



New Developments

**In Ukrainian Legislation,
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POWER MARKETS

The Cabinet of Ministers of Ukraine Decree #49 of 14.01.2009 "On approval of the procedure of the disbursement of funds provided by the national budget for compensation in 2009 to the National Joint Stock Company "Naftogaz of Ukraine" the difference between the purchase price of the imported natural gas and the price of its sale to business entities for generation of the thermal power consumed by the general public"

The Cabinet of Ministers of Ukraine has approved the procedure of the disbursement of funds provided by the national budget for compensation in 2009 to the National Joint Stock Company "Naftogaz of Ukraine" the difference between the purchase price of the imported natural gas and the price of its sale to business entities for generation of the thermal power consumed by the general public. Such compensation is specified under paragraph 44 of Article 34 of the Law of Ukraine "On the National Budget of Ukraine for the Year 2009" and shall be financed out of the special fund of the national budget.

The decree specifies either the list of documents upon the provision of which the compensation may be granted, and the arrangements for cooperation between the Ministry of Fuel and Energy of Ukraine, the National Treasury, and the companies "Gas of Ukraine" and NJSC "Naftogaz of Ukraine" within the procedure of implementation of compensation scheme.

The standard form of the report on the reconciliation of the amount of imported natural gas sold by the subsidiary company "Gas of Ukraine" is approved. On the basis of the said report the Ministry of Fuel and Energy shall define the due amount of compensation.

Effective: 05.02.2009

TAX LAW

The Cabinet of Ministers of Ukraine Decree #45 of 28.01.2009 "On revocation of the Cabinet of Ministers of Ukraine Decree #1118 of December 20, 2008"

The Cabinet of Ministers of Ukraine revoked its Decree #1118 of 20.12.2008 "On amending the decree of the Cabinet of Ministers of Ukraine #507 of March 16, 2000", which prohibited the private entrepreneurs using the simplified tax system from being simultaneously the VAT-tax payers.

Effective: 03.02.2009

ANTITRUST REGULATION

The Antimonopoly Committee of Ukraine Resolution #880-p of 11.12.2008 «On approval of the standard requirements to the concerted action of business entities on the specialization of manufacturing, the compliance to which shall release the participants of concerted action from the necessity to obtain the permit of the Antimonopoly Committee of Ukraine»

The Antimonopoly Committee of Ukraine (the "AMCU") Resolution approving the standard requirements to the concerted action of business entities on the specialization of manufacturing, the compliance to which shall release the participants of concerted action from the necessity to obtain the permit of the AMCU, have come into effect.

According to the said resolution, the concerted action on the specialization shall be the horizontal concerted action of business entities which provides for the concentration of the efforts and resources of its individual participants in manufacturing (sales) of certain goods that shall facilitate the improvement (rationalization) of manufacturing, purchase or sale of goods, and accordingly is permitted under Section 1 of Article 10 of the Law of Ukraine #2210-III of 11.01.2001 "On the Protection of Business Competition" provided that the conditions of carrying out of such activity do not entail the substantial restriction on the whole market or its substantial part.

It is provided under the Resolution that it is necessary to obtain the permit of the AMCU for the concerted action provided that its participants do not assume any obligations except for those listed below:

- to cease manufacturing of certain identical or similar goods completely or partially, or refrain from their manufacturing;
- to cease manufacturing of certain goods different for each manufacturer on reciprocal basis or refrain from their manufacturing;
- to produce goods only jointly;
- to refrain from the performance of the concerted action on the specialization with third parties with regard to the identical or similar goods on the same goods market;
- to refrain from supply of the goods being the subject of the agreement on specialization to business entities not being the participants of concerted action on specialization and competing with them on the said goods market;
- to sell the goods being the subject of the agreement on specialization only jointly or through the distributor designated on the mutual consent of the participants;
- to supply to other parties to the agreement on specialization the goods being the subject of the agreement which comply with the minimum quality requirements;

- to maintain minimum stock of the goods being the subject of the agreement on specialization and repair parts thereto;
- to provide the customer with the related and guarantee services with regard to the goods being the subject of the agreement on specialization

Effective: 03.02.2009.

INTELLECTUAL PROPERTY LAW

The Ministry of Education and Science of Ukraine Order #1175 of 22.12.2008 " On approval of the Procedure of designation of the authorized organizations of collective management entitled for collection and distribution of the remuneration (royalty) for the use of phonograms and videograms which were published for commercial purpose and the Amendments to the procedure of registration of the organizations of collective management and supervision over their activities"

The new Procedure of designation of the authorized organizations of collective management entitled for collection and distribution of the remuneration (royalty) for the use of phonograms and videograms which were published for commercial purpose has been approved.

The list of the types of commercial use of phonograms and videograms was outlined whereby the authorized organizations of collective management shall be designated:

- public performance of phonograms or public display of videograms;
- public over-the-air broadcasting of phonograms and videograms;
- public wire (cable) transmission of phonograms and videograms.

Some requirements to the organization of collective management which shall be observed by the latter to be designated as authorized organization were defined more exactly:

- the organization shall be registered with the State Department of Intellectual Property (the "SDIP") for the period of not less than five years (previously the minimum term of registration was not outlined);
- the CEO of the organization shall have the university or equivalent degree and at least three years' work experience in management positions; the chief accountant shall have the degree in accountancy or university or equivalent degree in economics and at least one year's work experience (the previous version of the Procedure did not outline any specific requirements to the personell);

- a minimum office equipment and software list was included.

The list of requirements to the authorized organizations of collective management was supplemented by the following paragraphs:

- the organization shall manage the proprietary rights of the foreign holders of associated intellectual property rights;
- the organization was entitled to exercise collective management over the proprietary rights of Ukrainian resident holders of associated intellectual property rights to phonograms published for commercial purpose which have been publicly broadcasted for the highest number of times by television and radio broadcasting companies (radio) which have distributed their programs over the most regions of Ukraine during the quarter preceding the date of filing the application for designation as the authorized organization;
- the organization has got the regulation on the procedure of distribution of the collected remuneration (royalty) for the use of phonograms and videograms which were published for commercial purpose, approved by the highest management body of the organization;
- the business legal structure of the organization does not provide for the protection of rights of the members of this organization only.

In connection of the said procedure becoming effective the Ministry of Education and Science of Ukraine Order #309 of 21.05.2003 "On approval of the Procedure of designation of the authorized organizations of collective management" has been revoked.

The Order amended the Procedure of registration of the organizations of collective management and supervision over their activities approved by the Ministry of Education and Science of Ukraine Order #311 of 21.05.2003.

The Order expanded the list of the information about the participants or the founders of the organization of collective management which shall be indicated in the application on registration of the organizations of collective management with the SDIP.

The terms for review by the SDIP of the applications for registration of the organization of collective management and issuance of a duplicate copy of the certificate of registration of the organization of collective management were extended (from 10 to 15 days).

The procedure of application of punishment to the organizations of collective management for the breaches of copyright and associated rights was defined more precisely.

The list of the grounds for deregistration of the organization of collective management was amended.

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