

# Law of Ukraine

## On Telecommunications

No.1280-IV

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This Law establishes the legal framework of operation in the telecommunications field.

The Law identifies the authority of the state in regulating said activities, as well as the rights and responsibilities of natural persons and legal entities involved in this sector or consuming telecommunication services.

## Chapter 1. General

### Article 1. Terms and Definitions

The following terms as used herein shall have the following definitions:

<b>access telecommunication network</b>	part of telecommunication network between and inclusive of the telecommunication network end point and the nearest switching node (center);
<b>broadcasting networks</b>	Universal use telecommunication networks set up within one municipality and designed for broadcasting to subscribers of radio and TV programs making use of artificial conducting environment and capable of integrating in universal use telecommunication networks of the national level;
<b>communication channel</b>	Totality of technical means designed for transmission of electric signals between two points of a telecommunication network and characterized by frequency band and transmission rate;
<b>communication structure</b>	buildings, towers, antennae, air and cable lines, intermediate and terminal devices of communication lines and other devices used in communication lines for electric communication organization;
<b>data</b>	information expressed in a format suitable for its automated processing by computation means;
<b>data transfer</b>	transmission of information in the data format using telecommunication networks;
<b>domain</b>	Part of the Internet hierarchal address space having a unique identifying name and served by a group of domain names servers and administered in a centralized manner
<b>electric communication</b>	see “telecommunications”
<b>fixed communication</b>	Telecommunications performed with use of stationary (immovable) terminal equipment
<b>information</b>	Data expressed in the form of signals, characters, sounds moving or still images or otherwise;
<b>information safety of telecommunication networks</b>	ability of telecommunication networks to ensure protection against information destruction, distortion, blocking and its unauthorized leakage or protection against violations of the set routing procedure;
<b>Internet</b>	the global information system logically connected with the global address space and based on the Internet protocol determined by international standards;
<b>Internet address</b>	an identifier determined subject to international standards governing the Internet and/or symbol-based identifier of domain names in the hierarchal system of domain names;
<b>Internet address space</b>	the totality of sets of the Internet addresses;
<b>license</b>	a state form document granting rights to and imposing responsibilities on operators with respect to their use of limited resources (radio frequencies, numbering resource, etc.) and authorizing the provision of telecommunication services specified herein;
<b>licensing</b>	Issue, reissue, extension of effect, invalidation, annulment of licenses, issue of license copies and duplicates, keeping of license files and license registries, oversight of license conditions observance, issue of instructions to the effect of remedying license conditions violations;
<b>mobile communication</b>	Electric communication making use of radio technologies during which terminal equipment of at least one consumer may freely migrate within the limits of all

	end points of a telecommunication network preserving therewith a unique identifier of mobile station;
<b>monopoly (dominating) telecommunications operator</b>	Operator qualified under laws of Ukraine as occupying monopoly (dominating) position on markets of certain telecommunication services in the country or within a certain region
<b>National Numbering Plan</b>	a legal regulatory act determining the structure and regulating the allocation and use of numbers resource in telecommunication networks of Ukraine
<b>numbers resource</b>	Entirety of digital characters used for identification of networks, services, end points of networks in universal access telecommunication networks;
<b>numbers resource allocation</b>	separation of a numbers resource from a designated numbers range for the purposes of telecommunications services provision
<b>payments scale</b>	the amount determining the level of payment for the use of networks technical and technological resources by telecommunication operators (exercise of access) for the throughput of a traffic unit applied to operators being business entities in Ukraine;
<b>second level domain</b>	part of the Internet address space identified located at the second level of the names hierarchy in this network;
<b>subscriber</b>	telecommunication services consumer receiving telecommunication services subject to contractual terms conditional on their terminal equipment connection to telecommunication networks;
<b>subscription fee</b>	a fixed payment that a telecommunication network operator may set as payable by subscribers for the continuous access to such operator's network irrespective of the volume of services provided to a consumer;
<b>technical means of telecommunications telecommunication market participants telecommunication network</b>	Equipment, stationary and line structures designed for telecommunication networks formation; telecommunication operators, providers, telecommunication services consumers and/or producers of telecommunication technical means; combination of telecommunication technical means and structures designed for routing, switching, transmission and/or reception of characters, signals, written text, images, sounds or messages of any type through radio, wire, optical or other electromagnetic systems between terminals;
<b>telecommunication network end point</b>	a point of connection of telecommunication network and terminal equipment;
<b>telecommunication network resources</b>	A set of numbers (numbers resource) available in telecommunication networks, number and throughput capacity of wire lines with metal threads, optical fibers, radio lines, channels, tracts for information transmission, switching stations and nodes, radio frequencies resource;
<b>telecommunication network's sustainability</b>	Ability of a telecommunication network to retain, in full or in part, its functions under the impact of destabilizing factors;
<b>telecommunication networks interconnection</b>	establishment of physical and/or logical connection between telecommunication networks and enabling consumers connected to different telecommunication networks to exchange data, whether directly or indirectly;
<b>telecommunication operator</b>	a business entity entitled to operate in the telecommunication sector and having the right to telecommunication networks maintenance and operation;
<b>telecommunication provider</b>	a business entity entitled to operate in the telecommunication sector and having the right to telecommunication networks maintenance and operation and to electric communication channels transfer into use;
<b>telecommunication service (service)</b>	product of telecommunication operator/provider's activity aimed at meeting needs of telecommunication operation consumers;
<b>telecommunication services consumer</b>	A legal entity or natural person requiring, ordering and/or receiving telecommunication services for own needs;
<b>telecommunications (electric communication)</b>	transmission, emanation and/or reception of characters, signals, written text, images, sounds or messages of any type through radio, wire, optical or other electromagnetic systems;
<b>terminal equipment</b>	equipment deigned for connection with the telecommunication network end point to ensure access to telecommunication services;
<b>transport telecommunication network</b>	network ensuring transmission of characters, signals, written texts, images, sounds or messages of any kind between access telecommunication networks connected thereto;
<b>ua. domain</b>	A domain of the upper level of the Internet hierarchal address space created on the basis of coding countries names according to international standards to serve the address space of the Ukrainian segment of the Internet

<b>universal access information system</b>	Entirety of telecommunication networks and means of data accumulation, processing, storage and transmission
<b>universal telecommunication services (universal access)</b>	A minimum set of standard quality services as defined herein and accessible to all consumers across the whole of Ukraine;
<b>universal use telecommunication network</b>	a telecommunication network accessible to all consumers
<b>voice telephony</b>	Voice data exchange in real time making use of telecommunication networks;
<b>wireless access to telecommunication networks (wireless access)</b>	Electric communication making use of radio technologies during which terminal equipment of at least one consumer may freely migrate within the limits of all end points of a telecommunication network preserving a unique identification number within the limits of end points of telecommunication networks connected to the same switching center;
<b>wire electric communications</b>	transmission and reception of information based on wire lines with metal or fiber-optical threads.

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

1. The purpose of this Law is ensure universal coverage by telecommunication services of sufficient range, amount and quality through limited regulation of market relations to promote effective operation of the open and fair competitive market. The Law determines legal grounds for consumers rights protection and the state regulation of the telecommunications market.

#### **Article 3. Purpose of Telecommunications**

1. Telecommunications constitute a component of Ukraine's communication industry.

2. Telecommunications constitute an inseverable component of production and social infrastructure of Ukraine designed for meeting requirements of natural persons and legal entities, state administration (governance) authorities in telecommunication services.

#### **Article 4. Laws Governing Telecommunications**

1. The legislation of Ukraine governing telecommunications consists of the Constitution of Ukraine, this Law and other laws and regulations governing relations in this sphere.

#### **Article 5. Scope of Applicability of the Law**

1. The effect hereof shall apply to relations between subjects of the telecommunications market with respect to provision and consumption of telecommunication services and exploitation of the general use telecommunication services.

2. The effect hereof shall not apply to closed and special purpose telecommunication networks not interacting with general use telecommunication networks except for cases of their use in emergencies and martial law.

#### **Article 6. Principles Underpinning Operation in Telecommunications**

1. The key principles underpinning operation in telecommunications shall include the following:

- 1) consumers access to universal telecommunication services required for meeting their individual needs, for participation in political, economic and public life;
- 2) interaction and interconnection of telecommunication networks for ensuring the ability of communication between consumers of all networks;
- 3) ensuring sustainability of telecommunication networks and administration of such networks with account for their technological features based on single rules and standards;
- 4) state support to the development of domestic production of technical means of telecommunication;
- 5) competition promotion in the interest of telecommunication services consumers;
- 6) telecommunication services scope expansion and creation of new jobs;
- 7) introduction of international technological achievements in telecommunications, sourcing and use of domestic and foreign material and financial resources, advanced corporate governance practices;
- 8) furtherance of international cooperation in telecommunications and promotion of Global Telecommunications Network;
- 9) ensuring consumers access to information concerning the procedure of receiving and quality of telecommunication services;
- 10) efficiency, transparency of regulation in telecommunication services sector;
- 11) creation of due conditions for operation in the field of telecommunications with account for technological specifics at the telecommunications market.

2. The telecommunication services provision in Ukraine shall be an exclusive right of legal entities based in Ukraine and duly registered in accordance with the law of Ukraine, and/or of natural persons being business entities permanently based in Ukraine.

#### **Article 7. Use of Languages in Telecommunications**

1. In the course of telecommunication services provision in Ukraine, the Ukrainian language and other national languages shall be used in compliance with requirements of applicable laws.

2. Addresses of a sender and of a recipient of telegrams sent in the territory of Ukraine shall be written in the Ukrainian or Russian languages.

3. Telegram texts shall be composed in any language using either Cyrillic or Latin alphabets.

4. International communications transmitted through general use telecommunication networks shall be processed using languages as specified in international agreements to which Ukraine is a party.

#### **Article 8. Accounting and Reporting Time in Telecommunications**

1. All telecommunications operations and technological processes in Ukraine shall be based on a single accounting and reporting time standard: Kyiv time.

2. In international communications the reporting and accounting time shall be determined in accordance with international agreements signed by Ukraine.

#### **Article 9. Protection of Phone Calls, Telegrams and Other Correspondence Secrecy, Information Safety of Telecommunication**

1. The protection of secrecy of telephone calls, telegrams or other correspondence communicated through technical means of telecommunication, as well as the information safety of telecommunications is guaranteed by the Constitution and other laws of Ukraine.

2. Any interception of information from communication channels shall be prohibited except for instances when explicitly required by law.

3. Telecommunication operators, providers shall be obliged to use technical and organizational measures to ensure protection of telecommunication networks, means of telecommunications, restricted access information concerning the telecommunication networks organization, as well as data transmitted through those networks.

#### **Article 10. Telecommunications Lands**

1. Telecommunications lands, as an integral part of lands of communication, shall include land plots duly granted into ownership or transferred by owners into permanent or temporary use including on a leasehold basis, to natural persons and legal entities for the deployment of line, stationary structures, antennae, towers and other technical means of telecommunication.

2. Security areas and, to the extent necessary, glades shall be created along aerial, cable electric communication lines and around emanating structures. The procedure of provision and use of land plots, security zones and formation on openings shall be determined by the legislation governing land relations in Ukraine.

3. In the event that persons referred to in part 1 of this Article above terminate their telecommunications activities, the rights to land plots in question shall be terminated subject to grounds and procedures as established by the legislation governing land relations in Ukraine.

4. Sizes and dimensions of land plots including security zones and openings granted to persons referred to in part 1 of this Article above shall be determined in accordance with land allotment standards applied to this type of activity and subject to the duly approved design and cost-estimate documentation.

5. In the event of a land plot removal or emergence and entering into effect of the right to a limited use of a strange land plot or other property, the buyout price, as well as the fee for the land or other property use shall be determined pursuant to requirements of applicable laws.

6. Persons having hereunder obtained licenses for operation in the telecommunication field shall have the right to require land plots owners or users to establish servitudes with respect to lands categories as defined by the Land Code for the purposes of laying underground telecommunication networks and/or removal of damages in such networks. The

amount of payment (tariffs) for establishing the land servitude for the purposes of laying underground telecommunication networks and/or removal of damages in such networks for land owners and/or users shall be established by the Cabinet of Ministers of Ukraine.

