

TELECOMMUNICATIONS LAWS OF THE WORLD

Finland



Downloaded: 10 May 2024

FINLAND



Last modified 6 October 2022

OVERVIEW OF LEGAL LANDSCAPE

The regulatory body for telecommunication related matters in Finland is the Finnish Transport and Communications Agency “Traficom” (*Liikenne - ja viestintävirasto*). The relevant Finnish legislation has been under a reformation process as Finland has been implementing the European Electronic Communications Code Directive (the EECC Directive) and the objective of the said process has been reaching full compliance with the legislation of the European Union. In general, the Finnish telecommunications regulation is strongly based on European Union law.

The most important part of the Finnish telecommunication legislation is the Act on Electronic Communications Services 7.11.2014 /917 (*Laki sähköisen viestinnän palveluista*) that entered into force on 1 January 2021. The aim of the act is to promote the provision and use of electronic communication services and to ensure that communication networks and communication services are available to everyone throughout the country on reasonable terms. Another aim of the act is to secure the efficient and undisturbed use of radio frequencies and to promote competition and ensure that communication networks and services are technically advanced, of good quality, reliable and safe, and affordable. In addition, the aim of the act is also to secure the realization of the confidentiality and privacy of electronic communications.

KEY TELECOMMUNICATIONS LAWS, REGULATIONS AND POLICIES

Provisions relating to the regulation of telecommunications are found also in various other regulations, as well as in the Act on Electronic Communications Services. These include:

- Act on Broadband Construction Aid in Sparsely Populated Areas
- Act on Background Checks
- Act on Citizens' Initiative
- Act on Information Security Inspection Bodies
- Act on the Assessment of the Information Security of Public Authorities' Information Systems and Telecommunications Arrangements
- Act on International Information Security Obligations
- Act on Strong Electronic Identification and Electronic Trust Services
- Act on Cross-Border Injunction Proceedings

- Act on Yleisradio Oy
- Act on Strong Electronic Identification and Electronic Trust Services
- Rate of a Functional Internet Access Service as a Universal Service (Decree)
- Government Decree on the Minimum Requirements for the Provision of Universal Telephone Services for the Hearing, Speech and Visually Impaired
- Government Decree on Radio Frequency Usage and the Frequency Plan
- Government Decree on Television and Radio Operations
- Government Decree on Radio Frequency Usage and the Frequency Plan for the Region of Åland
- Government Decree on the Trust Network for Providers of Strong Electronic Identification Services
- Government Decree on Radio Frequency Usage and the Frequency Plan
- Government Decree on Radio Frequency Usage and the Frequency Plan for the Region of Åland
- Government Decree on Radio Frequency Usage and the Frequency Plan
- Government Decree on Television and Radio Operations
- Government Decree on Radio Frequency Usage and the Frequency Plan for the Region of Åland

The key features of the Act on Electronic Communications Services are:

- **Part 2:** Includes the provisions governing fields that are subject to operators' notification for the authorities or require a licence.

According to Chapter 2 section 4, an operator must submit an electronic notification to the Finnish Transport and Communications Agency:

1. on general telecommunications (telecommunications notification);
2. non-licensed television operations, if the service provider is established in Finland (software activity notification);
3. about offering a subscription program service, if the service provider is established in Finland (subscription program service notification);
4. if the operator offers a linear pay-television service in the terrestrial digital mass communication network using the protection removal system (pay-television service announcement);
5. on providing a video sharing platform service, if the service provider is established in Finland (video sharing platform service notification).

Chapter 3 section 6: Providing a network service that requires radio frequencies in a digital terrestrial mass communication network or a mobile communication network where general telecommunications activities are carried out requires a network licence

Chapter 4 section 22: Exercising out television and radio activities in a digital terrestrial mass communication network requires a programming licence apart from certain exceptions.

Chapter 5 section 34: Exercising radio activities in an analog terrestrial mass communication network requires a programming licence. A programming licence is applied for from the Finnish Transport and Communications Agency.

Chapter 6 section 39: Possession and use of radio transmitters require a radio licence issued by the Finnish Transport and Communications Agency, unless otherwise stipulated in section 39.

- **Part 3:** Includes the provisions governing obligations imposed on different operators.

