

On 1 December 2014, the Cabinet of Ministers of Ukraine approved the Terms of 3G Spectrum Licenses Auction ("3G Terms") for three radio frequency (RF) bands: 1920-1935/2110-2125, 1950-1965/2140-2155, and 1965-1980/2155-2170 MHz in Ukraine.

The 3G Terms establish:

1. Three available RF bands for use throughout all regions of Ukraine (1920-1935/2110-2125, 1950-1965/2140-2155, and 1965-1980/2155-2170 MHz). The same bidder may not win the auction for more than one of the bands. If a bidder wins the auction for one of the above bands, its documents will not be considered when determining the winner for the other available bands. If there is only one bidder for an available band, the tender board will recognize that bidder as the winner of the auction with respect to such band. The voice auction will be conducted for each available radio frequency band in turn.
2. A minimum price for each band of UAH 2.7 billion (approx. US\$180 million).
3. 15 year license term.
4. Type of wireless technology (digital cellular radio communication IMT-2000 (UMTS)).
5. That winners of the auction must, within 18 months of issuance of a license, ensure compliance with quality parameters of mobile communication according to the applicable laws of Ukraine in all administrative centers of oblasts and, within two to six years, in all administrative centers of regions and all localities with populations in excess of 10,000.
6. Responsibility of the winners of the auction to pay conversion costs of radio frequency resource of Ukraine within the above radio frequency bands according to the Plan of Conversion of Radio Frequency Bandwidths 1920-1935, 1950-1980, 2110-2125, 2140-2170 MHz to launch 3G mobile communications technology of IMT-2000 standard (UMTS) developed by the Headquarters of the Armed Forces of Ukraine, agreed by the Head of the National Commission and approved by the Minister of Defense of Ukraine on 23 September 2014. Such costs total UAH 1.6 billion.

7. Bid guarantee amounting to 10% of the minimum price (which is approx. US\$18 million or UAH 270 million) per band, which must be paid at least three business days prior to the commencement date of the auction and will be returned to all bidders, except the winner of the auction, within 10 business days upon registration of the outcome of the auction. The bid guarantee will be returned to the winner of the auction within 10 business days following payment for the license.
8. Voice bidding procedures will be used.
9. Announcement of auction and decisions of the National Commission for Communications and Informatization of Ukraine on conducting the auction and its results will be made available on the web-site of the National Commission and in its official newsletter.
10. Any license issued will be cancelled if sanctions under the Sanctions Law of Ukraine apply to such legal entity receiving a license. Sanctions may apply to certain foreign countries, foreign legal entities, legal entities under control of a foreign legal entity or non-resident individuals, foreigners, stateless individuals and entities involved in terrorist activities.

On 9 December 2014, the National Commission set 16 February 2015 as the commencement date for the auction of the 3G spectrum licenses and it approved the creation of the tender board.

Squire Patton Boggs combines international expertise in the legal and regulatory aspects of spectrum assignment with a deep experience of Ukrainian law and telecommunications regulation. We regularly advise both bidders and government authorities in relation to competitive and comparative spectrum licensing processes, including spectrum auctions of all types.

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