

Disclaimer: This is a Romanian to English translation meant to facilitate the understanding of this document. Should differences appear between the Romanian and the English version, following translation, the Romanian version shall prevail.

On grounds of Article 36 of Government Emergency Ordinance no. 111/2011 on electronic communications, approved with amendments and completions by Law no. 140/2012, with the subsequent amendments and completions, as well as of Article 10(2) indent 10, Article 12 (1) and (3) of Government Emergency Ordinance no. 22/2009 on the establishment of the National Authority for Management and Regulation in Communications, approved by Law no. 113/2010, with the subsequent amendments and completions,

**THE PRESIDENT OF
THE NATIONAL AUTHORITY FOR MANAGEMENT AND REGULATION
IN COMMUNICATIONS**

issues this:

**DECISION
on the procedure of awarding radio frequency use rights**

**Chapter I
General provisions**

Article 1. – (1) This Decision lays down the procedure for awarding, amending, terminating, extending and transferring radio frequency use rights.

(2) The National Authority for Management and Regulation in Communications, hereinafter referred to as *ANCOM*, can award the right to use radio frequencies to a person authorized under the Government Emergency Ordinance no. 111/2011 on electronic communications, approved with amendments and completions by Law no. 140/2012, with the subsequent amendments and completions, hereinafter referred to as the Framework Ordinance.

Article 2. – (1) This decision covers:

- a) non-governmental radio frequencies/bands, according to the National Table of Frequency Allocations, hereinafter referred to as *NTFA*, used for the provision of electronic communications networks and/or services;
- b) non-governmental/governmental radio frequencies/bands, according to the NTFA, used for the provision of non-governmental electronic communications networks and/or electronic communications services.

(2) This decision does not apply to:

- a) radio frequencies or radio frequency bands exempted from the licensing regime, according to the law;
- b) radio frequencies allocated/assigned to diplomatic missions, consular offices and representations of international organizations accredited in Romania;
- c) the radio frequency bands allocated, according to the NTFA, for amateur service, when used for applications in the amateur service;
- d) the radio frequency bands allocated, according to the NTFA, to sound radio and television broadcasting services, when used by radiocommunications stations within these services.

Article 3. – (1) Throughout this decision, the definitions set out in the Framework Decision shall apply.

(2) For the purposes of this Decision, through the frequency assignment authorization, hereafter referred to as *FAA*, which is an annex to the license for the use of radio frequencies, ANCOM establishes the radio frequencies/radio frequency bands used by one or more radiocommunications stations, as well as the technical and operational parameters associated with them.

Article 4. – (1) The licence for the use of radio frequencies, hereinafter referred to as *LUF*, shall include, in particular: the holder's identification data, the awarded spectrum use rights – as assigned frequency or frequencies or, as the case may be, the frequency band or bands where assignments will be made based on LUF –, the radiocommunications service designation and the type of application for which the LUF has been awarded, the area of providing the respective electronic communications network or service, the technical and operational conditions associated with the usage rights, the holder's obligations, the validity term of these rights, the term for putting into service of the network, the date of entry into force of usage rights (if applicable), any other conditions established in accordance with the provisions of Article 24(2) of the Framework Ordinance, as well as other obligations deriving from the legislation in force in the electronic communications field.

(2) The FAA shall comprise, in particular, the holder's identification data, the radio frequency or frequencies/the assigned radio frequency bands, the technical and operational parameters of a radiocommunications station or, as the case may be, of the radiocommunications stations within a network, as well as other relevant data.

Article 5. – (1) The effective use of radio frequencies is only permitted after obtaining the LUF or the FAA under the terms of this Decision.

(2) It is not necessary to obtain a LUF when the radio spectrum is used by means of radio communication equipment operating under reception conditions, except where the radio spectrum is used by means of:

(a) equipment operating within networks in the following services: maritime mobile, maritime mobile-satellite, aeronautical mobile, aeronautical mobile-satellite, meteorological (including satellite) auxiliary, active or passive satellite science services (Earth exploration, space research, space exploitation), radio astronomy;

(b) equipment in the radiodetermination service (including satellite), where these are located on shore/ground and operate in association with ships/aircraft.

(3) An FAA is not necessary when the radio spectrum is used by means of radiocommunications equipment operating in reception mode, except where the radio spectrum is used by means of:

