

**Notification of the National Broadcasting and Telecommunications Commission
on criteria and procedures to license foreign satellite to provide domestic services**

Whereas it is expedient to prescribe criteria, procedures, conditions, and fees to license foreign satellite to provide domestic services in order to meet increasing demand for foreign satellite transponder and to create an opportunity for Thai operators to use foreign satellite to provide domestic services, in alignment with the government's policy on foreign satellite services;

By virtue of the provisions of Section 27 (4) of the Act on Organization to Assign Radio Frequency and to Regulate the Broadcasting and Telecommunications Services B.E. 2553 (2010), as amended by the Act on Organization to Assign Radio Frequency and to Regulate the Broadcasting and Telecommunications Services (No.2) B.E. 2560 (2017) and Section 27 (14/2) of the Act on Organization to Assign Radio Frequency and to Regulate the Broadcasting and Telecommunications Services B.E. 2553 (2010), as amended by the Act on Organization to Assign Radio Frequency and to Regulate the Broadcasting and Telecommunications Services (No.3) B.E. 2562 (2019), the National Broadcasting and Telecommunications Commission ("the Commission") hereby issues the Notification as follows:

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

Clause 2 Any notification, regulation, rule, or any other orders which are prescribed herein, contrary hereto or inconsistent herewith shall be replaced by this Notification.

Clause 3 In this Notification:

"foreign satellite" means communication satellite that uses foreign satellite network filing, both Geostationary Satellite Orbit (GSO) and Non-Geostationary Orbit (NGSO);

"foreign satellite business operation" means business operation that provides commercial satellite services to others in general by using foreign satellite transponder;

*Translated by Satellite and Orbit Management Bureau and reviewed by Mr. Saneh Saiwong, the Office of the NBTC.

¹Published in the Government Gazette, Vol. 137, Special Part 37d, dated 18th February B.E. 2563 (2020).

DISCLAIMER:This text has been provided for information and comprehension purposes only and contains no legal authority. Office of the NBTC shall assume no responsibility for any liabilities arising from the use and/or reference of this text. The original Thai text as formally adopted and published shall in all events remain the sole authoritative text having the force of law.

“license” means license to use foreign satellite transponder to provide domestic services;

“satellite network filing” means data set that exhibits the right of Member States in obtaining access to satellite orbital resources, consisting of frequency assignments, orbital positions, and technical and operational characteristics; which is an instrument ITU and Member State used in spectrum and orbital resource management.

Clause 4 The license under this Notification shall apply to a person who wishes to use foreign satellite transponder to provide communication satellite services to others for business operation, as well as to a foreign satellite operator who wishes to provide communication satellite service in Thailand; whereby such a person operator shall obtain telecommunication business license under Telecommunication Business Act or broadcasting business license under Broadcasting Business Act, as the case may be.

A telecommunication or broadcasting operator or a person who wishes to use foreign satellite transponder, shall use such transponder only from the licensee under this Notification except in the cases prescribed in Clause 15 and Clause 16.

Clause 5 The applicant shall have the following qualifications:

- (1) be a limited company or public limited company established as a juristic person under Thai law with an establishment in Thailand;
- (2) be a representative of a foreign satellite operator who has qualifications in compliance with the prescribed state policy.

Clause 6 To apply for license, the applicant shall carry out the followings:

- (1) submit the application and documents/evidence or information necessary for licensing as prescribed in Clause 7, together with one hard copy of documents and one electronic copy of all information, in person at the Office of the NBTC (“the Office”);
- (2) pay an application processing fee in cash, or bank cheque issued by financial institution under Financial Institution Business Act payable to the Office, in the amount of 10,000 Baht including value-added tax (VAT), to be completed on the submission date.

The Commission, should it deem appropriate for regulatory purpose or any other public benefit, may modify the licensing criteria and procedures.

Clause 7 The applicant shall submit the following documents/evidence and information for consideration by the Commission:

DISCLAIMER:This text has been provided for information and comprehension purposes only and contains no legal authority. Office of the NBTC shall assume no responsibility for any liabilities arising from the use and/or reference of this text. The original Thai text as formally adopted and published shall in all events remain the sole authoritative text having the force of law.

