

Notification of the National Telecommunications CommissionRe: Telecommunications Network Access and Interconnection, B.E. 2549 (2006)

Whereas, it is deemed expedient to prescribe criteria and procedures governing telecommunications network access and interconnection, and for settling disputes arising from such access and interconnection, based on the principle of free and fair competition in order to promote competition and sustainable growth of the telecommunications industry;

By virtue of Section 51 (7) and (8) of the Act on Organization to Assign Radio Frequency and to Regulate the Broadcasting and Telecommunication Services, B.E. 2543 (2000) which contains certain provisions that place limitations on individual rights and liberties that Section 29 in conjunction with Section 34, Section 37, Section 39, Section 40, Section 41, Section 45, Section 50 and Section 57 of the Constitution of the Kingdom of Thailand so permit by virtue of law; and by virtue of Section 25, Section 26, Section 27, Section 28, Section 29, Section 30, Section 31, and Section 61 of the Telecommunications Business Act B.E. 2544 (2001) which contains certain provisions that place limitations on individual rights and liberties which Section 29 in conjunction with Section 34, Section 37, Section 39, Section 48 and Section 50 of the Constitution of the Kingdom of Thailand so permit by virtue of law, the National Telecommunications Commission hereby prescribes criteria and procedure on telecommunications network access and interconnection as well as criteria and procedure for settling disputes arising from telecommunications network access and interconnection as follow:

Clause 1 All notifications, regulations and agreements issued or made by virtue of the Telegraph and Telephone Act B.E. 2477 (1934), the Telephone Organisation of Thailand Act B.E. 2497 (1954) and the Communications Authority of Thailand Act B.E. 2519 (1976) before the date on which this notification enters into force shall remain in effect as long as they do not contravene or conflict with the criteria and conditions prescribed in this Notification or any subsequent additions made by the National Telecommunications Commission, or until the said notifications, regulations and agreements are rendered ineffective.

Clause 2 This Notification shall be effective from the date of its promulgation in the Government Gazette.

Clause 3 In this notification,

“Telecommunications network” means a set of telecommunications

equipment which is directly connected or connected through switching equipment or any other equipment for telecommunications between defined termination points by means of any wire, radio-frequency spectrum, or any other electromagnetic system or a combination thereof, including any equipment, facilities, locations, protocols, computer programs, and support systems necessary for technical access and interconnection with the telecommunications network.

“Interconnection” means the connection of telecommunications networks under technical and commercial agreements in order to enable the users of a telecommunications operator to communicate with other users or to access the service of other telecommunications operators;

“Telecommunications network access” means access to telecommunications networks by telecommunications operators under technical and commercial agreements for the use of telecommunications network or the provision of telecommunications services, including the provision of telecommunications network services for receiving and/or transmitting wireless telecommunications signals in order to provide roaming services in accordance with the criteria and procedure prescribed by the National Telecommunications Commission.

“Reference Interconnection Offer (RIO)” means an offer to provide telecommunications network interconnection services, in accordance with the criteria or procedures prescribed in this Notification, by a licensee with his/her own telecommunications network or by any other telecommunications operators specified by the Commission.

“Reference Access Offer (RAO)” means an offer to provide services for telecommunications network access, in accordance with the criteria and procedures prescribed in this Notification, by a licensee with his/her own telecommunications network or any other telecommunications operators specified by the Commission.

“Essential facilities” means facilities, operations, processes, or services provided by a licensee with his/her own telecommunications network which are necessary for telecommunications network access or interconnection, under the following conditions:

(1) Licensees with their own telecommunications networks are the owners of or have control over the use of said facilities.

(2) Licensees requesting telecommunications network access or interconnection service need the said facilities to provide their telecommunications services.

(3) Licensees requesting telecommunications network access or interconnection service shall not be able to do so or arrange to do so because it is not economically or technically viable.

“Petitioner” means a licensed telecommunications operator who petitions the Commission for a ruling as prescribed by this Notification.

“Licensee with own telecommunications network” means a licensee with his/her own telecommunications network or any other telecommunications operator as specified by the Commission.

“Commissioner Chairman” means the Chairman of the National Telecommunications Commission.

“Commissioner” means a member of the National Telecommunications Commission.

“Dispute Resolution Committee” means the Committee appointed by the National Telecommunications Commission to conduct the dispute settlement process and to deliberate the disputes related to telecommunications network access or interconnection in pursuant to this notification.

“Secretary General” means the Secretary General of the National Telecommunications Commission.

“Office” means the Office of the National Telecommunications Commission.

Chapter 1

General Principles

Part 1

Principles of Telecommunications Network Access and Interconnection

Clause 4 Licensees with own telecommunication network shall have the following duties:

- (1) Permit other licensees to interconnect with their telecommunications network.
- (2) Permit other licensees to access their telecommunications network as a means to access the network.
- (3) Provide transit services to other licensees through their telecommunications network.
- (4) Provide roaming services to other telecommunications service providers.
- (5) Offer and provide unbundling network services and essential facilities for their own telecommunications network to permit other licensees’ access or interconnection with their network;
- (6) Permit other licensees to access and employ technical specifications on telecommunication network access, interfaces and protocols or necessary technology for network interoperability in order to access or interconnect with the network.

Licensees with their own telecommunications network prescribed in the first paragraph shall not discriminate against any licensees requesting network access or interconnection service and shall comply with the criteria, conditions, and procedures prescribed by the Commission in this or any other notifications.

Clause 5 Licensees with their own telecommunications network may refuse to permit other licensees access to their network in the following cases:

- (1) The existing telecommunications network is insufficient to accommodate other licensees.
- (2) There are technical difficulties in telecommunications network access that may cause interference or obstruction to the telecommunications business.
- (3) Other cases as prescribed by the Commission.

In the case of network access refusal as defined in the first paragraph, should a licensee with his/her own telecommunications network declines request for network access, he/she shall have to notify the requesting licensees in writing together with detailed explanations within fifteen days of receipt of request for network access or interconnection. A copy of such communication shall also be sent to the Commission either by registered mail or in person.

When a request to access or interconnect with a network is denied, licensee requesting such services shall have the rights to petition the Commission to issue a ruling on this matter in accordance with the criteria and procedure prescribed in Chapter 5, Dispute Resolution Process. It is incumbent on the licensed network providers who declined network access to demonstrate the grounds for the refusal.

Clause 6 To ensure efficient network access and interconnection, licensees with their own telecommunications network shall, upon receipt of a request from other licensees to access or interconnect with the network, provide the following services:

- (1) Interconnection services that allow for call originate, call terminate, call transit as well as switching and routing on their network.
- (2) Operator services which include directory assistance service, telecommunications number testing service, public services, emergency number service, or other services specified by the Commission in this Notification;
- (3) Access to telecommunications resources, network infrastructure, and necessary facilities for interconnection with the network, such as equipment of telecommunications exchange, support system or service management systems. The Commission may announce requirements for such access on a case by case basis.
- (4) Services or technical specifications necessary for network interoperability.
- (5) Any other cross-network transmission services which the Commission may deem significant or essential to network access or interconnection.

The conditions and procedures for providing the services in Paragraph One shall be acceptable to both parties but shall not contravene or conflict with the existing criteria, conditions and procedures specified by the Commission in this or any other notifications.

Clause 7 Licensees with their own telecommunications network shall treat all licensees requesting network access or interconnection fairly and reasonably, and shall not discriminate against or show preferential treatment to any licensee.

In the case of complaint or accusation of failure to act as specified in Paragraph One on the part of licensees with their own telecommunications network, it is incumbent on the said licensees to prove that their actions are justified by the criteria and conditions of Paragraph One.

Clause 8 Licensees with their own telecommunications network are required to provide necessary and correct information about their network to other prospective licensees requesting network access or interconnection such that they are able to access or interconnect with the network.

Upon receiving a request from a licensee for additional information needed to access or interconnect with the network, licensees with their own telecommunications network shall make such information available to the licensee requesting network access or interconnection within fifteen days of receipt of the request. However, licensee with their own telecommunications network may implement certain confidentiality measures as deem necessary, reasonable and acceptable in the industry.

Clause 9 Licensees with their own telecommunications network shall employ technical standards for network access or interconnection as well as for equipment and facilities that are in compliance with the standards, criteria and conditions prescribed by the Commission in Chapter 3 of the Telecommunications Network and Equipment Standards of the Telecommunications Business Act B.E. 2544 (2001).

Licensees with their own telecommunications network shall not take any action which may prevent other licensees from regular access or interconnection with the telecommunications network, or which may cause interference or interruption to the telecommunications business.

Clause 10 Licensees with their own telecommunications network shall submit to the Commission monthly reports on the following network access and interconnection information:

- (1) A report on telecommunications network circuit access volume
- (2) A report on call originating and receiving volume and circuit access on their telecommunications network.
- (3) A report on network access and interconnection charge received from and paid to other licensees.
- (4) A report on volume and frequency of technical problems occurring in the network.

