

## **LAW OF UKRAINE**

### **On Amending the Law of Ukraine “On Radio Frequency Resource of Ukraine”**

(Official Gazette (OG) of the Verkhovna Rada, 2004, No. 48, p. 526)

(Amended in line with Law No. 2119-IV of 21 October 2004,  
Verkhovna Rada OG, 2005, No. 2, p. 34)

The Verkhovna Rada of Ukraine **resolves:**

To amend the Law of Ukraine “On Radio Frequency Resource of Ukraine” (1770-14) (Official Gazette of the Verkhovna Rada of Ukraine, 2000, No. 36, p. 298) as follows:

## **LAW OF UKRAINE**

### **“On Radio Frequency Resource of Ukraine”**

This Law establishes the legal framework for the use of the radio frequency resource of Ukraine, lays down competences of the state in regulating the use of the radio frequency resource of Ukraine, rights, obligations and authorities of public authorities carrying out control and regulation in this area, and individuals and legal entities that use and/or intend to use the radio frequency resource of Ukraine.

## **Section I**

### **GENERAL PROVISIONS**

#### **Article 1. Terms and their definitions**

The terms used herein have the following meaning:

allotment of radio frequencies is entering the relevant record in the Plan for the Use of Radio Frequency Resource of Ukraine to grant the right to use certain bandwidths in order to apply the planned radio technologies in Ukraine;

emitter is a device used for production, research, medical, household purposes except radio communication ones, that emits electromagnetic energy into the environment, other than the radio electronic one;

opinion on electromagnetic compatibility (hereinafter - opinion) is a technical opinion on possible use of the specific radio electronic device under certain conditions;

permit to operate a radio electronic device or emitter (hereinafter - operation permit) is a document that proves having by the owner of the specific radio electronic device or emitter the right to operate the same during the fixed period under certain conditions;

electromagnetic compatibility is the ability of radio electronics and emitters to simultaneously function as effectively as expected under actual operating conditions taking into account action of unintentional radio frequency interferences, without introducing not allowed radio frequency interferences with other radio electronic devices;

conversion of the radio frequency resource of Ukraine is carrying out a set of measures aimed at changing radio services and/or radio technologies or a category of users of the radio frequency resource of Ukraine in order to subsequently use certain bandwidth(s) of radio frequencies;

use of radio frequency resource is activities involving use of radio electronics and/or emitters that emit electromagnetic energy into the environment within the radio frequency resource;

user of radio frequency resource is a legal entity or individual whose activities involve using the radio frequency resource in accordance with the law;

license for use of the radio frequency resource of Ukraine is a document proving the economic subject's right to use the radio frequency resource of Ukraine during the fixed period in specific regions and within certain bandwidths, nominal radio frequencies under license conditions;

National Radio Frequency Allocation Table of Ukraine (803-95-p) is a regulatory and legal act regulating the allocation of radio bandwidths to radio services in Ukraine and division into special and civil bandwidths;

Plan for the Use of Radio Frequency Resource of Ukraine is a regulatory and legal act setting objectives of the current and prospective use of the radio frequency resource of Ukraine, along with specifying certain bandwidths, nominal radio frequencies and radio technologies permitted in Ukraine, and fixing dates of applying the current and prospective radio technologies;

assignment of bandwidths and nominal radio frequencies is registration of the permit to operate radio electronic devices and emitters in the register of bandwidths and nominal radio frequencies along with specifying a bandwidth, nominal radio frequencies, emission parameters and conditions of operating the specific radio electronic device;

radio frequency interferences are electromagnetic radiation of any origin that hampers reception of radio signals;

radio communication is electronic communication using radio waves;

radio electronic device is a device designed for radio services to transmit and/or receive radio signals;

special radio electronic device is a radio electronic device designed for carrying out activities by special users in line with their functions;

radio services are services specified by the Radio Regulations of the International Telecommunication Union, that transmit and/or receive radio waves using certain radio electronic devices of users of the radio frequency resource;

radio technology is a set of techniques to form, transmit, receive (process) radio signals, that constitute a single process for transmission and reception of radio signals and are to be applied using the radio frequency resource;

radio frequency is an electromagnetic wave travelling without man-made directing medium, that has a frequency within the radio frequency spectrum;

radio frequency monitoring is collecting, processing, storing and analysing data on radiation parameters of radio electronic devices and emitters functioning within the corresponding bandwidths;

radio frequency resource is an element of the radio frequency spectrum that can be used to transmit and/or receive electromagnetic energy with radio electronic devices in the territory of Ukraine and outside the same in accordance with laws of Ukraine and international law, as well as using orbital frequency positions allotted to Ukraine;

radio frequency spectrum is a continuous radio frequency interval up to 3 THz;

bandwidth allocation is regulating the use of a preset bandwidth by one or several radio services by entering the relevant record in the National Radio Frequency Allocation Table of Ukraine;

bandwidth is an element of the radio frequency spectrum characterised by a radio frequency interval.

## **Article 2. Objective of the Law**

The Law is aimed at creating the legal framework for effective and rational use of the radio frequency resource of Ukraine in order to promote economic, social, information and cultural development, national security, defensive strength, meeting international commitments.

### **Article 3.** Legislation on the radio frequency resource of Ukraine

Legislation on the radio frequency resource of Ukraine consists of this Law and other regulatory and legal acts regulating relations in this area.

### **Article 4.** Scope of the Law

This Law applies to relations between public authorities of Ukraine, individuals and legal entities regarding allocation and allotment of bandwidths, assignment of radio frequencies to radio electronic devices, use of the radio frequency resource of Ukraine, promoting conversion of the radio frequency resource of Ukraine, electromagnetic compatibility.

## **Section II**

### **USERS OF RADIO FREQUENCY RESOURCE OF UKRAINE**

### **Article 5.** Categories of users of radio frequency resource of Ukraine

1. Depending on areas of its use, users of the radio frequency resource of Ukraine are divided into special and general.
2. Special users of the radio frequency resource of Ukraine include subdivisions and organisations of the Ministry of Defence of Ukraine, Security Service of Ukraine, Ministry of Internal Affairs of Ukraine, Ministry of Emergencies and for Elimination of Chernobyl Aftermath of Ukraine, Administration of State Border Guard Service of Ukraine, Department of the State Guard of Ukraine, State Penitentiary Department, State Tax Administration of Ukraine (as far as tax police uses radio electronic devices), if their activities involve using radio electronic devices only in order to perform their functions and subject to their financing by the State Budget of Ukraine, as well as those of the Ministry of Transport and Communications of Ukraine as far as they use radio electronics of the integrated civil and military air traffic system of Ukraine and control flights.
3. General users of the radio frequency resource of Ukraine include users outside the list specified in this article, part two.
4. General users of the radio frequency resource of Ukraine are split into the following groups:

- 1) economic subjects using the radio frequency resource of Ukraine in order to provide telecommunication services, except broadcast television and radio programmes;
- 2) economic subjects that broadcast television and radio programmes using their own or rented radio electronic devices;
- 3) legal entities or individual technological users and radio amateurs using the radio frequency resource of Ukraine without providing telecommunication services.

**Article 6. Rights and obligations of users of the radio frequency resource of Ukraine**

1. Users of the radio frequency resource of Ukraine have the right:

- 1) to use the radio frequency resource of Ukraine in accordance with this and other regulatory and legal acts;
- 2) to legally appeal against decisions and actions of the National Commission for Communications Regulation (hereinafter - NCCR), General Staff of the Armed Forces of Ukraine, State Inspection of Communications (hereinafter - SIC) and State Enterprise “The Ukrainian State Centre of Radio Frequencies” (hereinafter - UCRF);
- 3) compensation as a result of illegal actions or negligence of NCCR, General Staff of the Armed Forces of Ukraine, the SIC and the UCRF;
- 4) to act in other ways as specified by the legislation of Ukraine.

2. Users of the radio frequency resource of Ukraine are obliged:

- 1) to adhere to standards, norms and rules of using the radio frequency resource of Ukraine;
- 2) to adhere to conditions of licenses for use of the radio frequency resource of Ukraine and operation permits;
- 3) to notify NCCR or the General Staff of the Armed Forces of Ukraine about termination of use of the radio frequency resource of Ukraine by general and special users;
- 4) to provide the SIC or the General Staff of the Armed Forces of Ukraine with information on performance characteristics, use, installation of radio electronic devices and emitters, as well as, upon their request, present the relevant licenses, permits, certificates and other documents related to using the radio frequency resource of Ukraine by general and special users;

5) to effect payments and pay fees under the law, as well as pay for radio frequency monitoring over civil bandwidths as established by NCCR.

3. Special users are obliged to use the radio frequency resource of Ukraine only to perform their functions, without using the same in order to carry out business activities and/or transfer to others.

#### **Article 7. Responsibility of users of the radio frequency resource of Ukraine**

1. For untimely transferring the fee for the use of the radio frequency resource of Ukraine to the budget, a penalty is charged under the legislation.

2. Paying the penalty does not release the user of the radio frequency resource of Ukraine from paying the fee for the total bandwidth(s).

3. In the event of detecting any violation of requirements to electromagnetic compatibility of the corresponding radio electronic devices by a user of the radio frequency resource of Ukraine that uses these radio electronic devices, all costs of eliminating the situation that came to exist are charged to this user.

### **Section III**

#### **STATE MANAGEMENT OVER RADIO FREQUENCY RESOURCE OF UKRAINE**

#### **Article 8. Principles of management over the radio frequency resource of Ukraine**

The basic principles of management over the radio frequency resource of Ukraine are as follows:

1) determining the radio frequency resource meeting Ukraine's requirement, its registration and international protection;

2) ensuring maximum and effective use of the radio frequency resource of Ukraine;

3) promoting and protecting citizens' interests, rights and freedoms in the process of using the radio frequency resource of Ukraine;

4) promoting and protecting national interests;

5) clear delimiting the radio frequency resource of Ukraine for special and general users.

#### **Article 9. Management authorities in the area of using the radio frequency resource of Ukraine**

State management in the area of using the radio frequency resource of Ukraine is carried out by:

- 1) the Cabinet of Ministers of Ukraine;
- 2) central body of executive power on communications (hereinafter - CBEC).

**Article 10.** Authorities of the Cabinet of Ministers of Ukraine in managing the use of the radio frequency resource of Ukraine

The Cabinet of Ministers of Ukraine:

- 1) approves the National Radio Frequency Allocation Table and the Plan for the Use of Radio Frequency Resource of Ukraine;
- 2) co-ordinates activities of central executive authorities in the area of managing and use of the radio frequency resource of Ukraine;
- 3) ensures conversion of the radio frequency resource of Ukraine as extensive and within the time frame as specified by the Plan for the Use of Radio Frequency Resource of Ukraine;
- 4) fixes fees for the use of the radio frequency resource of Ukraine;
- 5) fixes charges for issue, reissuing, extension the period of validity, issue of duplicates of licenses for use of the radio frequency resource of Ukraine.