- (1) applicant's documents/evidence of juristic person as follows;
 - (1.1) registration certificate and Memorandum of Association,
 - (1.2) proof of Thai identity issued by the Ministry of Commerce (In case of a person who wishes to operate telecommunication business that has its own network),
 - (1.3) power of attorney, as the case may be.
- (2) certificate/letter of appointment or authorization to act as an agency for a foreign satellite operator to provide satellite service in Thailand and relevant documents/evidence such as transponder leasing contract or memorandum agreement;
- (3) management information;
- (4) past operation information (if any);
- (5) operational plan and marketing plan;
- (6) technic and technology information; as follows:
 - (6.1) foreign satellite information such as satellite's name, orbital slot, number of transponder, operating frequency band, location of the satellite control station, service quality, coverage footprint in Thailand,
 - (6.2) satellite specification,
 - (6.3) satellite network filing and relevant information,
 - (6.4) network architecture and components of equipment used to provide service,
 - (6.5) type of service/application.

Clause 8 Processing duration and licensing procedures are as follows:

- (1) the Office shall examine the accuracy and completeness of the application and documents/evidence necessary for licensing;
- (2) if the documents/evidence necessary for consideration are inaccurate, incomplete or insufficient, the Office shall notify the applicant to submit additional documents/evidence, as necessary, within fifteen days from the date of receipt of such notification, and shall not review and propose the application to the Commission unless necessary documents/evidence are obtained and sufficient for consideration;
- (3) the Office shall examine the use of foreign satellite transponder against the qualifications prescribed in accordance with state policy;
- (4) if found accurate and complete, the Office shall conduct a review and produce the licensing analysis report and propose to the Commission for its consideration within sixty days;

DISCLAIMER:This text has been provided for information and comprehension purposes only and contains no legal authority. Office of the NBTC shall assume no responsibility for any liabilities arising from the use and/or reference of this text. The original Thai text as formally adopted and published shall in all events remain the sole authoritative text having the force of law.

(5) in case the Commission deems that the applicant need to modify its licensing request, the applicant shall submit such request within thirty days from the date of receipt of such notification from the Office, or as determined by the Commission, for its further consideration;

(6) the Commission may not license the use of foreign satellite transponder of the applicant if it has an impact on state security, economy or society;

(7) if the Commission has given approval for license application, the Office shall notify the applicant within seven days from the date of such approval. The applicant shall pay fees specified as pre-condition, to be completed at the rates and duration prescribed in this Notification.

The Commission, should it deem appropriate for regulatory purpose or any other public benefit, may modify the processing duration and licensing procedures.

Clause 9 The right for each licensee to use foreign satellite transponder is exclusive to one satellite for each satellite operator. Each licensee is able to represent more than one satellites/satellite operators. Each foreign satellite operator is also able to designate more than one agents to represent its business in Thailand.

In case of NGSO satellite, the right for each licensee to use foreign satellite transponder is exclusive to one entire system.

Clause 10 The licensee shall maintain the qualifications as prescribed in Clause 5 and shall comply with the following conditions:

(1) the licensee shall be governed by the laws and regulatory framework of Thailand and shall comply with laws on national security, data privacy protection, as well as cybersecurity, or any other rules and regulations which are not contrary to the existing laws, including their future amendments;

(2) the licensee shall have satellite gateway or uplink station in Thailand, as prescribed by the Commission;

(3) the licensee, in installation of earth station to transmit or receive satellite signal, shall comply with the Radiocommunications Act B.E. 2498 (1955) and its amendment, including other rules, regulations, notifications, orders, requirements or any criteria prescribed by the Commission;

(4) if the licensee uses foreign satellite transponder for broadcasting business operation, the licensee shall provide services only to those who obtain broadcasting business license from the Commission;

(5) media and content regulation:

(5.1) the licensee, by using foreign satellite transponder to provide services for data/content communication to the general public, shall have duty and be held liable as an intermediary to comply with the criteria on regulation of content disseminated in the Kingdom of Thailand, as prescribed by the Commission;

DISCLAIMER:This text has been provided for information and comprehension purposes only and contains no legal authority. Office of the NBTC shall assume no responsibility for any liabilities arising from the use and/or reference of this text. The original Thai text as formally adopted and published shall in all events remain the sole authoritative text having the force of law.

