

TELECOMMUNICATIONS LAWS OF THE WORLD

Chile



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CHILE



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OVERVIEW OF LEGAL LANDSCAPE

Telecommunication services are primarily regulated under the General Telecommunication Law (Law N° 18,168 of 1982, "LGT") and other decrees that establish specific provisions regarding several matters.

To provide telecom activities in Chile, companies must seek government concessions and permits. Authorization varies with the telecom activity that will be performed.

The Undersecretariat of Telecommunications, under the authority of the Ministry of Transport and Telecommunications, is the government agency in charge of overseeing the telecom market.

From a regulatory standpoint, the Ministry of Transport and Telecommunication proposes and implements national policies that promote the development of the telecom sector in Chile.

KEY TELECOMMUNICATIONS LAWS, REGULATIONS AND POLICIES

Primary Telecom Legislation

The primary legislation governing telecoms in Chile is the General Telecommunication Law (hereinafter, "LGT").

Regulatory Framework

The regulatory framework includes different telecom activities, including:

- Telecommunication services
- Public voice services
- Broadcasting services
- Radio communication
- Price regulations
- Requirements for obtaining, installing, operating and exploiting the concession of telecommunications services
- Conditions for installing antennas, radiating systems and towers

- Network operations in emergency situations
- Funds for developing telecom services
- Requirements for marketing short-range equipment

REGULATORY BODIES OR AUTHORITIES

The main regulatory bodies:

- The Ministry of Transport and Telecommunication is in charge of elaborating and coordinating different plans, policies, and regulations that further develop the country's telecom sector, and ensure broad access to telecom services.

Address: Amunategui #139, Santiago.

Telephone number: +56224213000.

Website: www.mtt.gob.cl

- The Undersecretariat of Telecommunications is a technical body in charge of overseeing the proper functioning of the telecom market.

Address: Amunategui #139, Santiago.

Telephone number: +56225888000.

Website: www.subtel.gob.cl

- The National Television Council is a public organism that ensures the proper functioning of television services operating within the national territory. This entity is allowed to inspect the content of TV channel broadcasts.

Address: Mar del Plata # 2147, Providencia, Santiago.

Telephone number: +56225922700

Website: www.cntv.cl

TYPES OF TELECOMMUNICATIONS ACTIVITIES AND/OR PERSONS WHICH ARE SUBJECT TO LEGAL AND REGULATORY REQUIREMENTS

Telecom Services Legal Definition

The Decree N° 18 of 2014 (Telecommunication Services Regulation) defines telecom services as those services provided by telecommunication providers according to Law N° 18,168 of 1982, regardless of the technology used in their provision, and in compliance with applicable legal authorizations.

The Telecommunication Services Regulation also defines the following telecom services:

- **Public Voice Services.** These public services regulate voice exchanges, including local telephone or mobile public services and other similar public services.
- **Long-Distance Telephone Service.** This telecommunication service involves long-distance communications that providers offer to users based on an intermediate concession services.

- **Internet Access Service.** This telecommunication service allows users to access content, information, applications and other services on the Internet.
- **Pay Television Service.** This telecommunication service allows users to access channel packages and additional television services, through a payment varies according to the type of agreement.
- **Public Services of the Same Type.** These technically compatible public services interoperate to allow subscribers and /or users of different public services to communicate which each other, inside and outside of the national territory, according to the regulations issued by the Undersecretariat of Telecommunications; and Complementary Services, which are provided by concessionaries of public telecommunication services or third parties, through the connection of equipment to public networks.

Classification of Telecom Services

Article 3° of the LGT classifies telecommunication services as follows:

- **Telecommunication Services of Free Reception or Broadcasting,** whose transmissions are free and directed to the general public. These services involve sound, television and other types of emissions.
- **Public Telecommunication Services,** designed to satisfy the telecommunication needs of the community in general. These services must be designed to enable interconnection with other public telecommunication services.
- **Limited Telecommunication Services,** which aim to satisfy through prior agreement the specific telecommunication needs of companies, entities and persons.
- **Radio Amateur Service,** whose purpose is to promote radio communications and technical and scientific experimentation, undertaken in a personal capacity and for non-lucrative purposes.
- **Intermediated Telecommunication Services,** provided by third parties through facilities and networks, are designed to satisfy the need of telecommunication concessionaires and permit holders, as well as provide international long-distance telephone services to the community at large.

