

TELECOMMUNICATIONS LAWS OF THE WORLD

Hong Kong



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HONG KONG



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OVERVIEW OF LEGAL LANDSCAPE

The telecommunications industry in Hong Kong is regulated by the Communications Authority (CA). The CA was established in 2012 as the unified regulator of the telecommunications and broadcasting sectors. The Office of the Communications Authority (OFCA) is the executive arm and secretariat of the CA and it supports the CA in administering and enforcing the relevant laws in relation to the provision of telecommunications services.

There are no foreign ownership restrictions or limits on the number of operators, but telecommunications operators should be aware of the different licensing requirements for the provision of services in Hong Kong.

KEY TELECOMMUNICATIONS LAWS, REGULATIONS AND POLICIES

The duties and powers of the CA and the OFCA are stated in the [Communications Authority Ordinance \(Cap. 616\)](#) and the [Telecommunications Ordinance \(Cap. 106\)](#) respectively.

The primary legislation governing telecommunications in Hong Kong is the Telecommunications Ordinance (Cap. 106) (and its subordinate regulations and orders).

In addition to the Telecommunications Ordinance, the following legislation may also impact the provision of communication services and the operation of communication networks:

- The [Broadcasting Ordinance \(Cap. 562\)](#)
- The [Personal Data \(Privacy\) Ordinance \(Cap. 486\)](#)
- The [Broadcasting \(Miscellaneous Provisions\) Ordinance \(Cap. 391\)](#)
- The [Unsolicited Electronic Messages Ordinance \(Cap. 593\)](#)

The key features of the Telecommunications Ordinance are:

- Licensing requirements for telecommunications services providers
- Competition provisions that aim to prevent anti-competitive conduct
- Regulation of mergers and acquisitions that may restrict competition in the telecommunications market

REGULATORY BODIES OR AUTHORITIES

Communications Authority (CA)

Address: 29/F, Wu Chung House, 213 Queen's Road East, Wan Chai, Hong Kong

Website: <http://www.coms-auth.hk/en/home/index.html>

Office of the Communications Authority (OFCA)

Address: 29/F, Wu Chung House, 213 Queen's Road East, Wan Chai, Hong Kong

Website: <http://www.ofca.gov.hk/>

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

The CA regulates the provision of various telecommunications services, including but not limited to local fixed carrier services, fixed broadband services, IP telephony services, external telecommunications services, various international value-added network services, external telecommunications facilities and mobile network services. All related operators and service operators are subject to the relevant legal and regulatory requirements.

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

Depending on the scope of services, telecommunications operators may require the following licence(s) from the CA:

- Carrier Licences for the provision of facility-based public telecommunications services, including fixed external services, fixed internal services, and/or mobile services
- Public Radiocommunications Service Licences
- Service-based Operator Licences for the provision of various types of telephony services, external telecommunications services, international value-added network services (including Internet Access Services), mobile virtual network operator services, public radio communications relay services, teleconferencing services, private payphone services, security and fire alarm signals transmission services, mobile communications services on board an aircraft and any other services designated by the CA
- Class Licences relating to various types of services, such as those provided over short range devices, taxi mobile stations or the provision of services over a public wireless local area network

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

A licence may be granted to or held only by a company formed and registered in Hong Kong. For companies incorporated outside of Hong Kong, the CA may consider their applications, provided that they have registered under the Companies Ordinance (Cap. 622) as a non-Hong Kong company.

EXISTENCE OF RELEVANT INTERCONNECTION/ROAMING REGULATIONS

The CA may make a determination on the request of a party to the interconnection or, in the absence of a request, if it considers it is in the interest of the public to do so.

TELECOMMUNICATION LAWS AND REGULATIONS AFFECTING CONSUMERS

Telecommunication laws and regulations generally do not distinguish between the provision of services to businesses and to consumers. However, general consumer law also applies, including the Trade Descriptions Ordinance concerning unfair trade practices. Telecommunications service providers regulated as licensees under the Telecommunications Ordinance may be subject to the enforcement of the fair trading sections by the CA.

REGULATORY TAXES AND FEES

Different licence fees are payable on the issue and on renewal of licences. Occasionally, the CA will determine and publish the licence fee for a particular licence.

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

There are a number of sanctions and penalties stipulated under the Telecommunications Ordinance. Two of the key offences are listed as follows:

A person who, without the appropriate licence, is found to have committed any of the following, will be liable to fines of up to HKD 100,000 and imprisonment for up to 5 years:

- Establishes or maintains any means of telecommunications
- Offers in the course of business a telecommunications service
- Possesses or uses any apparatus for radiocommunications or any apparatus of any kind that generates and emits radio waves notwithstanding that the apparatus is not intended for radiocommunications
- Deals in the course of trade or business in apparatus or material for radiocommunications or in any component part of any such apparatus or in apparatus of any kind that generates and emits radio waves whether or not the apparatus is intended, or capable of being used, for radiocommunications
- Demonstrates, with a view to sell in the course of trade or business, any apparatus or material for radiocommunications

It is an offence punishable by a fine of HKD 25,000 and imprisonment for 12 months if a person, without the appropriate permit granted by the CA, imports into or exports from Hong Kong any radiocommunications transmitting apparatus, unless he is the holder of a licence authorising him to deal in the course of trade or business in such apparatus.

KEY CONTACTS



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