- a) equipment that is part of networks that include broadcasting stations (in the sense that electronic communications services cannot be provided through such networks in the absence of this reception equipment);
 - b) equipment in the radiodetermination service (including satellite), if located on board ships/aircraft.
- (4) It is not necessary to obtain a LUF if the radio spectrum is used by means of electronic communications terminal equipment operating in the emission or emission/reception mode under the control of an electronic communications network, except where the radio spectrum is used by means of:
- a) terminals operating on a satellite radiocommunications services network without a LUF for the provision of electronic communications services in Romania;
 - b) terminals operating on networks in the land mobile service made up of mobile and/or portable stations without a base station.
- (5) It is not necessary to obtain an FAA if the radio spectrum is used by means of electronic communications terminal equipment operating in the emission or emission/reception mode exclusively under the control of an electronic communications network for which a LUF has been issued, with the following exceptions:
- a) terminal equipment operating under the control of networks in the following services: maritime mobile, maritime mobile-satellite, aeronautical mobile, aeronautical mobile-satellite, fixed-satellite, professional mobile communications networks (including those with restricted public access), land mobile, as well as self-provided point-to-multipoint networks in the fixed service;
 - b) terminal equipment operating under the control of networks in the radiodetermination (including satellite) service, where they are located on board ships/aircraft or when operating on shore/ground in combination with them.
- (6) For the global satellite communications systems and cellular mobile communications systems on board ships or aircraft without infrastructure (e.g. coordinating stations, calibration stations, etc.) on the territory of Romania, the right to use the radio spectrum for the provision of electronic communications services in Romania will be awarded by LUF.
- (7) Where the systems referred to in paragraph (6) also have infrastructure on the territory of Romania, the right to use the radio spectrum for the provision of electronic communications networks and services in Romania will be awarded by LUF and FAA.

Article 6. – The frequency use right awarded by LUF may consist of the allotment of frequencies/frequency sub-bands in a given geographical area or of frequency/frequency sub-bands assignments, based on the type of electronic communications networks or services concerned and on the radiocommunications service where they belong, having regard also to the electronic communications development strategy and to the radio spectrum management policy.

Article 7. – (1) ANCOM awards LUF by:

- a) direct awarding procedure, on a *"first come, first served basis"*, under open, objective, transparent, non-discriminatory and proportionate conditions;
 - b) competitive or comparative selection procedure under objective, transparent, non-discriminatory and proportionate conditions.
- (2) The awarding of LUF shall not result in hindering, preventing or distorting competition.

(3) The awarding of LUF under the procedure provided for in paragraph (1) item a) shall be carried out within 6 weeks from the receipt of an accurate and complete application made in compliance with the provisions of this Decision.

(4) The awarding of LUF under the procedure provided for in paragraph (1) item b) shall be carried out within 8 months from the date of initiation of the procedure.

(5) The terms provided in paragraphs (3) and (4) may be modified by ANCOM under the conditions set out in the Framework Ordinance.

Article 8. – (1) The competitive or comparative selection procedure shall apply to the categories of radio networks and frequency bands set out in Annex no. 1.

(2) ANCOM may decide to organize a competitive or comparative selection procedure in other radio frequency bands under Article 25 (1) of the Framework Ordinance.

(3) The stages, deadlines and conditions for granting the LUF in a competitive or comparative selection procedure shall be determined individually, for each radio frequency band subject to the selection procedure, by decision of the ANCOM President.

(4) For all cases not covered by paragraphs (1) and (2), ANCOM awards LUF by the procedure provided for in Article 7 (1) item a).

Article 9. – LUF is awarded for a period of 5 years, with the following exceptions:

- a) LUF awarded for electronic communications networks intended for occasional experiments or transmissions, with a validity period of maximum 6 months from the date of issue;
- b) LUF awarded through a competitive or comparative selection procedure for which the validity term is set in accordance with the provisions of Article 31 of the Framework Ordinance;
- c) LUF awarded for periods of less than 5 years, as requested by the holder;
- d) LUF awarded for periods of less than 5 years for reasons related to radio spectrum management;
- e) LUF awarded based on position papers or strategy papers related to radio spectrum use, which provide for other validity periods.

Chapter II

Awarding of LUF and FAA

Article 10. – (1) For the purpose of obtaining a LUF under the terms of Article 7(1) item a), the applicant shall send to ANCOM a request, in original, by filling in a standard form based on the radiocommunications service and on the type of application within the respective service, envisaged by the applicant.

(2) The standard form may be obtained from the headquarters, from the Authority's territorial structures or from the ANCOM website.

(3) In the case of legal entities, the request provided in paragraph (1) shall be signed by the entity's legal representative and shall bear its stamp.

(4) The request may be submitted to ANCOM's headquarters or to any of its territorial units, in one of the following ways:

- a) by direct filing, personally or by a representative of the applicant;
- b) by postal service;
- c) as a document in electronic form, with an embedded, attached or logically associated extended electronic signature, based on a qualified or non-revoked

qualified certificate at that time and generated by means of a secure electronic signature generation device.

(5) The date of submission is deemed to be the date of entry into ANCOM's general register of correspondence, or the date of confirmation of receipt of the document in electronic form, as the case may be.

Article 11. – (1) The standard form shall be accompanied, as part of the request for LUF, by:

a) the confirmation of company details issued by the Trade Registry Office, no later than 30 calendar days before the submission date and containing at least information on the identification, associates/shareholders, administrators and insolvency, judicial reorganization or bankruptcy – for legal entities – or on the authorized natural person, the individual enterprise or the family enterprise, as the case may be, according to the law;

b) the tax registration certificate and/or the certificate of registration in the Register of Associations and Foundations or in the Register of Federations, in the case of associations or foundations, in copy;

c) the fiscal registration certificate, in copy.