**Article 11. Interaction of Telecommunications Operators with State Power Authorities, Local Self-governments and Other Persons**

1. Telecommunications operators shall build and maintain their interaction with state power authorities and local self-governments in connection with their obtaining of telecommunication services subject to contractual relations governed by applicable laws of Ukraine.
2. Owners of railroad terminals, airports, river and sea ports, piers and motor vehicle terminals (stations), as well as of checkpoints at the state border of Ukraine, technical maintenance stations, hotels, motels shall be responsible for ensuring the provision of telecommunication services in adequate amounts.

**Article 12. Scientific and Technical Support to Telecommunications Operation and Development**

1. The scientific and technological support to telecommunications operation and development shall be performed by means of organization of scientific research, development of legal and regulatory frameworks and reference documents, harmonization of national and sectoral standards with international standards, introduction of new technologies and advanced telecommunication means.

**Chapter II. State Administration of Telecommunications**

**Article 13. Governing Bodies in Telecommunications**

1. The following authorities shall exercise state governance in the telecommunication sector:  
the Cabinet of Ministers of Ukraine;  
the central executive power authority in the telecommunication sector;  
other state power agencies as determined hereunder.

**Article 14. Competence on the Cabinet of Ministers of Ukraine in Telecommunication Sector**

The Cabinet of Ministers of Ukraine shall:

- 1) ensure the pursuance of the state policy in the telecommunications sector;
- 2) provide equal conditions for the development of all types of ownership in telecommunications;
- 3) manage the state-owned facilities and assets in the telecommunication sector;
- 4) provide guidance and coordinate the operation of ministries and other central executive power authorities in the telecommunication sector.

**Article 15. Powers of Central Executive Power Authority in Telecommunication Sector**

1. The following shall be referred to the responsibility of the central executive power authority in the telecommunication sector (CEPAT):
  - 1) developing proposals with respect to the state policy in the telecommunication sector and implementation of same within the scope of telecommunication services competence;
  - 2) drawing up drafts of other legal and regulatory acts;
  - 3) drawing up and approval of legal and regulatory acts on matters referred to its competence;
  - 4) determination of requirements to the telecommunication services quality levels;
  - 5) implementation of the technical policy in the field of telecommunication services provision, standardization, technical means compliance confirmation;
  - 6) ensuring the state supervision over the adherence by telecommunications market participants to legal requirements to the extent of its competence;
  - 7) organization of and responsibility for the development of standards applying in the telecommunications sector;
  - 8) approval of technical requirements to telecommunication networks, telecommunications means and facilities;
  - 9) development and implementation of the state policy in forming the numbering resource;
  - 10) developing, in cooperation with the National Commission on Communication Regulation (NCCR), ministries and other central executive power authorities, the Concept of Concept of Ukraine's Telecommunications Development aimed at attainment of strategic goals and international competitiveness of Ukraine;
  - 11) preparing forecasts of telecommunication networks and services development;
  - 12) organization of the research and development support to the telecommunications operation and development;
  - 13) organization of research and development of recommendations with respect to computer and telecommunication technologies convergence impact;
  - 14) provision of information to telecommunications market participants concerning the universal access telecommunication networks development policy and strategy;
  - 15) decisions, within its competence, on ensuring communication for the needs of the state governmental communication system, national confidential communication system, security, defense and law enforcement agencies;

- 16) decisions, within its competence, on the universal access telecommunication networks operability in emergencies;
- 17) cooperation with sectoral international organizations and peer institutions from foreign states;
- 18) performance of responsibilities of the Communication and Radio Frequencies Administration of Ukraine;
- 17) performance of other responsibilities in accordance with the law.

### **Chapter III. Regulation in Telecommunication Sector**

#### **Article 16. Purpose of Regulation**

1. The regulation in the field of telecommunications shall pursue the objective of the utmost satisfaction of consumers demand to telecommunication services, creation of favorable organizational and economic conditions for investments attraction, services volumes expansion and quality improvement, telecommunication networks development and upgrade with account for national security interests.

#### **Article 17. Authorities Regulating Telecommunication Sector**

1. The National Commission on Communication Regulation (NCCR) formed under the law of Ukraine shall be the authority charged with regulation of the telecommunication sector.
2. NCCR shall be a central executive power authority having a special status and being supervised by the President of Ukraine.
3. NCCR shall act pursuant to provisions of the Regulation On the National Commission on Communication Regulation prepared hereunder and approved by the President of Ukraine.

#### **Article 18. Powers of the National Commission on Communication Regulation**

1. The National Commission on Communication Regulation shall:
  - 1) submit proposals to state power authorities with respect to draft laws and other legal and regulatory acts and standards governing telecommunications sector;
  - 2) issue regulations on matters referred to NCCR's competence and monitor their fulfillment;
  - 3) exercise supervision over the telecommunications market;
  - 4) issue licenses and register in the field of telecommunication services provision;
  - 5) allocate, award and keep inventory of the numbering resource, issue and withdrawal of permits, oversee the numbering resource use;
  - 6) assure telecommunication services quality and consumers demand satisfaction;
  - 7) perform, under applicable legal requirements, tariff regulation in telecommunications and establish the procedure of payments settlements between/among telecommunications operators;
  - 8) authorize the setting by operators/providers of special tariffs to universal access telecommunication services for disabled consumers and socially vulnerable citizens;
  - 9) provide organizational and legal support to universal access telecommunication services;
  - 10) receive , on a free of charge basis, from telecommunications operators/providers statistical reporting in the amount and with observance of procedure and deadlines as specified in applicable laws;
  - 11) receive , on a free of charge basis, from central and local executive power authorities of the Autonomous Republic of Crimea and local self-governments documents, statistical and other information required under the law;
  - 12) make decisions, within the scope of its competence, which shall be binding on telecommunications market participants;
  - 13) apply, following the due procedure, administrative sanctions to telecommunications market participants;
  - 14) submit to the Antimonopoly Committee of Ukraine respective materials in the event of detection of violations of the laws protecting economic competition;
  - 15) refer to court with claims in case of violation by business entities engaged in the telecommunications market of laws governing the activities in the telecommunications sector;
  - 16) regulate operators' interaction in cases of telecommunication networks interconnection;
  - 17) ensure favorable organizational and economic conditions for sourcing investments in the telecommunications sector;
  - 18) ensure equal conditions of operation in the field of telecommunications;
  - 19) ensure the pre-trial settlement of disputes arising between telecommunications operators/providers with respect to telecommunication networks interconnection;
  - 20) maintain telecommunications operators/providers registry;
  - 21) develop and approve within the scope of its competence, the NCCR Regulation, as well as other legal and regulatory acts;
  - 22) cooperation with peer authorities regulating telecommunication sectors in other countries;
  - 23) issuance of an NCCR official printed newsletter where information required hereunder, as well as other information is published;

24) performance of such other responsibilities as required hereunder and under other applicable laws and regulations of Ukraine.

**Article 19. Oversight of Telecommunications Market**

1. The oversight of the telecommunications market shall be exercised through:

- 1) telecommunication services quality assurance;
- 2) verification of adherence by telecommunications operators/providers of their respective licenses terms and conditions;
- 3) control over observance by telecommunications market participants if laws, standards and regulations in the field of telecommunications.

2. The State Communication Inspection shall be set up within NCCR with the view of overseeing telecommunications market activities.

3. With the view to ensure effective oversight of the telecommunications market, NCCR officials shall have the right to:

- 1) unimpeded access to telecommunications operators/providers' territory and premises;
- 2) issue instruction binding on telecommunications market participants to the end of rectification of laws and regulations violations;
- 3) apply, following the established procedure, sanctions for violations by telecommunications market participants of laws and regulations governing telecommunications;
- 4) receive, on a free of charge basis, from telecommunications market participants all necessary information, explanations and other materials;
- 5) all such other rights as specified in the law.

**Article 20. Composition and Procedure of Appointment of NCCR Members and NCCR Management**

1. NCCR shall be composed of the Commission Chairperson and seven members appointed and dismissed by the President of Ukraine upon respective motions of the Prime-minister of Ukraine.

2. An NCCR Chairperson and members shall be appointed for the period of five years. The NCCR Chairperson and members may not remain in the office for the period exceeding the aggregate period of ten years.

3. NCCR shall be deemed effective as at the time when its composition is complete.

4. NCCR members must be citizens of Ukraine under 65 years of age, must have a higher education degree, practical and managerial experience in communication and a professional record in the field of telecommunications for at least 4 years.

5. NCCR Chairperson and members may not own corporate rights of telecommunication and postal services operators, of telecommunication equipment producers whose operation is hereunder regulated by NCCR, nor shall they be allowed to receive financial and/or material compensation and assistance, nor occupy any position, including same on a voluntary basis.

6. NCCR Chairperson and members may be discharged of their duties in the following instances:

- 1) resignation;
- 2) Ukrainian citizenship relinquishment;
- 3) inability of responsibilities performance due to a physical condition;
- 4) entering into effect of an indictment rendered with respect to them;
- 5) violations of restrictions referred to in Paragraph 5 of this Article.

7. The NCCR Chairperson may not remain in this office for the period aggregately exceeding two years.

8. NCCR Chairperson shall be charged with:

- 1) coordination of NCCR activities in fashion furthering the streamlined and effective decisions on all matters referred to the NCCR competence;
- 2) chairing NCCR meetings and assemblies;
- 3) NCCR representation in matters requiring collective discussion or contracts with other superior officials of central executive power authorities;
- 4) informing the President of Ukraine of decisions or regulatory acts approved by NCCR;

- 5) submission to the President of Ukraine and to the attention of the Cabinet of Ministers of Ukraine an annual report describing NCCR activities to the end of implementation of the Concept of Ukraine's Telecommunications Development, as well as describing Ukraine's telecommunication sector condition over the reporting year;
- 6) organize operations of the NCCR staff;
- 7) issue orders regulating NCCR staff operations;
- 8) hire and discharge NCCR staff members;
- 9) sign all documents issued as per NCCR decisions;
- 10) represent NCCR in dealings with enterprises, organizations, institutions;
- 11) exercise all such other powers as may be vested in him/her under the law of Ukraine.

9. In case that an NCCR Chairperson's or member's office appears vacant for a month's period, the President of Ukraine shall appoint a new NCCR Chairperson/member a person. The term of a new Commission member's tenure in this case shall correspond with the period of NCCR authority.

10. NCCR meetings shall be deemed competent insofar as they are attended by at least five NCCR members.

11. NCCR decisions shall be passed by a simple majority of votes of the total of the Commission's composition. Each NCCR member shall only have one vote. In case of a tie-vote, the NCCR Chairperson shall have a casting vote.

12. NCCR decisions passed within their authority shall be binding on all telecommunications markets participants.

13. NCCR decisions may be appealed against in a due course of law.

14. For the purposes of NCCR powers implementation, a staff shall be formed within the appropriations limits as defined by the National Budget of Ukraine. NCCR staff members shall enjoy a civil servant status.

### **Article 21. Consumer Rights Protection in the Course of NCCR Operation**

1. Seeking to ensure consumer rights protection, NCCR shall cooperate with organizations representing consumers interests providing such organizations and consumers with relevant information with respect to telecommunication operators save for cases when such information is classified.

2. Consumers shall have the right to address NCCR for the settlement of any issues referring to its jurisdiction. NCCR shall consider those matters and make decision within the limits of its competence.

### **Article 22. Transparency of NCCR Operation**

1. NCCR shall ensure transparency of its activities and decisions.

2. The procedure and terms for promulgating NCCR meetings agenda and decisions shall be set forth in the NCCR Regulation.

3. NCCR decisions shall be made at meetings conducted in a format of open or closed hearings. In case that matters of special public sensitivity are heard, meetings shall be conducted in the format of open hearings in which telecommunications market participants shall have the right to participate subject to procedure set by NCCR.

### **Article 23. Liability of NCCR Officials**

1. Violation of this law, as well as of other legal and regulatory acts, failure to perform or undue performance of official duties leading to an infringement of legally protected rights and interests of telecommunication market participants, NCCR members and officials shall be held liable to the extent provided for by applicable laws.

