the law on Organization for allocation of frequency and supervision of radio,

television and telecommunication broadcasting service, the Organization shall utilize the frequencies transferred under Section 57 and shall be exempted from applying for a license to conduct radio and television broadcasting under the law on radio and television broadcasting.

Countersigned by

Paiboon Wattanasiritham

Deputy Prime Minister

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