**Article 11.** Authorities of the central body of executive power on communications in managing the use of the radio frequency resource of Ukraine

The central body of executive power on communications:

- 1) co-ordinates carrying out the public policy in the area of use of the radio frequency resource of Ukraine;
- 2) jointly with NCCR, determines the radio frequency resource meeting Ukraine's requirements, according to the international law carries out activities aimed at its registration and protection at the international level;
- 3) participates in creating state standards for use of the radio frequency resource of Ukraine;
- 4) based on proposals of and jointly with NCCR, National Television and Radio Broadcasting Council of Ukraine, General Staff of the Armed Forces of Ukraine, other stakeholders, develops the National Radio Frequency Allocation Table of

Ukraine and the Plan for the Use of Radio Frequency Resource of Ukraine and submits these documents to the Cabinet of Ministers of Ukraine for approval;

5) presents the Cabinet of Ministers of Ukraine with proposals on amending the National Radio Frequency Allocation Table of Ukraine (803-95-p) and the Plan for the Use of Radio Frequency Resource of Ukraine;

6) drafts laws, other regulatory and legal acts on regulating the use of the radio frequency resource of Ukraine;

7) develops and approves other regulatory and legal acts within its competence, dealing with the use of the radio frequency resource of Ukraine;

8) organises research into and develops recommendations as to effective use of the radio frequency resource of Ukraine;

9) approves thematic plans of R&D activities aimed at allocation, allotment and assignment of radio frequencies, their international legal protection, ensuring electromagnetic compatibility of radio electronic devices, promoting functioning of the radio frequency monitoring system, provides opinions as to appropriateness of carrying out and financing these activities;

10) functions as the Administration of Communications of Ukraine in order to perform functions of Ukraine as a member state of the International Telecommunication Union, is responsible for meeting Ukraine's commitments under the Constitution (995\_099) and the Convention of the International Telecommunication Union (995\_100) and obligations laid down by administrative rules, as well as interaction and co-operation with bodies functioning as communication administrations of foreign countries;

11) represents interests of Ukraine with other world, European and regional radio frequency resource organisations;

12) participates in drafting international treaties of Ukraine regulating the use of the radio frequency resource;

13) executes other authorities under the legislation.

#### **Section IV**

#### **REGULATION IN THE AREA OF USE OF RADIO FREQUENCY RESOURCE OF UKRAINE**

**Article 12.** Regulator in the area of use of the radio frequency resource of Ukraine

1. Use of the radio frequency resource of Ukraine is subject of state regulation.

2. The regulator in the area of use of the radio frequency resource of Ukraine is the National Commission for Communications Regulation (NCCR) established in accordance with the Law of Ukraine “On Telecommunications” (1280-15).

**Article 13.** Basic principles of regulation in the area of use of the radio frequency resource of Ukraine

1. Basic principles of regulation in the area of use of the radio frequency resource of Ukraine are as follows:

- 1) ensuring effective use of the radio frequency resource of Ukraine in interests of all categories of users;
- 2) providing equal conditions of obtaining the radio frequency resource of Ukraine on the transparent and indiscriminating basis;
- 3) ensuring and protecting national interests;
- 4) legal regulation in the area of use of the radio frequency resource of Ukraine;
- 5) transparency, accountability of regulation in the area of use of the radio frequency resource of Ukraine;
- 6) stimulation of competition in the interests of the society subject to effective use of the radio frequency resource of Ukraine;
- 7) ensuring electromagnetic compatibility of radio electronic devices.

**Article 14.** NCCR's regulatory authorities in the area of use of the radio frequency resource of Ukraine

1. NCCR executes its responsibilities within civil bandwidths.

2. NCCR's regulatory authorities in the area of use of the radio frequency resource of Ukraine are as follows:

- 1) licensing in the area of use of the radio frequency resource of Ukraine in accordance with this Law;
- 2) developing and approving regulatory and legal acts (rules, provisions, standards) regulating the use of the radio frequency resource of Ukraine;
- 3) sending proposals to the CBEC and participation in developing the National Radio Frequency Allocation Table of Ukraine (803-95-p) and the Plan for the Use of Radio Frequency Resource of Ukraine as required by this Law;

- 4) agreeing the draft National Radio Frequency Allocation Table of Ukraine and the Plan for the Use of Radio Frequency Resource of Ukraine as required by this Law;
- 5) developing proposals as to fixing monthly fees for the use of the radio frequency resource of Ukraine, charges for the issue, reissuing, extension period of validity, issue of the duplicate of license for use of the radio frequency resource of Ukraine and presenting the same to the Cabinet of Ministers of Ukraine for approval;
- 6) fixing charges for the issue of operation permits;
- 7) fixing charges for the UCRF's works (services);
- 8) co-ordinating and controlling state supervision over the use of the radio frequency resource of Ukraine;
- 9) control over radio frequency monitoring;
- 10) establishing the procedure of selling and operating radio electronic devices and emitters in the territory of Ukraine and the procedure of their importing;
- 11) co-ordinating activities related to confirming conformance of radio electronic devices and emitters manufactured in Ukraine and brought from abroad;
- 12) control over implementing the Plan for the Use of Radio Frequency Resource of Ukraine;
- 13) jointly with the CBEC, carrying out conversion of the radio frequency resource of Ukraine within civil bandwidths;
- 14) jointly with the CBEC and the General Staff of the Armed Forces of Ukraine, carrying out conversion of the radio frequency resource of Ukraine within special bandwidths;
- 15) applying sanctions, including penalties, as established by the legislation;
- 16) participation in drafting laws and other regulatory and legal acts;
- 17) presenting proposals to the draft Law of Ukraine on the State Budget of Ukraine as to financing activities aimed at international legal protection of interests of Ukraine, conversion of the radio frequency resource of Ukraine, effective allocation of the radio frequency resource of Ukraine, allotment and assignment of radio frequencies, ensuring electromagnetic compatibility of radio electronic devices and functioning of the radio frequency monitoring system;
- 18) analysing application of laws, other regulatory instruments dealing with the use of the radio frequency resource of Ukraine;

19) agreeing thematic plans of R&D activities aimed at allocation, allotment and assignment of radio frequencies, their international legal protection, ensuring electromagnetic compatibility of radio electronic devices, promoting functioning of the radio frequency monitoring system;

20) ensuring international co-ordination and international protection of frequency assignments of Ukraine, participation in activities of the International Telecommunication Union and other international organisations within NCCR's competence, organising carrying out their decisions following the established procedure, participation in drafting the relevant international treaties of Ukraine;

21) management and control over the SIC and the UCRF's activities as required by this Law;

22) executes other authorities under the law.

#### **Article 15.** State Inspection of Communications

1. The State Inspection of Communications is set up in accordance with the Law of Ukraine “On Telecommunications” (1280-15) and this Law.

2. The SIC executes the following authorities and is responsible for:

1) state supervision over the use of the radio frequency resource of Ukraine and preventing offences as using civil bandwidths;

2) preparing materials for NCCR to make decisions based on results of inspections;

3) as established by the law, making administratively liable violators of the law on the radio frequency resource of Ukraine;

4) executes other authorities under the law.

3. The SIC has the right to receive from the UCRF all materials required for the SIC to carry out its functions and authorities.

4. The SIC acts based on the provision establishing NCCR.

#### **Article 16.** The State Enterprise “The Ukrainian State Centre of Radio Frequencies”

1. The State Enterprise “The Ukrainian State Centre of Radio Frequencies” is set up in accordance with the law. The UCRF is controlled by NCCR and carries out its activities based on the statute approved by NCCR.

2. The UCRF's authorities extend over users of the radio frequency resource of Ukraine within civil bandwidths.

3. The UCRF carries out the following activities:

1) assigning radio frequencies, issuing operation permits, assigning call signs to radio electronic devices for civil bandwidths;

2) keeping register of radio frequency assignments;

3) carrying out radio frequency monitoring of the use of the radio frequency resource of Ukraine under this Law;

4) carrying out measures aimed at ensuring electromagnetic compatibility of radio electronic devices and emitters;

5) carrying out measures aimed at detecting and eliminating action of sources of radio frequency interferences;

6) preparing opinions for NCCR to make the appropriate decisions to issue licenses for use of the radio frequency resource of Ukraine;

7) preparing opinions as to the possibility and conditions of using the radio frequency resource of Ukraine by television and radio broadcasters for the National Television and Radio Broadcasting Council of Ukraine;

8) issuing permits to bring from abroad and sell radio electronic devices and emitters;

9) carrying out other activities involving the use of the radio frequency resource of Ukraine, in accordance with the UCRF's statute.

4. The UCRF carries out works and provides services on the contractual basis. The list of the UCRF's works and services, as well as charges for the same is approved by NCCR as established.

5. Detailed information of the UCRF's works and services, as well as charges for the same is published in NCCR's official gazette and on its web site.

6. Commissioned by NCCR, the UCRF participates in supervision over the use of the radio frequency resource.

7. Commissioned by NCCR, the UCRF internationally protects and co-ordinates radio frequencies, participates in activities of the International Telecommunication Union.

**Article 17.** Authorities of the General Staff of the Armed Forces of Ukraine in regulating the use of the radio frequency resource of Ukraine

1. Authorities of the General Staff of the Armed Forces of Ukraine extend over special bandwidths.

2. The General Staff of the Armed Forces of Ukraine:

1) participates in developing the National Radio Frequency Allocation Table of Ukraine (803-95-p) and the Plan for the Use of Radio Frequency Resource of Ukraine under this Law;

2) agrees the draft National Radio Frequency Allocation Table of Ukraine and the Plan for the Use of Radio Frequency Resource of Ukraine as required by this Law;

3) ensures assignment of radio frequencies and call signs for special bandwidths;

4) organises carrying out activities aimed at conversion of the radio frequency resource of Ukraine within special bandwidths;

5) issues special users permits to import special radio electronic devices and emitters;

6) carries out activities aimed at ensuring electromagnetic compatibility;

7) carries out state supervision and radio frequency monitoring over the use of the radio frequency resource of Ukraine within special bandwidths;

8) keeps the register of radio frequency assignments for special bandwidths and registers assignment for civil bandwidths in order to work out mobilisation plans;

9) participates in international co-operation activities in the area of the use of the radio frequency resource of Ukraine within special bandwidths;

10) develops and approves regulatory and legal acts (rules, provisions, standards) dealing with the use of the radio frequency resource of Ukraine within special bandwidths;

11) participates in drafting laws and other regulatory and legal acts regulating the use of the radio frequency resource of Ukraine by special users;

12) approves thematic plans of R&D activities aimed at allocation, allotment and assignment of radio frequencies, their international legal protection, ensuring electromagnetic compatibility of radio electronic devices, promoting functioning of the radio frequency monitoring system for special users;

13) develops proposals as to the use of the radio frequency resource of Ukraine in emergencies and under military law, and, if required, presents the same to the Cabinet of Ministers of Ukraine, the CBEC and NCCR;

14) co-ordinates activities of radio frequency bodies of special users of the radio frequency resource of Ukraine.

**Article 18.** State supervision over the use of the radio frequency resource of Ukraine

1. State supervision over the use of the radio frequency resource of Ukraine is a set of measures ensuring the use of the radio frequency resource of Ukraine in accordance with the legislation. The procedure of carrying out state supervision over civil bandwidths is approved by NCCR.

2. Objective of the state supervision over the use of the radio frequency resource of Ukraine is to ensure adherence to the established procedure of using the radio frequency resource of Ukraine, respecting national and citizens' interests and security by users of the radio frequency resource of Ukraine, ensure electromagnetic compatibility of any radio electronic devices, and prevent offences when using the radio frequency resource of Ukraine.

3. State supervision over the use of the radio frequency resource of Ukraine is carried out by the SIC and the General Staff of the Armed Forces of Ukraine within their competences under the law and as established by the same.

4. As carrying out the state supervision, officials of the SIC and the General Staff of the Armed Forces of Ukraine have the right:

1) legally enter the territory and premises of general and special users of the radio frequency resource of Ukraine respectively in order to inspect the use of their radio electronic devices, and if the mentioned devices and/or HF equipment located in their premises produce radio frequency interferences;

2) to check adhering to legal requirements to the use of the radio frequency resource of Ukraine by legal entities and individuals, receive required explanations, materials and information from the same;

3) within their competences, to issue binding instructions (orders) as to eliminating violations and failures in using the radio frequency resource of Ukraine;

4) to legally draw up protocols recording perpetration of administrative offences as using the radio frequency resource of Ukraine.