## **Chapter IV. Technical Means of Telecommunications**

### **Article 24. Terms and Conditions Applying to Use of Technical Means of Telecommunications**

1. The use of the technical means of telecommunications shall be conditional on their compliance with set standards, technical regulations and other applicable norms. Technical means of telecommunications must have a duly issued document attesting to its compliance with provisions of documents regulating telecommunications activities.

2. The compliance of technical means of telecommunications shall be confirmed in accordance with the Law of Ukraine On Compliance Confirmation by duly accredited authorities empowered with performance of such actions and enrolled on the list agreed with NCCR.

3. CEPAT shall make a decision with respect to a list of technical means that may be applied in general use telecommunication networks and shall publish same, at least twice a year, in NCCR's official newsletter.
4. The use of technical means of telecommunications not entered on said list shall be coordinated by telecommunications operators/providers with CEPAT according to the procedure required under the law.
5. A decision on approval of technical means of telecommunications to be used in telecommunication networks shall proceed from the following criteria:
  - 1) unification and integrity of general use telecommunication networks;
  - 2) securing telecommunication networks reliability and safety;
  - 3) potential for telecommunication networks operational and technical control automation;
  - 4) ensuring conformance with applicable rules in telecommunications and technical regulations confirming compliance;
  - 5) harmonization of national legal and regulatory acts concerning compliance confirmation in the field of telecommunications with international and European acts;
  - 6) other technical and economic parameters as determined by the Law of Ukraine.
6. Within 60 calendar days following the date of receipt of a telecommunications operator/provider's application, CEPAT shall make a decision with respect to approval of a technical means of telecommunications that may be used in telecommunication networks. In case the approval decision is made, the means of telecommunications in question must be entered on the list referred to in Para. 3 of this Article.
7. The oversight of observance of conditions of technical means use in general use telecommunication networks shall be made a responsibility of NCCR.
8. The procedure of use of telecommunication services duration meters installed at terminal equipment shall be established by NCCR. NCCR shall be also responsible for settling disputes arising between telecommunications operators/providers and their subscribers in regard to differences in meters readings of service duration.

**Article 25. Standardization in Telecommunications**

1. Standardization in telecommunications shall pursue the objective of putting in place a unified system of state and sectoral standards and other regulatory documents setting forth requirements posed to telecommunication networks, technical means and telecommunication services quality, as well as harmonization of these requirements with international regulations.
2. Requirements of state and sectoral standards and other regulations applied to technical means of telecommunications shall be binding on all producers and suppliers of technical means, research and development, designing and construction organizations, as well as on telecommunications operators. Requirements applying to services quality shall be binding on telecommunications operators providing telecommunication services in Ukraine.
3. Sectoral standards and other regulatory documents shall be approved in compliance with relevant provisions of Ukraine's legislation governing standardization with account for recommendations issued by international organizations.

**Article 26. Metrological Support in Telecommunications**

1. The metrological support in telecommunications shall be provided by CEPAT with the view of ensuring the uniformity and the necessary accuracy of measurements based on the Law of Ukraine On Metrology and Metrological Activities.
2. State standards and other regulatory documents of the state measurement uniformity system, as well as a package of sector-specific regulations shall serve as a regulatory basis for metrological support in telecommunication networks and radio frequencies resource use.
3. Requirements of the metrological support in telecommunications and radio frequencies resource use shall be binding on all telecommunications operators/providers, producers of technical means of telecommunications, other organizations and institutions engaged in the testing of technical means of telecommunications.

**Chapter V. Telecommunication Networks**

**Article 27. Telecommunication Network of Ukraine**

1. The development and improvement of the general use telecommunication networks shall be pursued in accordance with provisions of the Concept of Ukraine's Telecommunications Development with reliance on advanced technologies in telecommunications sector meeting international standards with account for technological integrity of

all networks and means of telecommunications, efficiency and operational sustainability improvement. The Concept of Ukraine's Telecommunications Development pursues a key objective of harmonious and dynamic advancement of the telecommunication networks across the whole of Ukraine's territory and primarily in regions featuring inadequate degree of coverage by universal access local telecommunication networks.

2. The ownership right and right to technical maintenance and operation of telecommunication networks may be possessed by any natural person being a business entity, or by a Ukrainian resident legal entity, irrespective of the ownership form.
3. General use telecommunication networks shall be controlled by telecommunications operators operating such networks subject to unified standards, rules and norms.
4. The responsibility for securing general use telecommunication networks operation sustainability shall be vested in telecommunications operators operating such networks.
5. At building and furnishing general use telecommunication networks, sustainability criteria must be taken into account.
6. State power authorities and local self-governments must, within their respective competences, create favorable conditions for the general use telecommunication networks operation and development and adequate provision of telecommunication services.
7. Irrespective of their ownership form, telecommunications operators shall provide their network resources, on a contractual basis, into use by the state system of governmental communication, national confidential communication system, emergency response, security, defense and law enforcement agencies following the procedure established by CEPAT.
8. Restricted access regime shall be imposed at telecommunications facilities and structural units of telecommunications operators/providers where restricted access information owned by the state is transmitted, processed or stored.
9. Unauthorized intervention and/or use by legal entities or natural persons of telecommunication networks shall entail liability to the extent envisaged by the law.

**Article 28. General Use Telecommunication Network Utilization for TV and Radio Broadcasting Purposes**

1. The general use telecommunication network shall be used for TV and radio broadcasting purposes on a contractual basis in accordance with provisions of respective laws.
2. The provision of telecommunication services for TV and broadcasting needs shall be regulated by provisions hereof.

**Article 29. Operational and Technical Control of General Use Telecommunication Networks in Emergencies**

1. The control of general use telecommunication networks and responsibility for their sustainable operation in emergencies shall be referred to the competence of CEPAT.
2. The National Center for Operational and Technical Control of Ukraine's Telecommunication Networks shall be established with the view of ensuring operational and technical control of general use telecommunication networks in the periods of the state of emergency and martial law.
3. The procedure of formation of the National Center for Operational and Technical Control of Ukraine's Telecommunication Networks shall be determined by the Cabinet of Ministers of Ukraine.
4. In the periods of state of emergency and martial law, the National Center for Operational and Technical Control of Ukraine's Telecommunication Networks shall exercise operational and technical control of telecommunication networks within the scope of authority vested in it by the Cabinet of Ministers of Ukraine.
5. In regular conditions, the National Center for Operational and Technical Control of Ukraine's Telecommunication Networks shall:
  - 1) interact with telecommunications operators control centers, including same of foreign operators;
  - 2) perform such other functions as are delegated to it by telecommunications operators on a contractual basis.

6. Seeking to provide for an ability to perform functions vested in the National Center for Operational and Technical Control of Ukraine's Telecommunication Networks, operators shall be obliged to provide information on their own telecommunication networks and their condition within the scope and following the procedure set by the Cabinet of Ministers of Ukraine.

7. Telecommunications operators shall interact with the National Center for Operational and Technical Control of Ukraine's Telecommunication Networks on a contractual basis subject to terms and procedure specified in a Model Agreement approved by CEPAT.

8. The government shall finance special telecommunications facilities at the expense and to the extent as provided by the National Budget of Ukraine.

### **Article 30. Identifying Priorities of General Use Telecommunication Networks Development**

1. The priorities of the general use telecommunication networks development are spelled out in the Concept of Telecommunications Development of Ukraine. The Cabinet of Ministers of Ukraine, CEPTA, NCCR shall, within their respective competences, create adequate conditions for its implementation by pursuing the national tariff policy, ensuring competition and forming favorable investment climate in the field of telecommunications.

2. Investments in the general use telecommunication networks development shall be made with telecommunications operators' own funds, as well as using funds of other legal entities and natural persons sourced on a contractual basis, and funds at the expense of loans, securities issues and other receipts not prohibited under the laws of Ukraine.

3. Investments in the general use telecommunication networks development may also be made with monies of the national and local budgets to the extent that such appropriations are foreseen in respective budgets. The state investments in the general use telecommunication networks development shall be made according to the procedure as set by the Law of Ukraine and subject to the Concept of Telecommunications Development of Ukraine, relevant state programs and projects. Investments in the general use telecommunication networks development from local budgets shall be made in conformance with Plans of Development of respective areas subject to decisions of local self-governments having jurisdiction over such areas.

4. Guarantees and benefits to the extent established by applicable laws of Ukraine may be granted to business entities engaged in the implementation of general use telecommunication networks development projects.

### **Article 31. Designing, Construction, Reconstruction and Modernization of Telecommunication Networks**

1. The designs of telecommunication networks construction, reconstruction and modernization shall be subject to expert examination following the procedure set by the law. The costs associated with conducting expert examinations shall be borne by telecommunications operators.

2. Telecommunication networks construction, reconstruction and modernization may not lead to downgrading of communication reliability and quality. All costs associated with adherence to these conditions shall be borne by the operator executing such works.

3. Developers must equip new facilities of housing, social, cultural, health care and other designation owned with networks and devices affording the organization of general use telecommunications.

4. Orderers of telecommunication networks construction shall be allowed to, following the procedure established by the law, lay cable underground, underwater and overhead telecommunication lines down bridges, tunnels, manifolds, streets, motorways, structures, forests and waters, as well as using power transmission lines supports for said purposes.

5. Orderers of reconstruction and construction of bridges, tunnels, manifolds, streets, motorways, structures, power transmission lines with the joint operation of supports for telecommunication lines suspensions shall, at their own expense, perform works associated with the alignment and relocation of telecommunication networks placed within the development area in compliance with technical specifications issued to such networks owners.

6. Business entities engaged in the public networks construction may install in buildings leased by them the telecommunication equipment, use buildings roofs and ancillary and support premises for installing antennae and necessary equipment exclusively subject to an agreement entered into with owners of the premises in question.

7. The procedure and conditions of use of effective pipelines, cable channels, manifolds, towers, pylon antennae and other devices by persons not owning them shall be determined by an agreement with their owners.

## **Chapter VI. Telecommunication Services Consumers**

### **Article 32. Rights of Telecommunication Services Consumers**

At ordering and/or obtaining telecommunication services, consumers shall have the following rights:

- 1) to the state protection of their rights;
- 2) to access to telecommunication services;
- 3) to telecommunication services safety;
- 4) to choosing a telecommunication operator;
- 5) to choosing the type and amount of telecommunication services;
- 6) to receiving, on a free of charge basis, complete information concerning the content, quality and procedure of telecommunication services provision;
- 7) to receiving telecommunication services in a timely and quality manner;
- 8) to receiving from telecommunications operators/providers of information concerning the telecommunication services having been provided;
- 9) restriction by telecommunications operators/providers of a consumer's access to individual types of services subject to a written application filed by such consumer;
- 10) to receiving from an operator of the unused share of payment in the event of refusal from the prepaid telecommunication services in cases and following the procedure set by the rules of services provision/receiving;
- 11) to refusal from telecommunication services following the procedure established by the agreement on telecommunication services provision;
- 12) to compensation of damage resulting from an operator's failure to meet its obligations including same resulting from the provision of the undue quality services, of material and moral (non-material) damage inflicted as a result of life and health hazardous services;
- 13) to appealing against unlawful action of telecommunication operators through referring to courts and competent state authorities;
- 13) to refusal from paying for telecommunication services not ordered by them;
- 15) to receiving information concerning the possibility and procedure of refusal from the ordered telecommunication service;
- 16) to receiving, subject to a written application, of bills for the provided telecommunication services directly from telecommunications operators/providers;
- 17) as well as such other rights as established under laws of Ukraine and under agreements on telecommunication services provision.