(2) For entities without legal personality, the standard form shall be accompanied by the following documents:

a) the fiscal registration certificate, in copy;

b) the act of establishment, with all subsequent amendments and completions, in copy.

(3) Requesters that are natural persons shall attach to the standard form a copy of their identity document.

(4) A foreign requester shall attach to the standard form the documents equivalent to those requested from the Romanian entities, in a legalized translation into Romanian and in compliance with the requirements regarding the use of official documents drawn up on the territory of another state.

(5) The documents provided in paragraph (4) are not required from foreign persons intending to obtain LUF for the operation of an electronic communications network for experimental or occasional transmissions.

(6) The persons referred to in paragraphs (1) - (4) shall attach to the standard form also the technical documentation supporting the solution proposed for the deployment of the electronic communications network based on the technical conditions established by ANCOM in accordance with the applicable technical regulations. The technical documentation shall be drawn up taking into account the radiocommunications service concerned and the type of application in the respective service envisaged by the requester.

(7) In order to obtain the license for the use of radio frequencies for electronic communications networks in frequency bands that are not allocated to the broadcasting service, according to the NTFA, for the retransmission or provision of audiovisual program services, according to the Broadcasting Law no. 504/2002, with the subsequent amendments and completions, the requester must have all the documents stipulated in the above-mentioned normative act and to submit, in copy, the audiovisual license, the retransmission authorization, the retransmission endorsement, as the case may be, corresponding to the areas where the program services are to be provided or retransmitted, as appropriate.

(8) The requester has the obligation to communicate the purpose and to justify the necessity of using the radio frequencies.

Article 12. – (1) Where the analysis of the request and the technical documentation reveals that the request is incorrect or incomplete or the proposed solution does not meet the technical conditions established by ANCOM in accordance with the applicable technical regulations, ANCOM shall communicate to the requester the respective issues. ANCOM may request additional supporting documents as appropriate.

(2) Within 6 weeks from the date of submission of the request and of all additional documents and/or additional information requested, ANCOM will - where the case may be - analyse the documentation submitted and, if the technical and legal conditions are met, issue the LUF with one or more FAA, as the case may be, except in the cases referred to in Article 16.

(3) The term stipulated in paragraph (2) may be modified by ANCOM under the provisions of Article 26 (3) of the Framework Ordinance.

(4) The LUF and FAA for electronic communications networks for experimental or occasional transmissions shall be issued within 30 calendar days from the date of transmission of the request and of all additional documents and/or additional information requested, as the case may be.

(5) In the case of applications submitted for LUF for emergency occasional transmissions, ANCOM may issue the LUF within a shorter term than that provided in paragraph (4).

Article 13. – (1) ANCOM shall reject a request for LUF in the following cases:

- a) the requester failed to submit all the documents and/or to send all the information provided in Article 10-12;
- b) the requester is not authorized under the terms of the Framework Ordinance;
- c) there are no radio frequencies available under the required conditions;
- d) the technical or legal conditions in the field of electronic communications are not met;
- e) the allotment/assignment of the required radio spectrum resource it is not objectively justified, for reasons of rational and efficient use of the frequency spectrum;
- f) a final decision on bankruptcy has been issued against the requester;
- g) the requester is under judicial dissolution, dissolution *de jure* or liquidation;
- h) the requester has standing debt related to the spectrum usage tariff for previously allotted radio frequencies, as set by ANCOM according to the provisions of Article 30(1) of the Framework Ordinance, as well as any ancillary dues related to the tariff.

(2) Rejection of a LUF request shall be motivated and communicated to the requester.

Article 14. – (1) Prior to submitting the LUF and/or FAA request - as the case may be - for the fixed service [except for Multichannel Multipoint Distribution Systems (MMDS)], the land mobile service (only for national or regional networks requiring previous frequency planning), radiodetermination services (radionavigation and radiolocation), maritime mobile service (shore stations only), aeronautical mobile service (ground stations only), the requester may address ANCOM with a view to finding the technical and legal possibilities for the issuance of a LUF and/or FAA.

(2) Where, following analysis, the request is found to be incorrect or incomplete or the requester does not satisfactorily fulfil the condition laid down in Article 11 (8), ANCOM shall transmit the requester the respective remarks. ANCOM may request additional information and supporting documents, as the case may be.

(3) Not later than 6 weeks from the date of submitting the request mentioned in paragraph (1) and all the additional documents and/or information requested - as the case may be -,

ANCOM shall communicate in writing the outcome of the analysis on the possibility of allotting/assigning radio frequencies under the specified minimum technical and operational conditions.

(4) Where the technical and legal analysis involves processing a significant amount of data and/or information, the deadline referred to in paragraph (3) may be extended for up to 6 weeks, provided that the applicant is notified before the expiry of the period provided for in paragraph (3).