**Article 19.** Radio frequency monitoring

1. Radio frequency monitoring is carried out in order to protect radio frequency assignments, determine the available radio frequency resource of Ukraine, effectively use allocated bandwidths and develop scientifically justified recommendations to make the appropriate decisions on improving effectiveness of the use and meet requirements of users of the radio frequency resource of Ukraine.
2. Radio frequency monitoring is carried out by the UCRF and the General Staff of the Armed Forces of Ukraine over civil and special bandwidths respectively.
3. The UCRF and the General Staff of the Armed Forces of Ukraine form databases of radio frequency assignments in Ukraine used to allocate radio frequencies, supervise their use, promote bandwidth conversion.
4. Radio frequency monitoring of civil bandwidths is carried out on the paid basis as established by NCCR. Radio frequency monitoring special bandwidths is carried out using resources of the State Budget of Ukraine.
5. Based on the results of radio frequency monitoring, the UCRF presents NCCR with the relevant proposals as to effective use of allocated bandwidths and amendments to the Plan for the Use of Radio Frequency Resource of Ukraine and the National Radio Frequency Allocation Table of Ukraine.

**Article 20.** The National Radio Frequency Allocation Table of Ukraine

1. The National Radio Frequency Allocation Table of Ukraine (803-95-p) regulates allocation of bandwidths to radio services in Ukraine and identifies special and civil bandwidths.
2. The National Radio Frequency Allocation Table of Ukraine (803-95-p) is developed by the CBEC based on the Radio Regulations of the International Telecommunication Union, using proposals of and jointly with NCCR, the National Television and Radio Broadcasting Council of Ukraine, the General Staff of the Armed Forces of Ukraine, other authorities concerned. The CBEC submits the mentioned Table (803-95-p) for approval by the Cabinet of Ministers of Ukraine following its agreeing with NCCR, the National Television and Radio Broadcasting Council of Ukraine and the General Staff of the Armed Forces of Ukraine. If some provisions of the National Radio Frequency Allocation Table of Ukraine (803-95-p) fail to be agreed, the Cabinet of Ministers of Ukraine considers alternative proposals of stakeholders and makes the appropriate decision. To consider approval of the National Radio Frequency Allocation Table of Ukraine (803-95-p) at a session of the Cabinet of Ministers of Ukraine, members of NCCR, the National Television and Radio Broadcasting Council of Ukraine and representatives of the General Staff of the Armed Forces of Ukraine are to be invited.

3. The National Radio Frequency Allocation Table of Ukraine (803-95-p) regulates:

1) allocation of bandwidths between radio services in accordance with the Radio Regulations of the International Telecommunication Union;

2) allocation of bandwidths between radio services in Ukraine;

3) division of bandwidths into special and civil ones.

4. The National Radio Frequency Allocation Table of Ukraine (803-95-p) is amended as established by this Law for its development and approval.

5. Taking into account interests of Ukraine, the CBEC organises activities aimed at approximating allocation of bandwidths according to the National Radio Frequency Allocation Table of Ukraine (803-95-p) with bandwidth allocation recommended by the International Telecommunication Union and EU.

6. The CBEC publishes the National Radio Frequency Allocation Table of Ukraine (803-95-p) in NCCR's official gazette and on its web site.

**Article 21.** The Plan for the Use of Radio Frequency Resource of Ukraine

1. The radio frequency resource of Ukraine is used in accordance with the Plan for the Use of Radio Frequency Resource of Ukraine.

2. The Plan for the Use of Radio Frequency Resource of Ukraine shall conform with the National Radio Frequency Allocation Table of Ukraine, interests of Ukraine in the area of the use of the radio frequency resource of Ukraine, its defensive strength and security, take into account recommendations of the International Telecommunication Union, European Conference of Postal and Telecommunications Administrations (CEPT), other international organisations whose member Ukraine is or intends to become, and provide for allotment of radio frequencies to specified radio technologies.

3. The Plan for the Use of Radio Frequency Resource of Ukraine regulates:

1) the list of radio technologies applied in Ukraine, along with identifying bandwidths and corresponding radio services, as well as deadlines of their development and application;

2) the list of radio technologies to be applied in Ukraine in the future, along with identifying bandwidths and corresponding radio services, as well as time frame of their application.

4. The Plan for the Use of Radio Frequency Resource of Ukraine is a permanent regulatory and legal act approved by the Cabinet of Ministers of Ukraine as requested by the CBEC.

5. The Plan for the Use of Radio Frequency Resource of Ukraine is developed by the CBEC in accordance with the National Radio Frequency Allocation Table of Ukraine (803-95-p), based on proposals of and jointly with NCCR, the National Television and Radio Broadcasting Council of Ukraine, the General Staff of the Armed Forces of Ukraine, other authorities concerned, as well as public organisations that use the radio frequency resource of Ukraine and other economic subjects. The CBEC submits the mentioned Plan for approval by the Cabinet of Ministers of Ukraine following its agreeing with NCCR, the National Television and Radio Broadcasting Council of Ukraine and the General Staff of the Armed Forces of Ukraine. If some provisions of this Plan fail to be agreed, the Cabinet of Ministers of Ukraine considers alternative proposals of stakeholders and makes the appropriate decision. To consider approval of the Plan for the Use of Radio Frequency Resource of Ukraine at a session of the Cabinet of Ministers of Ukraine, members of NCCR, the National Television and Radio Broadcasting Council of Ukraine and a representative of the General Staff of the Armed Forces of Ukraine are to be invited.

6. The Plan for the Use of Radio Frequency Resource of Ukraine is revised at least once per year. The Plan is amended if required, as established by this Law for development and approval of the Plan.

7. The CBEC considers proposals as to amendments to the Plan for the Use of Radio Frequency Resource of Ukraine and presents the same along with its opinion to the Cabinet of Ministers of Ukraine within one month of receiving of the proposals.

8. The Cabinet of Ministers of Ukraine considers the proposals as to amendments to the Plan for the Use of Radio Frequency Resource of Ukraine submitted by the CBEC within one month of the date of their submission.

9. The procedure and time frame of developing the Plan for the Use of Radio Frequency Resource of Ukraine are set by the Cabinet of Ministers of Ukraine as required by this Law.

10. The Plan for the Use of Radio Frequency Resource of Ukraine shall conform with Ukraine's concerns over national defensive strength and security, development of the telecommunications market, television and radio space, application of advanced technologies, and take into account recommendations of the Radio Regulations of the International Telecommunication Union and EU directives.

11. Control over implementing the Plan for the Use of Radio Frequency Resource of Ukraine imposes on NCCR.

**Article 22.** Conversion of radio frequency resource of Ukraine

1. Conversion of radio frequency resource of Ukraine involves a set of measures aimed at release of a part of the radio frequency resource of Ukraine (radio frequencies and/or bandwidths) to be further used by users of other categories and/or in order to apply other standards and technologies.

2. Conversion of radio frequency resource of Ukraine is carried out as a component of and in accordance with the Plan for the Use of Radio Frequency Resource of Ukraine, as well as based on the state's strategic goals of adoption of advanced telecommunications and information technologies.

3. The Cabinet of Ministers of Ukraine co-ordinates activities aimed at conversion of the radio frequency resource of Ukraine and is responsible for carrying out the conversion to the extent and within a time frame set by the Plan for the Use of Radio Frequency Resource of Ukraine.

4. The General Staff of the Armed Forces of Ukraine, the CBEC and NCCR ensure carrying out conversion of the radio frequency resource of Ukraine within special bandwidths and are responsible for carrying out the conversion to the extent and within a time frame set by the Plan for the Use of Radio Frequency Resource of Ukraine.

5. Conversion of radio frequency resource of Ukraine within special bandwidths is carried out using resources of the State Budget of Ukraine. In order to carry out the conversion of radio frequency resource of Ukraine, the Cabinet of Ministers of Ukraine can use additional off-budget means. Finance to carry out conversion of radio frequency resource of Ukraine within special bandwidths is a separate item of the State Budget of Ukraine.

6. The CBEC and NCCR ensure carrying out conversion of the radio frequency resource of Ukraine within civil bandwidths.

7. Radio frequencies and/or bandwidths released as a result of conversion are used in accordance with this Law.

**Article 23.** Assignment of radio frequencies (bandwidths)

1. Radio frequencies (bandwidths) are assigned in accordance with the Plan for the Use of Radio Frequency Resource of Ukraine.

2. The UCRF assigns radio frequencies (bandwidths) to radio electronic devices and emitters within civil bandwidths. The General Staff of the Armed Forces of

Ukraine assigns radio frequencies (bandwidths) to radio electronic devices and emitters within special bandwidths.

3. Radio frequencies (bandwidths) are assigned subject to electromagnetic compatibility of radio electronic devices and emitters to receive the same with operating radio electronic devices of different user categories that have already received the same.

4. Assignments of radio frequencies (bandwidths) for civil bandwidths are entered by the UCRF in the register of assignments of radio frequencies, and within three business days are published on NCCR's web site. The register of assignments of radio frequencies (bandwidths) is quarterly published in NCCR's official gazette.

5. Assignments of radio frequencies (bandwidths) for special bandwidths are registered by the General Staff of the Armed Forces of Ukraine.

6. The General Staff of the Armed Forces of Ukraine and the UCRF quarterly exchange their registers of assignments of radio frequencies (bandwidths).

7. Assignments of radio frequencies (bandwidths) can be cancelled based on cancelling the relevant operation permits for radio electronic devices and emitters under this Law.

**Article 24.** Authorities of the National Television and Radio Broadcasting Council of Ukraine in regulating the use of the radio frequency resource of Ukraine

The National Television and Radio Broadcasting Council of Ukraine:

1) presents proposals as to the National Radio Frequency Allocation Table of Ukraine (803-95-p) and the Plan for the Use of Radio Frequency Resource of Ukraine and participates in developing these documents based on television and radio broadcasting demands;

2) agrees the draft National Radio Frequency Allocation Table of Ukraine and Plan for the Use of Radio Frequency Resource of Ukraine with respect to television and radio broadcasting as required by this Law;

3) in accordance with the legislation on the radio frequency resource of Ukraine, identifies users of the radio frequency resource of Ukraine within bandwidths allotted to television and radio broadcasters;

4) orders the development opinions as to electromagnetic compatibility of radio electronic devices.

## **Section V**

### **RADIO ELECTRONIC DEVICES AND EMITTERS IN THE AREA OF USE OF RADIO FREQUENCY RESOURCE OF UKRAINE**

**Article 25.** Conditions of using radio electronic devices and emitters in the territory of Ukraine

1. Conditions of using radio electronic devices and emitters in the territory of Ukraine are as follows:

1) entering the specific type of radio electronic devices and emitters in the register of radio electronic devices and emitters that can be used in the territory of Ukraine;

2) documenting their conformance to the standards (certificate of conformance).

2. Conformance of radio electronic devices and emitters is confirmed in accordance with the Law of Ukraine “On Confirmation of Conformance” (2406-14) by duly accredited bodies authorised to carry out these activities, whose list is approved by NCCR.

3. The register of radio electronic devices and emitters that can be used in the territory of Ukraine within civil bandwidths is kept by NCCR that, at least two times per year, publishes this register in its official gazette.