### **Article 33. Obligations of Telecommunication Services Consumers**

1. Telecommunication services consumers must adhere to the Rules of Telecommunication Services Provision and Reception approved by the Cabinet of Ministers of Ukraine including, among other things, the following:

- 1) to use terminal equipment supported by a document on compliance confirmation;
- 2) to prevent from the use of the consumer's terminal equipment with the view of committing unlawful actions or actions conflicting with the interests of national security, defense and law and order protection;
- 3) to prevent from actions capable of causing the degradation of functional quality of or damage to telecommunication networks, information safety protection in telecommunication networks, electromagnetic compatibility of radio-electronic devices, or capable of impeding or disabling services provision to other consumers;
- 4) to prevent from the commercial use of terminal equipment and subscribers lines for telecommunication services provision to third parties;
- 5) to comply with provisions of agreements on telecommunication services provision including same requiring timely payments for the received telecommunication services;
- 6) to perform such other responsibilities as required hereunder and under other applicable laws of Ukraine.

2. In the event that subscribers use telecommunication services duration meters installed at terminal equipment for validating the properness of the services billing, such subscribers shall be obliged to:

- 1) use meters having compliance certificates in accordance with the law of Ukraine;
- 2) perform, on a regular basis, the metrological checks of meters as measurement instruments following the procedure prescribed by the law of Ukraine.

3. Telecommunication services consumers must comply with such other obligations as prescribed hereunder and under other laws of Ukraine.

### **Article 34. Protection of Information On Consumers**

1. Telecommunications operators/providers must ensure and shall be responsible for protecting the inaccessibility of information concerning subscribers which information was made available to them at the time of entering into an agreement, concerning the provided telecommunication services, including receiving of telecommunication services, their duration, content, transmission routing, etc.
2. Telephone directories including their electronic versions, as well as information and directory services data bases, may contain information concerning a subscriber's full personal or corporate name, address and a telephone number only as long as an agreement on telecommunication services provision expressly states the subscriber's agreement to posting such information. During the subscriber's data automated processing, a telecommunications operator shall ensure its protection under the law. Consumers shall have the right to removal of their data in full or in part from electronic information directory services on a free of charge basis.
3. Information concerning the consumer and concerning the services they have received may be provided subject to written requests in cases and in observance of the procedure defined by the law. In all other cases the above described information may only be disclosed subject to the consumer's written consent thereto.

### **Article 35. Protection of Consumers Interests in Case of Telecommunications Operators/Providers Termination**

1. Telecommunications operators/providers terminating their activity with respect to telecommunication services provision shall be obliged to serve an at least three-month's prior notice to consumers.
2. In case of a license withdrawal or invalidation, the removal of the numbering/radio frequency resource as a result of telecommunications operators/providers' violation of law, the provider in default shall be obliged to compensate to the subscribers all losses associated with the telecommunication services provision termination following the procedure set by the law.

### **Article 36. Liability of Telecommunication Services Consumers**

1. Telecommunication services consumers shall be held liable for violations hereof and of the Rules of Telecommunication Services Provision and Reception to the extent as defined by applicable laws of Ukraine.
2. In the event of a delayed payment for the telecommunication services having been provided by an operator/provider, consumers shall pay fine calculated on the basis of unpaid services in the amount of the discount rate set by the National Bank of Ukraine effective as at the period for which the fine is calculated.
3. The payment by a consumer of the fine, legal termination or reduction by the provider of their lists of telecommunication services shall not relieve the consumer of an obligation to pay for telecommunication services consumed by them.
4. In the event that damages to telecommunication networks through the consumer's default have been detected, all costs borne by the operator in connection with such damage rectification, as well as compensation of other damages and losses (including the lost profit) shall be paid by the consumer in default.

## **Chapter VII. Telecommunication Operators**

### **Article 37. Legal Grounds for Telecommunication Operators Activities**

1. Telecommunication operators shall perform their activities in compliance with laws governing the telecommunications sector.
2. The following shall constitute legal grounds for telecommunication operators activities:
  - 1) equal right to all telecommunication operators in Ukraine irrespective of their type and volume of services provided;
  - 2) priority of telecommunication services consumers' interests;
  - 3) development of competition on the basis of operation of telecommunications operators/providers of different forms of ownership;
  - 4) prevention from discrimination actions and attempts from the side of operators holding monopoly (dominating) position against other telecommunications market participants.
3. Telecommunications operators shall be classified into:
  - 1) mobile communication operators entitled to provide mobile communication services subject to the availability of a license to respective types of activities and a license authorizing the use of radio frequencies resource;
  - 2) fixed communication operators entitled to provide telephony services including international, long-distance, local communication subject to the availability of a license to respective types of activities;

3) fixed communication operators using wireless access to telecommunication networks entitled to provide telephony services including international, long-distance, local communication subject to the availability of a license to respective types of activities and a license authorizing the use of radio frequencies resource.

4. The qualification of telecommunication operators as operators holding monopoly (dominating) position in the telecommunications market and their operation regulation shall be a responsibility of the Antimonopoly Committee of subject to laws on economic competition protection.

### **Article 38. Rights of Telecommunication Operators**

Telecommunication operators shall enjoy the following rights:

- 1) to perform their activities in the telecommunication sector in compliance with applicable laws;
- 2) to obtain licenses;
- 3) to obtain the numbers resource;
- 4) to plan and develop own networks;
- 5) to set tariffs to telecommunication services provided by them save for services tariffs to which are regulated by the state hereunder;
- 6) to allocate telephone numbers to consumers within the limits of the numbers resource as allotted to the operator;
- 7) to connect telecommunication networks owned or used by such operators with telecommunication networks owned or operated by other operators in observance of requirements hereof;
- 8) to reduce a list of or completely terminate telecommunication services provided to consumers being in breach of an agreement on telecommunication services provision, or to disconnect consumers' terminal equipment insofar as such equipment has no duly issued document attesting to its compliance with regulatory requirements applying in telecommunications following the procedure defined herein;
- 7) to disconnect terminal equipment of consumers whenever such equipment appears to be used by consumers for committing unlawful actions or actions threatening the state security interests;
- 10) to terminate activities in the telecommunication sector following the procedure established by CEPAT and approved by NCCR;
- 11) to install telecommunications equipment in premises leased by them subject to a premises owner's consent;
- 12) such other rights as provided by the law of Ukraine and an agreement on telecommunication services provision.

2. The disconnection of terminal equipment being used by the Ministry of Defense of Ukraine, Security Service of Ukraine, Ministry for Internal Affairs of Ukraine, specially authorized executive power agency on emergencies and public protection from Chernobyl disaster effects, specially authorized executive power agency on the state border protection, emergency calls connection lines shall follow the procedure established by the Cabinet of Ministers of Ukraine.

3. A telecommunications provider shall enjoy all rights provided for by Paras. 2, 3, 6 and 7 of Part I of this Article and shall also be entitled to connect means of telecommunications to general use telecommunication networks under the law.

### **Article 39. Responsibilities of Telecommunication Operators**

1. Telecommunication operators shall have the following responsibilities:

- 1) to carry out activities subject to licenses exclusively on condition of holding such licenses;
- 2) to provide consumers with free-of-charge access to general and restricted access telecommunication networks for calling firefighting service, police, ambulance and emergency gas service;
- 3) to provide telecommunication services subject to the established indicators of required quality standards;
- 4) to provide consumers with complete information required for entering into an agreement and covering the services provided by such operator;
- 5) to maintain accurate inventory of telecommunication services provided to consumers;
- 6) to ensure correct application of tariffs;
- 7) to keep records concerning the provided telecommunication services over the duration of a period of action as established by the law of Ukraine and to provide information concerning the services having been provided following the procedure established by the law;
- 8) to prevent from violations of fair competition rules in the telecommunications market;
- 9) to provide telecommunication services on a priority basis to units and agencies of the Ministry of Defense of Ukraine, Security Service of Ukraine, Ministry for Internal Affairs of Ukraine, specially authorized executive power agency on emergencies and public protection from Chernobyl disaster effects, specially authorized executive power agency on the state border protection;
- 10) to ensure operability of their telecommunication networks in emergency conditions, at the times of the state of emergency or martial law, including the preparedness to notify consumers in these conditions;

- 11) to provide CEPAT with annual reports on their telecommunication networks for the development of mobilization plans within the scope defined by the Cabinet of Ministers of Ukraine;
- 12) to keep accounting and other records concerning their telecommunication networks and interconnection with other telecommunication networks;
- 13) to furnish to CEPAT and NCCR timely reports and other information required under the law;
- 14) to make public tariffs to telecommunication services, approved by such operator, within at most 7 days prior to their introduction;
- 15) to ensure the use of the granted numbers resource in accordance within deadlines set by NCCR;
- 16) to furnish notices to consumers of a potential reduction of the telecommunication services list or their terminal equipment disconnection in cases and following the procedure regulating services provision and consumption;
- 17) to use measures towards prevention from unauthorized access to telecommunication networks and information transmitted through them;
- 18) to perform all such other responsibilities as required hereunder and under other applicable laws of Ukraine.

2. All paragraphs of Part I of this Article save for Paragraphs 2, 10, 11, 12, 15 and 17 shall also apply to telecommunication providers.

3. In the event when an operator sets charges for the telecommunication services in line with time tariffs, then in settlements with consumers such operator shall only take into account full time units.

4. Telecommunication operators shall be obliged to, at their own expense, install and ensure functioning of the technical means necessary for the performance by search and investigation bodies and Ukrainian telecommunication networks security monitoring agencies, as well as to promote, within the scope of their competences, search and investigation activities, monitoring performance and prevention from the disclosure of the employed organizational and tactical techniques. Telecommunication operators must ensure protection of said technical means from unauthorized access.

#### **Article 41. Liability of Telecommunication Operators/providers**

1. Telecommunication operators shall bear material liability before consumers for a failure to provide or undue provision of telecommunication services to the following extents:

- 1) for a failure to provide telecommunication services or provision of same in the volume being below the paid volume – the amount of the paid cost of the outstanding services plus a fine in the amount of 25 percent of the cost of the service;
- 2) for the delay with a telegram transmission leading to a failure to hand it or delayed handing it to a recipient – a fine in the amount of 50 percent of the cost of the paid service, as well as the refund to the consumer of the amount received for the service;
- 3) for the ungrounded disconnection of terminal equipment – in the amount of a subscription fee for the entire period of disconnection;
- 4) for the ungrounded reduction or modification of the services list – in the amount of a monthly subscription fee;
- 5) in all other cases – in the amounts provided under the agreement on telecommunication services provision;
- 6) in case of failure to remedy, within 24 hours following the fixed time of the consumer's filing of an application to the effect of a telecommunication network damaging, disabling the consumer's access to the service or deterioration down to inadmissible values of quality indicators of a telecommunication service, the subscription fee for the entire period of damage shall not be calculated while the operator shall be obliged to, in the event of failure to remedy the damage within five days following the fixed time of the consumer's filing of a respective application, pay to a consumer a fine in the amount of 25 percent of the daily subscription fee for each day in excess of this term, being however not more than three month.

2. Telecommunication operators/providers shall not bear material liability before telecommunication services consumers for the failure to perform or undue performance of their respective obligations with respect to telecommunication services provision due to circumstances beyond their control (earthquake, floods, tornados, etc.), theft or damage by perpetrators of line and station structures used by a telecommunication operator or through consumers default in cases provided for herein.

3. The matters involving the compensation of actual losses, moral damage, lost profit suffered as a result of the telecommunications operators/providers failure to meet their obligations under agreements shall be heard in a due course of law.

4. Telecommunications operators/providers shall not be held liable for the content of information transmitted through their networks.

**Article 41. Personnel of Telecommunication Operators**

1. The personnel of telecommunication operators shall include all employees having labor relations with them.
2. Telecommunication operators' personnel shall be held liable for any violations of the law of Ukraine applying to the protection of secrecy of telephone communications, cable or other types of correspondence transmitted by means of communication or through computer systems, as well as of restricted access information with respect to organization and operation of telecommunication networks in the interests of national security, defense and law enforcement.
3. The telecommunications operators/providers personnel shall be prohibited from participating in strikes to the extent that such participation ensues telecommunication networks operation termination or telecommunication services disruption obstructing the protection of national safety, public health and human rights and freedoms.
4. Telecommunication operators/providers shall create jobs for disabled persons accounting for four percent of the total of such operator's staff number less the staff members employed in capacities with hard, life hazardous or life threatening conditions.
5. Managers of electric communication enterprises and their branches may be employed on a contract basis.