(5) A report on the numbers and frequency of occurrence in which the minimum quality of service cannot be met.

(6) Other information deemed appropriate by the Commission.

Licensees with their own telecommunications network shall keep records of the information in Paragraph One for a period of no less than two years from the date the information is sent to the Commission.

The Commission may prescribe methods, criteria or procedures regarding the reporting and record keeping of the information under Paragraph One and Paragraph Two.

Part 2

Points of Interconnection and Telecommunications Network Access

Clause 11 Points of interconnection shall be determined in accordance with the network interconnection contract negotiations between the two parties. Licensees with their own telecommunications network shall propose and arrange for the location of points of interconnection where it is technically feasible and does not place an unreasonable burden on the licensees requesting network access.

Criteria and procedure for determining where the points of interconnection are located and where technically feasible shall be in accordance with the terms prescribed by the Commission. In this regard, the Commission may appoint a subcommittee to deliberate and specify technically feasible interconnection points.

The following points of interconnection shall be considered as technically feasible:

- (a) Local switches
- (b) Tandem switches
- (c) Toll switches
- (d) International switches
- (e) Dedicated tandem switches
- (f) Signal transfer points
- (g) Transmission stations, including cable landing stations, and
- (h) Existing or previous points of interconnection.

The criteria and procedure relating to points of interconnection shall be in force in cases involving network access points, *mutatis mutandis*. In this regard, the Commission may prescribe additional criteria and conditions.

Clause 12 In the case of request for points of interconnection other than those proposed by licensees with their own telecommunications network, and the said licensees are unable to provide the requested points of interconnection because they are not technically feasible or they may interfere with the telecommunications business operations or may interrupt the communications; the licensees with their own telecommunications network shall have to provide a detailed written explanation of the request refusal to the licensees requesting the said services within fifteen days of receipt of the request.

In such cases, the licensees requesting interconnection with the network shall have the rights to petition the Commission to issue a ruling on the matter in accordance with the criteria and procedure in Chapter 5, regarding Dispute Resolution process, and it is incumbent on the licensees with their own telecommunications network to prove the grounds for such refusal.

Clause 13 Licensees providing points of interconnection shall provide adequate signal transmission circuits and necessary network interconnection equipment at points of interconnection, such that licensees requesting network interconnection are able to provide services of good quality. In this regard, the quality of interconnection services shall comply with the criteria and conditions pertaining to standards of good service prescribed by the Commission.

Clause 14 It is the duty of the licensees requesting network interconnection to maintain interconnection from each terminal of his/her network to the points of interconnection, unless otherwise agreed.

Clause 15 Installation and maintenance of network interconnection equipment, sites, facilities, and expenses shall comply with the terms agreed upon by both parties, unless otherwise prescribed in this Notification.

Should the licensees requesting network interconnection wish to use a location or an area for the installation of necessary equipment for interconnection, they shall notify their wish and essential details to the licensees with their own telecommunications network in writing.

Licensed network interconnection providers shall provide the requested location or area under Paragraph Two without delay, and shall offer reasonable conditions and compensation for the services on a non-discriminatory, transparent and cost-based basis.

Should licensed network interconnection providers be unable to provide the requested location or area under Paragraph Two due to technical reasons or space limitation, they shall have to provide a nearby site or to implement other measures for the installation of equipment and network interconnection without delay, and shall not place unreasonable burden on the licensees requesting network interconnection.

Clause 16 Licensed network interconnection providers shall permit licensees requesting network interconnection to enter the shared location or area for suitable equipment repair or maintenance at all times.

In granting access to shared location or area under Clause 15, licensed network interconnection providers may adopt safety or confidentiality measures for the use of such location or area. However, these measures shall be reasonable, appropriate, and non-discriminatory.

Clause 17 Interconnection contracts shall clearly specify the duties and responsibilities of both parties, especially with regard to obligations toward or ownership of equipment and facilities, and shall contain articles specifying obligations of the parties to control, protect and maintain said assets.

Part 3

Telecommunications Network Access or Interconnection Charge

Clause 18 Unless otherwise stated in this Notification, the criteria, conditions and procedures relating to charge for telecommunications network access or interconnection shall comply with the terms agreed upon by both parties. Negotiation of charge shall be transparent, fair, and non-discriminatory in all cases.

Clause 19 Licensees with their own telecommunications network shall provide unbundling network access and interconnection of telecommunications under the criteria, conditions, and procedures prescribed by the Commission.

The Commission shall have the authority to announce and prescribe network elements needed for unbundling network access and interconnection. In this regard, the Commission may appoint a subcommittee to consider and prescribe network elements needed for unbundling network access and interconnection.

Examples of network elements for unbundling network are:

- (a) Local subscriber loops;
- (b) Local switch and transmission equipment;
- (c) Local trunks;
- (d) Toll switching and transmission equipment;
- (e) Long distance trunks;
- (f) International switching and transmission equipment;
- (g) Network interface equipment
- (h) Directory equipment and services and
- (i) Signalling network equipment.

Unless otherwise stated in a Commission notification, charge for unbundling network access and interconnection shall be as agreed in the contract; such access and interconnection charge on essential facilities shall be calculated on a cost-based basis.

Clause 20 Licensees with their own telecommunications network shall collect charge for telecommunications network access and interconnection as calculated by the costs of the unbundling network elements at cost-based basis rates. They shall inform the licensees requesting network access and interconnection of such charge together with other necessary details.

The long-run incremental cost calculation method, such as long-run average incremental costs, total element long-run incremental costs and total service long-run incremental costs, shall be the cost-based calculation method approved by the Commission.

Clause 21 Licensees with their own telecommunications network shall annually review the access or interconnection charge, and notice of any changes thereafter shall be sent to licensees requesting network access or interconnection and to the Commission, not less than ninety days in advance, together with evidence or rationale for said changes.

Clause 22 Licensees with their own telecommunications network shall disclose the principles and methods employed for the calculation of network access or interconnection charge to the Commission in a clear and sufficient manner for the Commission's approval and assessment of calculation accuracy.

In the case that there is any change in the calculation method of network access or interconnection charge, licensees with their own telecommunications network shall notify other licensees and the Commission of the new calculation method details, together with rationale for the changes, for the Commission's approval. The Commission shall give other licensees an opportunity to contest or object the charge according to the criteria or procedure prescribed by the Commission. In this regard, the Commission may assign the Dispute Resolution Committee to deliberate the dispute.

Should the Commission approve the new calculation method in Paragraph Two, licensees with their own telecommunications network shall inform other licensees at least six months in advance before the new charges shall come into effect.

Part 4**Service Fees Collection and Sharing**

Clause 23 Criteria, conditions, and procedure for collection and sharing of service fees for network access or interconnection shall comply with the terms agreed upon by both parties, unless otherwise stipulated in this Notification.

Clause 24 Except in the case of international telecommunications services and other operations as stipulated by the Commission, licensed network access providers shall collect service fees from the originating users and shall be responsible for any bad debts thereof; they may not use such debts as a pretext to claim network access or interconnection service fees from other licensees.

Clause 25 In case of international telecommunications services and other operations as stipulated by the Commission, licensed international network service providers shall collect service fees from the originating users and shall be responsible for any bad debts thereof; they may not use such debts as a pretext to claim network access or interconnection service fees from other licensees.

Clause 26 Licensees with their own telecommunications network shall provide adequate equipment for recording traffic volume in order to track network access or interconnection services volume. This equipment shall be maintained and inspected for accuracy on a regular basis.

Licensed network interconnection providers shall inform licensees requesting network access or interconnection of the volume of network traffic in accordance with the conditions agreed upon in the contract. In this regard, records of provided network interconnection services shall be sufficiently detailed in order to allow verification by licensees requesting network access or interconnection.

Chapter 2**Reference Access Offer or Reference Interconnection Offer**

Clause 27 It is the duty of licensees with their own telecommunications network to provide Reference Access Offer and Reference Interconnection Offer that shall enable the licensees to access or interconnect with their telecommunications network. They shall also prepare information on network access and interconnection charges calculation and costs for unbundling network access and interconnection services,

to be submitted together with the application form for telecommunications business licence to the Commission for consideration, in accordance with the criteria and procedure prescribed by the Commission.

Clause 28 Reference Access Offer shall be statements of intent to offer a telecommunications network access with clear and sufficient commercial and technical conditions, and contain at least the following information:

- (1) Details of offered telecommunications network and services to be enforced, including specifications and conditions for network access as well as network access agreement negotiation procedure and period.
- (2) Clear details of technical standards for network access and network traffic capacity, including minimum quality of service conditions.
- (3) Methods and procedures for network access, including points of access and equipment installation locations.
- (4) Details of buildings, public utilities, and other essential facilities for network access, including network access conditions and expenses incurred from the use of said buildings, utilities and facilities.
- (5) Network access charge, to be calculated on the basis of costs for unbundling network access and telecommunication services.
- (6) Information on criteria and procedure for collection and payment of network access charge that licensed network operators shall collect from their subscribers.
- (7) Duties and responsibilities of licensees requesting network access and licensed network access providers, including conditions and safety measures for confidentiality and disclosure of information.
- (8) Conditions and steps for service renewal and system change.
- (9) Complaint handling steps, procedures and duration. Information on the handling of disputes and complaints from licensees requesting network access on the quality and telecommunication access charge.
- (10) Penalties or fines for breach of contract.
- (11) Example of standard network access contract.
- (12) Contact persons and addresses.