OVERVIEW OF CONSENTS, LICENCES AND AUTHORISATIONS REQUIRED PRIOR TO THE COMMENCEMENT OF TELECOMMUNICATIONS ACTIVITIES

- The LGT establishes that the use of radio frequencies, conveyed through telecom concessions, permits and temporary licenses by the State, is free and equal.
- A concession granted by Supreme Decree is necessary for the installation, operation and exploitation of the following telecom services: (a) public services; (b) intermediate services supplying telecom services through installations and networks, and (c) sound broadcasting.
- On the other hand, for the installation, operation and exploitation of limited telecom services, it is necessary to obtain a permit from the Undersecretariat of Telecommunication.
- In addition, a concession granted by the National Television Council is required for the supply of free television broadcasting services. Limited television services also require a permit from this same Council.

DOMICILE RESTRICTIONS PREVENTING THE OPERATION OF CERTAIN TELECOMMUNICATIONS ACTIVITIES BY NON-DOMICILED ENTITIES

Only legal persons legally registered and residing in Chile can hold the aforementioned telecom service concessions.

EXISTENCE OF RELEVANT INTERCONNECTION/ROAMING REGULATIONS

The LGT establishes the general provisions relating to the interconnection of telecom service networks.

Roaming Service is expressly regulated by Decree N° 18 of 2014, which establishes the information obligations that roaming service providers must comply with in order to avoid violating service user rights.

In addition, Law N° 21,245 of 2020, establishes the regulation for the Automatic National Roaming. The purpose of this regulation is to facilitate access to telecommunications services in different areas of the national territory, both for voice communication and for data messaging and Internet. In particular, in benefit of rural or isolated areas. Companies that have concessions for public telecommunications services (such as telephony and internet) will have to allow access and use of their infrastructure to other concessionaires. The purpose of the law is to allow new mobile virtual operation and automatic roaming companies to operate and, thus, facilitate access to infrastructure and services for the operation offered by larger companies to smaller ones.

A bill is currently being reviewed by Congress to confer Internet access the status of a public telecommunications service aimed at satisfying the telecommunications needs of the community in general. The purpose of this bill is to encourage and facilitate digital access to the entire population.

TELECOMMUNICATION LAWS AND REGULATIONS AFFECTING CONSUMERS

Decree N° 18 of 2014 (Telecommunication Services Regulation) promotes transparency in the telecommunication market and protects consumer rights by establishing the obligations with which services providers must comply.

The aforementioned Decree also establishes the following:

- Internet Service. The providers must inform consumers about the speed of the service, its quality, and other traffic management measures, among others.
- Pay Television. The providers must compensate consumers if channels in their packages are eliminated after user contracts have been finalized.
- Mobile Communication:
 - Pre-paid users can recover their unspent mobile phone balance during a given period of validity. Providers can only disable a pre-paid number if more than 180 days have passed since the balance was last charged.
 - Post-paid users can retain their telephone number for up to 2 years after they interrupt their contract with their provider.
- Roaming Service must be disabled by default, and enabled solely at the express request of the user. Any time that roaming is turned on the user must be notified via message. In addition, roaming service providers must activate a cost control mechanism to avoid indebting its users.

Finally, regarding the package services, providers must specify the price for each separate service. The sale of bundle services is forbidden.

REGULATORY TAXES AND FEES

Main Taxes Levied on Telecom Companies (applicable rates vary with the chosen tax regime)

The main tax is a Corporate Tax of 25% (attributed regime) or 27% (distributed regime).

Main Taxes and Fees Levied Over Telecom Activities

VAT 19% rate.

A municipal tax in municipalities where the company or any of its branches are located (rate 0.25% to 0.5% calculated the Tax Net Worth of the company)

KEY SANCTIONS AND PENALTIES IN THE CASE OF CONTRAVENTION OF TELECOMMUNICATIONS LAWS AND REGULATIONS

General Telecommunication Law establishes key sanctions and penalties in the event of contravention, including:

- Fines of 5 UTM to 1000 UTM (approximately USD 945 to USD 62900);
- The suspension of service transmissions for up to 20 days; and/or
- The expiration of concessions and permits.

KEY CONTACTS



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