Article 15. – (1) The LUF holder shall send to ANCOM a notification on putting into operation the electronic communications network. The notification shall be made at least 7 calendar days before the actual use of the radio frequencies begins and in compliance with the deadline for putting into operation the network. The notification will be made according to the standard for posted on the ANCOM website.

(2) After receiving the notification provided for in paragraph (1), ANCOM shall check compliance with the technical and operational parameters authorized under LUF and FAA. In the event that, at the putting into operation, ANCOM finds that the authorized technical and operational parameters have been modified, the provisions of Article 22 shall apply accordingly.

(3) The provisions of paragraph (1) shall not apply to national mobile cellular communications networks, radiocommunications stations for occasional and experimental transmissions, stations in the maritime mobile service (including satellite), stations in the aeronautical mobile service (including satellite), stations in the radiodetermination service, fixed radiocommunications networks (except MMDS networks) and satellite radio-communications networks.

(4) If, after the putting into operation, the holder intends to modify the data contained in the notification referred to in paragraph (1), subsequent to following the procedure laid down in Article 22 in the case covered by that Article, it shall transmit to ANCOM a new notification containing the amended data.

Article 16. – (1) In the case of LUF containing exclusive channel/frequency sub-band allotments for which the holder has frequency use rights for the provision of public electronic communications networks at national level in the land mobile service or on a specific geographic area in the fixed service, the following steps are required to obtain the FAA, unless the licence text otherwise provides:

- a) the holder proposes the effective frequency assignments for each radio station in its electronic communications network(s) and the technical and operational parameters associated with them, within the frequency sub-band allotments and under the technical and operational conditions stipulated in the licence, by notifying ANCOM with a view to obtaining the authorisation for radio stations, at least 30 calendar days before the intended date of putting them into operation; assignment proposals will be based on the holder's technical study on compatibility between the stations in its network/networks, both new and existing, in accordance with the applicable technical regulations;
- b) ANCOM analyses the notifications stipulated at item (a) and, where the technical and operational conditions set out in the licence are met, issues the FAA within 3 months from the receipt of complete and accurate notifications from the holder;

(2) In all cases of LUF containing allotments of frequency channels/sub bands in the fixed service, other than those provided in paragraph (1), the following steps are required in order to obtain the FAA, unless otherwise provided in the LUF text:

- a) the holder proposes the effective frequency assignments for each radio station in its electronic communications network and the technical and operational parameters associated with them, within the frequency sub-band allotments and under the technical and operational conditions stipulated in the licence, by notifying ANCOM with a view to obtaining the authorisation for radio stations, before the intended date of putting them into operation; assignment proposals will be based on the holder's technical study on compatibility between the stations in its network/networks, both new and existing, in accordance with the applicable technical regulations;
 - b) ANCOM analyses the notifications stipulated at item (a) and, where radioelectric compatibility with existing assignments issued for other radiocommunications networks in the fixed service is ensured, issues the FAA within 9 weeks from the receipt of complete and accurate notifications from the holder;
 - c) where the parameters proposed by the notification affect the functioning of other radiocommunications networks in the fixed service, ANCOM shall require the holder to make the necessary modifications in order to ensure radioelectric compatibility with the existing assignments for other radiocommunications networks in the fixed service;
 - d) in the case referred to at item c) the FAA will be issued after the holder has notified the modified parameters in accordance with the requirements expressed by ANCOM.
- (3) In the cases provided in paragraphs (1) and (2), the format and the manner of transmitting the notifications for the authorization of the radiocommunications stations shall be established by ANCOM and shall be communicated to the interested parties.

Chapter III **Amending LUF and/or FAA**

Article 17. – (1) Once the LUF has been awarded, in any cases other than those provided for in Article 16, where the holder extends his electronic communications network to include new radio stations, subject to the technical and operational conditions in the LUF, it will request the issuance of the corresponding FAA and/or, as appropriate, the amendment of some FAA.

(2) The holder shall submit the request referred to in paragraph (1), as well as the related technical documentation, in compliance with the provisions of Article 10 paragraphs (3)-(5) and Article 11 paragraphs (6) and (7), which shall apply accordingly. The request provided in paragraph (1) shall be accompanied by an explanatory memorandum on the network roll-out, in compliance with the provisions of Article 11 (8) and, where appropriate, copies of all documents supporting those amendments.

(3) Additional FAA shall be issued subject to the provisions of Article 12, which shall apply accordingly. Amended FAA shall be issued in accordance with the provisions of Article 22, which shall apply accordingly. ANCOM may also amend the FAA on its own initiative. In the case of the fixed service, the provisions of Article 14 shall also apply accordingly.

(4) The effective use of radio frequencies under the new technical conditions is permitted only after the FAA has been issued or amended, the provisions of Article 15 being applied accordingly.

(5) ANCOM may reject the issuance of additional FAA or, as the case may be, of amended FAA, in the following cases:

- a) the requester failed to submit all the documents and/or did not submit all the information stipulated in paragraphs (2) and (3);
- b) the requester is in one of the situations referred to in Article 13 (1) items c) -g);
- c) the requester is in one of the situations referred to in Article 19 (7) items c)-e).

