

## Terms of Reference (TOR)

### Consultancy Service for the Project titled

### “A Study on the Future of Television Broadcast/Audio-Visual sector in Thailand under a rapidly changing digital evolution

#### 1. Rationale

The National Broadcasting and Telecommunications Commission (NBTC) has responsibilities to regulate broadcasting and telecommunications industry to ensure free and fair competition in the market, taking into account the greatest benefits to consumers. The NBTC's main responsibilities include assigning radio frequencies for the undertaking of radio broadcasting, television broadcasting, and telecommunication services, along with prescribing characteristics and categories of broadcasting and telecommunication services, licensing and regulating those services to allow service users to have choice of services with quality, efficiency, timeliness, reliability and fairness.

The television broadcasting market is rapidly changing resulted from digital disruption. Additionally, the audio-visual sector has expanded and competed with the traditional forms of television broadcasting, while consumers' preference for audio-visual services is increasing rapidly. This digital disruption has generated various significant impacts on both direct and indirect stakeholders, market conditions of the Thai broadcasting industry, value chain and structure of television broadcast/audio-visual services, and business models of broadcasters. All those dynamic changes can not avoid leading to the changes in crucial fundamental policies of relevant organizations which already incurred in certain countries/markets. Therefore, it is necessary to conduct in-depth research regarding all relevant changes happening in global world which would help forecast future scenarios of television broadcast/audio-visual sector and relevant services in Thailand. This must be done through hiring foreign consultant who has good understanding of the world context of the industry and is able to have access to in-depth information about television broadcast/audio-visual services abroad. The results of the study from the perspective of foreign consultant, who is closed to the leading markets and has knowledge, expertise and in-depth experience especially in the field of communication technology, of perspective towards the adaptation of leading regulatory and relevant bodies in the important areas, as well as promotion and regulation of television broadcast/audio-visual services in leading foreign countries, will provide important in-depth analysis perspectives that will reflect the future outlook

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of the television broadcast/audio-visual industry, competition landscape, and business models that may occur in the future, at the international level. The results of the study will provide key input and comparative information for the NBTC to formulate relevant master plan and pave ways for proper regulation and efficient policy of the country in the years to come, which will benefit the stakeholders as a whole.

## 2. Objectives

2.1 To employ the consultant to forecast the future scenarios of television broadcast/audio-visual sector in Thailand under a rapidly changing digital evolution.

2.2 To conduct research in order to derive future scenarios of television broadcast/audio-visual sector and relevant services in Thailand.

2.3 To obtain appropriate policies that suit each possible scenario in order to pave ways for the future industry promotion and regulation, as well as for national resource management for television broadcast/audio-visual sector, and other converged services involved.

2.4 To obtain recommendations for best practices, deregulation, as well as other contemporary regulatory formulation, for Thailand, to enable television broadcast/audio-visual operators to better compete in digitally-disrupted environment.

## 3. Qualification of the Consultant

3.1 Must be a legal entity who has worked as a consultant specializing in communication technology and relevant regulation, and has the ability to forecast future scenarios as a result of technological changes in global world.

3.2 Must have experiences in the broadcasting or audio-visual or telecommunications industries, and/or past work experience with a telecommunication or broadcasting regulatory authority.

3.3 Must propose staff who have knowledge, competency, and experiences, and are able to work with the Office of the NBTC during this project in the appropriate amount.

3.4 Has legal capacity.

3.5 Has not been declared bankrupt.

3.6 Has not in the process of closing a business.

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3.7 Does not have mutual benefits with other consultants who submit a proposal to the Office of the NBTC on the submission date and does not act as a barrier to fair competition on price in submitting a proposal.

3.8 Does not have a privilege or immunity which may decline to go to Thai court, unless the consultant's government has ordered a waiver of such immunity.

#### 4. Scope of Work

4.1 To conduct in-depth research incorporating potential changes in global world which could affect future scenarios of television broadcast/audio-visual sector, and relevant services in Thailand. The research shall comprise of the study of at least 5 countries/markets, and must include the areas of policy, regulation, promotion, as well as important lessons learned, in clear and concrete manner. The results of the research should be able to predict future scenarios of television broadcast/audio-visual sector in Thailand.