**Chapter VIII. Regulation of Access to Telecommunications Market****Article 42. General Licenses and Permits**

1. Business entities willing to engage in the field of telecommunications shall serve an at least one-month's notice of its intention to NCCR complying with the form approved by NCCR. Within one week following the receipt of said notice, NCCR must enter the applicant to the registry serving a respective notice thereof to the applicant.
2. Individual activities in telecommunications shall be performed subject to licenses.
3. The following activities in telecommunications sector shall be subject to licenses:
  - 1) provision of fixed telephony services with the right of technical maintenance and operation of telecommunication networks and transfer into use of communication channels:
    - local;
    - long-distance;
    - international;
  - 2) provision of mobile telephony services with the right of technical maintenance and operation of telecommunication networks and transfer into use of communication channels;
  - 3) technical maintenance and operation of air TV and radio broadcasting, wire radio broadcasting and television networks, transfer into use of communication channels.

**Article 43. Key Principles of Licensing Telecommunications Activities**

1. The key principles of the state policy of licensing telecommunications activities include:
  - 1) creation of open, non-discriminatory and transparent conditions for access to the telecommunication services market and operation thereon;
  - 2) promotion of effective functioning of the telecommunications market based on balancing interests of the public and telecommunications operators/providers;
  - 3) ensuring equality of rights, legitimate interests of all business entities;
  - 4) rational use of limited resources in the field of telecommunications;
  - 5) promotion of introduction of new types of telecommunication services and a comprehensive use of innovative technologies;
  - 6) investments attraction into Ukraine's telecommunications development.
2. The licensing procedure may not be used for restricting competition in performing activities in the telecommunication sector.

**Article 44. Licensing Conditions**

1. Licensing conditions are a regulatory act containing a comprehensive list of organizational, qualification, technological and other special conditions being binding for the performance of activities in telecommunications subject to licensing as required hereunder.
2. Licensing conditions the procedure of their enforcement shall be determined by NCCR.
3. NCCR may include special conditions in licenses for the performances of activities in telecommunications for individual telecommunications operators/providers.

**Article 45. Documents Filed for Obtaining Licenses**

1. A business entity intending to engage in a licensed activity in telecommunications shall personally or through an authorized agency/person, or by forwarding by a recommended mail, file an application with NCCR. A model application form shall be determined by NCCR.
2. The following documents shall be attached to the application requesting a license issue:
  - 1) a copy of a certificate of registration of a business entity or a copy of a certificate on being entered in the Single State Registry of Enterprises and Organizations of Ukraine certified by a notary or an agency having issued such certificates;
  - 2) copies of constituent documents (for legal entities) certified by a notary or an agency having issued the original of the documents;
  - 3) duly certified copies of documents attesting to the right of ownership or use of the production facilities;
  - 4) plans of telecommunication networks formation and operation signed by an applicant being a business entity;
  - 5) documents attesting to financial and staff capacity supporting the performance of the stated activity.
3. NCCR shall be prohibited from requiring business entities to submit any other documents not provided for herein.
4. In the event that an applicant has branches and subsidiaries to perform business activities subject to an issued license, such branches along with data on their place of business shall be indicated in the application.
4. An application requesting a license complete with the attached documents, shall be accepted as per an inventory with a copy thereof bearing the date of said documents receipt by NCCR and a signature of an official in charge issued to an applicant.
6. Upon the application registration, all documents filed by the applicant shall be grouped in a separate file.
7. An application requesting the issue of a license shall be left unattended in the following cases:
  - 1) when the application is signed by a person not authorized to do so;
  - 2) when filed documents have been executed in violation of requirements specified in this Article.
8. An applicant shall be advised of a decision to the effect of leaving the application unattended complete with explanation of grounds for such decision in writing within a week following the date of the application registration.
9. Upon having remedied circumstances having caused a decision on leaving the application unattended, an applicant may file a new application requesting license issuance.
10. NCCR shall publish detailed information concerning the license issuance procedure in its official newsletter.

**Article 46. Decision on Granting or Denying License**

1. NCCR shall make a decision to the effect of the license issuance or refusal within the most of 30 days following the date of the registration of the application requesting the license issuance.
2. A copy of the decision to the effect of the license issuance or refusal shall be forwarded (handed) to an applicant within three business days following the date of its receipt.
3. The decision on the license refusal shall contain specification of grounds for such refusal.
4. A document stating the amount and procedure of the license fee payment and the procedure of the license receipt shall be attached to the decision communicated to the applicant.
5. The following circumstances shall serve grounds for making a decision on denying a license:
  - 1) inaccuracy of data in the application and documents filed by an applicant seeking a license;
  - 2) inconsistency of the applicant and the presented documents with licensing conditions as set for a certain type of business activity in the field of telecommunications;
  - 3) impossibility of the license issuance due to a previously made decision on licenses number restriction and distribution of the set number of licenses among other applicants.
6. In case of a decision to deny a license to an applicant, the business entity in question may file a new application with NCCR requesting the license issuance upon having rectified causes for the license denial.
7. NCCR's decision on denying a license may be appealed against in due course of law.

**Article 47. Restriction of Licenses numbers and Bidding for Licenses in Such Cases**

1. NCCR may make a decision to restrict the number of licenses for types of activity in telecommunication services inasmuch as such measure is deemed essential to ensure effective use of telecommunication networks in the consumers interests and rational use of limited resources. This decision must be published with stating grounds for its approval.
2. In the event that a decision to the effect of restricting the number of licenses has been made, licenses shall be issued on a competitive basis. A tender for obtaining a license shall be open, non-discriminatory and transparent providing of equal bidding conditions and criteria posed to all bidders.
3. In case of holding a tender, licenses shall be issued within four months following the date of a tender announcement.
4. The procedure of holding tenders for licenses shall be determined by NCCR in observance of the following conditions:
  - 1) a tender announcement shall be made public not later than within 60 calendar days prior to the tender date and shall be published in NCCR's official newsletter;
  - 2) in order to participate in the tender, business entities shall, not later than within 30 calendar days prior to the tender date, submit to a licensing authority their notice of intention to bid complete with documents required under the tender procedure;
  - 3) decisions concerning the tender results shall be executed by NCCR in a protocol within the most of five days following the tender date;
  - 4) decisions concerning the tender results shall be published in NCCR's official newsletter.
5. A written notice of the decision to the effect of the license issuance or refusal based on the tender results shall be forwarded handed) to the applicant within three days following the date of its formal approval.
6. A decision based on tender results may be appealed in a due course of law.
7. In case of annulment of the license issued based on tender results NCCR shall, within the most of ten days following the date of decision to the effect of such license annulment, announce a tender for the license subject to annulment.

**Article 48. Issue of Licenses and Copies Thereof**

1. NCCR shall be obliged to issue a license within the most of three days following the receipt of a document attesting to the completion of a license fee payment.
2. NCCR shall make a note of the date of accepting the documents attesting to the completion of a license fee payment on a copy of the inventory drawn up at the time of receiving an application requesting the license issue.
3. In case that the applicant fails to, within thirty calendar days following the date of forwarding to the applicant of notice of a decision on the license issue, provide a document attesting to the completion of a license fee payment, or fails to refer to NCCR for obtaining the license, NCCR shall cancel the decision on the license issue or make a decision to the effect of the license invalidation.
4. Licenses shall be issued on protected strict reporting letterheads the form of which shall be approved by NCCR.
5. The period of the license validity, which may not exceed five years, shall be stated by NCCR in the license.
6. The license shall indicate the territory in which activities in t sector are authorized as per such license.
7. The license shall be signed by an NCCR executive official or his/her deputy and sealed with the official seal of said agency.
8. For each of the applicant's branches and subsidiaries to perform business activity subject to a license obtained by an applicant, NCCR shall issue copies of such license certified by NCCR and registered in a respective registry of issued licenses. A license copy shall also be issued to a telecommunications provider providing respective telecommunication services subject to a contract with such business entity. A license copy certified by NCCR is a document attesting to a branch's right to perform the business activity in question subject to license conditions.

9. In the event that a licensee forms a new branch or other separate unit, as well as in case of entering into a contract with a telecommunications provider to operate in telecommunications sector under licenses obtained by the business entity, such business entity must file with NCCR an application compliant with a set form requesting the issue of copies of necessary licenses complete with documents attesting to the formation of a branch or other separate unit..
10. In case of liquidation of a telecommunications operator/provider, a branch, another separate unit having performed business activity under licenses obtained by a business entity or in case of termination of the their activities in the field of telecommunications, a licensee shall be obliged to, within seven business days following the liquidation or termination date, file with NCCR a respective written notice to the effect of the above. NCCR shall enter appropriate amendments in the respective registry not later than on the next business day following the date of said notice receipt.
11. Information concerning the license issuance and special conditions indicated in the license shall be published in NCCR official newsletter.
12. A business entity may not transfer the license or a copy thereof to another legal entity or natural person for performance of activities in telecommunications.

#### **Article 49. License Validity Period Extension**

1. In case when a license holder intends to continue activities in the field of telecommunications and/or radio frequencies resource use upon the expiry of the validity period of license issued to such holder, it may file a respective application with NCCR in compliance with a set form. The application form shall be set by NCCR.
2. NCCR may not decline applications requesting licenses validity period extension whenever the telecommunications operators/providers have met all licensing conditions and special requirements indicated in such licenses, or whenever said conditions and requirements may not be met for valid reasons beyond the telecommunications operators/providers' control.
3. A decision to extend the license validity period or to decline such extension complete with explanation of grounds for such decline must be communicated to the applicant within the most of 15 busines days following the application registration date.
4. NCCR's decision to the effect of the license effect extension shall be executed on a license letterhead.
5. At extending the license effect period, NCCR may amend special conditions of the said license.
6. The validity period of the license obtained as a result of tender shall be extended without holding a tender
7. Should a telecommunications operator/provider file a complaint with a court prior to the expiration of a respective license's validity period, NCCR's decision shall be suspended until the time of the court adjudication on the complaint.

#### **Article 50. Re-issue of Licenses**

1. The following circumstances shall serve grounds for re-issuing a license:
  - 1) changes in names of a legal entity or family, Christian names or a patronymic of a natural person being a business entity;
  - 2) changes in location of a legal entity or place of residence of a natural person being a business entity;
  - 3) reorganization of the legal entity through entering changes in organizational and legal forms, conversion, merger or acquisition. In this event, licenses obtained by a telecommunications operator shall be re-issued to its successor.
2. In case that grounds for license re-issue arise, a license holder shall be obliged to, within thirty business days, file with NCCR an application conformant with a set form complete with the license to be re-issued and respective documents or their notarized copies attesting to the stated changes.
3. Within ten business days following the registration of an application requesting the re-issue of a license, NCCR shall, conditional on availability of documents attesting to the completion of payment for the re-issue, issue a new license using a new letterhead and taking into account changes stated in the application requesting the license re-issue, or decline the re-issue in case of absence of grounds for such re-issue or detection of inaccurate data in the submitted documents.
4. Along with a re-issued on a new letterhead license, NCCR shall issue certified copies of such licenses for its branches, other separate units acting in the field of telecommunications.

5. In case of the license re-issue, NCCR shall decide upon the invalidation of the original license with entering respective changes in the license registry not later than during the following business day.
6. The validity period of the re-issued license may not exceed the validity period of the original license.
7. A business entity filing an application complete with respective documents requesting the license re-issue may pursue its business subject to a certificate issued by NCCR to the effect of acceptance of the respective application until the time of obtaining a re-issued license until the time of issue of the re-issued on a new letterhead license of acceptance of a decision to the effect of the license refusal.
8. The license not filed for re-issue within deadlines as specified herein shall be invalidated.

**Article 51. Changes in Data Indicated in Documents Attached to Application for License**

1. A business entity must forward to NCCR written notices of all changes in data indicated in documents attached to an application requesting a license issue within the most of 30 business days following the occurrence of such changes, complete with documents or copies of documents attesting to the reported changes.