Article 18. – (1) Upon granting the LUF, in the event that the holder reduces its electronic communications network i.e. gives up some radio stations in that network, in compliance with the technical and operational conditions of the LUF, it shall notify ANCOM, in writing, subject to the provisions of Article 25 (2).

(2) Where the network reduction also involves the amendment of FAA, ANCOM will amend those FAA based on a request submitted by the holder. In this case, the provisions of Article 22 shall apply accordingly. ANCOM may also amend the FAA on its own initiative.

(3) The notification provided in paragraph (1) shall include a justification for giving up the respective radio stations.

(4) In the situation stipulated in paragraph (1), the LUF keeps its validity term for the remaining radiocommunications stations in the network.

Article 19. – (1) The validity term of the LUF awarded in accordance with the principle laid down in Article 7 (1) item (a) may be successively extended for periods not exceeding the period for which it has been originally issued.

(2) For the purpose of prolonging the validity of the LUF, the holder shall submit a request, in original, at least 30 days, but not earlier than 90 days, before the expiry of the term contained therein, in compliance with the provisions of Article 10 paragraphs (3)-(5). The request shall be accompanied, where appropriate, by the confirmation of company details issued by the Trade Registry Office no later than 30 calendar days prior to the date of submission of the application, containing at least the identification information, associates/shareholders, administrators and insolvency statements, judicial reorganization or bankruptcy.

(3) Upon the extension of the validity period of the licence for the use of radio frequencies, the regulatory authority may review the conditions considered for the initial LUF issuance. In this situation, ANCOM informs the holder on the changes to be made and gives it appropriate time to implement these changes in proportion to their qualitative or quantitative nature.

(4) Within 30 calendar days from the date of submitting the request provided in paragraph (2), respectively the holder's response to the notification received from the Authority regarding the new conditions for extending the LUF validity, ANCOM will extend the validity period of the LUF if the conditions stipulated by law are met.

(5) The validity of the LUF awarded by comparative or competitive selection procedure shall be extended under the terms of Article 31 of the Framework Ordinance.

(6) For the purpose of prolonging the validity of LUF awarded by competitive or comparative selection procedure, the holder shall submit a request in original, at least 18 months, but not earlier than 24 months before the expiry of the term contained therein. In this case, ANCOM will communicate the result of its analysis at least 8 months before the LUF has reached the deadline.

(7) ANCOM may refuse to extend the validity of a LUF, if:

- a) the request has not been filed in compliance with the deadlines stipulated in paragraph (2) or paragraph (6), as the case may be;
- b) the requester is in one of the situations referred to in Article 13 (1) items d), f) and g);

- c) the extension of the rights of use is not justified, for reasons related to the rational and efficient use of radio spectrum;
- d) the frequency band or bands under the LUF are in a process of radio spectrum reorganisation;
- e) there are provisions in this respect in the technical regulations in force regarding the frequency band or bands under the LUF.

Article 20. – (1) ANCOM may amend the LUF and/or FAA *ex officio* in the cases provided for in Article 24 (3) of the Framework Ordinance, as well as when the holder's identification data have changed.

(2) ANCOM may amend the provisions of the LUF and/or FAA upon the holder's request, in the following cases:

- a) amendments to the technical and operational conditions in the LUF are requested, under the conditions of Article 21;
- b) amendments to the technical and operational conditions in the FAA are requested, under the conditions of Article 22;
- c) the holder's identification data have changed;
- d) amendments to the holder's identification data are requested, in accordance with Article 24.

(3) In order to apply the provisions of paragraph (2) item c), within 10 days from the date of the identification data modification date, the holder shall submit a request for amending the identification data, in original, accompanied by the supporting documents, in copy, in compliance with the provisions of Article 10, paragraphs (3) - (5).

(4) Upon modification of the holder's identification data, ANCOM shall issue the LUF without amending the validity term or the technical and operational conditions included in the LUF, unless such amendments are simultaneously requested, in which case the provisions of Articles 19, 21 and 22 become applicable, as well, as the case may be.

Article 21. – (1) In order to amend the technical and operational conditions in the LUF, the holder shall submit a request, in original, by filling in a standard form, depending on the radiocommunications service concerned by the request and on the type of application envisaged by the requester in the respective service.

(2) The technical and operational conditions contained in the LUF issued under the procedure referred to in Article 7 (1) item b) shall be carried out only in compliance with all the requirements that were considered in the initial awarding of the LUF.

(3) The holder shall submit the request provided in par. (1), as well as the related technical documentation, in compliance with the provisions of Article 10 paragraphs (3) to (5) and Article 11 paragraphs (6) and (7), which shall apply accordingly. The request provided in paragraph (1) shall be accompanied by an explanatory memorandum on the requested changes, in compliance with the provisions of Article 11 paragraph (8) and, where appropriate, copies of all documents supporting those changes.