4.2 To analyze information derived from No. 4.1, including the market status of the television broadcast/audio-visual sector in Thailand, and build possible future scenarios of television broadcast/audio-visual sector in Thailand over both the medium and long term. Each possible scenario must consist of details in the following areas:

(1) Future policies of television broadcast/audio-visual sector, as well as of other converged services involved, including regulatory reform and holistic collaboration needed from relevant government agencies in order for television broadcast/audio-visual operators to survive in digitally-disrupted environment.

(2) National resource management involved in television broadcast/audio-visual sector, as well as in relevant communication sector, for instance, frequency allocation, suitable options for resolution and number of television channels in terrestrial television platform, platform developing or new technology, to best accommodate the altered television broadcast/audio-visual landscape in the future.

In this regard, rationales and reasons behind (1) and (2) must be included in the report.

4.3 To analyze the market status of the television broadcast/audio-visual sector in Thailand, at least including as follows:

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(1) All direct and indirect stakeholders with all kinds of relationship who play significant roles and have influence on the television broadcast/audio-visual industry.

(2) Contexts and facts of the market conditions of the television broadcast/audio-visual industry in Thailand.

(3) Evaluation of business potential of television broadcast/audio-visual operators, as well as of stakeholders in relevant industries such as telecommunications industry, content industry, creative industry.

**4.4 To study and analyze external factors, affecting market conditions of television broadcast/audio-visual sector in Thailand, and business models as follows:**

(1) To analyze technological changes from digital disruption that affect television broadcast/audio-visual service market such as Over-the-Top (OTT), 4K, 5G broadcasting.

(2) To analyze impacts on television broadcast/audio-visual service value chains and structures as a result of digital disruption, including vertical and horizontal integrations in relation to telecommunications and related industries.

(3) To analyze business models of all types of television broadcast/audio-visual operators that are licensees and non-licensees of the NBTC.

**4.5 To analyze current market competition and the future trend of television broadcast/audio-visual services in Thailand resulting from changing in global trends, at least in the aspects of factors contributing to current and future competitive advantages, trends in consumer behaviors, television broadcast/audio-visual content, as well as the sustainability of television broadcast/audio-visual industry including at least terrestrial television, cable television, satellite television, IPTV, OTT, etc.**

**4.6 To provide recommendations for best practices, deregulation, as well as other contemporary regulatory formulation, for Thailand, to enable television broadcast/audio-visual operators to survive in a changing (digitally-disrupted) environment, which include aspects as follows:**

(1) problematic laws, regulations, and procedures, as well as opportunities and other obstacles, related to promotion and regulation of current and future television broadcast/audio-visual services.

(2) effective regulation scheme to promote quality and sustainability television broadcast/audio-visual content, which enables the budding content industry for export and overseas competition.

(3) guidelines related to technological aspects to accommodate transition to digital platform of the television broadcast/audio-visual industry.

4.7 To conduct meetings/interviews as follows, whereby the consultant must invite all attendees and responsible for all related expenses:

(1) To conduct focus groups or interviews with relevant stakeholders in order to obtain insight information fruitful for the study.

(2) To have at least 2 on-site visits to Bangkok of 2 foreign experts (each time) for 2 days (per visit) in order to exchange ideas and findings with relevant NBTC personnel.

4.8 To prepare report for the NBTC that covers all significant findings of the above mentioned.

4.9 For knowledge transfer and capacity building of relevant personnel of NBTC and the market, the consultant must organize the following activities (consecutive days) at venues in Bangkok in which at least 3 foreign experts must join and share knowledge during those activities. The consultant must invite all attendees, and be responsible for all related expenses.

(1) To conduct meeting with NBTC's executives and relevant stakeholders to enhance their knowledge, based on the study results, for the purpose of formulating relevant policies. The meeting must be held at least 1 day and have not less than 30 persons attending, at venue outside the Office of the NBTC.

(2) To conduct workshop for NBTC's staff, covering detailed study methodologies and results, at least 50 persons for 2 consecutive days at venue outside the Office of the NBTC.

(3) To organize a public forum for stakeholders at least half a day, for not less than 100 persons, at suitable venue, in order to present the results of the study.