The Commission may prescribe any additional terms and conditions.

Clause 29 Reference Interconnection Offer shall be statements of intent to offer network interconnection with clear and sufficient commercial and technical conditions, and contain at least the following information:

- (1) Specifications and conditions for network interconnection to be enforced, including network interconnection agreement negotiation procedure and period.

(2) Clear details of technical standards for network interconnection, including minimum quality of service conditions.

(3) Methods and procedures for network interconnection as well as points of interconnection.

(4) Details of buildings, public utilities, and other essential facilities for network interconnection, including charge for the use of said buildings, utilities and facilities.

(5) Network access charge, to be calculated on the basis of costs for unbundling network access and interconnection services.

(6) Information on criteria and procedure for collecting, sharing and paying network interconnection charge.

(7) Duties and responsibilities of licensees requesting network interconnection and licensed network interconnection providers, including conditions and safety measures for confidentiality and disclosure of information.

(8) Conditions and steps for service renewal and system change.

(9) Complaint handling steps, procedures and duration. Information on the handling of disputes and complaints from licensees requesting network interconnection on the quality and telecommunication access charge.

(10) Penalties or fines for breach of network interconnection contract.

(11) Example of standard network interconnection contract.

(12) Contact persons and addresses.

The Commission may prescribe any additional terms and conditions.

Clause 30 Reference Access Offer and Reference Interconnection Offer in Clause 28 and Clause 29 shall not contain any of the following prohibited characteristics:

(1) Condition that is an act of discrimination, preferential treatment, or obstruction to other licensees.

(2) Unreasonable conditions that may lead to a monopoly, reduced or limited competition among telecommunications service providers.

(3) Unreasonable or excessively high network access or interconnection charges that may affect users' service fees or hinder market entry or impede fair competition.

(4) Unfavourable conditions to customers.

(5) Other conditions as prescribed by the Commission.

Clause 31 In the case that the Commission considers the information contained in the Reference Access Offer and Reference Interconnection Offer does not meet the completeness and clarity requirements of

Clause 28 and Clause 29, or if it is found that the offers contain any or all of the prohibited characteristics in Clause 30, the Commission may summon licensees with their own telecommunications network to provide evidence or documents demonstrating the need for and rationale of the said technical offer or network access or interconnection remuneration rates.

In a consideration to determine details of the Reference Access Offer and Reference Interconnection Offer or the charges for network access or interconnection in Paragraph One, the Commission may, if it deems appropriate, solicit opinions from experts or other third parties, or it may convene a hearing of involved parties.

Once the Commission has acquired sufficient information, it shall determine if the evidence or documents supplied by licensees with their own telecommunications network are reasonable. In this regard, the Commission shall complete its deliberation within ninety days after the licensees have submitted the evidence or documents in Paragraph One.

Clause 32 After completing the consideration in Clause 31, the Commission may issue one or several of the following instructions:

(1) It may approve the announcement of the Reference Access Offer and Reference Interconnection Offer as well as network access and interconnection charges.

(2) It may order a revision of the Reference Access Offer and Reference Interconnection Offer or the network access or interconnection charges, and may impose any provisional schedule of network access or interconnection charge that it deems appropriate. During such revision period, licensees with their own telecommunications network shall permit other licensees to access or interconnect with their network under the terms and conditions prescribed by the Commission.

(3) In the case that licensed network providers do not base their calculation of remuneration rates on costs of unbundling network access or interconnection, or in the case that the Commission considers that the said charges are unreasonable or excessive, it shall have the authority to order said licensees to formulate steps and plans for the restructuring of charges and to submit them for the Commission's approval within a specified period of time on a case-by-case basis. In this regard, the Commission shall have the authority to review and to make a deliberation at each step of the procedure, or to determine network access or interconnection charges that it deems appropriate.

Clause 33 After the Reference Access Offer has been approved by the Commission, it is the responsibility of the licensees with their own telecommunications network to make the said offer known to licensees requesting network access or interconnection. Information relating to the offer shall be made accessible and available without any charges for the documents or their processing.

Prior consent from the Commission shall be obtained for any correction, modification or addition to the Reference Access Offer and Reference Interconnection Offer. Licensees with their own telecommunications network shall submit a written request explaining the need for and the rationale behind such correction, modification or addition, together with the following documents:

- (1) Operation plans for the said correction, modification or addition.
- (2) An impact analysis report on the impact of the said correction, modification or addition on the services of other telecommunications business operators.
- (3) A cost and benefits analysis report on the correction, modification or addition of the licensee's own telecommunications services.

In this regard, the criteria and procedure prescribed in Clause 31 and 32 shall be enforced for any corrections, modifications or additions except in the case of minor corrections that do not affect the essence of the offer.

In the event of major corrections, modifications or additions to the Reference Access Offer and Reference Interconnection Offer that may have significant impact on market competition or on the public interest, or require special consumer protection, the Commission may elect to consider the revised documents as new offers.

Chapter 3

Steps and Processes in Contract Negotiations

Part 1

Request for Network Access or Interconnection

Clause 34 In requesting network access or interconnection, licensees shall make it clear to the licensed network access or interconnection providers their intention to negotiate a contract for network access or interconnection in accordance with the conditions in the Reference Access Offer or Reference Interconnection Offer, and shall have to specify at least the following details:

- (1) Types of services requiring network access or interconnection, including required quality and number of services and other technical details that are necessary for accessing or interconnecting with the network.
- (2) Required network access or interconnection and the points of access or points of interconnection.

- (3) Requested infrastructure services and facilities.
- (4) Date, time and place of requested network access or interconnection.
- (5) Additional or revised offers or conditions of the original Reference Access Offer and Reference Interconnection Offer to be negotiated.
- (6) Other necessary information for network access or interconnection.
- (7) Contact persons and addresses.

Licensees requesting network access or interconnection shall notify the Commission of their request and shall send a copy of the said written request for network access or interconnection to the licensed network provider.

In this regard, the Commission may issue additional criteria, procedures, or standards for network access or interconnection request.

Clause 35 In the case that licensees requesting network access or interconnection wish to have additional points of access or interconnection other than those originally offered by licensees with their own telecommunications network, the former shall send a written notification of this wish, together with the desired points access or interconnection with clear relevant technical details to the licensees with their own telecommunications network and the Commission.

The licensees requesting network access or interconnection shall assume all the necessary costs incurred by the licensees with their own telecommunications network as a result of constructing and providing network access or interconnection at the additional points of access or interconnection. Licensees requesting network access or interconnection shall supply licensees with their own telecommunications network with an estimate of such costs for their consideration upon sending the written request prescribed in the first paragraph.

In case of dispute over the costs in Paragraph Two, licensees who are a party to the contract may petition the Commission to settle the said dispute in accordance with the criteria and procedure prescribed in Chapter 5, Dispute Resolution Process.

Clause 36 In the event that licensees requesting network access or interconnection wish to use area, equipment or facilities belonging to licensees with their own telecommunications network that have not been included in the existing Reference Access Offer and Reference Interconnection Offer, the licensees requesting network access or interconnection shall notify the licensed network access or interconnection providers and the Commission of this wish, together with relevant technical details.

The licensee requesting network access or interconnection shall assume all the necessary costs incurred by the licensees with their own telecommunications network as a result of constructing and providing

network access or interconnection services at the additional points of access or interconnection. Licensees requesting network access or interconnection shall supply licensees with their own telecommunications network with an estimate of such costs for their consideration upon sending the written request prescribed in the first paragraph.

In case of dispute over the use of areas, equipment, shared facilities or relevant expenses, any licensee who is a party to the contract may petition the Commission to settle the said dispute in accordance with the criteria and procedure prescribed in Chapter 5, Dispute Resolution Process.

Part 2

Contract Negotiation

Clause 37 Licensees with their own telecommunications network and licensees requesting network access or interconnection shall have the rights and liberties to negotiate contract conditions for network access or interconnection as long as the conditions shall not contravene or conflict with the provisions of law and with the criteria or conditions prescribed in the Commission's notifications.

The formation and validity of the telecommunications network access or interconnection contract shall be subject to the provisions regarding contract in the Civil and Commercial Codes.

Clause 38 In negotiating contracts for telecommunications network access or interconnection, licensees requesting network access or interconnection and licensees with their own telecommunications network shall conduct the said negotiation in good faith.