(5.2) the licensee shall immediately suspend any delivery, transmission link or dissemination of any information in the Kingdom of Thailand upon receipt of notice that such content is illegal.

(6) the licensee shall report to the Commission, if there will be using additional satellite transponder, before bringing it into use;

(7) in case there is complaint regarding interference with the use of radio frequency, the licensee shall suspend the use of that frequency and immediately report to the Commission, as well as proposing solution or remedy. In this regard, the licensee shall also comply with the Radio Regulations of the International Telecommunication Union.

Clause 11 The licensee shall pay the following fees at the rates as prescribed in Annex to this Notification:

(1) license fee for using foreign satellite transponder to provide domestic service; calculated from the number of satellite filing(s) for each foreign satellite in case of GSO, or each system in case of NGSO, due and payable within fifteen days from the date of receipt of notification from the Office. Should such fee not be paid within due date, it shall be deemed that the licensee fail to comply with the conditions of this Notification and the Commission may cancel the license;

(2) annual fee for using foreign satellite transponder to provide domestic service; calculated from revenues before expenses incurred from satellite business operation of the licensee as per each juristic person, during an accounting period, due and payable once a year within 150 days from the end of an accounting period. The licensee shall, together with annual fee payment, submit an annual financial statement, certified by a certified public accountant which discloses revenues from satellite business operation in Notes to Financial Statement. Except in the case where the licensee is not able to submit an annual financial statement, certified by a certified public accountant, within the prescribed time, the licensee shall submit trial balance instead. As soon as the annual financial statement has been certified by a certified public accountant, the licensee shall submit it within fifteen days after such certification has been made.

Annual fee is deductible from the license fee to the fullest amount paid by that juristic person. In the case where annual fee does not exceed that amount, the licensee shall be exempt from payment of annual fee until license expiration date, without any reimbursement of the remaining amount. In the case where annual fee exceeds that amount, the licensee shall pay only the excess amount for that year, and then shall pay the full amount, as a percentage of the revenues before expenses incurred from the satellite business operation, for the remaining year(s) until license expiration date.

The Office shall examine the payment of annual fee and complete its examination within ninety days from the date of receipt of certified financial statement by a certified public accountant. Should the Office find that the licensee has incorrectly paid annual fee, a letter, notifying the licensee to pay the complete fee or receive a refund of the overpaid fee within fifteen days from the date of such notification, is to be issued. The Office may request the licensee to submit additional documents/evidence or other necessary information to verify accuracy and completeness of the payment.

DISCLAIMER:This text has been provided for information and comprehension purposes only and contains no legal authority. Office of the NBTC shall assume no responsibility for any liabilities arising from the use and/or reference of this text. The original Thai text as formally adopted and published shall in all events remain the sole authoritative text having the force of law.

In case of no payment or incomplete payment by the due date, the licensee shall pay additional fees and expenses at the rate of one fifth (1.5) percent per month of the outstanding amount, whereby a fraction of a month shall be counted as one month from the day after payment due date until all outstanding fees are completely paid.

Clause 12 The license under this Notification shall be valid for five years from the date that the Commission has given approval.

Clause 13 In case the licensee wishes to renew the license, the licensee shall submit an application for renewal including its reasoning and necessity to the Commission for consideration, and pay an application processing fee at the rates as prescribed in Annex to this Notification, at least one year prior to license expiration date. During license renewal process, it shall be deemed that the applicant remain a licensee until consideration result has been notified by the Office.