Chapter 7 section 51: The Finnish Transport and Communications Agency must at regular intervals define relevant communications markets, of which it performs a market analysis in accordance with Section 52. The Finnish Transport and Communications Agency must take into account the Commission's guidelines for market analysis and assessment of significant market power as well as the Commission's recommendation on relevant product and service markets as closely as possible. In addition, the Finnish Transport and Communications Agency must, if necessary, take into account the result of the geographical mapping referred to in section 51a.

- **Part 4:** Includes the provisions governing frequencies and numbers.
- **Part 6:** Includes the provisions governing confidentiality of communications and protection of privacy.
- **Part 12:** Includes the provisions governing the actions taken by the authorities, including the Finnish Transport and Communications Agency.
- **Part 13, chapter 44:** Includes the penal provisions relating to electronic communications.

REGULATORY BODIES OR AUTHORITIES

Traficom – Liikenne- ja viestintävirasto (Finnish Transport and Communications Agency)

Address: Liikenne- ja viestintävirasto Traficom, PL 320, 00059 TRAFICOM

Telephone: +358 (0) 29 534 5000

Website: www.traficom.fi

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

The National Cyber Security Centre Finland (“**NCSC-FI**”) operating under the Finnish Transport and Communications Agency supervises compliance with information security and functionality requirements in telecommunications operations, preparedness for interference and exceptional circumstances, the obligations to provide assistance to emergency services and police authorities as well as the confidentiality of electronic communications and traffic data.

NCSC-FI has provided instructions and guidelines regarding telecommunication legislation and the scope of regulation in Finland [on their website](#). According to NCSC-FI, Telecommunications regulation is applied to operations and services if they fulfil the characteristics of the definitions concerning telecommunications given in the Act on Electronic Communications Services. For telecommunications, key terms defined in legislation include ‘telecommunications operator’, ‘communications service’ and ‘network service’:

Telecommunications operator means a network operator or a communications service operator offering services to a set of users that is not subject to any prior restriction, i.e. provides public telecommunications services.

Communications service means:

- a service consisting either wholly or mainly of the conveyance of communications in a communications network (e.g. internet access service);

- a transmission and broadcasting service in a mass communications network; and
- an interpersonal communications service.

Network service means a service where a telecommunications operator (network operator) provides a communications network in its ownership or for other reasons in its possession for the purposes of transmitting or distributing communications.

Communications network means a system comprising interconnected wires and devices for the purpose of transmitting or distributing communications by wire, radio, optical or other electromagnetic means.

Public communications network means a communications network used to provide communications services to a set of users that is not subject to any prior restriction.

Practical examples of operators in the field of telecommunication include:

- traditional telecommunications operators, such as providers of telephone and broadband services
- television and radio network providers
- several commercial and non-commercial providers of communications networks and communications services which have not traditionally been perceived as telecommunications operators, for example services provided over the internet (over-the-top or OTT services) and WLAN networks that are provided to a set of users not subject to any prior restriction
- digital infrastructure providers under the NIS Directive, i.e. exchange point providers and DNS service providers when domain name service is provided as part of internet access service

Telecommunications does **not** cover, for example, the following:

- in interpersonal communications, minor ancillary features to other services, such as communication channels in online games (see recital 17 of Directive (EU) 2018/1972)
- content services, such as websites, blogs, discussion forums or streaming and video-on-demand services (VoD)
- provision of hardware or software, online recording services of programmes, pay-TV packages or pay-TV cards
- surveillance or alarm services provided via telecommunications connections (e.g. in nursing and security services).

In general, **the NCSC-FI does not supervise** the content or marketing of communications or, as a rule, the provision of public authority networks or public authority communications services.

The regulation of telecommunications is technology neutral. It applies to targeted communications such as telephone, text message, broadband and email services and to mass communications such as cable television, IPTV, terrestrial television and radio services.

In mass communications networks, telecommunications means, for example, the maintenance and provision of terrestrial, cable and IPTV networks and the provision of cable or IPTV subscriptions. The technical transmission of programme stream and telecommunications include, for example, the synchronisation of sound and picture, as well as the transmission of the information on teletext television and in the electronic programme guide (EPG).