**Article 52. License Duplicate Issuance**

1. The following events shall serve grounds for the license duplicate issuance:
  - 1) loss of a license;
  - 2) damage to a license letterhead.
2. In the event of the license lost or damage, a business entity shall apply to NCCR requesting the license duplicate issuance. Should the license letterhead appear to be unfit for use as result of a damage to it, the license holder shall then attach a damaged license when applying to NCCR.
3. The validity period of the license duplicate may not exceed the validity period that was indicated in the lost or damaged license.
4. NCCR must, within 5 business days following the date of receipt of the application, issue a duplicate of the lost or damaged license conditional on availability of documents confirming the completion of necessary payment for the duplicate issuance.
5. In case when NCCR issues a license duplicate in lieu of the lost or damaged license, NCCR shall make a decision on invalidating the lost or damaged license entering therewith respective amendments in the licensing registry not later than on the next business day.
6. A business entity having filed the application complete with documents requesting the issue of the license duplicate in lieu of the lost or damaged license may pursue its business subject to a respective certificate issued by NCCR.

**Article 53. Fees Collected for License Issue, Re-issue, Issue of License Duplicates and Copies, License Validity Period Extension**

1. A fee shall be collected for licenses issue, re-issue, issue of license duplicates and copies, license validity period extension with the amount and procedure of entering thereof to the National Budget of Ukraine being established by the Cabinet of Ministers of Ukraine.
2. The amount of fees collected for license issue, re-issue, issue of license duplicates and copies, license validity period extension may not exceed the amount of administrative costs associated with the completion of said procedures.
3. Ten percent of receipts to the National Budget of Ukraine as a payment of fees for licenses issue shall be entered to the special fund of the National Budget and used by NCCR for recovering costs associated with maintaining the telecommunications licenses registry and licenses letterhead production.

**Article 54. Oversight of Licensing Conditions Observance**

1. NCCR shall pursue oversight of telecommunications operators/providers' adherence to licensing conditions and special requirements as specified in licenses by means of conducting scheduled and extraordinary examinations.
2. Scheduled examinations shall be conducted at most once per year.

3. Extraordinary examinations shall be conducted based on the receipt by NCCR of a written application (notice) claiming violation by telecommunications operators/providers of licensing conditions or special requirements, or with the view of checking the enforcement of instructions to the effect of remedying the violations of licensing conditions.
4. Examination results shall be executed in the statement drawn up in two copies one which shall be issued to the manager of the examined legal entity whereas the other one shall be kept with NCCR's files.
5. Should any deviations from licensing conditions be detected, NCCR shall, within the most of 20 business days following the date of the examination statement, issue an instruction to remedy such deviation, or shall make a decision to the effect of the license annulment.
6. A telecommunications operator/provider having received an instruction to remedy the detected deviations from licensing conditions shall report to NCCR on the violations rectification within deadlines as required in the above instruction.

### **Article 55. License Annulment**

1. The following circumstances shall serve grounds for the license annulment:
  - 1) a business entity's application requesting the license annulment;
  - 2) a statement to the effect of detection of inaccurate data in documents submitted by a business entity with the view of obtaining the license;
  - 3) a statement on determining a fact of the license or its copy transfer to another legal entity or natural person for the purpose of pursuing business activity;
  - 4) a statement of a telecommunications operator/provider's failure to comply with an instruction requiring the remedy of license conditions violation;
  - 5) a statement on the business entity's repeated refusal to provide NCCR representatives with access for inspection purposes, as well as on creating other obstructions disabling the inspection in the full amount;
  - 6) statement on the repeated violation by the license holder of licensing conditions;
  - 7) a decision to the effect of revoking state registration of a telecommunications operator/provider;
  - 8) a notarized copy of a certificate of death of a natural person being a business entity.
2. NCCR shall review matters concerning a license annulment subject to a statement on detection of inaccurate data in documents filed by a business entity with the view of obtaining a license, a statement on determining a fact of the license or its copy transfer to another legal entity or natural person, a statement of a license holder's failure to comply with an instruction requiring the remedy of license conditions violation, a statement on the business entity's repeated refusal to provide NCCR representatives with access for inspection purposes, as well as on creating other obstructions disabling the inspection in the full amount with mandatory participation of a telecommunications operator/provider or their representatives.
3. NCCR shall must make a decision to annul the license within twenty business days from the date of determination of reasons for the license annulment. Said decision indicating motives for it shall be handed (forwarded) to a business entity in question within the most of three days following its date. Decisions on the license annulment may be appealed in due course of law.
4. In the event that a decision is made to annul the license, save for cases referred to in Paras. 7 and 8 of Part I of this Article, a decision on the license annulment shall be enforced in three months following its effective date.
5. A decision on the license annulment shall enter into effect in ten days following its approval. In case that a telecommunications operator/provider in question files its complaint with the court over this period of time, the effect of such decision shall be suspended until the time of the court's adjudication on the matter.
6. A record of the date and number of the decision to the effect of the license annulment shall be entered in the licenses inventory registry not later than on the business day following the effective date of the decision on the license annulment.
7. Decisions on licenses annulment or invalidation shall be published by NCCR within ten days following its date of effect.

### **Article 56. Internet Address Space Administration**

1. The administration of the Ukrainian segment of the Internet shall include a set of organizational and technical measures required for ensuring the operation of technical means of addressing support including the Internet's Ukrainian share domain names servers, the registry of .ua domain in coordination with the international system of the

Internet administration aimed at systematization and optimization of use, inventory and administration of second level domains, as well as for creation of conditions for the use domain name space subject to the principles of equal access, protection of the Internet users and free competition.

2. The administration of the Ukrainian segment of the Internet address space shall be pursued for the following purposes:

- 1) to create the domain names and addresses registry of the Ukrainian segment of the Internet;
- 2) to create the registry of domain names with the .ua domain;
- 3) creation and support to the automated system of registration and inventory of domain names of the Ukrainian segment of the Internet;
- 4) to ensure the uniqueness, formation and support of the second level domain names within the .ua domain;
- 5) to create conditions for the use of the Internet's Ukrainian segment domain names based on the principles of equal access, optimum use, Internet users rights protection and free competition;
- 6) to represent and protect in respective international organizations the interests of users of the Internet's Ukrainian segment.

3. The administration of the Ukrainian segment of the Internet address space within the .ua domain shall be pursued by a non-state institution formed by self-governed organizations of the Internet operators/providers and registered in observance of applicable international requirements.

4. The address space formation, addresses allocation and provision, information routing between addresses shall comply with relevant international standards.

## **Chapter IX. Telecommunication Networks Interconnection**

### **Article 57. Telecommunication Networks Interconnection Principles**

The following principles must be observed at interconnecting telecommunication networks:

- 1) technical, organizational and commercial conditions for telecommunication operators' telecommunication networks interconnection, as well as payment rates charged for access to telecommunication services provided by operators must be subject to an agreement between the interconnecting parties;
- 2) an operator applying with respect to connection to a telecommunication network owned by another operator shall have the right to refer to NCCR in observance with a procedure as set herein, before and after such other operator has made a final decision with respect to restricting or denying the former operator's connection to the latter's network;
- 2) economic conditions of telecommunications operators' telecommunication networks interconnection and the rates charged for the access to telecommunications operators' telecommunication networks shall be determined on the cost basis with account for the rate of profitability of the services provided by telecommunications operators;
- 3) technical, organizational and commercial conditions of interconnection with telecommunications operators occupying monopoly (dominating) position on the telecommunications market shall be regulated by NCCR;
- 4) payment rates for access to telecommunication networks of operators occupying monopoly (dominating) position on the telecommunications market shall be set by NCCR;
- 5) if so requested by any party, NCCR must interfere with relations of telecommunications operators at the time of entering into contracts on their telecommunication networks interconnection. In order to ensure effective competition and non-discriminatory, fair conditions mutually acceptable for parties and beneficial for consumers, NCCR shall make a respective decision within one month following the date of referral to it;
- 6) NCCR's decisions in regard to matters arising in relations between telecommunications operators at the time of entering into contracts on their telecommunication networks interconnection shall be binding on telecommunications operators and may only be repealed as per a respective court adjudication.

### **Article 58. Responsibilities of Operators in Case of Telecommunication Networks Interconnection**

1. Telecommunications operators shall be obliged:

- 1) to adhere to technological requirements set for telecommunication networks;
- 2) to provide other telecommunications operators willing to enter into agreements on interconnection all and any information required for drafting such agreements, as well as to offer interconnection conditions being not worse than those offered to other telecommunication operators;
- 3) to telecommunication networks interconnection in all technically feasible interconnection spots featuring the throughput capacity being adequate for the quality provision of telecommunication services. In so doing, an operator providing access shall be prohibited from requiring the other party to perform any works, services, to incur any losses aimed at further improvement and equipment of the latter's telecommunication networks;
- 4) if required by NCCR, to furnish information concerning the telecommunication networks interconnection conditions;
- 5) to make timely and full payments required under conditions of an agreement between telecommunications operators/providers;
- 6) not to create any technical, commercial or organizational obstacles restraining or hindering each other's operations;

- 7) to use measures to ensure sustainable and quality work of interconnected telecommunication networks during a 24-hour cycle, to inform each other of all and any damages to telecommunication networks or emergence of other events leading or capable of leading to deterioration below the admissible values of telecommunication services quality parameters;
- 8) to exchange inventory data on telecommunication services having been provided through their networks interconnection points;
- 9) to adhere to the schedule routing procedure set by applicable legal and regulatory acts.

**Article 59. Catalog of Proposals Concerning Telecommunication Networks Interconnection**

1. NCCR shall approve and publish, on an at least annual basis, in its official newsletter a catalog of proposals concerning telecommunication networks intercommunication. The published proposals shall include lists of the existing points of networks interconnection, organizational, technical and economic conditions of interconnection
2. The submission of proposals shall not be compulsory for telecommunications operators except for operators occupying monopoly (dominating) position.
3. The procedure of submission, review and approval of telecommunications operators' proposals with respect to telecommunication networks interconnection shall be established by NCCR.

**Article 60. Entering Into, Amendment and Termination of Agreement On Telecommunication Networks Interconnection**

1. Agreements on interconnection of telecommunication networks shall be entered into by and between telecommunications operators/providers in compliance with binding requirements to interconnection agreements as set by NCCR.
2. A telecommunication operator intending to enter into an agreement on interconnection, or to amend or terminate such agreement shall be required to forward respective proposals to the involved operator.
3. A telecommunication operator having received a proposal shall be required to respond to it within the most of twenty days following its receipt.
4. A telecommunication operator having received a written proposal on telecommunication network connection may reasonably decline interconnection with another operator's telecommunication network.
5. Telecommunications operators occupying monopoly (dominating) position may not decline interconnection with another operator's telecommunication network in points indicated in a catalog of telecommunications operators' proposals in regard to interconnection with their telecommunication networks, save for cases when the connecting telecommunication network is incompatible with requirements hereof.
6. Should the parties to the agreement on networks interconnection amend terms and conditions, or terminate the effect of the agreement, the parties shall be obliged to serve an at least 30-days notice of the intended action to NCCR.
7. NCCR shall on a quarterly basis publish in its official newsletter lists of agreements entered into by and between telecommunication operators with respect to telecommunication networks interconnection.

**Article 61. Pre-trial Settlement of Disputes Over Telecommunication Networks Interconnection**

1. Should telecommunication operators fail to reach an agreement concerning the procedure of entering into, amendment and termination of agreement on telecommunication networks interconnection, as well as in case of a failure to receive a response within the prescribed deadline, the interested party shall have the right to refer the dispute for NCCR's review and decision.
2. Seeking a dispute settlement, an operator considering its rights violated shall forward a communication to NCCR complete with a draft agreement on telecommunication networks intercommunication, proposals on the agreement conditions with respect to which the parties failed to find a consensus, as well as certified copies of all documents and materials required for the dispute review.
3. NCCR shall, in the presence of representatives of interested parties, specialists in the telecommunication sector and other experts consider the submitted materials, hear arguments of the parties and make a respective decision. The NCCR's decision shall be binding on telecommunication networks interconnection parties. The NCCR's decision shall be binding on telecommunication networks interconnection parties

4. The procedure of reviewing appeals and materials pertinent thereto, the rendering of a decision on the dispute between the parties shall be approved by NCCR.