(4) The LUF shall be amended in accordance with the provisions of Article 12, which shall apply accordingly.

(5) The use of radio frequencies under the amended technical and operational conditions is permitted only after the amendment of the LUF.

(6) ANCOM may refuse the issuance of amended LUF in the following cases:

- a) the requester did not submit all the documents and/or did not submit all the information stipulated in paragraphs (3) and (4);

- b) the requester is in one of the situations referred to in Article 13 (1) items c)-g);
- c) the requester is in one of the situations referred to in Article 19 (7) items c)-e).

Article 22. – (1) With a view to the amendment of the technical and operational parameters included in the FAA, the holder will send a request, in original, by filling in a standard form, based on the radiocommunications service and the type of application in the service concerned by the request.

(2) The holder shall submit the request referred to in paragraph (1), as well as the related technical documentation, in compliance with the provisions of Article 10 paragraphs (3) - (5) and of Article 11 paragraphs (6) and (7), which shall apply accordingly. The request provided in paragraph (1) shall be accompanied by an explanatory memorandum on the requested amendments, in compliance with the provisions of Article 11 (8) and - as the case may be - copies of all documents supporting those changes.

(3) The FAA shall be amended in accordance with the provisions of Article 12, which shall apply accordingly.

(4) The use of radio frequencies with amended technical and operational parameters is allowed only after the FAA has been duly amended, while the provisions of Article 15(4) shall apply accordingly.

(5) By way of exception from the provisions of paragraph (1), in the case of LUF containing channel/frequency sub-band allotments in the land mobile service or in the fixed service, the technical and operational parameters covered by the FAA shall be subject to the conditions described in Article 16, which shall apply accordingly. Any necessary justifications will be required by ANCOM on a case-by-case basis, with the appropriate application of paragraph (2).

(6) ANCOM may refuse the issuance of amended FAA in the following cases:

- a) the requester failed to submit all the documents and/or did not send all the information stipulated in paragraphs (2) and (3);
- b) the requester is in one of the situations referred to in Article 13 (1) items c) - g);
- c) the requester is in one of the situations referred to in Article 19 (7) items c) - e).

Chapter IV

Transfer of frequency use rights

Article 23. – (1) The frequency use rights awarded for the provision of a public electronic communications network may be transferred under the provisions of Article 35 of the Framework Ordinance.

(2) A LUF issued for the provision of a public electronic communications network may be transferred in its entirety to a person authorized under the terms of the Framework Ordinance and of the general authorization regime for the provision of electronic communications networks and services, only upon the prior agreement of ANCOM and with the transferee's assuming all the obligations arising therefrom.

(3) The frequency use right can also be transferred in part, for the radio frequency bands set out in Annex no. 2.

(4) For the purpose of transferring frequency use rights, the holder of the rights shall submit to ANCOM a request, in original, which shall contain:

- a) the transferor's identification data;
- b) the transferee's identification data;
- c) the identification data of the LUF to be transferred;

d) the name, surname and signature of the legal representative/representatives and the stamp of the transferor, respectively of the transferee.

(5) The request provided in paragraph (4) will be accompanied by the following information and documents, which are part of the application for the transfer of frequency use rights:

(a) the transferee's commitment to assuming all the obligations contained in the LUF, signed by its legal representative/representatives and bearing its original stamp;

(b) the relevant documents referred to in Article 11 paragraphs (1) to (4), in the case of the transferee.

(6) ANCOM will consider whether the transferee fulfils the conditions for acquiring frequency use rights, whether the intended use of the radio frequencies that are concerned by the transfer is preserved and whether the transfer hinders, prevents or distorts competition.

(7) ANCOM may ask the transferor or the transferee for additional information if the information provided is not sufficient or where an analysis of the effects on competition in the electronic communications field is required.

(8) The prior agreement on the possibility of transferring frequency use rights shall be issued within 30 calendar days from the date of submitting the request or of sending any additional information requested by ANCOM, as the case may be. By the prior agreement, ANCOM may establish certain conditions under which the transfer may be concluded, in order to ensure compliance with the requirements set out in paragraph (6).

(9) Where the transfer of frequency use rights implies the processing of a significant amount of data and/or information, the time limit referred to in paragraph (8) may be extended by up to 180 calendar days, subject to notification to the parties involved.

(10) The prior agreement shall include the deadline within which the transferee must submit, in accordance with the provisions of this Decision, the request for amending the LUF in order to include its identification data in the LUF or, where applicable, the request for LUF, in the case of the partial transfer of frequency use rights.

(11) Failure to comply with the conditions established by ANCOM within the framework of the prior agreement or of the term stipulated in paragraph (10) results in its invalidation.