4. Using unregistered radio electronic devices and emitters shall be approved by NCCR.

5. The register of radio electronic devices and emitters that can be used in the territory of Ukraine within civil bandwidths can be modified based on applications of legal entities and individuals whose form is established by NCCR.

6. Within 60 days of the date of receiving the application for entering in the register of radio electronic devices and emitters that can be used in the territory of Ukraine within civil bandwidths, NCCR makes the decision to enter in the same the applicants' radio electronic devices and emitters or refuse the same. If a positive decision is made, the applicants' radio electronic devices and emitters shall be entered in the register within the specified period. Information on the positive decision is to be published on NCCR's web site within three days.

7. The register of radio electronic devices and emitters that can be used in the territory of Ukraine within special bandwidths is kept by the General Staff of the Armed Forces of Ukraine.

**Article 26.** Identification of the possibility of using radio electronic devices and emitters in the territory of Ukraine

1. The possibility of using radio electronic devices and emitters in the territory of Ukraine is established based on the following basic principles:

1) using radio electronic devices in order of adoption of radio technologies in accordance with the Plan for the Use of Radio Frequency Resource of Ukraine;

2) ensuring electromagnetic compatibility;

3) prioritised use of advanced domestic, European and world types of radio electronic devices, aimed at applying robust radio technologies.

2. The decision on the possibility of using radio electronic devices and emitters in the territory of Ukraine is made by NCCR based on consideration of the application for the use of specific types of radio electronic devices and emitters. The application form is established by NCCR.

3. The applicant can be an economic subject planning Ukrainian manufacture or import of radio electronic devices and emitters to be applied in radio technologies in accordance with the Plan for the Use of Radio Frequency Resource of Ukraine.

4. In order to obtain NCCR's decision on the possibility of using the specific type of a radio electronic device or emitter in the territory of Ukraine, the applicant submits the following documents:

1) application for studying the possibility of using specific type of radio electronic devices and emitters, using NCCR's form;

2) sheet of performance characteristics of radio electronic devices and emitters, using NCCR's form;

3) explanatory note, using NCCR's form;

4) information on the dates of start of manufacture, selling the applicant's radio electronic device or emitter;

5) additional information on specifications of the applicant's radio electronic device or emitter required to prepare the decision establishing the possibility of their use, as requested by NCCR.

5. The application is rejected, if:

1) documents are submitted contrary to the requirements of this article, part four;

2) radio technology in which the applicant's radio electronic device or emitter is to be used is not specified in the Plan for the Use of Radio Frequency Resource of Ukraine;

3) according to the Plan for the Use of Radio Frequency Resource of Ukraine, period of application of the radio technology in which the applicant's radio electronic device or emitter is to be used expires sooner than in one year.

6. Following registration and consideration of the application, within ten days of the day of the registration, NCCR provides the UCRF with documents submitted by the applicant, in order to conduct technical experts' examination aimed at ensuring electromagnetic compatibility of the applicant's radio electronic device or emitter.

7. Within one month of the day of receiving the documents from NCCR, the UCRF conducts the examination and provides NCCR with the justified opinions as to the possibility or impossibility of using the applicant's radio electronic device or emitter in the territory of Ukraine.

8. If the UCRF believes that the furnished technical information is inadequate to conduct the examination and prepare the opinions, it requests the applicant to provide additional technical information and sends the relevant letter to NCCR. In this case, the period of the examination to be conducted by the UCRF's technical experts is extended proportionally to the time of obtaining the required information.

9. Within one month of the date of receiving the results of the technical experts' examination from the UCRF, NCCR makes the decision on the possibility or impossibility of using the applicant's radio electronic device or emitter in the territory of Ukraine. Within three days of decision-making, the decision is sent to the applicant.

10. Within three business days of making the decision on the possibility or impossibility of using the applicant's radio electronic device or emitter in the territory of Ukraine, NCCR publishes it on its web site.

11. NCCR keeps the register of radio electronic devices and emitters that can be used in the territory of Ukraine within civil bandwidths and publishes the same in its official gazette at least two times per year.

12. Entering specific types of radio electronic devices and emitters in the territory of Ukraine is one of the reasons for assigning radio frequencies, issuing permits to sell and bring them in Ukraine from abroad.

13. The procedure of keeping and form of the register of radio electronic devices and emitters that can be used in the territory of Ukraine within civil bandwidths are established by NCCR, and the General Staff of the Armed Forces of Ukraine when special bandwidths are used.

**Article 27.** Standardisation in the area of the use of the radio frequency resource of Ukraine

1. Standardisation in the area of the use of the radio frequency resource of Ukraine is aimed at creating a single system of state standards and other regulatory documents setting requirements to radio electronic devices and emitters that can be used in the territory of Ukraine, as well as harmonising these requirements with those of international regulatory documents.

2. Requirements of state standards, other regulatory documents to radio electronic devices and emitters that can be used in the territory of Ukraine are binding on all manufacturers and suppliers of radio electronic devices and emitters, R&D organisations, as well as users of the radio frequency resource of Ukraine.

3. State standards are developed and approved in accordance with the standardisation legislation of Ukraine based on international standards and recommendations of international organisations.

4. Standards, norms and rules, the procedure of conducting tests and/or researches in the area of the use of the radio frequency resource of Ukraine developed and/or established by the CBEC are to be published and are obligatory across the territory of Ukraine.

**Article 28.** Metrological assurance in the area of the use of the radio frequency resource of Ukraine

1. Metrological assurance in the area of the use of the radio frequency resource of Ukraine is carried out by the CBEC in order to use single and precision of measurements in accordance with the Law of Ukraine “On Metrology and Metrological Activities” (113/98-VR).

2. The regulatory framework of metrological assurance in the area of the use of the radio frequency resource of Ukraine is state standards, other regulatory documents of the state system for single measurements, and sectoral regulatory documents.

3. Requirements of metrological assurance in the area of the use of the radio frequency resource of Ukraine are binding on users of the radio frequency resource of Ukraine, manufacturers and suppliers of radio electronic devices and emitters, other institutions and organisations that conduct tests of radio electronic devices and emitters.

**Article 29.** Importing radio electronic devices and emitters, their selling and operation

1. Radio electronic devices and emitters are brought from abroad, sold and operated in Ukraine based on permits. The relevant permits are issued by the UCRF as established by NCCR.

2. The list of radio electronic devices and emitters which do not require any permits for importing, selling and operation is established by NCCR.

3. Radio electronic devices and emitters brought from abroad, sold and operated in Ukraine shall be supplied with a document to prove their conformance with the standards.

4. Within its competences, NCCR can implement special measures aimed at preventing the import, sales and operation of radio electronic devices and emitters prohibited in Ukraine.

5. Import, development, modernization, manufacture, selling, purchase, installation and operation of special radio electronic devices and emitters are regulated by the General Staff of the Armed Forces of Ukraine.

## **Section VI**

### **USE OF RADIO FREQUENCY RESOURCE OF UKRAINE**

**Article 30.** Underlying principles for use of the radio frequency resource of Ukraine

1. Underlying principles for use of the radio frequency resource of Ukraine are as follows:

1) approximation of allocation of bandwidths and nominal radio frequencies, as well as conditions of their use in Ukraine to international bandwidth and frequency allocation;

2) openness, objectivity, non-discrimination and transparency of conditions and procedures of planning, allotting and allocating the radio frequency resource of Ukraine;

3) stimulation of competition based on balanced interests of the state, society and users of the radio frequency resource of Ukraine;

4) promoting equality of legal rights and interests of all individuals and legal entities using or intending to use the radio frequency resource of Ukraine.

2. The radio frequency resource of Ukraine is used based on:

1) licenses for use of radio frequency resource of Ukraine and operation permits of economic subjects that use the radio frequency resource of Ukraine in order to provide telecommunications services;

2) broadcasting licenses issued by the National Television and Radio Broadcasting Council of Ukraine, and operation permits of economic subjects that use the radio frequency resource of Ukraine in order to broadcast television and radio programmes;

3) operation permits of special users, technological users and radio amateurs.

3. If the declared demand for the radio frequency resource of Ukraine exceeds the available resource, vacant bandwidths and nominal radio frequencies are provided only based on tenders.

4. The procedure of conducting tenders is established by NCCR subject to the following conditions:

1) notification on tender for obtaining the radio frequency resource of Ukraine are enounced no later than 60 calendar days prior to the day of the tender, and the announcement is to be published in NCCR's official gazette and on its web site;

2) in order to join the tender for obtaining the radio frequency resource of Ukraine, economic subjects notify NCCR about their intention to participate along with submitting documents required by the tendering procedure no later than 30 calendar days prior to the tender;

3) the decision on the tender results is formalised with NCCR's protocol within five business days of the date of tendering and is published in NCCR's official gazette and on its web site.

5. Notification about making the decision based on the tender results is sent (issued) to the aplicant in writing within three business days of the date of its formalisation.

6. The decision on tender results can be appealed against with the court.

7. Using the radio frequency resource of Ukraine by general users within special bandwidths is prohibited.

8. Cordless telephones, mobile terminals, radio microphones, radio controlled toys and other radio electronic devices and emitters whose types are specified by NCCR in the relevant list are operated (used) in the territory of Ukraine and brought from abroad without permits on the free of charge basis.

### **Article 31.** Licenses for use of the radio frequency resource of Ukraine

1. Licenses for use of the radio frequency resource of Ukraine are issued by NCCR to economic subjects that use the radio frequency resource of Ukraine in order to provide telecommunications services.

2. NCCR issues licenses for use of the radio frequency resource of Ukraine simultaneously with issuing the license for activity in the telecommunications area using the radio frequency resource of Ukraine.

3. A telecommunications operator having the appropriate license for activity in the telecommunication area can obtain the license to use additional bandwidths in order to develop its activities under the license for activity in the telecommunication area as established by this Law.

4. Period of validity of the license for use of the radio frequency resource of Ukraine is determined by NCCR, however, it can not be shorter than the period of validity of the relevant license for activity in the telecommunication area using the radio frequency resource of Ukraine, otherwise it shall be at least 5 years.

5. The radio frequency resource of Ukraine is used by television and radio broadcasters based on the broadcasting license, without the license for use of the radio frequency resource of Ukraine.

**Article 32.** Consideration of documents submitted to obtain licenses for use of the radio frequency resource of Ukraine

1. An economic subject intending to carry out activities in telecommunications area involving the use of the radio frequency resource of Ukraine, personally, through a body or individual authorised by the same or with a registered letter containing the list of enclosed elements, applies to NCCR with application for the license for use of the radio frequency resource of Ukraine, using the form established by NCCR.

2. If the activity applied for requires licensing under the Law of Ukraine “On Telecommunications” (1280-15), the mentioned application is submitted or sent to NCCR along with the application for the license of entrepreneurial activity in the telecommunications area. These applications are considered simultaneously.

3. The application shall contain information on bandwidths required to carry out activities in the telecommunications area, as well as dates of starting and effective use of bandwidths applied for.

4. To the application for obtaining the license for use of radio frequency resource of Ukraine, the applicant attaches:

1) copy of the economic subject's state registration certificate or a copy of the certificate of entry in the Single State register of Enterprises and Organisations of Ukraine (v0156202-03) certified by a notary or a body that issued the original document;

2) copies of foundation documents (of legal entities) certified by a notary or a body that issued the original document;

3) duly certified copies of documents proving the economic subject's property right or right to use production spaces;

4) plan for the use of the radio frequency resource of Ukraine drawn up using NCCR's form;

5) documents to confirm financial capabilities and staffing strength to use the radio frequency resource of Ukraine.

