

UNITED STATES OF AMERICA

DRAFT PROPOSAL FOR WRC-12

AGENDA ITEM 7: to consider possible changes in response to Resolution 86 (Rev. Marrakesh, 2002) of the Plenipotentiary Conference: “Advance publication, coordination, notification and recording procedures for frequency assignments pertaining to satellite networks”, in accordance with Resolution 86 (Rev.WRC-07)

ISSUE: Application of Nos. 11.41 and 11.42 of the Radio Regulations

BACKGROUND: In the November 2008 meeting of the Working Party of the Special Committee on Regulatory and Procedural Matters (SC-WP), the BR addressed the application of Nos. **11.41** and **11.42** and considered, in particular, the case of an interference complaint received within the four month period indicated in No. **11.41**.

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Under these circumstances the BR suggested that: “[i]f the interference is not eliminated by the end of the four-month period envisaged for simultaneous operation, the Bureau cancels the “incoming” assignment (i.e. the one recorded under No. **11.41**) and informs the concerned administration accordingly”. For complaints of interference received after the four-month period the BR suggested that the procedures of Article 15 be applied.

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This matter was further discussed at the December 2009 meeting of the SC-WP where a variation of the BR proposal was discussed. This variation suggested cancellation by the BR followed by communication to the RRB for unresolved interference complaints occurring within the four months and cancellation by the BR subject to confirmation by the RRB for unresolved interference complaints occurring outside the four-month period referred to in No. 11.41.

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Other proposals submitted to the December 2009 meeting of the SC-WP opposed any automatic cancellation and suggested alternative ways of addressing the matter.

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The US administration believes that the BR proposal as well as its variation discussed during the SC-WP meeting give excessive power to the administration claiming interference, since there is no requirement to present any showing that harmful interference is actually occurring. Moreover, even if harmful interference actually exists, definitively establishing the source of interference may take considerable time and this would bring additional problems to the implementation of these proposals asking for automatic cancellation in case of unresolved complaints. This raises even more concern in cases where the complaint of harmful interference occurs towards the end of the four-month period.

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The matter of provisional recording of frequency assignments that received unfavourable finding under No. **11.32A** or **11.33** is dealt with in Nos. **11.41**, **11.41A** and **11.42**¹.

¹ **11.32A c)** with respect to the probability of harmful interference that may be caused to or by assignments recorded with a favourable finding under Nos. **11.36** and **11.37** or **11.38**, or recorded in application of No.

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In the November 2008 meeting of the SC-WP, the BR suggested that:

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“For complaint received beyond the four month period indicated in No. **11.41**, it requests the administration responsible for the “incoming” assignment (i.e. the one recorded under No. **11.41**) to eliminate the harmful interference immediately under No. **11.42**. The matter is thereafter dealt with in accordance with the procedures set fort in Article **15** of the Radio Regulations.”

On the other hand, in the case of a complaint received during the four-month period the BR suggestion is:

“For complaint received within the four month period indicated in No. **11.41**, it requests the administration responsible for the “incoming” assignment (i.e. the one recorded under No. **11.41**) to eliminate the harmful interference immediately under No. **11.42**. If the administration responsible for the “existing” assignment informs the Bureau that the case was resolved, the Bureau takes no further action in this respect; the subsequent change of the status of the “incoming” assignment from provisional to definitive ... If the administration responsible for the “existing” assignment informs the Bureau that the harmful interference persists, the Bureau requests again the administration responsible for the “incoming” assignment to immediately eliminate the reported harmful interference and to modify accordingly the characteristics of the recorded assignment.

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If the interference is not eliminated by the end of the four-month period envisaged for simultaneous operation, the Bureau cancels the “incoming” assignment (i.e. the one recorded under No. **11.41**) and informs the concerned administration accordingly.”

However, in the same November 2008 meeting of the SC-WP, the BR expressed the view that:

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11.41, or published under Nos. **9.38** or **9.58** but not yet notified, as appropriate, for those cases for which the notifying administration states that the procedure for coordination under Nos. **9.7**, **9.7A**, **9.7B**, **9.11**, **9.12**, **9.12A**, **9.13** or **9.14**, could not be successfully completed (see also No. **9.65**);14 or (WRC-2000) **11.33 d**) with respect to the probability of harmful interference that may be caused to or by other assignments recorded with a favourable finding in application of Nos. **11.36** and **11.37** or **11.38** or in application of No. **11.41**, as appropriate, for those cases for which the notifying administration states that the procedure for coordination or prior agreement under Nos. **9.1515**, **9.1615** **9.1715** **9.17A** or **9.18**¹⁵ could not be successfully completed (see also No. **9.65**);16 or (WRC-2000)