(12) ANCOM will refuse to grant the prior agreement if:

- a) the documentation submitted does not meet the legal requirements;
- b) the transferee is not authorized under the provisions of the Framework Ordinance;
- c) the designed use of the licensed radio frequencies changes as a result of the transfer of the usage rights;
- d) the holder of the usage rights has not fully paid the tariff for usage of the frequency spectrum, established by ANCOM according to the provisions of Article 30 paragraph (1) of the Framework Ordinance, for the usage rights to be transferred, as well as the related accessories, if any;
- e) the transfer of usage rights results in hindering, preventing or distorting competition;
- f) the transferee is in one of the situations referred to in Article 13 (1) items f) - h);
- g) the usage rights to be transferred are in radio frequency bands which are in the situation described in Article 19 (7) item d);
- h) the transferee does not meet the conditions considered when the frequency use rights have been awarded.

Article 24. – (1) After the conclusion of the transfer agreement in authentic form, based on the prior consent, the transferee shall send a request, in original, for awarding or amending the LUF, as the case may be, accompanied by a copy of the document signed by the parties.

(2) The transfer agreement provided in paragraph (1), concluded in disregard of the provisions of Article 23 (2), is null and void.

(3) Failure to comply with the time limit laid down in Article 23 (10) leads to the invalidation of the prior consent granted under Article 23 and to reinitiating the entire transfer procedure.

(4) A transfer agreement shall contain at least the following:

- a) legal identification data of the parties (e.g. name/company name, registration number at the Trade Registry Office, unique registration code, registered office);
- b) the subject of the agreement, identifying the LUF and the transferred usage rights;
- c) the persons empowered to represent the parties and the limits of the powers granted;
- d) the transfer agreement conclusion date, the signature of the legal representatives of the transferor, respectively of the transferee, as well as the stamp of the signatory parties.

(5) A transfer agreement concluded in breach of the provisions of paragraph (4) will not be considered.

(6) Within 30 days from the date of transmission of the documents referred to in paragraph (1), if the transfer agreement was concluded in compliance with the relevant provisions of Article 23 and of this Article, ANCOM shall issue to the transferor, in the event of transfer of the rights in their entirety, a decision to revoke the usage rights for the radio frequencies transferred and will change the LUF in favour of the transferee. At the same time, in the case of the partial transfer of the usage rights, ANCOM will issue an amended LUF to the transferor and a new LUF to the transferee.

(7) LUF issuance shall be refused in the situations referred to in Article 23 (12) item d) and f).

(8) A LUF transferred in its entirety or a LUF by which usage rights are granted for partially transferred frequencies, shall keep the expiry date of the LUF belonging to the transferor as well as the all obligations relating to the initial rights.

(9) The transferee can use the radio frequencies only after the issue of the LUF, in accordance with paragraph (8).

Chapter V

Cessation of the right granted by LUF

Article 25. - (1) The right to use radio frequencies shall cease in the following cases:

- a) upon expiry of the validity term, if the holder has not previously submitted to ANCOM a request for extension of the license validity;
- b) as a result of termination of the right to provide electronic communications networks or services for which the LUF has been granted;
- c) upon the holder's request;
- d) as a result of the transfer of usage rights in their entirety;
- e) where, following the division or merger, the person who has taken over the rights of use is not authorized under the terms of the Framework Ordinance and does not transmit the notification provided by law at the latest on the date when the said procedures have produced legal effects, under the legal provisions;
- f) a final court decision on the initiation of bankruptcy procedures has been issued;
- g) a final court decision on compulsory or *de jure* winding-up has been issued;

- h) as a result of the temporary interruption of the holder's commercial activity;
- i) following the withdrawal of this right under the terms of Article 26;
- j) as a result of the termination of the holder's existence or of the death of the natural person who was the holder of usage rights or the sole associate of a legal person, if in the latter case, within 6 months from the event, the legal heirs do not send a notification for the purpose of taking over the rights and obligations set out in the LUF.

(2) The holder will notify ANCOM about the waiver on its own initiative of the frequency use right. In this respect, the holder will submit a request, in original, in compliance with the provisions of Article 10 paragraphs (3)-(5). The application shall take effect on the date of transmission to ANCOM, determined in accordance with Article 10(5), unless the holder specifies a later date.

(3) The notification provided in paragraph (2) shall specify the reasons for giving up that radiocommunications network.

(4) In the cases provided in paragraph (1) items b)-j), ANCOM will issue a decision establishing the occurrence of the situation that led to the cessation of the usage right.

(5) In all cases where the communication of the decision provided in paragraph (4) cannot be carried out in accordance with the legal provisions, the decision shall be deemed to have been communicated from the date of its display at the headquarters or domicile of the holder as well as at the headquarters and on the ANCOM website.

Article 26. – (1) Usage rights shall be suspended or withdrawn by decision of the ANCOM President.

(2) ANCOM may suspend or withdraw the usage right in the following cases:

- a) in case of withdrawal of the usage right under Article 27, Article 147 item b) corroborated with Article 141 (1) or Article 148 of the Framework Ordinance;
- b) as a result of the suspension or withdrawal of the right to provide electronic communications networks or services.

Article 27. – (1) The suspension of frequency use rights may be decided for a period of up to 6 months, excepting suspension decided for the non-payment of the spectrum use tariff, for which the term may not exceed 30 days.