## 5. Qualification of Team Members

The members of the consultant team must have knowledge and expertise to be able to work in accordance with TOR. Requirements for degree qualifications and experiences of the members, the number of members, and man-months (months/person) are specified as follows:

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No.	Job Title	Degree Qualification	Minimum Years of Experience (years)	The number of members	Man-Months
1	Project Manager - Having experiences in the area of communication technology or television broadcast/audio-visual industry or telecommunications or engineering in related areas	Doctor of Philosophy or equivalent	20	1 person	5 man-months for 1 person
2	Experts - Having experiences in the area of television broadcast/audio-visual industry or regulatory/policy formulation or relating areas	Doctor of Philosophy or equivalent	15	at least 3 persons	4 man-months for each person (2 persons) and 6 man-months for 1 person
3	Experts - Having experiences in the area of communication technology or telecommunications or relating areas	Doctor of Philosophy or equivalent	15	at least 2 persons	4 man-months for 1 person and 5 man-months for 1 person
4	Experts - Having experiences in the area of economics or data	Doctor of Philosophy or equivalent	20	at least 2 persons	4 man-months for each person (2 persons)

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No.	Job Title	Degree Qualification	Minimum Years of Experience (years)	The number of members	Man-Months
	analysis or research or relating areas				

Note:

(1) Experiences include experiences before and after the graduation date for the highest degree.

(2) Members indicated in No. 2 or 3 or 4 in the above table must include at least 3 Thai experts in total, so that knowledge would be transferred to the said persons.

**6. Project Duration**

240 days after the contract is signed

**7. The deliverables**

There are 4 phases that the deliverables shall be submitted, as follows:

Phase	Due Date of Submission	The deliverables
1	Within 60 days after the date of signing contract	<ul style="list-style-type: none"> <li>A soft copy of Inception Report which includes rationale, objectives, scope of work, detailed work plan, and research team structure</li> <li>A soft copy of Progress Report 1 which includes research information as indicated in No. 4.3 in Scope of Work</li> </ul>
2	Within 120 days after the date of signing contract	<ul style="list-style-type: none"> <li>A soft copy of Progress Report 2 which includes research information as indicated in No. 4.1 and 4.4 in Scope of Work</li> </ul>
3	Within 180 days after the date of signing contract	<ul style="list-style-type: none"> <li>A soft copy of Progress Report 3 which includes research information as indicated in No. 4.5 in Scope of Work</li> </ul>

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Phase	Due Date of Submission	The deliverables
4	Within 240 days after the date of signing contract	<ul style="list-style-type: none"><li>• A soft copy of Final Report which includes research information as indicated in No. 4.1 – 4.8 in Scope of Work</li><li>• A soft copy of Executive Summary Report</li><li>• Meeting, Workshop and Public Forum as indicated in No. 4.9 in Scope of Work</li></ul>

All the reports in the deliverable table above must be written both in Thai and English. However, for the purpose of making payment, the Inspection Committee will consider mainly on Thai version of the deliverables.

#### 8. Budget

The budget, which derived from central budget for the 2023 fiscal year, shall not exceed 12,345,000.- Thai Baht (Twelve Million, Three Hundred and Forty-Five Thousand Thai Baht). This already includes VAT and all other expenses. The contract can be signed only after the budget has been approved by the NBTC and has become effective.

#### 9. Payment Terms

The Office of the NBTC shall pay to the consultant for the deliverables submitted in each phase, as follows:

Phase 1 pay 20% of the total contract amount, after the consultant has submitted all the deliverables of phase 1 and the Inspection Committee has given their approval to the deliverables.

Phase 2 pay 30% of the total contract amount, after the consultant has submitted all the deliverables of phase 2 and the Inspection Committee has given their approval to the deliverables.

Phase 3 pay 20% of the total contract amount, after the consultant has submitted all the deliverables of phase 3 and the Inspection Committee has given their approval to the deliverables.

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Phase 4 pay 30% of the total contract amount, after the consultant has submitted all the deliverables of phase 4 and the Inspection Committee has given their approval to the deliverables.

## 10. The Consultant's Proposal Submission

The consultant must create the Project Proposal which includes the Technical Proposal and the Financial Proposal, detailed as follows:

### 10.1 Technical Proposal shall comprise of the following:

10.1.1 Company Profile together with evidence showing the authorized person to act on behalf of the juristic person. In case the authorized person assigns another person(s) to sign the Proposal, the statutory power of attorney is required.

10.1.2 Consultant Work and Experience: composed of content and quantity of works (content aspect considering whether works of the consultant are most corresponding or close to scope of work and objectives of this project, and quantity of works considering the number of previous works of the consultant that has scope corresponding or close to work described in TOR), in which the consultant must provide reliable evidence of previous works done.

10.1.3 Management and Working Procedure: streamlining TOR into work plan and methodology that correspond to timelines of the Office of the NBTC in the clearest and most concrete manner.