11.41 After a notice is returned under No. **11.38**, should the notifying administration resubmit the notice and insist upon its reconsideration, the Bureau shall enter the assignment provisionally in the Master Register with an indication of those administrations whose assignments were the basis of the unfavourable finding. The entry shall be changed from provisional to definitive recording in the Master Register only if the Bureau is informed that the new assignment has been in use, together with the assignment which was the basis for the unfavourable finding, for at least four months without any complaint of harmful interference being made (see Nos. **11.47** and **11.49**).

11.41A Should the assignments that were the basis of the unfavourable finding under Nos. **11.32A** or **11.33** not be brought into use within the period specified in Nos. **11.24**, **11.25** or **11.44**, as appropriate, then the finding of the assignments resubmitted under No. **11.41** shall be reviewed accordingly.

11.42 Should harmful interference be caused by an assignment recorded under No. **11.41** to any recorded assignment which was the basis of the unfavourable finding, the station using the frequency assignment recorded under No. **11.41** shall, upon receipt of advice thereof, immediately eliminate this harmful interference.

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“It is to be noted that No. **11.41** (combination of both former **RR1544** and **RR1556**) includes the term “definitive recording” to distinguish it from “provisional recording”. In view of the conditions set forth in No. **11.42**, which stipulates that the administration responsible for the assignment recorded under No. **11.41** has an obligation to eliminate all future harmful interference to any recorded assignment which was the basis of unfavourable finding, it follows that the status of an incoming assignment recorded under No. **11.41**, even when recorded as “definitive”, remains always lower than the status of the existing assignment which was the basis for the unfavourable findings under No. **11.32A**. This fact is indicated by the inclusion of the symbol “**11.41**” in column 13B1 in the MIFR against the incoming assignment recorded under No. **11.41**.”

This means that the status of the frequency assignments recorded under No. **11.41** may change from “provisional recording” to “definitive recording” after the four month period, but the assignments remain with a lower status with respect to the assignments which were the basis for the unfavourable findings under No. **11.32A**. In view of that, it is not justifiable that drastically different treatments be applied to the situations in which the interference complaint occurred within or outside the four-month period.

The current BR view includes no consideration of the relative proximity of the incoming network and the reportedly interfered-with network, the relative timing of the interference complaint within the four month “provisional” window, or the requirement for the complaining administration to provide some showing to substantiate their complaint. This creates the possibility that an administration wishing to block an incoming network for whatever reason could claim, toward the end of the four month period, that one of its networks, well removed from the incoming network, is receiving interference, with no need to substantiate this claim whatsoever. This would result in the administration with the incoming network having little time, and little information, to resolve the issue before the BR cancels the suspect assignments of the incoming network.

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Considering all of the above, it is concluded that interference complaints related to Nos. 11.41 and 11.42 should be treated following the provisions of Article 15 (which already contains the procedures that allow interference events to be reported and appropriately addressed) and of No.13.2 of the Radio Regulations (which defines the way to treat unresolved cases of harmful interference)².

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U.S. PROPOSAL: In view of the above the United States proposes that changes to Article 11 of the Radio Regulations be introduced in order to clarify that interference complaints related to Nos. 11.41 and 11.42 should be treated following the provisions of Article 15 and No. 13.2. These changes are specified in Annex 1.

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² 13.2. When an administration has difficulty in resolving a case of harmful interference and seeks the assistance of the Bureau, the latter shall, as appropriate, help in identifying the source of the interference and seek the cooperation of the responsible administration in order to resolve the matter, and prepare a report for consideration by the Board, including draft recommendations to the administrations concerned.

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ANNEX 1

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11.42 Should harmful interference be caused by an assignment recorded under No. **11.41** to any recorded assignment which was the basis of the unfavourable finding, the station using the frequency assignment recorded under No. **11.41** shall, upon receipt of advice thereof, immediately eliminate this harmful interference. Complaints of harmful interference should be formulated and addressed following the provisions of Article 15 and unresolved situations ~~should be treated in accordance with No. 13.2.~~

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Reason: To clarify that the harmful interference situations addressed in No.11.42 should be addressed following the provisions of Article 15 ~~and No. 13.2 instead of using a~~ specific procedure applicable only to such situations.