5. In case that NCCR makes a decision failing to accommodate interests of both parties, the dissatisfied party shall have the right to bring the dispute for the judicial review.

## **Chapter X. Telecommunication Services**

### **Article 62. Universal access Telecommunication Services**

1. Universal access telecommunication services include fixed telephony (local, long-distance, international) communication except for services provided based on wireless access including emergency calls, directory and information services, communication using payphones and public call-boxes, facsimile and cable communication.

### **Article 63. Procedure of Telecommunication Services Provision and Consumption**

1. Telecommunication services shall be provided in accordance with the law.

2. Telecommunication services shall be provided in observance of the following conditions:

- 1) entering into an agreement between a telecommunication operator/provider and telecommunication services consumer to be concluded in meeting the requirements to an agreement on telecommunication services provision as approved by NCCR;
- 2) payment for services ordered by a customer.

3. Telecommunication services to consumers eligible under the law to benefits in payment for such services shall be provided by telecommunication operators/providers in observance of applicable laws of Ukraine.

### **Article 64. Development, Provision and Funding of Universal access Telecommunication Services**

1. The universal telecommunication services shall pursue an objective of provision to citizens of Ukraine of a possibility to satisfy, subject to regulated tariffs, their needs in telecommunication services as defined herein and to take a full-fledge part in the political, economic and social life of the society.

2. The universal telecommunication services shall be developed in conformity with the Concept of Ukraine's Telecommunications Development. The Concept must envisage, in the first instance, the procedure and timeframes for provision of access to universal telecommunication services for consumers residing in rural and mountainous areas, as well as for vulnerable categories of consumers including low income households, pensioners and disabled persons. The Concept must also envisage deadlines for the attaining the capacity of universal access for the whole of Ukraine's population to universal services, volumes of telecommunication networks construction and amounts of investment required for achieving the set objectives.

3. In areas with inadequate level of technical means availability in universal access telecommunication networks, applications requesting provision of universal access telecommunication services shall be satisfied in the following order of priority:

- 1) state power authorities and local self-governments, Security Service of Ukraine and military institutions of Ukraine;
- 2) medical establishments, firefighting units, organizations notifying of occurrence of emergencies (earthquakes, floods, tornados, etc.), state preschool educational establishments, state science and culture institutions;
- 3) diplomatic missions and consular institutions of foreign states;
- 4) citizens eligible under Ukrainian laws to receiving telecommunication services subject to preferential conditions;
- 5) enterprises, institutions and organizations, citizens.

4. Natural persons and legal entities investing in construction of telecommunication networks to which their terminal equipment is connected shall have the right to extraordinary receipt of services of this network's operation within the amount being not less than the cost of a respective number of subscribers' numbers, without the observance of the above described procedure.

5. In case of an inadequate coverage of consumers' demand for universal telecommunication services in individual regions of Ukraine, NCCR shall have the right to make a decision to the effect of vesting in telecommunication operators occupying monopoly (dominating) position on the telecommunication services market and whose activity covers the whole of the territory of Ukraine, as well fixed wired communication operators performing or intending to perform their activity in these regions of obligations with respect to development and provision of universal access telecommunication services to consumers based on losses compensation mechanism approved by the Cabinet of Ministers of Ukraine.

## Article 65. Telecommunication Services Provision in Emergencies, During the Periods of State of Emergency and Martial Law

1. In emergencies, during the periods of state of emergency and martial law, telecommunication operators/providers must ensure quality communication and public notification according to the procedure determined by the Cabinet of Ministers of Ukraine.
2. Telecommunication operators shall be obliged to ensure the preparedness to perform their functions in emergencies. In the emergency period, all communication means and networks irrespective of their ownership shall be used to secure timely and organized mobilization and meeting the needs of national security, defense and law enforcement. In so doing, telecommunication operators shall interact with the National Center for Operational and technical Control of Telecommunication Networks with respect to matters referred to its competence.
3. In emergencies, seeking to notify the public and to provide telecommunication services to participants of emergencies effects mitigation, reconstruction works and with the view of performance of respective measures by the Council of Ministers of the Autonomous Republic of Crimea, oblast, Kyiv and Sevastopol City State Administrations and local self-governments subject to approval of CEPAT, telecommunication operators may set temporary restrictions on provision of telecommunication services to consumers until the time of liquidation of emergencies effects and cancellation of the state of emergency.
4. The Council of Ministers of the Autonomous Republic of Crimea, oblast, Kyiv and Sevastopol City State Administrations and local self-governments acting within their respective jurisdictions shall provide telecommunication operators and their local units with assistance in liquidation of emergencies effects caused by Acts of God, and in acquisition of necessary material resources, as well as assist them in obtaining the necessary labor, transportation and other resources.

## Chapter XI. Tariffs and Payments Regulation

### Article 66. Tariffs Regulation

1. Tariffs to telecommunication services shall be set by telecommunication operators/providers independently save for instances specified in Part II of this Article.
2. The following shall be subject to state regulation through the setting of cap or fixed tariffs:
  - 1) tariffs to universal access telecommunication services;
  - 2) tariffs to provision into use of electric communication channels of telecommunication operators occupying monopoly (dominating) position in the respective markets.

### Article 67. Tariff Regulation Principles

1. The tariff regulation in Ukraine's telecommunications market shall be based on the following principles:
  - 1) tariffs based on specific telecommunication services on the grounds of such services' actual cost;
  - 2) tariffs levels dependence on the telecommunication services quality levels;
  - 3) prevention from setting dumping or discriminatory prices from the side of individual operators;
  - 4) the necessity to avoid cross-subsidization of one type of telecommunication services at the expense of others;
  - 5) collection of the time-based charges exclusively for the actual time of the telecommunication services consumption by a consumer.

### Article 68. Procedure of Payments for Telecommunication Services

1. Payments for telecommunication services shall be made subject to terms and conditions of an agreement on telecommunication services provision entered into between a telecommunication operator/provider and a consumer, or alternatively, without an agreement, in cash or with a card in case of a prepaid service provision to a consumer.

## Chapter XII. Numbers Resource

### Article 69. Fundamentals of Ukraine's Numbers Resource Formation and Allocation

1. The numbers resource of Ukraine is a limited resource.
2. The development and implementation of the technical policy for the numbers resource formation shall be a responsibility of CEPAT.
3. The numbers resource allocation, awarding and inventory, as well as permits issue and revocation and the oversight of its use shall be a responsibility of NCCR.
3. The numbers resource regulation shall base on the following fundamental principles:

- 1) openness, non-discrimination and impartiality, equality of rights to access to the numbers resource for all telecommunication operators;
- 2) the numbers resource use on the permits and charge basis;
- 3) creation of redundancy numbers capacity;
- 4) ensuring rational use of the numbers resource;
- 5) ensuring conformity of the National Numbering Plan of Ukraine with international requirements.

5. For the benefit of expansion and securing adequate capacity of the numbers resource and its harmonization with international requirements, CEPAT decides on modifications in the numbers resource and numbering space structure.

6. CEPAT's decisions to the effect of modifications in the numbers resource and numbering space structure shall be reported to NCCR and published in its official newsletter.

7. NCCR must notify telecommunication operators/providers of any modifications in the numbering structure and space of the awarded numbers resource furnishing an at least six-month notice prior to entering into effect of such modifications.

#### **Article 70. Allocation and Use of Numbers Resource**

1. The numbers resource shall be allocated to a telecommunication operator for the period of effect of a respective license, without the right of transfer to other persons except for cases of secondary allocation under the law, subject to a permit issued by NCCR.

2. NCCR shall consider a telecommunication operator's request to allocate an additional numbers resource within a month following the date of its receipt. NCCR's decision to the effect of additional numbers resource allocation shall be made with account for the effectiveness of use of the previously allocated resource, and shall be communicated to telecommunication operators/providers within three business days following the decision date. Grounds motivating the decision shall be indicated in the decision.

3. A permit authorizing the numbers resource use shall be issued to a telecommunication operator within three days following the submission of documents attesting to the payment completion.

4. NCCR shall have the right to make its decision with respect to withdrawing a numbers resource (in full or in part) from an operator in the following events of:

- 1) failure to meet the deadlines of the allocated numbers resource engagement as specified in the permit;
- 2) failure to use the numbers resource according to the stated designation, as well as in cases of its unlawful transfer to third parties;
- 3) annulment, invalidation or expiration of a respective license, or in case of submission of the telecommunications operator.

5. The issue of the numbers resource withdrawal shall be reviewed with a mandatory prior invitation of the telecommunications operator or their representatives.

6. The decision on the numbers resource withdrawal shall be published by NCCR within ten days following its date of effect.

7. A permit authorizing the numbers resource use shall be cancelled while the awarded numbers resource shall be returned subject to an NCCR's decision made according with the law.

8. Telecommunication operators shall furnish to NCCR information with respect to the status of their use of the numbers resource of public networks following the procedure specified herein.

9. NCCR shall determine conditions required for the obtaining of the right to use the numbers resource in Ukraine publishing same in its official newsletter.

10. With the view of ensuring compliance with international commitments and sufficient accessibility of the numbers resource, NCCR may modify numbering and numbers allocation structure and space serving an at least six months notice thereof to telecommunication operators.

11. Fee shall be collected for the numbers resource in the amount and following the procedure established by the Cabinet of Ministers of Ukraine and entered to a special budget of the National Budget of Ukraine to be used by NCCR and CEPAT for recovering costs associated with the numbers resource administration, formation and allocation.

**Article 71. Radio Frequencies Resource Allocation and Use**

1. Radio frequencies resource of Ukraine shall be allocated and used for the performance of activities in the telecommunications sector in adherence to the Law of Ukraine On Radio Frequencies Resource of Ukraine.

**Chapter XIII. International Cooperation****Article 72. Goal and General Principles of International Cooperation**

1. The goal of the international cooperation in telecommunications shall comprise promotion of integration of Ukraine in the global telecommunication network, with due account of political and economic interests of Ukraine.

2. International cooperation of Ukraine in the telecommunications sector shall be implemented through:

- 1) making international treaties;
- 2) participation in the activities of international organizations;
- 3) participation in the implementation of international projects dealing with development of global and regional telecommunication networks, with due account for priorities of national security of Ukraine;
- 4) harmonization of standards, codes and regulations with international standards, recommendations, codes and regulations, dealing with requirements to technical means and telecommunication networks, interaction between telecommunications operators, utilization of limited resources, quality assurance, kinds of telecommunication services;
- 5) cooperation between telecommunications operators in Ukraine and telecommunications operators in other countries.

3. Implementation of functions of Ukraine as a member-state of the International Telecommunications Union; implementation of functions of Ukraine pursuant to the Charter and Convention of the International Telecommunications Union, obligations under Administrative Regulations, and interaction and cooperation with agencies performing functions of communication administrations in foreign states shall be responsibility of Communication and Radio Frequencies Administration of Ukraine which shall also properly represent the interests of Ukraine in other international, European, and regional organizations for telecommunications, and in the World Trade Organization, on the matters dealing with telecommunications.

**Article 73. International Treaties**

1. Should an international treaty to which Ukraine is a party specify rules other than those provided by the law of Ukraine on telecommunications, the rules set forth by such international treaty should apply.

**Article 74. Interaction of Telecommunication Operators/Providers of Ukraine with Foreign Telecommunication Operators/Providers**

1. Interaction of telecommunication operators/providers of Ukraine with foreign telecommunication operators/providers, distribution of revenues obtained through the provision of international telecommunications between them, interconnections of universal access telecommunication networks etc. shall be carried out pursuant to recommendations of the International Telecommunications Union, on the basis of international treaties between Ukraine and relevant states, and/or agreements between telecommunication operators/providers of Ukraine with foreign telecommunication operators/providers.

**Article 75. Liability for Violations of Laws Governing Telecommunications**

1. Persons in default for violating laws governing telecommunications shall be subject to civil, administrative, criminal liability under applicable laws.