Clause 39 It is the duty of licensees with their own telecommunications network to provide an appropriate and adequate number of points of contact as is commercially feasible conduct in order to provide inquiry service and to negotiate contracts for network access or interconnection.

Clause 40 Licensees with their own telecommunications network and licensees requesting network access or interconnection shall negotiate a contract for network access or interconnection in accordance with the Reference Access Offer and Reference Internet Offer proposed by licensees with their own telecommunications network. In this regard, the day on which the licensees with their own telecommunications network receive a written request for network access or interconnection shall be considered the first day of contract negotiation.

In the case that both parties are unable to reach an agreement within ninety days of negotiation commencement, it shall be considered that a dispute has occurred and either one of the two parties shall have

the rights to initiate dispute resolution process in accordance with the criteria, conditions and procedures stipulated in Chapter 5, Dispute Resolution Process.

Clause 41 Licensees with their own telecommunications network shall send a copy of the contract to the Commission within ten days of its signing, together with details on any terms in addition to or different from those contained in proposed the Reference Access Offer or Reference Interconnection Offer.

The Commission may request licensees with their own telecommunications network to submit additional information or summon other licensees who are a party to the contract to give a statement on the contract details.

Clause 42 Under the provisions in Section 27 of the Telecommunications Business Act B.E.2544 (2001), should the Commission find the contract terms and conditions contrary to the nature and conditions prescribed in Paragraph One, Section 27 of the Telecommunications Business Act B.E.2544 (2001) or conflicting with any other laws, the Commission may order a revision to be made within a specified period of time.

After the Commission had instructed a revision to be made to the contract terms and conditions as prescribed in Paragraph One and after the specified period of time set by the Commission for contract revision has lapsed;

(1) If licensees with their own telecommunications network do not agree to the revision ordered by the Commission, the provisions in Chapter 9, regarding Administrative Enforcement, of the Telecommunications Business Act B.E.2544 (2001) shall apply.

(2) If licensees requesting network access or interconnection do not agree to revise the contract as prescribed by the Commission, the said contract shall be considered null and void.

If, however, the two parties agree to revise the contract, they shall submit a copy of the revised contract to the Commission within the period specified by the Commission.

Clause 43 Licensees with their own telecommunications network shall provide full disclosure of the terms of the network access or interconnection contracts in accordance with the criteria and procedure prescribed by the Commission.

Clause 44 In the event that the Commission deems it necessary and appropriate, during the Dispute Resolution Committee's consideration of a dispute or during the dispute resolution process, the Commission may order that the provisional network access or interconnection be maintained in accordance with the terms and conditions of the existing contract, or in accordance with the terms and conditions of a similar contract, or in accordance with the criteria and procedure prescribed by the Commission.

Part 3**Provision of Network Access and Interconnection**

Clause 45 When a network access or interconnection contract has been agreed upon, licensees with their own telecommunications network shall provide network access and interconnection in a timely fashion as agreed in the contract, in a manner that does not discriminate against any licensee.

If the licensed network access and interconnection providers are unable to provide said services within the time agreed upon by parties to the contract, it is the duty of the licensees with their own telecommunications network to notify the licensees requesting network access or interconnection in a timely fashion, and to provide grounds for the delay. Should the grounds be unreasonable, the licensees with their own telecommunications network shall be considered as having acted in bad faith.

Clause 46 Licensees with their own telecommunications network shall guarantee the quality of their services, and the services they provide shall comply with the terms and conditions of the network access or interconnection contract.

Failure to pay network access or interconnection service fees on time shall not be considered grounds for the licensees with their own telecommunications network to terminate the network access or interconnection contract, or to terminate or reduce the quality of service without prior consent of the Commission.

Termination or modification of the network access or interconnection contract, and termination or reduction of the quality of service shall be subject to prior approval of the Commission.

In the event that licensees with their own telecommunications network decide, *ex parte*, to terminate or modify the network access or interconnection contract, or to terminate or reduce the quality of service, they shall have to submit a written request together with details and reasons for doing so for the Commission's consideration. In some cases, the Commission may impose provisional measures to protect the user or the public interest.

In this regard, the Commission may determine criteria, conditions, and procedure for contract termination or reduction of the quality of service.

Clause 47 In case of any modification that shall affect network access or interconnection service, licensees with their own telecommunications network shall notify the Commission and the general public, not less than six months in advance.

Clause 58 Under the provision in Section 30 of the Telecommunications Business Act B.E.2544 (2001), licensees who are party to a network access or interconnection contract may petition the Commission to permit or call for a reconsideration of the network access or interconnection charge.

Such requests for a reconsideration of network access or interconnection charge shall comply with the criteria and procedure prescribed by the Commission.

Clause 49 In order to protect the national security, or to prevent disasters that may cause damages to the general public, or to protect the interests of the general public, the Commission may order licensees with their own telecommunications network to grant network access or interconnection to government agencies.

The granting of network access or interconnection in Paragraph One shall comply with the criteria, conditions or procedure prescribed by the Commission.

Clause 50 Licensees who are network access and interconnection providers shall use the information obtained from licensees requesting network access or interconnection in the course of contract negotiations for the purpose of providing network access or interconnection only, and shall not use said information for the purpose of gaining unfair competitive advantage or disclosing said information to any other individuals without the consent of the licensees requesting network access or interconnection, except when permitted by law or notifications issued by the Commission.

Licensees who are network access and interconnection providers shall implement sufficient and appropriate measures to protect confidential business information obtained from licensees requesting network access or interconnection.

Clause 51 In case of dispute over network access or interconnection under a contract that falls within the authority of the Commission, either party has the rights to bring the dispute into a dispute resolution process prescribed in Chapter 5.

Should a dispute be taken to a competent court or should it enter the arbitration review process, the Commission may, in such cases, refuse to settle the dispute and may not apply the criteria and procedure prescribed in Chapter 5, Dispute Resolution Process, until such time as the court of jurisdiction or the arbitrator passes a judgment, decision, or ruling on the case. However, in this regard, it is the duty of the licensees involved to keep the Commission informed of the progress of the settlement, from the beginning to its conclusion.

Acceptance of the judgment, decision or ruling of the court of jurisdiction or the arbitrator shall comply with the criteria, conditions and procedure prescribed by the Commission.

Section 4
Dispute Resolution Committee

Clause 52 The Commission shall appoint a committee called the “Dispute Resolution Committee” consisting of nine members who are experts with knowledge of and experience in telecommunications, economics or law, and do not possess any of the following prohibited characteristics:

- (1) Be a government official with a permanent position or salary.
- (2) Be employed by a government agency, state enterprise, or local government body, or be a director or advisor to a state enterprise or a government agency.
- (3) Hold a position or be a shareholder in a partnership, company, business or any other business organization or operate in the mass media or telecommunications business.
- (4) Practice a profession or any other occupation with conflicting stake or interest, directly or indirectly, with the fulfilment of his/her duties as a member of the Dispute Resolution Committee.
- (5) Having been declared bankrupt with his/her assets still being placed on a temporary or permanent receivership.
- (6) Having been sentenced to a prison term, or been given a suspended sentence, of two years or more; having been released from prison less than five years on the date of his or her nomination to the Committee, unless the offense was one of negligence.
- (7) Having been dismissed, discharged or relieved of duty from government service, government agency, state enterprise, or private agency on a charge of dishonesty to his/her duty or misconduct.

The appointment of the Dispute Resolution Committee shall be concluded within sixty days from the day of the promulgation of this Notification in the Royal Gazette.

Clause 53 Members of the Dispute Resolution Committee shall be impartial and independent, and shall possess the qualifications stipulated in this Notification.

Members of the Dispute Resolution Committee shall be governed by the Commission’s Code of Ethics. In this regard, the Dispute Resolution Committee may issue additional standards.

Clause 54 Each member of the Dispute Resolution Committee shall serve a three-year term and, upon completion of his/her term, may be reappointed. However, no member shall serve more than two consecutive terms.

Members who complete their terms shall continue to exercise their duties until new members have assumed their responsibilities; any action taken by said members during this period shall be held valid.

Clause 55 A member of the Dispute Resolution Committee shall vacate his or her post before the end of his/her term when he or she:

- (1) Die
- (2) Resign
- (3) Having been declared bankrupted
- (4) Having been incapacitated or judged to be such
- (5) Being ineligible under the prohibited qualifications in Clause 52
- (6) Having been given a final judgment of imprisonment, except for negligence or petty offences
- (7) Having been found guilty of malfeasance or unethical conduct
- (8) Having been removed by no fewer than four votes from the Committee members

Should any of the circumstances in Paragraph One occurs, the remaining members of the Committee may continue to exercise their duties, and the Committee shall be considered as consisting of the remaining number of members until the provisions in Clause 56 have been met. Any action taken during this time shall be held valid.

In the case that a member vacates his or her post on the Dispute Resolution Committee, he or she shall not serve as a director, advisor, agent, or employee of any telecommunications or other businesses, which are placed under the Commission's authority, for a period of two years, starting from the day on which he/she no longer serves on the Committee.