5. NCCR is prohibited to demand applicants to submit other documents outside this Law.

6. Following registration of the application, all documents submitted by the applicant are combined to form a separate file.

7. The application for the license for use of the radio frequency resource of Ukraine is rejected, if:

1) the application is submitted (signed) by a person not authorised to the same;

2) the documents are executed contrary to the requirements of this article.

8. If the application for obtaining the license for use of the radio frequency resource of Ukraine is rejected, NCCR informs the applicant about the same in writing along with indicating the reasons within one week of the registration date.

9. If causes of rejecting the application are eliminated, the applicant can apply for the license for use of the radio frequency resource again.

10. The decision to issue or refuse the license for use of the radio frequency resource of Ukraine is made by NCCR within 60 business days of the day of registration of the application. If international co-ordination of radio frequency assignments is required, the period of decision-making is extended proportionally to a period fixed by the Radio Regulations of the International Telecommunication Union or the relevant international treaties.

11. The copy of the decision to issue or refuse the license for the use of the radio frequency resource of Ukraine is sent (issued) to the applicant simultaneously with the copy of the decision to issue or refuse the license for activity in the telecommunications area.

12. If NCCR makes no decision within the period fixed by this Law, the decision to issue the license is deemed made. In this case, NCCR shall unquestionably issue

the license to the applicant within one week, and the applicant has the right to request the UCRF to duly issue operation permits.

13. NCCR publishes the register of issued licenses and information on procedures of issuing licenses for use of the radio frequency resource in its official gazette and on web site.

**Article 33.** Issuing licenses for use of radio frequency resource of Ukraine

1. NCCR shall issue the license for the use of radio frequency resource of Ukraine within three business days of the day of receiving of a document that proves paying the license fee.

2. NCCR records the date of accepting the documents that prove paying the license fee by the applicant in the copy of the list delivered to the applicant as accepting the license application.

3. If the applicant fails to submit the document that proves paying the license fee within 30 calendar days of the day of notifying the applicant about the decision to issue the license for use of the radio frequency resource of Ukraine, NCCR revokes the decision to issue the license or makes the decision to cancel the license.

4. Licenses for use of the radio frequency resource of Ukraine are issued using forms approved by NCCR, which are protected documents of strict accounting.

5. Period of validity of the license for use of radio frequency resource of Ukraine matches that of the license for activity in the telecommunications area.

6. The license for use of the radio frequency resource of Ukraine contains bandwidths to carry out operator's activities, the list of regions where the radio frequency resource of Ukraine is to be used, dates of starting and effective use of the radio frequency resource of Ukraine and a type of radio technology to be applied.

7. Licenses for use of the radio frequency resource of Ukraine issued to the winner of a competition or tender to apply a radio technology of the same type shall contain the same conditions as to bandwidths, dates of their effective use, etc.

8. Information on the issue of the license for use of the radio frequency resource of Ukraine is published in NCCR's official gazette and on its web site.

9. The user of the radio frequency resource of Ukraine can not transfer the rights for use of radio frequency resource of Ukraine to another individual or legal entity.

**Article 34.** Reissuing of the license for use of radio frequency resource of Ukraine

1. The reasons for reissuing of the license are as follows:

- 1) change of the name of a legal entity or an individual that are economic subjects;
- 2) relocation of a legal entity or change of place of residence of an individual that are economic subjects;
- 3) reorganization of a legal entity economic subject as a result of changing its form of incorporation, transformation, merger, affiliation. In this case, the licenses obtained by the telecommunications operator are reregistered as those of its legal successor;
- 4) the economic subject's request to reduce the bandwidth;
- 5) the economic subject's request to decrease the number of regions where it uses the licensed radio frequency resource.

2. If the license is to be reissued, the economic subject shall submit NCCR the application for reissuing the license along with the license to be reissued and the relevant documents or their notarised copies to demonstrate the mentioned changes, within 30 business days.

3. NCCR issues the reissued license using the new form based on changes specified in the application for reissuing of the license or refuses reissuing of the license, when there are no reasons for reissuing or if the submitted documents contain inadequate information. Under this article, part one, paragraphs 1, 2 and 3, the reissued license shall be issued within 10 business days of the date of registering the application and 60 business days, if it is reissued under this article, part one, paragraphs 4 and 5.

4. As reissuing the license, NCCR makes the decision to cancel the reissued license along with correspondingly modifying the license register by the end of the next business day.

5. Period of validity of the reissued license can not exceed that specified in the license that was reissued.

6. The economic subject that filed with NCCR the application for reissuing of the license for the reasons specified in this article, part one, paragraphs 1, 2 and 3, and the relevant documents can use the radio frequency resource of Ukraine based on the NCCR's certificate of acceptance of the application until the issue of the reissued license using the new form or making the decision to refuse reissuing of the license.

7. License not reissued within the fixed deadlines under this article, part one, paragraphs 1, 2 and 3, is invalid.

8. The license under article 38 of this Law, part two, is not to be reissued.

**Article 35.** Issuing duplicate of license for use of the radio frequency resource of Ukraine

1. Reasons for issuing the duplicate of license for use of the radio frequency resource of Ukraine are as follows:

- 1) loss of license;
- 2) damaging the license form.

2. In the event of losing or damaging the license, the user of the radio frequency resource of Ukraine shall apply to NCCR the application for issue of its duplicate. If the license form can not be used as a consequence of its damaging, along with the application to NCCR, the damaged license form is sent.

3. Within five business days of the date of receiving the application, NCCR shall provide the applicant with the duplicate of the lost or damaged license, subject to providing documents to confirm paying for the issue of the duplicate.

4. Period of validity of the duplicate license equals that of the lost or damaged license.

5. When issuing the duplicate license, NCCR makes the decision to cancel the license that has been lost or damaged, along with making the appropriate amendments to the licensing register by the end of the next business day.

6. The user of the radio frequency resource of Ukraine sending the application and the relevant documents to be issued the duplicate of license can carry out its activities until obtaining the duplicate license based on the relevant NCCR's certificate.

**Article 36.** License conditions of using the radio frequency resource of Ukraine

1. License conditions of using the radio frequency resource of Ukraine are a regulatory and legal act containing the list of obligatory requirements.

2. License conditions are established by NCCR.

License conditions shall specify the following:

- 1) bandwidths, nominal radio frequencies;
- 2) a region where it is permitted to use the radio frequency resource of Ukraine;
- 3) radio technology;

4) dates of starting and effective use of the licensed radio frequency resource.

3. The procedure of control over adhering to license conditions of using the radio frequency resource of Ukraine is established by NCCR.

**Article 37.** Extending the period of validity of the license for use of the radio frequency resource of Ukraine

1. If the user of the radio frequency resource of Ukraine intends to extend the period of use of the radio frequency resource of Ukraine specified in the license after its expiration, it shall apply to NCCR the application using NCCR's form, no later than four months prior to expiration of the license.

2. NCCR has no right to refuse extending period of validity of the license, if the licensee meets all license conditions, or if these conditions are not met for reasons beyond the control of the user, except when the Plan for the Use of Radio Frequency Resource of Ukraine provides for no further use of the licensed radio technologies within the licensed bandwidths.

3. The decision to extend the period of validity of the license or refuse the same along with indicating the reasons for the refusal shall be sent to the applicant within 15 business days of the date of registration of the application.

4. NCCR's decision to extend the period of validity of the license is executed using the license form.

5. The license obtained by the winner of a competition or a tender is extended without conducting the same.

6. If the user of the radio frequency resource of Ukraine appeals against NCCR's decision to refuse extending the period of validity of the license for use of the radio frequency resource of Ukraine with the court before expiration of the license, carrying out this decision is suspended until the end of the court proceedings.

**Article 38.** Cancellation of the license for use of the radio frequency resource of Ukraine

1. Reasons for cancelling the license for use of the radio frequency resource of Ukraine are as follows:

1) application of the user of the radio frequency resource of Ukraine to cancel the license;

2) reported detection of inadequate information in documents submitted by the economic subject to obtain the license;

- 3) report establishing the fact of transferring the right for use of the radio frequency resource of Ukraine to another legal entity or individual;
- 4) the user's reported failure to obey the instruction to eliminate violations of license conditions;
- 5) the user's reported refusing entry to the SIC's officials to conduct inspection once again and creating other obstacles to conducting the comprehensive inspection;
- 6) the user's reported violating license conditions once again within the same year;
- 7) decision to revoke state registration of the economic subject that uses the radio frequency resource of Ukraine;
- 8) notarised copy of the death certificate of an individual economic subject.

2. The license is cancelled, if the user:

- 1) fails to start using the licensed radio frequency resource within dates fixed in the license;
- 2) does not use the radio frequency resource determined in licence for over one year;
- 3) does not use the total radio frequency resource determined in licence within dates fixed in the license. In this case, the license can be reissued to permit the use of a bandwidth actually used.

3. In the event of cancelling the license for use of radio frequency resource of Ukraine, the license fee is not returned.

4. Cancellation of the license for use of the radio frequency resource of Ukraine based on the reported detection of inadequate information in documents submitted by the economic subject to obtain the license, report establishing the fact of transferring the right for use the radio frequency resource of Ukraine to another person, reported failure to obey the instruction to eliminate violations of license conditions, the licensee's reported refusing entry to the SIC's representatives to conduct inspection once again and creating other obstacles to conducting the comprehensive inspection is considered subject to prior invitation of the licensee or its representatives.

5. NCCR shall make the decision to cancel the license for use of the radio frequency resource of Ukraine within 20 business days of the date of establishing the reasons for cancelling the license. This decision is delivered or sent with the registered letter to the licensee, along with indicating the reasons within three

business days of the date of decision-making. The decision cancelling the license can be appealed against with the court.

6. When the decision to cancel the license is made, except as provided for by this article, part one, paragraphs 7 and 8, the cancelling decision is to be carried out three months after its becoming effective. Where paragraphs 7 and 8 of this article, part one, are applied, the license is cancelled since the day of decision-making.

7. Except as specified by this article, part one, paragraphs 7 and 8, the decision to cancel the license becomes enforceable ten days after the day of decision-making. If the licensee judicially appeals against this decision within the said period, application of this decision is suspended until the end of court proceedings.

8. The date and the number of the decision cancelling the license are entered in the licensing register by the end of the business day next to the day of its becoming effective.

9. The decision to cancel the license is published by NCCR in its official gazette and on its web site within ten days of its becoming effective.

#### **Article 39.** Obtaining the license for use of additional bandwidth

1. When it is required to obtain an additional bandwidth in order to further develop business activities using the user's radio technology applied, the user apply to NCCR the application for the license for use of the additional bandwidth. The application form is established by NCCR.

2. NCCR considers the application for the license for use of the additional bandwidth and makes the appropriate decision within 60 calendar days of the day of receiving of the application. If international co-ordination of radio frequency assignments is required, the period of the decision-making is extended as fixed by the Radio Regulations of the International Telecommunication Union or the relevant international treaties.

3. If NCCR makes no decision within the period fixed by this Law, the decision to issue the license applied for is deemed made. In this case, NCCR shall unquestionably issue the license to the applicant within one week, and the applicant has the right to request the UCRF to duly issue operation permits for radio electronic devices.

4. Based on the results of consideration of the application for the license for use of the additional bandwidth, NCCR can make the decision to issue the license, refuse the same or conduct a competition or tender for the additional bandwidth. Notification about NCCR's decision is sent (issued) to the applicant within three business days of the day of decision-making. NCCR's decision to refuse the permit to use the additional bandwidth can be appealed against with the court.

