

TELECOMMUNICATIONS LAWS OF THE WORLD

Denmark



Downloaded: 28 April 2024

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Last modified 6 October 2022

OVERVIEW OF LEGAL LANDSCAPE

The Danish telecommunications regulation is to a great extent based on European Union (EU) law, including the European Electronic Communications Code Directive (the EECC Directive). The Danish legislation therefore generally pursues the same objectives as the EU legislation, including the EECC Directive.

The main Danish legislation is the consolidated act no. 955 of 17 June 2022 on electronic communications networks and services with subsequent amendments. It is called the Tele Act. The Tele Act comprises the overall regulation in relation to end-user aspects, universal services obligations, numbering aspects and interconnection.

Under the Tele Act, a private entity may provide telecommunications services to users (customers) without the granting of a licence, approval or similar authorisation to do so. However, a provider must register as a provider and register general information on its activities as a provider with the Section of Tele Data in the Special Crime Unit under the Danish National Police.

KEY TELECOMMUNICATIONS LAWS, REGULATIONS AND POLICIES

The Danish telecommunications regulation is to a great extent based on EU law, including Directive (EU) 2018/1972 of the European Parliament and of the Council of 11 December 2018 establishing the European Electronic Communications Code (the EECC Directive).

The Danish telecommunications regulation which implements the EU legislation in Danish law and other regulation in relation thereto are based on several acts and executive orders set under these acts. The main Danish acts and executive orders are listed below:

- The Tele Act (consolidated act no. 128 of 7 February 2014 on electronic communications networks and services as amended)
- The Radio Frequency Act (consolidated act no. 1100 of 10 August 2016 on radio frequencies)
- Executive Order on end-user rights in the telecommunications area (executive order no. 1887 of 8 December 2020)
- Executive order on information requirements etc. in the provision of electronic communications networks and services (executive order no. 1886 of 8 December 2020)
- Executive order on access to emergency services through alarm communication (executive order no. 1885 of 8 December 2020)

- Executive order on the collective Danish numbering plan (executive order no. 1883 of 8 December 2020)
- Executive order on requirements for information and consent in relation to storage of or access to information in end-user's terminal equipment (executive order no. 1148 of 9 December 2011)
- Executive order on a service providers assistance to the police in connection with intervention in the secrecy of communications (executive order no. 1144 of 20 November 2006)
- Executive order on providers' of electronic communications networks and electronic communications services registration and storage of information on telecommunications traffic (executive order no. 988 of 28 September 2006 with subsequent amendments)

The main features of the Danish telecommunications regulation are the following:

- A provider of telecommunications services under the Tele Act may be a Danish entity. A provider may also be an entity from another member state of the European Union (EU) or the associated European Free Trade Association (EFTA) (comprising the EU and Iceland, Liechtenstein and Norway) or an entity from the United Kingdom. Apart from the United Kingdom, all these states are member states of the European Economic Area (EEA).
- Under the Tele Act, a private entity may provide telecommunications services to users (customers) without the granting of a licence, approval or similar authorisation to do so. However, a provider must register as a provider and register general information on its activities as a provider with the Section of Tele Data in the Special Crime Unit under the Danish National Police. This follows from section 12 of the Tele Act and its implementation in the organisation of the Danish National Police.
- Providers of telecommunications services shall generally ensure secrecy regarding communication.
- Providers of public telecommunications services have an obligation to negotiate agreements with each other on interconnection, for the purpose of providing publicly available electronic communications services, in order to ensure provision and interoperability of such services throughout the EU and the European Economic Area (EEA). This follows from sections 33-35 of the Tele Act.
- Providers of telecommunications services may apply for and may be assigned Danish telephone numbers.
- The Tele Act contains provisions on a telecommunications provider's obligation to make data available to the police, both by providing access to retained data and by providing interception capabilities.

The Danish telecommunications regulation is also supplemented by the general consumer regulation, including the following acts:

- The Danish Marketing Practices Act (act no. 426 of 4 May 2017 on marketing practices with subsequent amendments)
- The Danish Consumer Agreement Act (act no. 1457 of 17 December 2013 on consumer agreements with subsequent amendments)
- The Danish E-Commerce Act (act no. 227 of 22 April 2002 on services in information society, including some aspects of electronic commerce with subsequent amendments)
- The Danish Data Protection Act (act no. 502 of 23 May 2018 on supplementary provisions to the regulation on the protection of natural persons with regard to the processing of personal data and on the free movement of such data)
- The Danish Payment Services Act (act no. 652 of 8 June 2017 on payment services with subsequent amendments)

REGULATORY BODIES OR AUTHORITIES

The Ministry of Climate, Energy and Utilities

Address: Holmens Kanal 20, 1060 Copenhagen K, Denmark

Telephone: +45 33922800

Website: www.kefm.dk

The Danish Energy Agency

Address: Carsten Niebuhrs Gade 43, 1577 Copenhagen V, Denmark

Telephone: +45 33926700

Website: www.ens.dk

The Section of Tele Data in the Special Crime Unit under the Danish National Police (in Danish: Teledata sektionen i National enhed for Særlig Kriminalitet (NSK))

Address: Ejby Industrivej 125-135, 2600 Glostrup, Denmark

Telephone: +45 45156450

Email address: servicemail-pac@politi.dk

Website: politi.dk

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

The Danish Tele Act, among others, applies to (1) providers of electronic communications networks and (2) providers of electronic communications services.