Clause 56 In the event that a Committee member vacates his or her post before his or her term ends, a replacement member shall be appointed to serve the remainder of the term.

Clause 57 The Dispute Resolution Committee shall have the following powers and responsibilities:

- (1) To settle disputes as prescribed in this notification
- (2) To mediate in disputes within its scope of authority
- (3) To hold inquiries into disputes within its scope of authority
- (4) To determine the venue for arbitration, taking into account the nature of the dispute and the convenience of the disputants
- (5) To determine and announce rates of proceedings fees, security deposits, proceedings expenses, and stamp duties for rulings.
- (6) Other powers and responsibilities as assigned by the Commission.

The assigning of powers and responsibilities in Clause 6 shall be governed by this Notification, including the power to deliberate technical disputes.

Clause 58 The Dispute Resolution Committee shall receive charge and other expenses for the performance of their duties as determined by the Commission.

Clause 59 In case of a petition for dispute deliberation by the Committee, the Secretary General shall appoint a panel to conduct a dispute resolution process under the conditions of this Notification on a case by case basis. In each case, the panel shall consist of three members of the Dispute Resolution Committee, one of whom shall be appointed Chairman.

The Secretary General shall appoint clerical staff to assist the Dispute Resolution Committee in handling documents, coordinating with the parties involved in the dispute resolution process, and procuring facilities for the Dispute Resolution Committee.

Chapter 5

Dispute Resolution Process

Part 1

General Principles

Clause 60 In the event that any dispute case has not been included in the provision of this Chapter, the Dispute Resolution Committee shall submit a proposal, prepared according to the general legal principles of procedural law, to the Commission for deliberation.

Clause 61 The Dispute Resolution Committee shall decide whether to accept a petition within thirty days of receipt of the petition and all supporting documents from both parties. The Committee shall inform both parties of its decision in writing, and provide grounds for either accepting or rejecting the petition.

Petitioners may appeal the decision of the Dispute Resolution Committee as prescribed in Paragraph One within fifteen days of receiving written notification from the Committee. Appeals shall be submitted to the Secretary General for forwarding to the Commission, who shall conclude its consideration within seven days. In this regard, the decision of the Commission shall be final.

During the Commission's deliberation process prescribed in Paragraph One the Commission may, if necessary, order that the network access or interconnection in dispute be provisionally maintained in accordance with the conditions of the existing network access or interconnection contract or with the criteria and procedure prescribed by the Commission.

Clause 62 If the Dispute Resolution Committee elects to accept the petition, both parties to the dispute shall immediately brought into the dispute resolution process pursuant to Chapter 5, Dispute Resolution Process, and shall proceed in accordance with the prescribed criteria and procedure.

Clause 63 When necessary and in the interest of justice, should the Dispute Resolution Committee deems it appropriate, or upon a request from a party to the dispute the Dispute Resolution Committee also deems it appropriate, the timeframe prescribed in this chapter may be shortened or extended accordingly.

Clause 64 All dispute deliberation procedures, dispute decisions, and instructions of the Dispute Resolution Committee shall be prepared in Thai language.

In the case that the dispute parties or relevant individuals are unable to understand Thai, are deaf or mute or illiterate, it is incumbent on the concerned party to arrange for an interpreter.

Clause 65 In the case that any failure to comply with the criteria, conditions and procedure prescribed in this Chapter has been committed; the Dispute Resolution Committee shall, prior to the passing of its deliberation, have the authority to order a revocation of all or part of the improper review procedures or to order a revision or any other instructions, if it deems appropriate or upon a request from the injured party to such compliance failure.

The injured party may raise an objection as stated in Paragraph One at any time prior to the passing of the deliberation, but not later than eight days after the party becomes aware of such infraction. In this regard, the petitioner shall not take further action after becoming aware of the infraction or shall not ratify said infraction.

The Dispute Resolution Committee's instruction to revoke any infraction in the dispute resolution procedure, other than that which either party to the dispute has neglected to observe, within the period specified in this Notification or as prescribed by the Dispute Resolution Committee. Such instruction shall not bar the right of both parties to have the process reconsidered in an appropriate manner.

Clause 66 Complaints and petitions lodged to the Dispute Resolution Committee shall be submitted in writing, unless the Committee permits that a complaint or petition be made orally, in which case the Committee shall record the content of the matter in its report of the proceedings.

Clause 67 The Dispute Resolution Committee shall keep written records of all proceedings, these records include details of the matter under consideration, reference numbers, names of the Dispute Resolution Committee members involved, names of both parties to the dispute, venues, dates and time of the proceedings, and brief summary of the issues of dispute, and signature of the Dispute Resolution Committee member who is in charge of the case. In the event that a consideration is held in the presence of either or both parties to the dispute or in the presence of the witnesses, the said parties or witnesses shall sign the proceedings reports.

In this regard, the Dispute Resolution Committee shall submit a monthly progress report of the case to the Secretary General, who shall also forward it to the Commission on a monthly basis.

Clause 68 If any party, witness or individual shall have to resort to the giving of his or her fingerprint, a mark signature, or any other symbol instead of his or her signature on the proceedings reports or on any other documents to acknowledge said report or document, or to verify having read or sent the said documents; such marks shall be considered equivalent to a signature, provided that they were made in the presence of two signed witnesses. The accompanying signatures of two witnesses are not required if the marks were made in the presence of the Dispute Resolution Committee,

If any party, witness or other individual, whose signature is required on a report, record or document, is unable to or unwilling to do so, the Dispute Resolution Committee shall note in its records the reason for the absence of such signature(s).

Clause 69 Documentary or any other evidence, submitted by the dispute parties or otherwise obtained by the Dispute Resolution Committee, shall be made available to all parties for inspection. The dispute parties shall be entitled to copy or have certified true copies of said documents made, unless such disclosure is protected by the law or unless the Dispute Resolution Committee deems it appropriate not to disclose the documents, in order to prevent damage to the concerned parties or to the operation of relevant government agencies.

In the event that documentary or any other type of evidence is classified as confidential, or is protected by law from disclosure, or has inappropriate content, or has content that may be defamatory or libellous to any individual; the decision not to permit either party to inspect, acknowledge, make a copy of, and receive certified true copies of such evidence is at the discretion of the Dispute Resolution Committee. However, such action shall not bar the authority of the Dispute Resolution Committee to have a summary report of the proceedings made or to permit either party to inspect, acknowledge, make a copy of, and receive certified true copies of the case brief.

In addition to the provisions of the aforesaid Paragraph One and Paragraph Two, the disclosure of such information shall comply with the criteria and procedure in the regulations of the National Telecommunications Commission on the Disclosure of Information Measures B.E.2548 (2005), *mutatis mutandis*.

Clause 70 In the case that any case files, either party's documents, evidences, proceedings reports, instructions, or any other documents under the consideration process have become lost or destroyed, either fully or in part, such that the consideration process is interrupted; the Dispute Resolution Committee shall, when it deems appropriate or upon a request from the concerned party to have the other party or the holder of such documents provide certified true copies of the documents to the Dispute Resolution Committee. If the certified true copies of all or parts of the documents cannot be found, the Committee may order a reconsideration of the dispute or may instruct as it deems appropriate for the interest of justice.

Clause 71 To ensure convenient, fast and just dispute resolution process, the Dispute Resolution Committee may order that communications between the Committee members be carried out by means of facsimile, electronic media or any other type of information technology or a combination thereof rather than by mail, taking into account the urgency and suitability of the particular matter to be communicated, as well as the quantity and nature of the relevant documents or evidence to be transmitted.

For the convenience of the dispute parties, witnesses or relevant individuals, the Dispute Resolution Committee may order that communications between the Committee members, the dispute parties, witnesses and relevant individuals be transmitted by the same means as in Paragraph One. The Committee shall also specify the date on which the notification or documents are received.

Clause 72 Case files, either party's documents, evidences, proceedings reports, instructions, or any other documents included in the case files, in original forms or copies, the Dispute Resolution Committee may, if it deems appropriate, instruct that the said documents be stored in an electronic format.

Part 2

Petition Submission and Inspection

Clause 73 Petitioners shall submit to the Office of the NTC a written petition which shall include the following information:

- (1) Names and addresses of the petitioner and the other party to the dispute
- (2) Documentary evidence demonstrating that the petitioner has tried, in good faith, to negotiate a network access or interconnection contract with the other party but had been unable to reach an agreement. The petition shall specifically identify the disagreeable issues in the contract.
- (3) Claims and request for a ruling. The petitioner shall clearly indicate the nature of the claims and the premises on which the claims are based.

It is the duty of the petitioner to send a copy of the petition and relevant documentary evidence prescribed in Paragraph One to the other party on the same day. Should the quantity or the conditions of such evidence place serious burden of delivery on the petitioner, the petitioner may send only a copy of the petition together with a list of evidence to the other dispute party who may inspect or collect them from the Dispute Resolution Committee.

