



**Delegation of Ukraine
to the OSCE**

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Documents Distribution

Taking into account the interest shown by several Delegations to the radio “Continent” in Ukraine, Delegation of Ukraine would like to distribute the open letter of the Chairman of the National Council of Ukraine for Television and Radio Broadcasting Borys Kholod to the US Secretary of State Collin L. Powell and Chairman of Federal Communications Commission Michael K. Powell.

OPEN LETTER

**To: US Secretary of State
Collin L. Powell**

**Chairman of Federal Communications
Commission
Michael K. Powell**

Dear Sirs,

On March, 4, 2004 the US State Department Spokesman Richard Boucher at the beginning of his daily briefing expressed "great concern" upon the shutdown of the work of Radio Kontynent in Ukraine, which broadcast, in particular, programs of Radio Liberty, The Voice of America. The US State Department Spokesman interpreted it as "the attempts of the Ukrainian authority to limit the access of the community to independent information". That is almost return of Ukraine to the times of totalitarianism when foreign voices "were jammed".

Meanwhile, any unprejudiced person who attentively watches the processes of democratization in our country has conclusive proofs of the great development of television and radio during the years of Ukraine's independence. If at the beginning of the 90s there were 25 television and radio companies in our country, only state ones, now their total number is 1100 (and 97 % of them are commercial and private). During this time the daily range of television and radio programs has increased 50 times.

Ten years ago Ukraine adopted the first in CIS law "On Television and Radio Broadcasting", which was acknowledged to be one of the best on the continent by the Council of Europe specialists. This law as practically everywhere in the world foresees licensing television and radio companies broadcasting which is carried out by the constitutional state out-of-departmental body - National Council of Ukraine for Television and Radio Broadcasting. One of the first who got the license on the right of broadcasting on the channel 100.9 MHz (Kyiv) in the range of 12 hours a day for the period of 5 years was on the 27th of August the enterprise Mass Media Centre "Media-centre, Ltd". (call-signs of Radio Kontynent). In some months Media-centre, Ltd. addressed the National Council with an application to extend the range of broadcasting 12 hours more (that is twenty-four-hour broadcasting). A positive decision was adopted. But Media-centre, Ltd. didn't pay the license fee for the right to broadcast in additional time foreseen by the law, and that is why it didn't get the right for such activity. But this violation of Ukrainian legislation requirements was ignored by Radio Kontynent and it began to broadcast twenty-four hours a day illegally.

In view of ending of 5-year term of license of Radio Kontynent on December, 23, 2000 the National Council announced the open contest for 100.9 MHz frequency.

Media-centre, Ltd. took part in this contest as well. The other company was acknowledged to be the winner. But Radio Kontynent continued to broadcast on this frequency illegally (without license).

In the activity of the enterprise Mass Media Centre "Media-centre, Ltd." there is one more serious lawful violation of legislation: on November 28, 1996 this radio structure got from Ukrainian State Innovation Company according to the agreement a loan in total of 400 000 hryvnas (according to the official rate of exchange of that time it is almost a quarter of a million US dollars). The stated amount was subjected to be returned on December 31, 1999. But up to this time with the exception of 5 000 hryvnas (i.e. about 1 %) the debt is not repaid. That is Media-centre, Ltd. is in fact a financial bankrupt. We know that US authority federal

bodies very captiously treat the structures which do not return in time funds of those who pay taxes. We know how captiously in the course of licensing of American television and radio companies Federal Communications Commission treats insolvent claimants upon television channels and radio frequencies. Why then this negative side of the activity of Media-centre, Ltd. (Radio Kontyent) is passed over in silence? Probably the owners of this structure themselves understand it pretty well, because since year 2000 they have never applied for taking part in the contests on licensing radio frequencies (by the way during this period almost 20 such contest have been held, and more than 500 radio frequencies have been considered). There is one more reason, which is of purely creative character. Radio Kontyent practically did not prepare its own programs, having given almost all air time on the frequency 100.9 MHz to another radio organization (which also didn't have National Council's license) and to broadcasting programs of foreign radio stations. That is, in fact the matter concerns passing radio frequency in sublease to other broadcasters, which is prohibited by the Ukrainian legislation.

And now as to US State Department Spokesman remarks concerning Ukrainian authority to as if limit the public access to independent information (programs of Radio Liberty, The Voice of America and the like are meant). First of all these radio stations are represented in the air of the whole number of Ukrainian radio organizations both in regional centers of Ukraine (by the way on powerful AM radio transmitters) and on the waves and wire net of the first channel of Ukrainian National radio company (and it is 100% coverage of listeners of our country). If to take media body # 1 of the modern world - television, Ukrainian legislation allows Ukrainian television companies to give up to 50% of foreign program product. The percentage of foreign programs is even more in cable television networks (in Ukraine there are more than 500 of them), which depending on capacity broadcast in full volume from 10 to 70 foreign television companies (these are, in particular, television companies of the USA, Great Britain, France, Germany, Russia, Poland, and other countries). State National Television Company of Ukraine weekly broadcasts on the first channel the program "Window on America" which is prepared by The Voice of America services.

Also there is radio and television broadcasting for foreign countries in Ukraine. Undoubtedly, its programs (including in English) would be interesting for some certain part of the US public, in particular for the Americans of the Ukrainian origin. But none of American television or radio stations broadcasts such programs. Where's reciprocity, gentlemen?

So analyzing the situation in Ukraine (in particular, as to the processes in television and radio-information sphere) we'd like to see the objectivity to our country, which confidently follows the path of democracy, on the side of high-ranking US officials.

With great respect,



**Chairman,
National Council of Ukraine for
Television and Radio Broadcasting**

Borys Kholod