Under the Danish Tele Act the term "electronic communications networks" means transmission systems, whether or not based on a permanent infrastructure or centralised administration capacity, and, where applicable, switching or routing equipment and other resources, including network elements which are not active. The term "electronic communications networks" comprises such systems, pieces of equipment and other resources if they permit the conveyance of signals by wire, radio, optical or other electromagnetic means, including satellite networks, fixed (circuit- and packet-switched, including internet) and mobile networks and electricity cable systems. The term "electronic communications networks" comprises such systems, pieces of equipment and other resources which permit such conveyance of signals to the extent that they are used for the purpose of transmitting signals. The term "electronic communications networks" also comprises networks used for radio and television broadcasting and cable television networks. The term "electronic communications networks" comprises such systems, pieces of equipment, other resources and networks irrespective of the type of information conveyed. See section 2, subsection 4.

The term "electronic communications services" means service consisting wholly or mainly in electronic conveyance of communications in the form of sound, images, text or combinations thereof, by means of radio or telecommunications techniques, between network termination points, including two-way and one-way communications. See section 2, subsection 9.

Traditional telecommunications companies which provide internet access and/or voice telephony are the general providers comprised by the act. However, the definitions above also entail that businesses, organizations and authorities etc. which are not telecommunications companies in the traditional sense also may be comprised by the act. This also applies even if the provision of electronic communications networks or services are secondary to the company's main activity.

Furthermore, owners of electronic communications networks are also to a certain extent comprised by the Danish Tele Act. Such owners must generally ensure secrecy regarding communication. This follows from section 7 of the Tele Act.

The Danish Energy Agency has the power to assign telephone numbers to any party who commercially provides electronic communication services.

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

Under the Tele Act, a private entity may provide electronic communications networks and electronic communications services to users (customers) without the granting of a licence, approval or similar authorisation to do so. Accordingly, a provider does not need a licence, an approval or any similar authorisation under the act to provide electronic communication networks and electronic communication services, including satellite networks and satellite network services.

However, a provider must register as a provider and register general information on its activities as a provider with the Section of Tele Data in the Special Crime Unit under the Danish National Police. This follows from section 12 of the Tele Act and its implementation in the organisation of the Danish National Police.

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

A provider of electronic communications networks and/or electronic communications services under the Tele Act may be a Danish entity. A provider may also be an entity from another member state of the EU or the associated [European Free Trade Association](#) (EFTA) (the EU and Iceland, Liechtenstein and Norway) or an entity from the United Kingdom. Apart from the United Kingdom, all these states are member states of the European Economic Area (EEA).

EXISTENCE OF RELEVANT INTERCONNECTION/ROAMING REGULATIONS

Providers of public electronic communications networks or services have an obligation to negotiate agreements with each other on interconnection, for the purpose of providing publicly available electronic communications services, in order to ensure provision and interoperability of such services throughout the EU and the European Economic Area (EEA). This follows from sections 33-35 of the Tele Act.

The Danish authorities may also impose obligations on such providers, to the extent it is necessary to ensure connection between end-users in the individual networks or to create interoperability with providers of electronic communications networks or services which control access to one or more end-users, including the obligation to interconnecting their networks.

TELECOMMUNICATION LAWS AND REGULATIONS AFFECTING CONSUMERS

The Danish Tele Act and Executive Order on end-user rights in the telecommunications area (executive order no. 1887 of 8 December 2020) ("**Executive Order on End-User Rights**") set several provisions in relation to consumer protection.

These provisions, among others, include the protection of consumer information. In relation to agreements between consumers and providers, it also follows from the Tele Act and the Executive Order on End-User Rights that the authorities may require that a summary of any such agreement shall be made by the provider and provided to the consumers prior to entering into an agreement. The summary of the agreement shall enable the consumer to easily review the agreement and compare across providers and services.

The Tele Act also ensure that end-users (customers) have the right to retain their subscriber numbers when changing between providers (number portability).

In addition to the Danish Tele Act and the Executive Order on End-User Rights, several other acts also ensure a certain level of consumer protection for consumers comprised by the Tele Act, including among others, the following acts:

- The Danish Marketing Practices Act (act no. 426 of 4 May 2017 on marketing practices with subsequent amendments)
- The Danish Consumer Agreement Act (act no. 1457 of 17 December 2013 on consumer agreements with subsequent amendments)
- The Danish E-Commerce Act (act no. 227 of 22 April 2002 on services in information society, including some aspects of electronic commerce with subsequent amendments)

- The Danish Data Protection Act (act no. 502 of 23 May 2018 on supplementary provisions to the regulation on the protection of natural persons with regard to the processing of personal data and on the free movement of such data)

REGULATORY TAXES AND FEES

On the basis of the Tele Act and the Radio Frequency Act and the executive orders set under the acts, the relevant authorities will charge various fees in relation to the following activities:

- The allocation of telephone numbers
- The use of frequencies under licences to do so

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

A violation of the Danish telecommunications legislation will generally entail periodic penalty payments and/or fines. A fine is generally fixed in accordance with the general rules of part 10 of the Danish Criminal Code (consolidated act no. 976 of 17 September 2019 with subsequent amendments).

However, with respect to some more specific violations of the telecommunications legislation, a fine shall also be calculated based on the legal person's turnover during the last year before a judgment is obtained or a fine is imposed.

A provider under the Tele Act may also be sanctioned for violations of competition law as well as data protection infringement etc.

KEY CONTACTS



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