2. Revenues of telecommunication operators/providers earned as a result of activity not reported to NCCR or without a license, in breach of tariffs set by NCCR shall be withdrawn in a due course of law and entered on accounts of the National Budget of Ukraine.

**Chapter XIV. Final Provisions**

1. This Law shall become effective on the day of official publication thereof.

Articles 17, 20 shall enter into effect in 2004.

Part III of Article 53, Part V of Article 64, Part VIII of Article 70 shall enter into effect as at 1 January 2005.

2. Until 1 January 2005, the powers of NCCR shall be performed by CEPAT.

2. Until ensuring full compliance of legal and regulatory documents with this Law, existing regulatory and legal documents shall be applied to the extent which does not contradict this Law.

4. Within the term of six months from the date of effect hereof, the Cabinet of Ministers of Ukraine shall:

- 1) prepare and submit for review by the Verkhovna Rada of Ukraine proposals on introducing changes in legislative acts arising from this Law;
- 2) draw up and approve regulations provided hereunder and ensure its regulations' compatibility with this Law;
- 3) provide bringing, by ministries and other central executive authorities of Ukraine, regulatory and legal documents thereof to compliance with this Law.

5. Business entities doing business in telecommunications must, within one month's term following the date of NCCR establishment, communication their notifications as required under Article 42 hereof.

6. Any licenses authorizing activities in telecommunications, and permits to numbers resource use granted to participants of the telecommunications market of Ukraine prior to this Law becoming effective, shall be in force for the term specified therein.

7. To amend the following legal acts of Ukraine:

1) in the Code of Ukraine on Administrative Offenses (Records of the Verkhovna Rada of UkrSSR, 1984, appendix to No.51, p.1122):

a) Articles 148<sup>1</sup>, 148<sup>2</sup>, 148<sup>4</sup>, and 243 shall read:

**Article 148<sup>1</sup>. Violation of Rules Governing Provision and Receiving Telecommunication Services**

Performance of actions that have resulted in degradation of the functional quality of telecommunication networks, or unauthorized (without permit of telecommunications operator) reception of telecommunication services

shall entail imposition of a penalty in an equivalent to amount between thirty and fifty minimum amounts of tax-exempt individual incomes.

Same actions repeated within a year from imposition of the administrative levy for violations specified by part 1 of this Article

shall entail reimbursement of losses caused to operator and a penalty in an equivalent to amount between fifty and one hundred minimum amounts of tax-exempt individual incomes.

**Article 148<sup>2</sup>. Violation of Procedure and Conditions of Providing Telecommunication Services in Universal access Telecommunication Networks**

Violation of the procedure and conditions of telecommunication services within universal access telecommunication networks

shall entail imposition of fines on officials in an equivalent to amount between fifty and one hundred minimum amounts of tax-exempt individual incomes.

Any refusal of a telecommunications operator to provide a user with comprehensive information on telecommunication services provided by such operator and/or received by the user within the past six months, as well as violation of the term of disclosure of tariffs that are established independently by telecommunications operators

shall entail penalties imposed on officials of telecommunication companies of any ownership, and on natural persons, participants of business activities, in an equivalent to amount between one and ten minimum amounts of tax-exempt individual incomes.

**Article 148<sup>4</sup>. Utilization of Technical Means and Equipment Used in Universal access Telecommunication Networks Without a Certificate of Conformance**

Utilization of technical means and equipment, used in universal access telecommunication networks without a certificate of conformance

shall entail penalties imposed on residents in an equivalent to amount between one hundred and two hundred minimum amounts of tax-exempt individual incomes.

**Article 243. Bodies of the National Commission for Communications Regulation and Communication and Radio Frequencies Administration of Ukraine**

The National Commission for Communications Regulation (NCCR) shall review matters on administrative offenses involving violations of laws on telecommunications and postal communication (Article 148<sup>5</sup>).

Bodies of the National Commission for Communications Regulation (NCCR) shall consider cases on administrative offenses involving violations of the law on telecommunications, on postal communication and on radio frequencies resource (Articles 144, 145, 147, 148<sup>1</sup> – 148<sup>4</sup>).

The right to consider cases of administrative offences and to impose administrative penalties on behalf of State Communication Inspection of NCCR and Ukrainian State Radio Frequencies Center of the Communication and Radio

Frequencies Administration of Ukraine shall be granted to managers of the State Communication Inspection and Ukrainian State Radio Frequencies Center, as well as to persons authorized by them:

b) the Code of Administrative Offenses shall be supplemented by Article 148<sup>5</sup> that reads:

**Article 148<sup>5</sup>. Violation of Rules on Interconnection of Universal access Telecommunication Networks**

Any refusal of a telecommunications operator to provide other telecommunications operators that wish to make interconnection agreements with a required information, access to telecommunication networks in all technically possible locations of interconnection, information on identification of a call and duration thereof between telecommunication networks; any refusal of a telecommunications operator that occupies a monopoly (dominating) position on the telecommunications market to submit for approval by NCCR proposals on interconnection of telecommunication networks, a refusal to fulfill a decision approved by NCCR and entered into effect,

shall entail penalties imposed on officials and natural persons, participants of business activities, in an equivalent to amount between one hundred and three hundred minimum amounts of tax-exempt individual incomes.

Same actions repeated within a year from imposition of administrative penalty for any violation specified by part 1 of this Article

shall entail penalties imposed on officials of telecommunication companies of any ownership, and natural persons, participants of business activities, in an equivalent to amount between three hundred and five hundred minimum amounts of tax-exempt individual incomes.

2) paragraph 3 of Article 4 of the Law of Ukraine On Prices and Pricing (Vidomosti Verkhovnoyi Rady of the UkrSSR, 1990 p., N 52, p. 650) shall be complemented with words “save for telecommunications sphere”;

3) part III of Article 4 of the Law of Ukraine On Entrepreneurship (Vidomosti Verkhovnoyi Rady of the UkrSSR, 1991, N 14, p. 168; Vidomosti Verkhovnoyi Rady Ukrainy, 2000, N 36, p. 299; 2003, N 39, p. 333) shall be deleted;

4) in the Law of Ukraine On Natural Monopolies (Vidomosti Verkhovnoyi Rady Ukrainy, 2000, N 30, p. 238):

a) part I of Article 4 shall be complemented with paragraph 4 reading as follows:

“The National Commission for Communications Regulation (NCCR) established in accordance with the Law of Ukraine On Telecommunications is a regulating authority in the field of communication;

b) paragraph 5 of Part I of Article 5 shall be deleted;

c) paragraph 8 of Article 6 shall be deleted;

d) Chapter V "Final Provisions" shall be supplemented with paragraph 4 reading as follows:

"4. Regulation in the field of telecommunications shall comply with the Law of Ukraine On Telecommunications and the Law of Ukraine On Postal Communication;

5) in the Law of Ukraine On Radio Frequency Resource of Ukraine (Vidomosti Verkhovnoyi Rady Ukrainy, 2000, N 36, p. 298; 2003, N 30, p. 247):

a) in Article 19:

Paragraph 8 shall be reworded to read:

"8. In the event that a radio frequencies resource user intends to continue the use of radio frequencies resource upon its licenses expiration such user shall be required to apply to the Communication and Radio Frequencies Administration of Ukraine (CRFA) with an application according to a standard form. The application form shall be established by the said authority.

The application requesting the license effect extension shall be filed four months prior to the expiry dates of respective licenses. CRFA may not decline the application requesting the license effect extension insofar as the applicant has met all conditions of the license held or the failure to meet such conditions results from valid reasons beyond the licensee's control

The decision on the license effect extension must be made within the most of two months prior to the date of expiry of the current license and shall be executed as an attachment to the respective license. A motivated decision to decline the

license effect extension must be forwarded to the applicant within the most of two months prior to the date of expiry of the current license.

CRFA decision on declining the application to extend the license effect may be appealed to court. Should the applicant file a complaint with court prior to the expiration of the current license, CRFA's decision shall be suspended until the time of the court review of the complaint. ";

A new paragraph shall be added after paragraph 8 reading as follows:

"9. The following circumstances shall serve grounds for re-issuing a license authorizing the radio frequencies use:

- 1) change in the name of a legal entity or full name of the natural person using the radio frequencies resource;
- 2) change in location of a legal entity or place of residence of the natural person using the radio frequencies resource;
- 3) reorganization of a legal entity being a business entity using radio frequencies resource through modification of an organizational and legal form, conversion, merger, acquisition. In case of such reorganization, licenses received by radio frequencies resource users shall be reissued to its successors.

In case of emergence of grounds for the license reissue, a radio frequencies resource user must within 30 days file with CFRA an application requesting reissue of a license to radio frequencies resource use complete with the license subject to reissue and the package of necessary documents or their notarized copies attesting to the changes.

CRFA, within ten business days following the date of registration of application to reissue the license to radio frequencies resource use, must issue, against with documents attesting to payment for the reissue, a license reissued on a new letterhead with account for all modifications described in the application requesting the license reissue, or decline such reissue in the event of absence of grounds for such reissue or in case of inaccurate data in the submitted documents. Concurrently with the license reissued on a new letterhead authorizing the radio frequencies resource use, CFRA shall issue to the business entity certified copies of such license for branches, separate units using radio frequencies resource.

In case of reissuing licenses to radio frequencies resource use CFRA shall make a decision on invalidation of the license being reissued with entering respective amendments in the licenses registry not later than on the following business day.

The effect of the reissued license to radio frequencies resource use may not exceed the period of effect of the license being reissued.

The amount of fee payable for reissuing a license to radio frequencies resource use shall be set by the Cabinet of Ministers of Ukraine ".

In connection with the above, paragraphs 9 - 11 shall respectively be deemed paragraphs 10 - 12;

Item 12 shall be supplemented with Paragraph 2 reading as follows:

"In case a decision is made to annul a license of a radio frequencies resource user being a telecommunications operator, CFRA must establish an expiry date with account for the time necessary for notifying subscribers of such entity's termination which deadline may not however be less than three months ";

b) in the text of the Law, words "the Ukrainian State Center for Radio Frequencies and Communication Oversight" shall be replaced with "Ukrainian State Center for Radio Frequencies" in respective cases;

6) in the Law of Ukraine On Licensing of Certain Types of Activities (Vidomosti Verkhovnoyi Rady Ukrainy, 2000, N 36, p. 299, N 45, p. 377; 2001, N 11, p. 45, N 16, p. 76, N 22, p. 105; 2002, N 1, p. 1, N 6, p. 39, N 7, p. 50, N 17, p. 121, N 20, p. 134, N 30, p. 207, N 31, p. 214; 2003, N 23, p. 145, N 36, p. 276):

a) in Part II of Article 2, words "tobacco products" shall be replaced with "tobacco products, in the field of communications";

b) Items 47, 48, 49 of Article 9 shall be deleted;

7) The Law of Ukraine On Specifics of Privatization of Open Joint Stock Company "Ukrtelecom" (Vidomosti Verkhovnoyi Rady Ukrainy, 2000, N 41, p. 341; 2003, N 37, p. 300) shall be complemented with Article 19 reading as follows:

**"Article 19. Protection of Interests of the State**

The Open Joint Stock Company "Ukrtelecom" may not transfer transportation-based general use telecommunication networks into other persons' ownership or control.

In case that the Open Joint Stock Company "Ukrtelecom" is declared bankrupt, the preferential right to acquisition of transportation-based general use telecommunication networks accounted for on its books shall be owned by the state.

8. The following acts shall be invalidated:

a) The Law of Ukraine On Communication (Vidomosti Verkhovnoyi Rady Ukrainy, 1995, N 20, p. 143; 1997, N 9, p. 71; 2000, N 6 - 7, p. 40, N 41, p. 341; 2001, N 9, p. 38; 2002, N 15, p. 103, N 35, p. 257; 2003, N 15, p. 106, N 24, p. 156, N 30, p. 247, N 39, p. 333);

b) Resolution of the Verkhovna Rada of Ukraine of 16 May 1995 On Procedure of Enactment of the law of Ukraine On Communication (Vidomosti Verkhovnoyi Rady Ukrainy, 1995, N 20, p. 144).

**President of Ukraine**

**L. KUCHMA**

**City of Kyiv**