(2) Suspension of frequency use rights shall cease where the causes that have led to this measure are removed. The holder shall notify ANCOM, within the suspension period, on the removal of the causes which led to the suspension of the frequency use right.

(3) If, during the period of usage rights suspension, the causes leading to such a measure are not removed, ANCOM shall decide, by decision, the withdrawal of these rights.

Chapter VI – Transitional and final provisions

Article 28. – Where a LUF has been lost, damaged or stolen, ANCOM may issue a duplicate of the LUF upon the holder's request, following the filing of a statement on one's own responsibility regarding the loss, damage or theft of the LUF.

Article 29. – The results of analysis carried out by ANCOM, based on Article 14 of the Decision of the President of the Inspectorate General for Communications and Information Technology no. 658/2005 on the procedure for requesting and issuing licenses for the use of

radio frequencies may ground the submission of requests for the granting of rights to use radio frequencies for a period of 180 days from the date of entry into force of this Decision.

Article 30 - Requests for the LUF issuance, transfer, modification or termination transmitted until the date of entry into force of this Decision shall be analysed in accordance with the procedure laid down in the Decision of the President of the Inspectorate General for Communications and Information Technology no. 658/2005 on the procedure for requesting and issuing licenses for the use of radio frequencies.

Article 31. – (1) ANCOM shall make available to the public, on its own Internet page, all information necessary to obtain the LUF and the FAA, the content of the technical documentation for obtaining or modifying the LUF and/or the FAA, specifying, where appropriate, the format of presenting such information and the manner of transmitting it, as well as the standard forms referred to in this decision.

(2) In the case of specific details required to obtain the LUF and the FAA for certain requesters of radio spectrum use rights, ANCOM may communicate such items of information directly to the interested parties.

Article 32. - Annexes no. 1 and 2 are part of this Decision.

Article 33. - (1) This Decision shall be published in the Romanian Official Journal, Part I. (2) From the date of entry into force of this Decision, the decision of the President of the Inspectorate General for Communications and Information Technology no. 658/2005 regarding the procedure for requesting and issuing licenses for the use of radio frequencies, published in the Romanian Official Journal, Part I, no. 1.090 of 5 December 2005, is hereby repealed.

PRESIDENT

MARIUS CĂTĂLIN MARINESCU

Bucharest, 27 April 2015
No. 353

**Radio frequency bands where frequency use licences
are awarded by selection procedure
for certain categories of public networks**

	Radio frequency band	Network categories
1.	790-862 MHz	FDD mobile communications networks
2.	880-915 MHz/925-960 MHz	FDD mobile communications networks
3.	1710-1785/1805-1880 MHz	FDD mobile communications networks
4.	1900-1920 MHz	TDD mobile communications networks (the land component of IMT systems)
5.	1920-1980 MHz/2110-2170 MHz	FDD mobile communications networks (the land component of IMT systems)
6.	2500-2690 MHz	FDD or TDD mobile communications networks
7.	3410-3600 MHz	Wireless access point-to-multipoint networks (see Note no. 1)
8.	3600-3800 MHz	Wireless access point-to-multipoint networks (see Note no. 2)

NOTE no. 1: Until 31 December 2015, only public fixed and nomadic wireless point-to-multipoint networks in both FDD and TDD modes operate in this frequency band, based on licenses valid on the date of entry into force of the Decision of the President of the National Authority for Management and Regulation in Communications no. 353/2015 on the procedure for awarding frequency use rights.

NOTE no. 2: Until 31 December 2015, only one public wireless point-to-multipoint network in both FDD and TDD modes operate in this frequency band, based on the licence valid on the date of entry into force of the Decision of the President of the National Authority for Management and Regulation in Communications no. 353/2015 on the procedure for awarding frequency use rights.

**Radio frequency bands in which partial transfer of frequency use rights included
in the licences for the use of radio frequencies is allowed**

	Radio frequency band	Partial transfer may be considered for:
1.	790-862 MHz	paired 2X5 MHz blocks
2.	880-915 MHz/925-960 MHz	paired 2X5 MHz blocks
3.	1710-1785/1805-1880 MHz	paired 2X5 MHz blocks
4.	1900-1920 MHz	unpaired 2X5 MHz blocks
5.	1920-1980 MHz/2110-2170 MHz	paired 2X5 MHz blocks
6.	2500-2690 MHz	<ul style="list-style-type: none"> ▪ paired 2X5 MHz, only for the FDD operation mode; ▪ contiguous unpaired 15 MHz blocks, only for the TDD operation mode.
7.	3410-3600 MHz	paired 5 MHz blocks (see Note no. 1)
8.	3600-3800 MHz	unpaired 5 MHz blocks (see Note no. 1)

* NOTE no. 1: The rights to use the radio frequencies awarded in this frequency band, through licenses for the use of radio frequencies valid on the date of entry into force of the Decision of the President of the National Authority for Management and Regulation in Communications no. 353/2015 on the procedure for awarding frequency use rights cannot be partially transferred.