Clause 74 The petitioner shall submit the petition and relevant documents or evidence to the Dispute Resolution Committee in person or through a proxy or by registered mail. In submitting the documents by

mail, the date on which the said documents or evidence are given to the postal employee shall be considered the date of submission to the Dispute Resolution Committee.

Documents or evidence submitted by a proxy shall be accompanied by a written statement bearing the signature of the proxy, the assignor and assignee of authority, and at least two witnesses.

Clause 75 Petitions, documents and evidence shall be submitted to the Dispute Resolution Committee within one year of the date on which the dispute over the parties' rights and duties arose. In case of submission of petition and supporting evidence after the prescribed period, the Dispute Resolution Committee shall refuse to hear the case and shall instruct a removal of the petition from the case list. Unless the Dispute Resolution Committee finds that the said dispute has a bearing on the public interest or other necessities as recognized by the Dispute Resolution Committee itself or upon a petition by the dispute parties, in which case the Dispute Resolution Committee may choose to accept the case for consideration. The Committee's decision to accept the case shall be final.

In the case that the relevant evidence cannot be attached because it still remains in the possession of an administrative unit, government officials, or other individuals, or for any other reasons, reasons for failure to submit the evidence shall also be given.

A petitioner may withdraw his or her petition according to the criteria and procedure prescribed by the Dispute Resolution Committee.

Clause 76 The petitioner shall pay the fee for initiating the dispute resolution process as set by the Dispute Resolution Committee and attached its receipt with the petition. The fee may be paid in cash or by a certified bank check.

In this regard, the fee in Paragraph One shall be subject to the guidelines and rules set by the Commission in accordance with the provisions in Clause 119.

Clause 77 The Dispute Resolution Committee shall verify whether the petition has been submitted properly. Should it be determined that either party to the dispute has failed to observe the proper procedure or format of the resolution process, the Dispute Resolution Committee may instruct one or both parties to make the necessary corrections within three days of receipt of the instruction. Should the necessary revision not be made within the set time, or should it not be possible to make any or all of the revision, the Dispute Resolution Committee shall not accept the petition for consideration and shall instruct to have it removed from the case list.

In the event that the Dispute Resolution Committee decides not to accept the petition, whether in full or in part, the Dispute Resolution Committee shall have the authority to order the fees reimbursed to the petitioner either in full or in part.

If no errors in Paragraph One are detected, the Dispute Resolution Committee shall accept the petition and proceed with its consideration.

Clause 78 Either party has the rights to submit an objection or produce further evidence to the Dispute Resolution Committee to demonstrate that there is no grounds for dispute since network access or interconnection has not been refused or an agreement over network access or interconnection contract negotiation has already been reached.

Part 3

Initial Dispute Resolution Procedure

Clause 79 The Dispute Resolution Committee shall have the authority to undertake a dispute resolution procedure as it deems appropriate, with consideration to the principle of justice whereby both parties receive fairness treatment and have the opportunity to fully present the facts in support of their claims in the dispute.

Clause 80 The Dispute Resolution Committee shall determine the proceedings venue with consideration to the convenience of all parties. It shall issue a letter, within seven days of the order to accept the petition, instructing both parties to appear for an initial session.

Clause 81 At the initial session, both parties shall convene at the place determined by the Dispute Resolution Committee and shall submit statements of their claims and arguments so that these documents for comparison and inquiry on the points of agreement and disagreement on such claims and evidences. Any facts accepted by both parties shall be terminated while those unacceptable by either party shall be taken by the Dispute Resolution Committee as points in dispute. Both parties shall be instructed to produce evidence in support of their claims on said points.

Clause 82 Under the provision of Clause 81, the Dispute Resolution Committee shall ask the dispute parties if they wish to reconcile the dispute. If the parties wish to do so, the Dispute Resolution Committee shall proceed with the reconciliation and if the parties agree, the Dispute Resolution Committee shall draw up a compromise agreement acceptable to both parties.

The compromise agreement shall be signed and certified by the Dispute Resolution Committee, both parties and at least two witnesses. The Dispute Resolution Committee's decision shall comply with the compromise agreement.

Clause 83 Following Clause 82, the Dispute Resolution Committee shall propose their decision to the Commission to proceed in accordance with Section 26 of the Telecommunications Business Act B.E.2544 (2001), after that the dispute shall be instructed to be removed from the case list.

Clause 84 If the dispute parties are unable to reach a compromise as in Clause 82, the Dispute Resolution Committee shall appoint a date and time for both parties to appear for the taking of further evidence.

Clause 85 If either party fails to appear at the initial session, the Dispute Resolution Committee shall settle the points of dispute with the party in attendance first. The Committee shall notify the absent party of the day's proceedings and order him or her to submit a statement together with the information stipulated in Clause 73 to the Dispute Resolution Committee within three days of receipt of the notification. If the absent party fails to act as instructed, the Dispute Resolution Committee shall deliberate the dispute on the facts and evidence provided by the attending party at the initial session alone.

Part 4

Establishing Facts from Petitions, Demurs, and Objections

Clause 86 When the Dispute Resolution Committee determines that the petition is valid, it shall instruct the other party, upon receiving a copy of the petition and copies of documentary evidence as stipulated in Paragraph Two of Clause 73, to submit a written demurrer with specified detailed information to the Dispute Resolution Committee within fifteen days of receipt of the instruction or within the period specified by the Dispute Resolution Committee. A copy of the demurrer shall also be sent to the petitioner. In this regard, format of objection in Clause 73 shall apply, *mutatis mutandis*.

Clause 87 If the demur is irrelevant to the existing dispute, the Dispute Resolution Committee shall decline the demurrer. Such instruction shall be final.

Clause 88 In the event that the Dispute Resolution Committee determines that the demur is incomplete or ambiguous, the demurrer shall be instructed to revise the demur or submit a new one within a specified period of time.

Clause 89 In the event that the demurrer does not submit a demur or produce further evidence to the Dispute Resolution Committee within the specified period, it shall be considered that the demurrer accepts the claims of the petitioner, and the Dispute Resolution Committee shall deliberate the dispute accordingly as it deems just.

Clause 90 After the demurrer submitted his or her demur, the Dispute Resolution Committee shall notify the petitioner to determine if he or she shall object or accept the demur and the accompanying evidence submitted to the Dispute Resolution Committee by the demurrer. In this regard, the Dispute Resolution Committee shall specify the points of dispute to which the petitioner shall respond to or the Committee shall instruct the petitioner to submit specific evidence.

If the petitioner wishes to object to the demur, he or she shall submit an objection to the Dispute Resolution Committee together with one copy or the number of copies specified by the Dispute Resolution Committee to the Dispute Resolution Committee within fifteen days of receipt of the copy of the demur or within the period of time specified by the Dispute Resolution Committee.

If the petitioner does not wish to object to the demurrer but wishes the Dispute Resolution Committee to proceed with its deliberation, he or she shall notify the Dispute Resolution Committee within the period of time specified in Paragraph Two.

If the petitioner fails to act in accordance with Paragraph Two or Paragraph Three, the Dispute Resolution Committee may order the dispute removed from the case list.

Clause 91 The petitioner shall object to the points in dispute already exist in the petition, the demurrer or in the Committee's decision only. Should the petitioner raises new points or additional requests that have not already appeared in the petition, the demurrer or in the Committee's decision, the Dispute Resolution Committee shall not accept the said points in dispute or requests for consideration.

Part 5

Fact Finding by the Dispute Resolution Committee

Clause 92 In considering a dispute, the Dispute Resolution Committee shall have the authority to establish the facts of the dispute as it deems appropriate. In this regard, the Dispute Resolution Committee may establish the facts from witnesses, documentary evidence, expert opinions, or any evidence other than that submitted by the dispute parties in the petition, demurrer or objection. In establishing the facts, the Dispute Resolution Committee may proceed as prescribed herein or as it deems appropriate.

Should the fact finding mission carried out by the Dispute Resolution Committee requires testimonies from the dispute parties, witnesses or any other individuals, the Dispute Resolution Committee shall conduct the inquiry.

Clause 93 The Dispute Resolution Committee may instruct the dispute parties or relevant individuals to give statement as it deems appropriate, in which case the instruction may include specific issues

of the inquiry. In this regard, the Dispute Resolution Committee shall notify the dispute parties to give them an opportunity to object to or explain the facts. However, if the said facts have no bearing on the deliberation or if the dispute parties have prior knowledge of said facts, the Dispute Resolution Committee may not notify the dispute parties of the inquiry schedule.

The inquiry in Paragraph One shall involve only the evidence in the points of dispute to be deliberated in the inquiry as already instructed by the Dispute Resolution Committee. The Dispute Resolution Committee shall clearly inform the dispute parties and relevant individuals of the issues and the reasons of the inquiry.

Clause 94 The Dispute Resolution Committee may proceed as follows:

(1) Appoint one or several experts to study, inspect, analyze or give an opinion on any one of the specific points in dispute to be deliberated.