Public telecommunications can be subject to charge or free of charge. Operators other than commercial operators can also be telecommunications operators within the meaning of the Act on Electronic Communications Services because the law does not require public telecommunications to be provided against payment. This means that regulation concerning telecommunications operators may also apply to cities, other non-commercial operators and services provided free of charge on the internet, for example.

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

According to the Act on Electronic Communications Services, telecommunication operators either need a licence or to give a notification to the Finnish Transport and Communications Agency, depending on the transmission technology used. Operators need either a network licence or a programming licence.

Providing a network service in a digital terrestrial mass communications network, that is, in practice, transmitter network operation, requires a licence granted the government. In addition, each transmitter must have a radio licence issued by the Finnish Transport and Communications Agency.

Broadcasting in a terrestrial TV network requires a programming licence, which authorises the holder to broadcast programming or have programming available. Programming licences are granted by Traficom. Licences can be applied for at any time. Before granting a licence, Traficom publishes an invitation for applications to allow all interested parties to apply for a corresponding licence. If there is no sufficient capacity in the network to grant licences for all applicants, the decisions on programming licences are transferred to the Government.

Radio broadcasting lasting more than three months requires a programming licence. Traficom invites applications for licences either when a licence period changes, when frequencies become available, or when new frequencies can be introduced.

Issuance of a network licence is carried out either using a comparative procedure or through auction organised by Traficom. With respect to the comparative procedure, a network licence must be granted if:

1. the applicant has sufficient financial resources to take care of the obligations of the network company;
2. the licensing authority has no justified reason to suspect that the applicant is violating the provisions of this law; and
3. the licensing authority does not have particularly strong grounds to suspect that the granting of the licence will obviously endanger national security.

To obtain a programming licence granted by Traficom, the applicant has to meet certain criteria (e.g. pay a application fee, the applicant must be solvent and has an obvious ability to regularly operate in accordance with the network licence and has not breached certain laws). Same applies for radio broadcasting (e.g. the applicant has not breached certain laws and technically suitable radio frequencies can be assigned from the frequency range for the applicant to use or reserve).

Granted licences can be restricted in different ways, e.g. geographically or in time or additional conditions can be imposed on the licence.

Relevant sections are found in the Act on Electronic Communications Services (Part 2, chapters 2-6).

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

From a telecommunications law perspective, there is no requirement for a provider of telecommunications services to be domiciled in Finland prior to, or during, the provision of services. However, legislation relating to national security matters can restrict operators' freedom of action. The authorities have the opportunity to monitor the ownership base of companies that are central to security of supply and the country's security and, if necessary, to limit foreign ownership in such companies.

EXISTENCE OF RELEVANT INTERCONNECTION/ROAMING REGULATIONS

Act on Electronic Communications Services part 3 chapter 9 contains provisions regarding operators' obligation to engage in certain interconnection/roaming activities with other operators. For example, according to section 61, Traficom may impose an obligation on an operator with significant market power to connect a communications network to the communications network of another telecommunications operator (interconnection obligation). An operator shall thus negotiate on interconnection with

the other network operator under terms and conditions consistent with interconnection obligations imposed on it by virtue of said decision.

In addition to the interconnection obligation referred to in subsection 1, Traficom may impose an obligation to make their services interoperable with services of another telecommunications operator to the extent necessary.

According to section 64, international calls shall be routed to an international telecommunications service via a long-distance telecommunications service selected by the telecommunications operator providing the international service. All providers of public international telephone services shall provide access to all local telephone services.

TELECOMMUNICATION LAWS AND REGULATIONS AFFECTING CONSUMERS

Act on Electronic Communications Services part 5 contains provisions relating to consumers which cannot be deviated from to the detriment of the consumer. Provisions in the said act might refer to consumers also by using different terms, such as "a subscriber".

According to part 1 section 3:

- **"user"** means a natural person who as a subscriber or otherwise uses a communications service or an added value service
- **"subscriber"** means a legal or natural person who is party to an agreement concerning the provision of a communications service or an added value service for a purpose other than telecommunications operations

The main obligations of telecom providers to consumers (chapter 15) are the following:

- **Section 106b:** Before entering into a communications service agreement, the telecommunications company must provide the consumer with the information referred to in chapter 2, section 8a or chapter 6, section 9 of the Consumer Protection Act (38/1978). The information must be provided in a clear and comprehensible manner and in a permanent manner. If providing the information in a permanent way is not possible, the telecommunications company must provide the information in an easily downloadable document made available to the consumer, about which the telecommunications company informs the consumer. In this case, the telecommunications company must draw the consumer's attention to the importance of downloading the document in order to preserve the information, for later use, and to reproduce the information unchanged.
- **Section 107:** Communication service agreements must not contain conditions or restrictions that are unreasonable for consumers.