5. The additional bandwidth can be provided to a winner of a competition or tender only when it uses the limited radio frequency resource. NCCR announces a competition or tender for the additional bandwidth, if the radio frequency spectrum requested by competitors for the radio frequency resource of Ukraine exceeds that to be allocated.

**Article 40.** Applying new radio technologies on the initiative of the licensee that uses the radio frequency resource of Ukraine ahead of time

1. The state promotes adoption of new radio technologies in the area of telecommunications and use of the radio frequency resource of Ukraine.

2. The user of the radio frequency resource of Ukraine that legally carries out operator's activities within a certain bandwidth and intends to apply a new radio technology using this bandwidth before expiration of the license for use of radio frequency resource of Ukraine files the appropriate application with NCCR. The application form is established by NCCR.

3. The user's application to apply the new technology ahead of time is considered by NCCR within 60 calendar days of the date of registration of the application. If international co-ordination of radio frequency assignments is required, the period of the decision-making is extended as fixed by the Radio Regulations of the International Telecommunication Union or the relevant international treaties. Based on the results of the consideration, NCCR makes a positive decision on applying a new radio technology using the applicant's bandwidth ahead of time, or refuses the same.

4. If the positive decision on applying a new radio technology ahead of time is made, if required, NCCR shall send draft amendments to the Plan for the Use of Radio Frequency Resource of Ukraine to the Cabinet of Ministers of Ukraine that approves the same. If amendments to the Plan for the Use of Radio Frequency Resource of Ukraine are approved, NCCR shall issue new licenses for activity in the telecommunications area and licenses for use of the radio frequency resource of Ukraine within the applicant's bandwidth to the applicant. NCCR shall also issue the mentioned licenses, if applying the new radio technology does not require amendments to the Plan for the Use of Radio Frequency Resource of Ukraine.

5. Period of validity of new licenses for activity in the telecommunications area and licenses for use of the radio frequency resource of Ukraine is fixed by NCCR and can not be shorter than that of the respective preceding licenses.

6. The copy of the positive decision on replacing the radio technology ahead of time or to refuse the same is sent (issued) to the applicant within three business days of the date of decision-making.

7. The decision to refuse adoption of the new radio technology indicates the reasons underlying the refusal.

8. NCCR can refuse it to the applicant, if:

1) the applicant fails to meet conditions of a valid license;

2) the applicant fails to demonstrate its financial and technical ability to apply the new radio technology.

9. After eliminating causes of the refusal, the applicant can file it with NCCR again.

10. NCCR's decision to refuse applying the new radio technology can be appealed against with the court.

11. The procedure of paying for obtaining and issuing the license when new technologies are applied ahead of time is the same as that of paying for the issue of the license for use of the radio frequency resource of Ukraine.

#### **Article 41.** Opinion on electromagnetic compatibility

1. Opinion on electromagnetic compatibility within civil bandwidths is provided by the UCRF as established by NCCR. Opinion on electromagnetic compatibility within special bandwidths is provided by the General Staff of the Armed Forces of Ukraine. Electromagnetic compatibility calculation methods approved by the CBEC are binding on the General Staff of the Armed Forces of Ukraine and the Centre.

2. The opinion entitles to installation of specific radio electronic devices and emitters under the specified conditions.

3. The economic subject intending to operate radio electronic devices or emitters, personally, through a body or individual authorised by the same or with a registered letter containing the list of enclosed elements, files with the UCRF an application for opinion using NCCR's form.

4. The application shall contain radio frequencies (bandwidths) required to operate radio electronic devices, as well as dates of starting and effective use of radio frequencies (bandwidths) applied for.

5. To the application for opinion, the applicant attaches:

1) copy of the economic subject's registration certificate signed and sealed by an officer of the corporate economic subject or economic subject himself when it is an individual, and copy of an identification card of radio amateurs and other individuals;

2) copy of the license for use of the radio frequency resource of Ukraine, if it must be available under the legislation;

3) explanatory note to justify the requirement for a bandwidth, nominal radio frequencies applied for, and provide information on the destination and type of the radio network, type of radio electronic devices planned to be used in the radio network, their parameters. The explanatory note also provides, if any, information on the servicing zone and indicative frequency plan;

4) scheme of planned radio communications;

5) copies of 1:200,000 or 1:100,000 maps displaying locations of radio electronic devices.

6. Opinion on electromagnetic compatibility of radio electronic devices is furnished as requested by the National Television and Radio Broadcasting Council of Ukraine. The request is attached with an application whose form is established by NCCR.

7. The application for opinion is rejected, if:

1) the application is filed (signed) by a person not authorised to the same;

2) not all documents under this article are submitted;

3) the documents are executed contrary to the requirements of this article;

4) radio electronic devices planned to be used by the applicant are outside the register of radio electronic devices permitted to be used in Ukraine;

5) radio electronic devices planned to be used by the applicant are not supplied with a legal document to confirm conformance;

6) the Plan for the Use of Radio Frequency Resource of Ukraine does not specify the applicant's radio technology for the bandwidth.

8. If the application for opinion is rejected, the UCRF informs the applicant of the same in writing along with indicating the reasons within one week of the date of registration of the application.

9. When causes of rejecting the application are eliminated, the applicant can file new application for opinion on electromagnetic compatibility of radio electronic devices and emitters.

10. The time frame of providing the opinion to the applicant shall not exceed 30 days of the date of registration of the application without taking into account the

period of agreeing and international co-ordination of frequency assignments applied for. If it is required to agree it with the General Staff of the Armed Forces of Ukraine, the period of issuing the opinion shall not exceed 80 days. If international co-ordination is required, the period of issuing the opinion is extended as fixed by the Radio Regulations of the International Telecommunication Union or the relevant international treaties.

11. If, based on the results of consideration of the relevant application, electromagnetic compatibility can not be ensured, the UCRF provides the applicant with written justification of the refusal.

12. The opinion is refused, if:

1) results of international co-ordination are negative;

2) conditions of electromagnetic compatibility within the frequencies applied for with operating or planned radio electronic devices are not met.

13. The UCRF has the right to obtain the applicant's additional information on points within its competence arising from consideration of the application, and extend the period of preparation of the opinion as consented to by the applicant.

14. Period of validity of the opinion is 6 months, except opinions on broadcasters' radio electronic devices that are valid 12 months.

15. Opinions are issued using forms approved by NCCR, which are protected documents of strict accounting.

16. The opinion is issued by the UCRF for each fixed radio electronic device or emitter.

#### **Article 42.** Procedure of obtaining operation permits

1. Users of the radio frequency resource of Ukraine shall obtain permits to operate the corresponding radio electronic devices and/or emitters other than devices and emitters used without permits under this Law.

2. Operation permits for civil bandwidths are issued using forms approved by NCCR, which are protected documents of strict accounting.

3. Operation permits for civil bandwidths are issued by the UCRF. Operation permits for special bandwidths are issued by the General Staff of the Armed Forces of Ukraine.

4. Period of validity of the operation permit shall be equal at least that of the relevant license for use of the radio frequency resource of Ukraine or the relevant broadcasting license. Period of validity of the operation permit of general users that

do not require the license for use of the radio frequency resource of Ukraine shall be at least five years, unless otherwise specified by the Plan for the Use of Radio Frequency Resource of Ukraine.

5. A legal entity and/or individual intending to operate radio electronic devices and/or emitters, personally, through a body or individual authorised by the same or with a registered letter containing the list of enclosed elements, files with the UCRF the application. The application form is established by NCCR.

6. The application shall contain radio frequencies (bandwidths) required to operate radio electronic devices and/or emitters, schedule of field acceptance tests of radio electronic devices, as well as dates of starting and effective use of radio frequencies (bandwidths) applied for.

7. To the application for the operation permit, the applicant attaches:

1) copy of the legal entity and/or individual's notarised registration certificate (copy of the radio amateur's identification card);

2) copy of the opinion on electromagnetic compatibility;

3) when radio electronic devices are used by broadcasters, copy of the broadcasting license, or when multichannel TV systems using the radio frequency resource of Ukraine are used, copy of the request of the National Television and Radio Broadcasting Council of Ukraine;

4) document that proves paying for the opinion on electromagnetic compatibility.

8. It is prohibited to demand other documents outside this Law from applicants for obtaining the operation permit.

9. Following registration, all documents submitted by the applicant are combined to form a separate file.

10. The application for obtaining the operation permit is rejected, if:

1) the application is filed (signed) by a person not authorised to the same;

2) the documents are executed contrary to the requirements of this article.

11. If the application for the operation permit is rejected, the UCRF informs the applicant in writing along with indicating the reasons within one week of the registration date.

12. If causes of rejecting the application are eliminated, the applicant can apply for the operation permit again.

13. The operation permit is issued for each radio electronic device or emitter.
14. The UCRF and the General Staff of the Armed Forces of Ukraine keep the register of frequency assignments and are responsible for its consistency.
15. NCCR publishes information on the procedures of issuing permits to operate radio electronic devices and emitters in its official gazette and on the web site.

**Article 43.** Decision to issue or refuse the operation permit

1. The UCRF participates in field acceptance tests of radio electronic devices and emitters and based of their results makes the decision to issue or refuse the operation permit within 45 days of the date of registration of the application for the permit. The procedure of acceptance tests is established by NCCR.
2. Copy of the decision to issue or refuse the operation permit is sent (issued) to the applicant within three business days of the date of decision-making.
3. The decision to refuse the operation permit indicates the reasons for the refusal.
4. Simultaneously with the decision to issue the permit, the applicant is sent the notification about the size and procedure of payment for issue of the permit. The permit is issued to the applicant within three days of the applicant's presenting the document that proves paying for preparation of the opinion on electromagnetic compatibility and issue of the permit.
5. The reasons for refusing the operation permit are as follows:
  - 1) inadequate information contained in documents submitted by the applicant in order to obtain the permit;
  - 2) failure of the submitted documents to meet technical conditions determined for operation of radio electronic device;
  - 3) impossibility of issuing the permit as a consequence of having made the decision to restrict the radio frequency resource and its allocation on the competitive basis.
6. When refused the permit, the applicant can file with the UCRF new application for issuing operation permit after eliminating circumstances that constituted the basis for the refusal.
7. The applicant has the right to inform NCCR about the applicant's disagreement with the UCRF's decision or the UCRF's failure to meet the deadlines and the procedure of consideration of the application for the operation permit.
8. Decision refusing the operation permit can be appealed against with the court.

**Article 44.** Extending the period of validity of the operation permit

1. In order to extend the period of validity of the operation permit, the user shall file with the UCRF the application for extension of period of validity of the permit no later than four months prior to expiration of the same.
2. The operation permit obtained based on the relevant license is extended after extending this license.
3. The UCRF has no right to refuse extending the period of validity of the permit, if the user of the radio frequency resource of Ukraine meets all conditions specified in the permit.
4. The reasons for refusing the extension of the permit are as follows:
  - 1) restricting the period of use of the relevant radio technology by the Plan for the Use of Radio Frequency Resource of Ukraine;
  - 2) violating permit conditions by the user of the radio frequency resource of Ukraine;
  - 3) expiration of the license based on which the permit was issued.
5. The decision to refuse extension of the period of validity of operation permits of telecommunications operators is sent to NCCR that approves the same. Period of validity of the mentioned permits is automatically extended until NCCR's decision-making.
6. The decision to refuse extension of period of validity of broadcasters' permits to operate radio electronic devices is sent to the National Television and Radio Broadcasting Council of Ukraine that approves the same. Period of validity of the mentioned permits is automatically extended until decision-making by the National Television and Radio Broadcasting Council of Ukraine.
7. The UCRF informs the applicant about the decision made within 15 business days of the date of registration of the application.
8. If the operation permit is extended, the UCRF issues the permit using a new form.
9. The procedure of extending of period of validity of operation permits for special bandwidths is established by the General Staff of the Armed Forces of Ukraine.