(2) Summon both parties to present the facts, prepare or produce documents or other objects that are relevant to the points in dispute for expert investigation.

After the experts have given their opinions in writing or verbally, a copy of their opinions shall be sent to relevant parties. If either party or the Dispute Resolution Committee deems appropriate to summon the said expert or experts to present the facts and answer the inquiry of the dispute parties. The said party may bring their own expert witness to give opinion on the issue under investigation.

Clause 95 The Dispute Resolution Committee or individuals assigned by the Dispute Resolution Committee shall have the authority to examine premises, individuals or any other matter in the course of its consideration of the dispute.

The Dispute Resolution Committee shall notify the parties in advance of the date, time and place of its inquiry so that the dispute parties may object to or explain the facts. In such cases, the dispute parties may or may not be present at the inquiry.

The Dispute Resolution Committee or individuals assigned by the Dispute Resolution Committee shall record all of the investigation findings and testimonies given by relevant individuals and witnesses in the case file.

Clause 96 In establishing the facts in this regard, the Dispute Resolution Committee shall instruct that audio or audio-visual recording be made at all times or at given times during the proceedings, and to be admitted as collateral evidence to case file.

Part 6
Proceedings Summary Report

Clause 97 After the Dispute Resolution Committee has considered the facts from the claims or explanations of both parties, including any other facts obtained by the Dispute Resolution Committee under the provisions on fact finding from the claims, demurrers and objections prescribed in Part 4, if the Dispute Resolution Committee deems the facts sufficient for deliberation, it shall have a report of the findings prepared and submitted to the Commission for final deliberation. This report shall contain the following information:

(1) Summaries of the facts obtained from claims and other documents submitted by the dispute parties, together with other evidence in the case record and a summary of the petitioner's request.

(2) Point(s) of the case to be deliberated, consisting of issues pertaining to the authority of the Dispute Resolution Committee, issues concerning conditions of the petition, and substantive issues of the matter, respectively.

(3) Opinions of the Dispute Resolution Committee on the issues under consideration and on the petition.

Copies of the summary report prepared by the Dispute Resolution Committee under (1) shall be sent to both parties.

Clause 98 After the Dispute Resolution Committee accepts a petition under the provision of Clause 62, if the Dispute Resolution Committee determines that a decision can be reached solely on the basis of the facts in the petition and that further fact finding is unnecessary, or if it finds that the facts obtained from the explanations given by the dispute parties or from the finding of the Dispute Resolution Committee at any subsequent time are sufficient for a deliberation to be reached without further need to proceed according to the prescribed steps, the Dispute Resolution Committee shall have the power to prepare a transcript and summary report of the proceedings for submission to the Commission for further action.

Clause 99 In the case that the Dispute Resolution Committee has found no grounds to proceed with the fact finding mission, the Dispute Resolution Committee shall appoint the termination date of its fact finding mission.

The Dispute Resolution Committee shall inform the dispute parties of the date on which the fact finding is to be concluded no less than ten days in advance.

Further disputes, demurs, objections, and any other evidence submitted to the Dispute Resolution Committee after the date on which fact finding is concluded shall not be included in the case file and copies shall not be sent to the relevant parties.

Part 7
Hearings of Evidence

Clause 100 The dispute party who has presented any facts in support of his or her claims shall be obligated to submit evidence of the claims to the Dispute Resolution Committee as preliminary proof of the said facts, unless the said facts are widely known or incontestable or are determined by the Dispute Resolution Committee as having been accepted by the other party, or unless the said evidence is in the possession of an administrative body, government official, or any other individuals.

Clause 101 The Dispute Resolution Committee shall have the discretion to admit any evidence obtained during the course of its consideration other than those submitted by the dispute parties. However, the dispute parties shall have an opportunity to inspect the said evidence and to present further evidence to support or refute them.

Clause 102 Only original documents may be admitted as evidence. If the original copies cannot be located, certified true copies or witnesses with knowledge of the contents of the said evidence may serve as evidence, unless the Dispute Resolution Committee instructs otherwise.

Clause 103 The Dispute Resolution Committee may admit as evidence information recorded by or processed by a computer, or by system backup tapes, or by any devices associated with telecommunications network interconnection. The recording and processing of data shall be accurate and shall be certified by individuals or operators in charge of the operation.

Paragraph One shall apply to the hearing of recorded data or those obtained, *mutatis mutandis*, from electronic or information technology media.

Clause 104 The Dispute Resolution Committee may admit hearsay evidence as collateral evidence when it deems as follows:

(1) The conditions, nature, sources, and surrounding facts of the hearsay or the hearsay evidence prove to be reliable, or

(2) For reason of necessity due to the fact that the individuals who saw, heard, or had knowledge of the dispute issues are unable to give testimony in person, and there is sufficient reason to admit the hearsay evidence in the interest of justice.

Clause 105 Any witness to the case may, strictly on the basis of his or her oral evidence, or any third parties who are the stakeholders in the dispute may submit a request to the Dispute Resolution Committee for permission to inspect, make a copy of or duplicate all or certain parts of the documents in the case file, and have them certified true copies. However, such permission shall be denied to:

(1) Third parties in the case of a closed hearing.

(2) Witnesses or third parties in a hearing in which the Dispute Resolution Committee has forbidden an inspection or duplication of all or certain parts of the documents in the case file in order to maintain public order or defend public interests.

(3) Witnesses or third parties in which case they are protected by law against the disclosure of information, or in the case that the Dispute Resolution Committee deems it necessary to deny disclosure in order to prevent any damages to the dispute parties or the operation of relevant government agencies.

Clause 106 All documents or evidence belonging to the dispute parties or any other individuals, or which the Dispute Resolution Committee or the Office has prepared for the proceedings of the case, shall be in Thai language.

In the case that the documents or evidence submitted by the dispute parties to the Dispute Resolution Committee is in a foreign language, the Committee may instruct the dispute parties or the individuals submitting the said documents or evidence to provide a translation, in whole or in significant parts, of such documents or evidence, together with their certification of accuracy, unless it is deemed appropriate or there is a notification permitting submission of any documents or evidence in a foreign language.

Part 8

Decisions

Clause 107 Decisions of the Dispute Resolution Committee shall comply with the laws pertaining to the dispute in question and, unless expressly specified, shall mean the Substantive Law.

The Dispute Resolution Committee shall base its decisions on the principles of good faith and fairness.

Clause 108 The decisions of the Dispute Resolution Committee shall be determined by the majority opinions of the responsible panel members. If a majority of votes cannot be reached, the Chairman of the panel shall cast the deciding vote.

Clause 109 The Committee's decisions shall be in writing and shall be signed by the responsible members of the Dispute Resolution Committee. Signatures of a majority of the said members shall be considered sufficient. However, explanation shall be given for the absence of signatures by any responsible members of the Dispute Resolution Committee. In this regard, the minority Dispute Resolution Committee members may attach notes of their conflicting opinions as a addendum to the decision.

The Dispute Resolution Committee shall give a clear and complete account of the reasons for its decision, but may not overstep the legal limits of its authority or exceed the request of the petitioner, unless such action conforms to the terms of the compromise agreement in Clause 82 or concerns the determination of fees and proceeding expenses or witnesses' fees.

The Dispute Resolution Committee shall specify the date and place of the decision, and any decision passed shall be considered as having been issued therein.

When the Dispute Resolution Committee has completed a decision, the Dispute Resolution Committee shall send a copy to the Commission for further action. In this regard, copies of the decision shall also be sent to all the parties.

Clause 110 The proceedings of the Dispute Resolution Committee shall be concluded after a decision has been given or by an order of the Dispute Resolution Committee as prescribed in Paragraph Two.

The Dispute Resolution Committee shall order the proceedings terminated under the following circumstances:

(1) The petitioner requests that his or her petition be withdrawn, unless the other party objects to the withdrawal and the Dispute Resolution Committee recognizes the legitimacy of the other party to have a decision on the dispute issue.

(2) The dispute parties agree to have the proceedings terminated.

(3) The Dispute Resolution Committee deems it unnecessary or not feasible to continue with the proceedings.

Under the enforcement of Clause 111, the authority of the Dispute Resolution Committee shall end with the termination of the proceedings.

Clause 111 Within thirty days of receiving a copy of the decision:

(1) Either party to the dispute may submit a petition requesting the Dispute Resolution Committee to correct the mathematical errors, typographical errors, or any other minor errors in the decision. In this regard, a copy of the said request shall be sent to the other dispute party, or

(2) Either party to the dispute may submit a petition requesting the Dispute Resolution Committee to interpret or explain its decision or any part thereof. In this regard, a copy of the request shall be sent to the other party to the dispute.

In the case that the Dispute Resolution Committee finds sufficient grounds for the petition in (1) and (2), the said correction or interpretation shall be completed within thirty days of the receipt of the petition. In this regard, any interpretation or explanation shall be considered part of the decision.