The telecommunications company may not apply different conditions to subscribers based on citizenship, place of residence or place of establishment, unless the different conditions are objectively justified.

The telecommunications company must publish:

1. the standard contract terms they use;
2. price lists for communication services;
3. with regard to the number-based interpersonal communication services they offer, information on the availability of emergency service and the availability of the subscription holder's location information and its limitations;
4. with regard to the number-independent communication services between persons, information on whether the use of emergency services is possible;
5. information on the details of products and services intended for the disabled.

The information referred to in subsection 3 above must be published in such a way that it is easily accessible without compensation. The information must also be published in a format suitable for use by disabled persons.

- **Section 108:** The communication service agreement between the telecommunications company and the subscriber must be made in writing.
- **Section 109:** The communication service agreement is valid until further notice, unless otherwise agreed separately.

The telecommunications company may conclude a fixed-term contract with the consumer for a maximum of 24 months. However, the fixed-term telephone subscription contract of the mobile communications network with the consumer may not be valid for a maximum of 12 months.

The consumer is obliged to pay the fees based on the communication service agreement only from the moment the connection is available.

If the fixed-term contract continues automatically after the end of the contract period, the contract can then be terminated by the customer to end two weeks after the termination. The telecommunications company must inform the subscriber about the automatic continuation of the contract, the means of terminating the contract, and provide advice on cheaper prices well in advance of the end of the fixed-term contract. The information must be reported in a permanent way.

The telecommunications company must offer the consumer a free and easy-to-use option to immediately check the expiration date of his fixed-term telephone subscription contract with the mobile communications network. The possibility must be offered via text message or another similar easy-to-use and immediate inspection method. The Finnish Transport and Communications Agency can issue more detailed regulations on the technical implementation of the service.

REGULATORY TAXES AND FEES

The regulatory fees related to telecommunications licences are governed by the Act on Electronic Communications Services part 11 chapter 36. The fees for different licences vary between 300 and 5000 euros.

There are no taxes that would apply specifically only to telecom service providers.

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

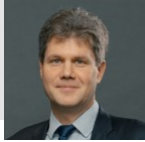
The governmental entity that enforces telecom regulations in Finland is the National Cyber Security Centre Finland (NCSC-FI) that operates under the Finnish Transport and Communications Agency (Traficom).

Traficom may utilize various measures through which supervision of the legislation is conducted. These include giving a warning, ceasing the operator's actions, restricting the usage of frequencies, conditional fines, threat of termination, threat of completion, penalty payment by a telecommunications operator, penalty payment by a television or radio broadcaster, prohibiting an unfair term of agreement in telecommunication services, closing a number or service, suspension of television broadcasting, suspension of retransmission, prohibiting telecommunication operations and house or bodily search. Relevant provisions are included in sections of chapter 42 of part 12 of the Act on Electronic Communications Services.

Chapter 44 of part 13 of the Act on Electronic Communications Services contains provisions relating to penalties for violating the act. Penalties vary from none/a fine to imprisonment of up to three years. The act includes also references to the Criminal Code of Finland which has some provisions of its own with respect to violations of telecommunications legislation.

KEY CONTACTS

Markus Oksanen
Partner
DLA Piper Finland



T +358 9 4176 0431
markus.oksanen@fi.dlapiper.com

Disclaimer

DLA Piper is a global law firm operating through various separate and distinct legal entities. Further details of these entities can be found at www.dlapiper.com.

This publication is intended as a general overview and discussion of the subjects dealt with, and does not create a lawyer-client relationship. It is not intended to be, and should not be used as, a substitute for taking legal advice in any specific situation. DLA Piper will accept no responsibility for any actions taken or not taken on the basis of this publication.

This may qualify as 'Lawyer Advertising' requiring notice in some jurisdictions. Prior results do not guarantee a similar outcome.

Copyright © 2017 DLA Piper. All rights reserved.