



Navigating the Telecommunications Regulatory Landscape

What to expect from the Amended Telecommunications Law of Vietnam

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The National Assembly of Vietnam officially approved the Amended Telecommunications Law (the **Amended Telecoms Law**) with a vote of 468 out of 472. It is expected to come into force on 1 July 2024, superseding the current Law on Telecommunications No. 41/2009/QH12 (the **Current Law**). The Amended Telecommunications Law is a significant step towards Vietnam's fast-growing digital infrastructure development as it adapts the regulatory framework in accordance with evolving international practices and trends in the telecommunications and IT sectors. In this legal update, we highlight some of the key changes that will have a significant impact on businesses and investors in the technology and telecommunications sectors in Vietnam.

New Telecommunications Services

For the first time, cloud computing services, data centres and over-the-top telecommunications services (**OTT Services**) are introduced and expressly regulated as telecommunications services under a law document.

Providers of these OTT Services will not be subject to foreign ownership restrictions, however, they are required to observe the requirements of registration or notification with respect to the service provider's information, the types of services to be provided, the satisfaction of applicable conditions for the provision of such services and announcement of service quality.

The Amended Telecoms Law also has extraterritorial application. Offshore providers of OTT Services to users in Vietnam will be subject to the rights and obligations to be regulated by the Government on the basis of respecting the independence, sovereignty, and equality of Vietnam and the origin country of the service provider, and ensuring the safety, information security and mutual commitments under the relevant international treaties that Vietnam and the origin country of the service provider are members.

Wholesale of Telecommunications Services

The Amended Telecoms Law also aims to improve competition among market players by providing regulations on wholesale

telecommunications services, which is an act of leasing telecommunications network or a sale of telecommunications traffic or services by a telecommunications company to another telecommunications company for the purpose of providing telecommunications services.

The Amended Telecoms Law specifies an obligation that a telecommunications company or a group of telecommunications companies holding a dominant market position will be required to wholesale their services to other telecommunications enterprise(s) upon the buyer's request. Furthermore, the law specifically requires the wholesale contract to contain the template terms and conditions in accordance with the regulations to be issued by the Ministry of Information and Telecommunications and prohibits such dominant companies from selling their services at a price that is lower than the total service costs.

Sharing Telecommunications Infrastructure

The Amended Telecoms Law classifies the sharing of telecommunications infrastructure into two scenarios:

1. sharing between or among telecommunications companies for various purposes of establishing telecommunications networks and providing telecommunications services effectively and smoothly, or ensuring compliance with requirements on environment and landscape, etc.; and
2. sharing between telecommunications companies and organisations or agencies directly engaging in security and defense to ensure compliance with requirements for performing missions of national defense, security, safeguards, firefighting, or other natural disaster prevention, etc.

The relevant parties need to agree on the share price. If the parties fail to agree on a specific share price, the parties shall negotiate and agree on a share price with the support of a specific state authority in accordance with the Law on Pricing. If the parties fail to agree on the share price with the support of the relevant state authority, a competent authority will determine a share price for the parties.

The law also provides for an additional obligation for the investors of residential apartments, industrial parks, or functional complexes to have plans of design for the construction of inactive telecommunications technical infrastructure in the construction of their project, particularly such investors need to construct and manage their telecommunications technical infrastructure for their projects to meet the use demand of at least two telecommunications operators.

The Government will promulgate further guidance on sharing telecommunications infrastructure.

Additional regulations on network information security and information security

The Amended Telecoms Law provides further regulations on information security in line with the Cyber Security Law. For example, upon request by a competent State agency according to the provisions of the Cyber Security Law, telecommunications operators will be required to provide telecommunications network access points and other necessary technical and professional conditions for the respective agency to perform the task of controlling and ensuring information security.

State ownership in telecommunications business

The equitisation of state-owned enterprises has gone a long way in many sectors, including telecommunications. After nearly a decade of further planning for equitisation of some key players in the market, the Amended Telecoms Law will provide a list of telecommunications operators holding network infrastructure that bears special importance to the operation of the whole national telecommunications network infrastructure, direct impact on socio-economic development, and national security and defense. The State will maintain its shareholding in such operators to ensure their control of such enterprises.

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