The Dispute Resolution Committee may correct errors requested in (1) which the Committee has detected on its own within thirty days of the date of the decision.

Either party to the dispute may, after notifying the other party, submit a petition within thirty days of receiving the decision requesting the Dispute Resolution Committee to make an additional decision on claims not addressed in the original decision. In the case that the Dispute Resolution Committee finds that the petition has sufficient grounds, an additional decision shall be made within sixty days of receipt of the petition.

Should it be necessary, the Dispute Resolution Committee may shorten or extend the period for correcting, interpreting, or explaining the decision, or making an additional decision as prescribed in Paragraph 2 and Paragraph 4.

Clause 88 shall apply to correcting, interpreting, explaining or making an additional decision pursuant to this Clause.

Part 9

Objection to the Decisions

Clause 112 Objection to the Dispute Resolution Committee's decision may be made by means of a request to have it revoked in accordance with the provisions herein.

Either party to the dispute may request the revocation of a decision by submitting a petition to the Dispute Resolution Committee within ninety days of receiving a copy of the decision or, if the Dispute Resolution Committee has been requested to correct or interpret a decision or to make an additional decision, within ninety days of the Dispute Resolution Committee's completion of the request.

The Dispute Resolution Committee may revoke a decision under the following circumstances:

(1) The party requesting a revocation of the decision shall be able to prove that:

(a) The requesting party did not rightfully receive advance notice of the Dispute Resolution Committee's proceedings or the said individual was not able to defend him or herself at the proceedings for some other reasons.

(b) Part or parts of the decision exceed the scope of the petition. However, if this part or parts can be appropriated from the decisions that fall within the scope of the petition, the Dispute Resolution Committee may elect to revoke only the former, or

(c) The Quorum of the Dispute Resolution Committee or its proceedings panel did not comply with the stipulations prescribed in this notification, or were not lawful.

(2) The Dispute Resolution Committee finds that:

(a) The decision concern a dispute that cannot be lawfully abated by the Dispute Resolution Committee, or

(b) The acceptance or enforcement of the decision shall interfere with good public order or public decency.

If the Dispute Resolution Committee finds the grounds for the petition requesting revocation of a decision insufficient, the Dispute Resolution Committee may extend its deliberation in order to allow it to reconsider its decision, or may take any other action it deems appropriate in order to remove the grounds for the revocation. However, in this regard, such extension may not exceed two sessions.

Part 10

Final Judgements

Clause 113 The Dispute Resolution Committee shall present its decision to the Commission for consideration and rulings within seven days of its completion of the decision according to Part 8, Decisions, or Part 9, Challenge of Decisions.

The Commission shall make a ruling within seven days of receiving the Dispute Resolution Committee's decision as stated in Paragraph One. The Commission's ruling shall be final. However, this does not bar the rights of the dispute parties to appeal.

Clause 114 A ruling shall consist of the following:

(1) Names and addresses of the dispute parties.

- (2) Issues, grounds, claims and arguments of the dispute.
- (3) Rulings and rationales.
- (4) Mandatory measures and timeframe for implementation.
- (5) Approval signatures of Commission members.
- (6) Conflicting opinions (if any).

In this regard, the Commission shall make its decisions known to the public.

Clause 115 Other licensees requesting network access or interconnection shall have the rights to request a revision of contractual terms based on a ruling notification in Paragraph Two of Clause 114 as deemed impartial and just. In this regard, the Commission shall have the authority to review the terms of the contract to determine if its rulings have a bearing or effect on such terms. If the rulings have no bearing or effect on the terms of the contract, the Commission may decline to accept the petition.

Part 11

Enforcement of Decisions

Clause 116 It is the duty of the dispute parties to fully comply with the decision of the Commission.

Should either party be unable to comply with the mandatory measures of the Commission's rulings within the specified period, that party may, with suitable reason, submit a written request for an extension. The decision of the Commission in this matter shall be final.

Clause 117 The Commission may instruct licensees with their own telecommunications network to provide, correct, improve or construct an additional telecommunications network, facilities, or equipment as required in order to permit network interconnection.

In issuing an instruction under Paragraph One, the Commission shall take into consideration relevant factors such as the needs for network access or interconnection, essential facilities for network access or interconnection, the costs of network access or interconnection, and the costs of modifying or providing facilities.

Expenses incurred in modifying or providing additional facilities prescribed in Paragraph One shall be assumed by the licensees requesting network access or interconnection, but these expenses shall be necessary, reasonable and consistent with the criteria or procedure prescribed by the Commission; or when deemed appropriate, the Commission may specify these expenses.

Part 12**Fees, Expenses and Witnesses' Fees**

Clause 118 Proceedings fees and expenses as well as witnesses' fees shall comply with the decisions made by the Dispute Resolution Committee.

In the case that the decisions do not prescribe any proceedings fees and expenses or witnesses' fees, either party to the dispute or the Dispute Resolution Committee may request the Commission to order the said proceedings fees and expenses as well as witnesses' fee as it deems appropriate.

Clause 119 The Dispute Resolution Committee that has been specifically appointed to settle a dispute may determine proceedings fees and expenses as well as witnesses' fees that comply with the framework and criteria stipulated by the Commission.

Chapter 6**Regulation and Enforcement**

Clause 120 The Commission shall have the authority to prohibit the provision of network access or interconnection to any licensees, whether on a temporary basis, for specific clause of the network or for specific services or under any specific conditions in the following cases:

- (1) There are technical problems with network access that may disrupt the telecommunications business or obstruct telecommunications.
- (2) Licensees operate or provide services that are in violation of the law.
- (3) Licensees operates a business or provides services without proper licence from the Commission.
- (4) Other cases as specified by the Commission.

The Commission shall have the authority to establish contingency or remedial measures for service users as deems appropriate and necessary; the licensees shall have to strictly comply with these measures.

The provisions of Paragraph One and Paragraph Two shall comply with the criteria and procedure prescribed by the administrative procedure laws.

Clause 121 To support and promote telecommunications network investment and development, and to enable new licensees to compete effectively, equally and fairly, the Commission may stipulate that new

licensees shall not be subject to the criteria, conditions, or procedures, whether in part or in whole, of this Notification for a specified period of time.

In issuing the provision of Paragraph One, the Commission may set any other conditions and limitations to be specifically applicable to new licensees who are granted temporarily exemption by virtue of this Notification.

The announcement of an exemption from and the establishment of certain conditions or limitations in Paragraph One and Two shall be transparent, just, rational, and non-discriminatory.

Clause 122 The Commission shall review the provisions of this notification every five years. Each review shall be accompanied by a public hearing attended by relevant licensees, in compliance with the regulations on public hearings. An impact assessment of telecommunications regulation shall be conducted in accordance with the regulations on impact assessment.

Clause 123 Licensees with their own telecommunications network, who were granted a licence prior to the effective date of this Notification, shall prepare the Reference Access Offer and Reference Interconnection Offer together with details prescribed in this Notification, and shall prepare information on the calculation of their network access and interconnection remuneration rates, as well as information on costs for unbundling network access and interconnection services; they shall submit such information to the Commission within fifteen days of the date on which this Notification comes into effect.

Licensees with their own telecommunications network, who were granted a licence prior to the date on which this Notification comes into force and who are unable to comply with the timeframe stipulated in Paragraph One, shall be prohibited from collecting network access or interconnection charge from other licensees, until such time as they have submitted Paragraph One information to the Commission, and the Commission has given its approval to such proposal in accordance with the criteria and procedure prescribed in this Notification.

Clause 124 During the time when the RAO and RIO offers or the calculation of network access or interconnection charges have not yet been completed or agreed upon among licensees who are network access and interconnection providers, the Commission may determine and announce provisional network access or interconnection charges.

In this regard, these temporary network access or interconnection remuneration rates shall not be higher than the existing charges before this Notification comes into effect.

Clause 125 In the event that licensees with their own telecommunications network who were granted a licence prior to the date on which this Notification comes into effect are unable to comply with any of the criteria and procedure in this Notification, they may request temporary extension of the compliance from the

Commission. Such request shall be submitted in writing and shall be accompanied by detailed explanations and supporting evidence.

The Commission may order licensees who have requested a temporary extension of the compliance as prescribed in Paragraph One to convene a hearing, under the conditions set by the Commission, to solicit other licensees' opinions for the Commission's deliberation.

If it deems appropriate, the Commission may grant a temporary extension of the compliance and may impose any conditions to protect the public interest and service users.

Clause 126 In conducting their business, licensees who are granted licences, concessions or contracts under Section 80 of the Telecommunications Business Act B.E.2544 (2001), shall be governed by the criteria and conditions specified in this Notification; and shall conduct their business on the principle of free and fair competition. In this regard, such individuals shall have the same lawful rights and liabilities as the licensees.

Issued on the 18th day of April 2006

General Choochart Promphrasid

Chairman of the National Telecommunications Commission