**Article 45.** Cancellation of the operation permit

1. The operation permit is cancelled by the SIC.

2. The SIC cancels operation permits based on NCCR's decision or at its own discretion, reasons for which are as follows:

- 1) cancellation of the license for the use of the radio frequency resource of Ukraine;
- 2) cancellation of the broadcasting license, or the relevant request of the National Television and Radio Broadcasting Council of Ukraine when multichannel TV systems using the radio frequency resource of Ukraine are used;
- 3) the user's reported failure to follow the SIC's instructions;
- 4) the user's reported refusing entry to NCCR and/or SIC's representatives to conduct inspection once again and creating other obstacles to conducting the comprehensive inspection;
- 5) the user's reported failure to start operating the radio electronic device within the period fixed by the permit;
- 6) non-use of the radio electronic device for over one year;
- 7) detection of inadequate information contained in documents submitted by the user of the radio frequency resource of Ukraine in order to obtain the permit to operate a radio electronic device or emitter.

3. The SIC cancels operation permits on its own based on:

- 1) application of the user of the radio frequency resource of Ukraine for cancellation of the permit;
- 2) revocation of the state registration of the economic subject that uses the radio frequency resource of Ukraine;
- 3) notarised copy of the death certificate of an individual user of the radio frequency resource of Ukraine.

4. The SIC shall make the decision to cancel the operation permit within 5 business days of the date of delivering the relevant instruction to the violator and 20 business days of the date of establishing other reasons for cancelling the permit under this Law. This decision is delivered or sent with the registered letter to the user of the radio frequency resource of Ukraine along with indicating the reasons for cancelling the permit within three business days of the date of decision-making.

5. The SIC's decision to cancel the permit to operate radio electronic devices of the telecommunications operator shall be approved by NCCR.

6. When the broadcaster's permit to operate radio electronic devices is to be cancelled, NCCR requests the National Television and Radio Broadcasting Council of Ukraine to approve the decision to cancel the relevant permit. The National Television and Radio Broadcasting Council of Ukraine shall make the appropriate decision within one month. In the event of refusing the approval or failure to meet the mentioned deadline, the permit can be cancelled as decided by the court.
7. The broadcaster's permit to operate radio electronic devices can be cancelled as requested by the National Television and Radio Broadcasting Council of Ukraine.
8. The decision cancelling the operation permit can be appealed against with the court.
9. The decision cancelling the operation permit becomes effective in ten days after the day of decision-making. If the user of the radio frequency resource of Ukraine judicially appeals against this decision within the mentioned period, operation of this decision is suspended until the end of the court proceedings.
10. The procedure of cancelling operation permits for special bandwidths is established by the General Staff of the Armed Forces of Ukraine.

**Article 46.** Reissuing of operation permits

1. The reasons for reissuing of the operation permit are as follows:
  - 1) change of the name of a legal entity or an individual holder of the permit;
  - 2) relocation of a legal entity or change of place of residence of an individual that are holders of the permit, if their activities can be carried out without any license to use the radio frequency resource of Ukraine;
  - 3) reorganization of a legal entity holder of the permit as a result of changing its legal form, transformation, merger, affiliation. In this case, the permit is reissued as that of its successor.
2. If the permit is to be reissued, the permit holder shall file with the UCRF the application for reissuing the permit along with the permit to be reissued and the relevant documents or their copies certified by a notary to demonstrate the mentioned changes, within 30 business days.
3. Within 10 business days of the date of registering the application for reissuing of the permit, the UCRF shall issue the permit reissued using the new form based on changes specified in the application for reissuing of the permit or refuse reissuing of the permit, when there are no reasons for reissuing or if the submitted documents contain inadequate information.

4. The reissued permit is issued subject to presenting documents to prove paying the reissuing fee.

5. As reissuing the permit, the UCRF makes the decision to cancel the reissued permit along with correspondingly amending the register of frequency assignments.

6. Period of validity of the reissued permit equals that of the permit that was reissued.

7. Permit not reissued within the fixed deadlines is invalid.

#### **Article 47.** Issuing duplicate of operation permits

1. Reasons for issuing the duplicate of operation permit are as follows:

1) loss of permit;

2) damaging the permit form.

2. In the event of losing or damaging the permit form, its holder shall file with the UCRF the application for its duplicate. If the permit form can not be used as a consequence of its damaging, along with the application to the UCRF, the damaged permit form is sent.

3. Within five business days of the date of receiving the application, the UCRF shall provide the applicant with the duplicate of the lost or damaged permit subject to presenting documents that prove paying for the issue of the duplicate.

4. Period of validity of the duplicate permit shall equal that of the lost or damaged permit.

5. When issuing the duplicate of permit, the UCRF makes the decision to cancel the permit that has been lost or damaged, along with making the appropriate amendments to the registration documents by the end of the next business day.

6. After filing with the UCRF the application for the duplicate of permit and the relevant documents and before receiving the duplicate of permit, the radio electronic device is operated based on the appropriate UCRF's certificate.

#### **Article 48.** Changing information contained in documents attached to the application for the operation permit

The holder of the operation permit shall notify the UCRF in writing about all changes in information contained in documents attached to the permit application within 30 business days of effecting these changes. Registration of changes is

proved with the UCRF's letter sent to the owner of the radio electronic device or emitter.

**Article 49.** Paying for the issue, extension period of validity, and reissuing of duplicate of licenses for use of the radio frequency resource of Ukraine

1. For the issue, extension, and reissuing of duplicate of licenses for use of radio frequency resource of Ukraine, a fee is paid, whose size is fixed by the Cabinet of Ministers of Ukraine. The fee is transferred to the State Budget of Ukraine.
2. Ten percent of means transferred to the State Budget of Ukraine as the fee for issue, reissuing of licenses, issue of their duplicates is transferred to the special fund of the State Budget of Ukraine and used to recover expenses associated with international legal protection of frequency assignments, keeping the relevant registers, printing forms.

## **Section VII**

### **SPECIAL CONDITIONS OF REGULATION IN THE AREA OF USE OF THE RADIO FREQUENCY RESOURCE OF UKRAINE BY GENERAL USERS**

**Article 50.** Special conditions of using the radio frequency resource of Ukraine for the purposes of television and radio broadcasting

1. The procedure of using the radio frequency resource of Ukraine for the purposes of television and radio broadcasting is established by this Law, the Law of Ukraine “On Television and Radio Broadcasting” (3759-12), and the Law of Ukraine “On the National Television and Radio Broadcasting Council of Ukraine” (538/97-VR).
2. In accordance with the legislation on the radio frequency resource of Ukraine, the National Television and Radio Broadcasting Council of Ukraine identifies users of the radio frequency resource of Ukraine within bandwidths allotted to television and radio broadcasters.
3. The National Television and Radio Broadcasting Council of Ukraine orders development of opinions on electromagnetic compatibility of broadcasters' radio electronic devices.
4. Assignment of radio frequencies to radio electronic devices within bandwidths allotted to television and radio broadcasters and issue of the relevant permits to operate radio electronic devices are carried out by the UCRF based on the broadcasting license or the request of the National Television and Radio Broadcasting Council of Ukraine when multichannel TV systems using the radio frequency resource of Ukraine are used.

5. Use of radio electronic devices by broadcasters is restricted or suspended by the SIC only in case of threat for people's life and health, subject to informing the National Television and Radio Broadcasting Council of Ukraine about the same within three days.

6. Use of radio electronic devices by broadcasters is terminated only based on the cancellation of the relevant broadcasting license or the permit to operate the radio electronic device by the broadcaster. The broadcaster's permit to operate the radio electronic device is cancelled as specified and established by this Law.

**Article 51.** Special conditions of use of the radio frequency resource of Ukraine by ships, space systems and aircrafts

The radio frequency resource of Ukraine is used by ships and other vessels, space systems and aircrafts, including the corresponding elements of the land infrastructure, in accordance with requirements of the legislation of Ukraine and international treaties of Ukraine jointly with the relevant central executive bodies.

**Article 52.** Special conditions of use of the radio frequency resource of Ukraine by foreign diplomatic corps, consulates, representative offices of international organisations in Ukraine and foreign military formations temporarily deployed in the territory of Ukraine

The procedure of use of the radio frequency resource of Ukraine by foreign diplomatic corps, consulates, representative offices of international organisations in Ukraine and foreign military formations temporarily deployed in the territory of Ukraine is established by the Cabinet of Ministers of Ukraine as requested by NCCR in accordance with the provisions of international treaties and this Law.

**Article 53.** Special conditions of use of the radio frequency resource of Ukraine by radio amateurs

The radio frequency resource of Ukraine is used by radio amateurs in accordance with the Rules of Amateur Radio Communications of Ukraine approved by NCCR taking into account recommendations of public organisations of radio amateurs of Ukraine and the relevant international organisations.

**Article 54.** Protection of state interests

1. Demand of all users of the radio frequency resource of Ukraine is met by entering the relevant records in the National Radio Frequency Allocation Table of Ukraine and the Plan for the Use of Radio Frequency Resource of Ukraine.

2. The state's interests in the area of international co-ordination of the use of the radio frequency resource of Ukraine are protected by the CBEC.

3. International co-ordination of radio frequency assignments with other countries is carried out by NCCR, if required, jointly with the General Staff of the Armed Forces of Ukraine.

**Article 55.** Use of the radio frequency resource of Ukraine in emergency or when military law is imposed

In emergency or when military law is imposed across the territory of Ukraine or in its separate regions, temporary restrictions on the use and assignment of radio electronic devices and emitters can be imposed. It is restricted as established by the Cabinet of Ministers of Ukraine.

**Article 56.** Radio frequency interferences

1. The UCRF and the SIC carry out necessary measures aimed at detecting and eliminating action of sources of radio frequency interferences within civil bandwidths.

2. The General Staff of the Armed Forces of Ukraine carries out measures to detect and eliminate action of sources of radio frequency interferences within special bandwidths.

3. Owners of radio electronic devices and emitters producing radio frequency interferences with radio electronic devices whose interference immunity meets standards and rules shall carry out all measures required to eliminate or reduction action of radio frequency interferences in accordance with instructions of the SIC and the General Staff of the Armed Forces of Ukraine.

4. The procedure of detecting and eliminating action of sources of radio frequency interferences within civil and special bandwidths is established by NCCR and the General Staff of the Armed Forces of Ukraine respectively.

5. If radio electronic devices and emitters producing radio frequency interferences and the equipment affected by these radio frequency interferences meet standards and requirements of regulatory documents, but when these radio frequency interferences hamper the normal functioning of the mentioned equipment, and if the parties fail to reach agreement over the measures aimed at eliminating the interferences, the SIC and/or the General Staff of the Armed Forces of Ukraine shall propose measures aimed at eliminating interferences, including cancellation of operation permits, binding on the parties, within the relevant bandwidths.

6. The procedure of interaction between NCCR and the General Staff of the Armed Forces of Ukraine in detecting and eliminating action of radio frequency interferences is established by the Cabinet of Ministers of Ukraine.