Clause 14 Should the licensee not comply with the conditions as prescribed in Clause 10 or should it appear thereafter that the licensee submitted false information, or should it deem necessary for the purpose of maintaining state security, for public interest or maintaining law and order or the good morals of the people, the Commission has the power to suspend or revoke the license and the licensee has no right to claim for any damage.

Clause 15 Telecommunication business operation using foreign satellite to provide services for passengers on aircraft shall be deemed as having the right to use foreign satellite transponder to provide domestic service in accordance with this Notification, provided that such operation is to be notified to the Commission, and in so doing, shall also be authorized under other related laws.

Clause 16 This Notification shall not apply to a person who wishes to use foreign satellite transponder in the following cases; nevertheless, such person shall obtain authorization in accordance with the NBTC Notification on criteria and procedures to assign the frequency for radiocommunication service or other relevant NBTC notifications, as the case may be.

(1) in the following cases of signal transmission or communication used in radiocommunication service, which is neither telecommunication business operation according to the law on telecommunication business operation nor broadcasting business operation according to the law on broadcasting business operation:

(1.1) communication of the specialized agencies of the United Nations, International Committee of the Red Cross, embassies, Apostolic Nunciature Embassy of the Holy See, legations, consulate generals and consulates established in Thailand;

(1.2) communication between devices for use in satellite-aided search and rescue system such as Emergency Position Indicating Radio Beacon (EPIRB), Personal Location Beacon (PLB) and Emergency Locator Transmitter (ELT);

(1.3) transmission and reception of data, voice and image from satellite used for resource management, environment, emergency and disaster, meteorology and positioning purposes;

DISCLAIMER:This text has been provided for information and comprehension purposes only and contains no legal authority. Office of the NBTC shall assume no responsibility for any liabilities arising from the use and/or reference of this text. The original Thai text as formally adopted and published shall in all events remain the sole authoritative text having the force of law.

(1.4) communication via amateur radio satellite in accordance with NBTC Notification on criteria and procedures to license and regulate amateur radio service;

(1.5) communication of vessel monitoring system (VMS), an electronic signal and data transmission from equipment and devices installed on fishing boat;

(1.6) communication of any other purposes as prescribed by the Commission.

(2) in the following cases of temporary use of foreign satellite transponder:

(2.1) missions of the Royal family;

(2.2) missions related to national disaster;

(2.3) missions related to military security;

(2.4) missions related to public health, research, trial and testing;

(2.5) missions related to VIP protection while on official visit;

(2.6) missions related to broadcast important national or international events;

(2.7) missions related to safety of life and property;

(2.8) missions of government's urgent policy;

(2.9) missions to provide telecommunication universal service obligation (USO) and public and social services for a period of not more than 1 year;

(2.10) any other cases of fixed period of time, as prescribed by the Commission.

Transitory Provision

Clause 17 Telecommunication business operation using foreign satellite transponder of CAT Telecom Public Company Limited under telecommunication business license Type 3 No. 3n/48/002 which is effective on the date this Notification comes into force shall remain valid until the date such license expires on August 3, 2025.

Issued on 13 February B.E. 2563 (2020)

General Sukit Khamasundara

Acting Chairman

DISCLAIMER:This text has been provided for information and comprehension purposes only and contains no legal authority. Office of the NBTC shall assume no responsibility for any liabilities arising from the use and/or reference of this text. The original Thai text as formally adopted and published shall in all events remain the sole authoritative text having the force of law.

Annex

**Rates of Licensing Fee and Renewal Fee for using foreign satellite transponder
to provide domestic services**

Fee(s)	Rate(s)
License Fee and Renewal License Fee	2,000,000 Baht per one Right
Annual Fee	3.2 percent of revenues before expenses incurred from satellite business operation

Note: Rates indicated above do not include tax.

Office of the NBTC

DISCLAIMER: This text has been provided for information and comprehension purposes only and contains no legal authority. Office of the NBTC shall assume no responsibility for any liabilities arising from the use and/or reference of this text. The original Thai text as formally adopted and published shall in all events remain the sole authoritative text having the force of law.