10.1.4 Qualification and Experience of Team Members: composed of name, profile, degree qualification, past work experience of the members proposed to work on this project in accordance with No.5 Qualification of Team Members.

### 10.2 Financial Proposal shall comprise of the following:

10.2.1 Price quotation shall provide the cost of conducting each task indicated in TOR, VAT and all other expenses, and total project cost.

10.2.2 Information about personnel remuneration must have details of the number of man-months and remuneration rate for each person. The Office of the NBTC will also consider pay rate based on the evidence of income/compensation provided by the consultant.

10.3 Proposal Submission Procedure - the consultant must submit the following proposal:

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Submitting the Technical Proposal (6 copies), the Financial Proposal (1 copy), and letter to Head of Procurement Committee informing the submission of these proposals within the timeline prescribed in an invitation letter.

## 11. Selection Criteria to Evaluate the Proposal

This project is very complex, related to communication technology and trends in television broadcast/audio-visual sector, at the international level, and has variety nature of work in academic areas. Therefore, it is necessary to hire consultant who has the knowledge and expertise in various areas, i.e. communication technology, television broadcast/audio-visual industry, telecommunications, regulatory/policy formulation, economics, data analysis and research. The Office of the NBTC will do the hiring by using the selection method and will select the proposal by considering the qualitative criteria.

11.1 The Office of the NBTC will evaluate the Project Proposals of all the consultants, unless the submitted proposal documents do not meet the requirements indicated in No. 10.1. Failures of the requirements include submitting insufficient documents or sufficient but error documents. When evaluating the Project Proposals, we will consider whether the consultancy service is worthwhile or be able to meet the project's objectives by using the following qualitative criteria:

- |  |                         |
|--|-------------------------|
| (1) Consultant Work and Experience               | 100 points (weight 25%) |
| (2) Management and Working Procedure             | 100 points (weight 50%) |
| (3) Qualification and Experience of Team Members | 100 points (weight 25%) |

Detailed information on scoring using these qualitative sub-criteria is described in Appendix attached to this TOR. The proposals of the consultants that pass minimum requirements for qualitative criteria must receive the weighted score of at least 80%.

11.2 The Office of the NBTC will select the proposal of the consultant that pass minimum requirements for qualitative criteria indicated in No. 11.1 and obtain the highest score. We will examine the appropriateness of the Financial Proposal of the selected consultant and negotiate pay rate for the consultancy service and other things, as deemed appropriate and pursuant to criteria to calculate pay for the consultant indicated in related regulations and laws.

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## 12. Other Conditions

12.1 In the event that it is necessary to cancel hiring of a consultant of this project, the Office of the NBTC reserves the right to cancel the hiring at any stage. The person who submitted the Proposal cannot claim any damages from the Office of the NBTC.

12.2 The consultant must keep confidential of information of the Office of the NBTC, operators and other information received in this study project, and shall not disclose such information to any other persons or use it for any other purposes beyond this project.

12.3 The ownership of all works and documents including electronic files received related to the study is solely owned by the Office of the NBTC. The distribution of documents or duplicating extra copies beyond the amount of the contract is the Office of the NBTC's equitable right.

12.4 The consultant has the duty to inspect the team members proposed to work for this project whether there is any member still working as consultant for any other project for the Office of the NBTC. In the case there is any member working for another project, the consultant must inspect and verify the period of work in order to prevent the use of redundant resources that will affect the value of the budget. In this regard, the main team members of the consultant must have working period under this contract not in the same period with their working period in another project. If the Hiring Party finds that any main team member works for another projects in the same period whether it is found during the working period under this contract or later, the Hiring Party has the right to terminate the contract and/or claim damages from the consultant or to reduce the contract amount.

12.5 In case of need to change a team member of this project, the consultant shall ask permission from the Office of the NBTC before changing that team member. A substitute must have the same or better qualifications than the replaced member. However, the Office of the NBTC reserves the right to reduce pay for the member, as deemed appropriate.

12.6 If the consultant is unable to complete tasks by the due date specified in the contract and the Hiring Party still does not terminate the contract, the consultant must pay a fine of 0.1% of the contract amount starting from the date after the due date specified in the contract or the date that the Hiring Party expands the contract period till the day the tasks are completed. In addition, the consultant agrees to let the Hiring Party claim for damages resulting from delays

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caused by the consultant fails to perform the work punctually on the excess amount that is not covered by the fine and pay for it.