**Article 57.** Fee for use of the radio frequency resource of Ukraine

1. The radio frequency resource in Ukraine is used on the paid basis.
2. Users of the radio frequency resource of Ukraine pay monthly fee for the use of the provided radio frequency resource paid as scheduled by the relevant legislative acts.
3. Means from users of the radio frequency resource of Ukraine are transferred to the State Budget of Ukraine.
4. The size of the monthly fee for the use of the radio frequency resource of Ukraine is fixed by the Cabinet of Ministers of Ukraine.
5. Users having the right to use the radio frequency resource of Ukraine based on licenses for use of the radio frequency resource of Ukraine pay the monthly fee for the use of the radio frequency resource of Ukraine starting from the date of issue of the license.
6. Other users pay the monthly fee for the use of the radio frequency resource of Ukraine starting from the date of issue of the permit to operate radio electronic devices.
7. The sum of the fee for the use of the radio frequency resource of Ukraine is fixed by its payers on their own based on the rates and bandwidth specified in the license to use the radio frequency resource of Ukraine or operation permit for each region severally.
8. Within 20 calendar days following the last calendar day of the reporting (fiscal) month, users of the radio frequency resource of Ukraine monthly send their tax returns to bodies of the tax service. The form of the tax return is established by the central tax authority.
9. Special users and radio amateurs are exempted from paying the fee for the use of the radio frequency resource of Ukraine.
10. In order to ensure financing measures aimed at carrying out conversion and reallocation of bandwidths, implementing and maintaining the system of radio frequency monitoring within special bandwidths, the State Budget of Ukraine separately itemises the relevant expenses totalling 30 percent of means from fees for the use of the radio frequency resource of Ukraine.

**Article 58.** Liability for violating the law on the radio frequency resource of Ukraine

1. Legal entities and individuals violating the law on the radio frequency resource of Ukraine are liable as established by laws of Ukraine.

2. Untimely paying the monthly fee for the use of the radio frequency resource of Ukraine entails a penalty in accordance with laws of Ukraine.

3. In the event of failure to pay the monthly fee in six months, the relevant license for use of the radio frequency resource of Ukraine, as well as operation permits are cancelled without paying damages to the user of the radio frequency resource of Ukraine, along with judicially collecting the sum of the debt.

## **Section VIII**

### INTERNATIONAL CO-OPERATION

**Article 59.** Objective and general principles of international co-operation

1. The objective of international co-operation in the area of using the radio frequency resource is to establish relations with other states in order to provide Ukraine with the required and adequate radio frequency resource, protect and effectively use the same based on the country's interests and capabilities.

2. International legal protection of radio frequency assignments of Ukraine is carried out through:

1) conclusion of international treaties on the use of the radio frequency resource;

2) international co-ordination of assignments of radio frequencies to radio electronic devices of Ukraine and other countries;

3) participation in activities of international organisations on managing and using of radio frequency resource;

4) registration of assignments of radio frequencies to radio electronic devices of Ukraine with the International Telecommunication Union;

5) participation in implementation of international projects aimed at managing and using the radio frequency resource taking into account interests and security of Ukraine;

6) harmonisation of state standards, norms and rules with international standards, recommendations, norms and rules regarding the use of the radio frequency resource of Ukraine;

3. Performing functions of Ukraine as a member state of the International Telecommunication Union, responsibility for meeting Ukraine's commitments under the Constitution (995\_099) and the Convention of the International Telecommunication Union (995\_100) and obligations laid down by administrative rules, as well as interaction and co-operation with bodies functioning as communication administrations of foreign countries rest with the CBEC that

performs functions of the Administration of Communications and Radio Frequencies of Ukraine and follows the established procedure also to represent interests of Ukraine in the area of managing and using the radio frequency resource with other world, European and regional organisations.

4. International co-ordination in the area of using radio frequencies and radio electronic devices in border zones, assigning radio frequencies to radio electronic devices of Ukraine and other countries, registering assignments of radio frequencies to radio electronic devices of Ukraine with the International Telecommunication Union are carried out by NCCR jointly with other central executive authorities and the National Council of Ukraine for Television and Radio Broadcasting.

## **Section IX**

### **FINAL PROVISIONS**

1. This Law comes into force on the day of its publication.
2. Until the legislation is adjusted in accordance with this Law, regulatory and legislative acts are applied as far as they do not contravene this Law.
3. Licenses and permits issued to users of the radio frequency resource of Ukraine before this Law's coming into force remain valid during the period fixed in the same, subject to meeting requirements of this Law.
4. The State Inspection of Communications of Ukraine is set up in compliance with requirements of this Law and the Law of Ukraine "On Telecommunications" (1280-15).
5. In compliance with requirements of this Law and the Law of Ukraine "On Telecommunications" (1280-15), the State Enterprise "The Ukrainian State Centre for Radio Frequencies and Supervision over Communication" is transformed into the State Enterprise "The Ukrainian State Centre of Radio Frequencies".
6. Before approving the National Radio Frequency Allocation Table of Ukraine (803-95-p), as required by this Law, the Cabinet of Ministers of Ukraine can determine bandwidth of joint use and establish the procedure of regulating the use of the same.
7. The following legislative instruments of Ukraine are to be amended:
  - 1) Code of Administrative Infractions of Ukraine (80731-10, 80732-10) (Official Gazette of the Verkhovna Rada of UkrSSR, 1984, annex to No. 51, p. 1122):
    - a) the title and paragraph one of article 145, part one, are formulated as follows:

**“Article 145.** Violating conditions and rules regulating activities in the area of telecommunications, mail service and use of the radio frequency resource of Ukraine under licenses

Violating conditions and rules regulating activities in the area of telecommunications, mail service and use of the radio frequency resource of Ukraine under licenses”;

b) articles 146 and 188-7 are formulated as follows:

**“Article 146.** Violating rules of selling and operating radio electronic devices and emitters, as well as using the radio frequency resource of Ukraine

Violating rules of selling and operating radio electronic devices and emitters of any type and assignment, as well as using the radio frequency resource of Ukraine without due permit or license or contrary to the rules regulating the use of the radio frequency resource of Ukraine –

entail imposition of a penalty in amount from twenty to fifty tax-free allowance of citizens incomes on citizens with or without seizure of the mentioned devices and emitters, and that of fifty to one hundred tax-free allowance of citizens incomes on officials and citizens that are economic subjects with or without seizure of the mentioned devices and emitters.

The same actions perpetrated again within one year after imposition of the administrative penalty for one of violations under this article, part one,

entail imposition of a penalty in amount from fifty to one hundred tax-free allowance of citizens incomes on citizens with seizure of the mentioned devices and emitters, and that from one hundred to three hundred tax-free allowance of citizens incomes on officials and citizens that are economic subjects with seizure of the mentioned devices and emitters”;

**“Article 188-7.** Failure to meet legal requirements (instructions) of officials of the State Inspection of Communications of the National Commission for Communications Regulation

Failure to meet legal requirements (instructions) of officials of the State Inspection of Communications of the National Commission for Communications Regulation as to eliminating violations of the legislation on telecommunications, mail service and the radio frequency resource of Ukraine

entails imposition of a penalty in amount from ten to twenty-five tax-free allowance of citizens incomes on citizens and from fifty to one hundred tax-free allowance of citizens incomes on officials”;

c) in article 147, the words “from thirty to forty” are replaced with the words “from fifty to two hundred”;

d) in article 243, part two, the figures ”148-1 to 148-4” are replaced with the figures “148-1 to 148-4, 188-7”;

2) in the Law of Ukraine :On Telecommunications” (1280-15) (Official Gazette of the Verkhovna Rada of Ukraine, 2004, No. 12, p. 155):

a) in article 1, the term “television networks” is defined as follows:

“television networks are public telecommunications networks intended for transmit radio and television programmes and other telecommunications and multimedia services and can be integrated with other public telecommunications networks”;

b) paragraph 6 of article 15 is removed;

c) paragraph 3 of article 18 is formulated as follows:

“3) ensures supervision over market subjects' adherence to the telecommunications legislation by the state”;

d) article 37, part three, is removed;

e) article 38 is supplemented with part four as follows:

“4. Telecommunications providers carry out their activities in telecommunications area based on the contract with the telecommunications operator - resident of Ukraine and copy of the license of this operator to carry out the relevant activities under the law”;

f) article 39, part two, is formulated as follows:

“2. All paragraphs of this article part one, except paragraphs 1, 2, 10, 11, 12, 15, 17, also apply to telecommunications providers”;

g) article 42, part three, is supplemented with paragraph 1-1 as follows:

“1-1) providing fixed telephony services using wireless access to the telecommunications network along with maintenance and provision of the following telecommunication channels:

local;

national;

international';

h) article 45, parts one and five, is formulated as follows:

“1. An economic subject intending to engage in licensed telecommunications activities files with NCCR a license application using the standard form approved by the same personally, through a body or individual authorised by the subject or with a registered letter containing the list of the enclosed elements”;

“5. The application for licensing and documents attached thereto are accepted based on the list whose copy is issued or sent to the applicant, along with the date of acceptance of the documents and the signature of NCCR's officer in charge”;

i) article 46 is supplemented with part eight as follows:

“8. If licensed activities require the use of a limited resource (radio frequency and/or numbering one), the period of making decision to issue or refuse the license is 60 business days of the day of registering the application. If international co-ordination of assignment of radio frequencies is required, the licensing period is extended as fixed by the Radio Regulations of the International Telecommunication Union or the relevant international treaties. License to engage in a telecommunications activity involving the use of the radio frequency resource of Ukraine is issued simultaneously with the relevant license to use the radio frequency resource of Ukraine”;

j) article 49 is supplemented with part eight as follows:

“8. The procedure of extending the license period of validity license is applied only to activities licensed under this Law”;

k) in article 53, part two, the word “administrative” is removed;

l) article 74 is formulated as follows:

**Article 74.** Interaction between telecommunications operators of Ukraine and foreign telecommunications operators

Interaction between telecommunications operators of Ukraine and foreign telecommunications operators, revenue sharing from providing international communication services between the same, interconnection of public telecommunications networks, etc. are carried out as recommended by the International Telecommunication Union based on international treaties of Ukraine with the relevant states and/or contracts of telecommunications operators of Ukraine with foreign telecommunications operators”;

m) chapter XIV – Final Provisions – paragraph 2, is formulated as follows:

“2. The central body of executive power on communications executes authorities of NCCR until 1 January 2005”.

(Section IX, paragraph 7, subparagraph 2, indent m is in the wording of Law No. 2119-IV of 21 October 2004)

8. The Cabinet of Ministers of Ukraine:

1) within twelve months:

a) jointly with the CBEC, NCCR, the National Television and Radio Broadcasting Council of Ukraine, the General Staff of the Armed Forces of Ukraine, analyses the current status of the use of the radio frequency resource of Ukraine and ensures creating registers under this Law;

b) provides the Verkhovna Rada of Ukraine with information on actual use of the radio frequency resource of Ukraine within civil and special bandwidths;

c) ensures development of urgent measures aimed at conversion of the radio frequency resource of Ukraine in order to promote the further development of the applied radio technologies;

d) ensures developing proposals as to conversion of the radio frequency resource of Ukraine in order to apply new radio technologies;

e) ensures developing and approves the National Radio Frequency Allocation Table and the Plan for the Use of Radio Frequency Resource of Ukraine as required by this Law;

f) ensures developing regulatory and legislative acts under this Law by ministries and departments;

2) within six months, adjust its regulatory and legislative acts in accordance with this Law and causes ministries and departments of Ukraine to revise and revoke their regulatory and legislative acts contravening this Law;

3) within three months, presents the President of Ukraine with proposals as to making amendments arising from this Law to provisions on bodies that perform functions of state management and regulation in the area of the use of the radio frequency resource of Ukraine”.

President of Ukraine

L. KUCHMA

Kyiv, 24 June 2004

No. 1876-IV