12.7 The selected consultant must enter into the contract with the Office of the NBTC in the specific contract form and must give the contract collateral in any assigned form equivalent to 5% of the contract amount. However, in case that the selected consultant is a government agency, there is no need to give the contract collateral.

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Appendix

Document attached to TOR

Criteria to Select the Consultant

A Project titled a Study on the Future of Television Broadcast/Audio-Visual sector in Thailand under a rapidly changing digital evolution

(1) Consultant Work and Experience: 100 points, the aspects of consideration are as follows:

**Content:** considering whether works of the consultant are most corresponding or close to scope of work and objectives of this project. The maximum possible score is 40 points.

Criteria for Consideration	Scoring	
	No related works	Having related works
Considering the previous works of the consultant that having previous research or projects related to communication technology or television broadcast/audio-visual industry or regulatory/policy formulation	0 point	40 points

**Quantity of Works:** considering the number of previous works of the consultant that has scope corresponding or close to work described in TOR. The maximum possible score is 60 points.

Criteria for Consideration	The number of projects	Scoring			
		0	1	2	≥3
Considering the number of previous works of the consultant that has scope corresponding or close to work described in TOR that the consultant submits the proposal to	Score	0 point	40 points	50 points	60 points

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(2) Management and Working Procedure: 100 points, the aspects of consideration are as follows:

Considering scoring based on whether the proposal be able to streamline TOR into work plan and methodology that correspond to timelines of the Office of the NBTC in the clearest and most concrete manner. It is also considered whether the work plan and methodology be able to provide explanations and details that cover all points in TOR. In addition, the comparison between each applicant will be considered in scoring. The best proposal will get full or highest score while others will get less according to their proposals.

Criteria for Consideration	Scoring			
	Poor	Fair	Good	Very Good
(a) Conceptual Framework	0	15	16-20	21-25
(b) Work Plan and Project Management (This includes tasks, timelines and team member responsibilities that correspond to requirements prescribed in TOR)	0	15	16-20	21-25
(c) Methodology to achieve the project's objectives	0	15	16-20	21-25
(d) Knowledge and understanding of communication technology or television broadcast/audio-visual industry or regulatory/policy formulation	0	15	16-20	21-25

(3) Qualification and Experience of Team Members: 100 points, the aspects of consideration are as follows:

This is about degree qualification and experience of the consultant's team members. Considering whether the consultant's team members hold degree qualification not lower than the prescribed qualification and have direct experiences in accordance with TOR. Also, considering the number of years of experience or works that accumulated through experience.

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Qualification and Experience of Members of the Consultant	Scoring					
	Considering Degree Qualification			Considering Experiences		
	Not meet the Requirements	Meet the Requirements	Above the Requirements	Not meet the Requirements	Meet the Requirements	Above the Requirements
1. Project Manager - Having experiences in the area of communication technology or television broadcast/audio-visual industry or telecommunications or engineering in related areas - Obtaining Doctor of Philosophy or equivalent - Having at least 20 years of experience	0 point	8 points	9-10 points	0 point	16 points	17-20 points
2. Experts - Having experiences in the area of television broadcast/audio-visual industry or regulatory/policy formulation or relating areas - Obtaining Doctor of Philosophy or equivalent - Having at least 15 years of experience - At least 3 persons in total	0 point	8 points	9-10 points	0 point	16 points	17-20 points
3. Experts - Having experiences in the area of communication	0 point	8 points	9-10 points	0 point	8 points	9-10 points

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Qualification and Experience of Members of the Consultant	Scoring					
	Considering Degree Qualification			Considering Experiences		
	Not meet the Requirements	Meet the Requirements	Above the Requirements	Not meet the Requirements	Meet the Requirements	Above the Requirements
technology or telecommunications or relating areas - Obtaining Doctor of Philosophy or equivalent - Having at least 15 years of experience - At least 2 persons in total						
4. Experts - Having experiences in the area of economics or data analysis or research or relating areas - Obtaining Doctor of Philosophy or equivalent - Having at least 20 years of experience - At least 2 persons in total	0 point	8 points	9-10 points	0 point	8 points	9-10 points

The score depends on whether degree qualification and experience of the consultant's team members meet the prescribed requirements. In addition, the comparison between each applicant will be considered in scoring. The best proposal will get full or highest score while others will get less according to their proposals.

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