

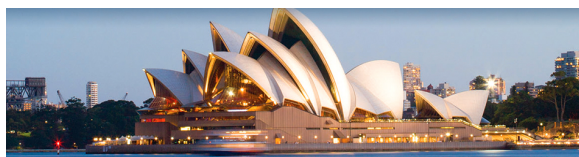
# TELECOMMUNICATIONS LAWS OF THE WORLD

Australia vs Oman



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# AUSTRALIA



*Last modified 6 October 2022*

## OVERVIEW OF LEGAL LANDSCAPE

The Australian telecommunications regulatory landscape and regulatory perimeter is broad and complex.

The primary telecommunications legislation, the 1997 Telecommunications Act, removed barriers to participation and added to earlier legislation which was intended to permit facilities-based competition. The 1997 Telecommunications Act implemented an access regime applicable only to the telecommunications industry and also provided prohibitions against anti-competitive conduct.

The telecoms industry is heavily-regulated and has seen additional complexity arising through a governmental decision to support the construction of a National Broadband Network (NBN) and the incorporation of a wholesale only company to supply broadband services (NBN Co). This has resulted in significant regulatory changes (in particular, to shield NBN Co from certain types of competition). The current government has announced changes to the NBN, in particular potentially removing cross-subsidies between urban and rural areas which were intended to provide for a single, Australia-wide access price, as well as adjustments to its facility-based competition principle (which saw other operators connect fiber-to-the-building (FTTB) infrastructure to high-density, higher use buildings such as apartment blocks).

## KEY TELECOMMUNICATIONS LAWS, REGULATIONS AND POLICIES

As noted above, the Telecommunications Act 1997 is the key legislation which regulates, amongst other things, telecommunications carriers in Australia.

It is supported by a range of other legislation, instruments and codes including the [Telecommunications \(Consumer Protection and Service Standards\) Act 1999](#), which provides for the establishment of the universal service

# OMAN



*Last modified 5 October 2016*

## OVERVIEW OF LEGAL LANDSCAPE

The Omani Telecommunications Regulatory Authority (TRA) exercises jurisdiction over this sector.

The TRA, in conjunction with the Ministry of Transport and Communications, has the primary responsibility for approving applications for telecommunications licences. Generally speaking, it is a requirement that a telecommunications service provider hold a licence to provide telecommunications services.

## KEY TELECOMMUNICATIONS LAWS, REGULATIONS AND POLICIES

[Royal Decree No. 30 of 2002 promulgating the Telecommunications Regulation Law](#) and its associated amendments (Telecoms Law) is the primary legislation governing the telecommunications sector in Oman and establishing the TRA. The Telecoms Law imposed a duty on the TRA to issue [Executive Regulations](#) which explain and elaborate on the policies set out in the Telecoms Law.



obligation with respect to standard telephone services in Australia, the ability of the Australian Communications and Media Authority (ACMA) to set performance standards and obligations on carriers, and the requirement for carriage service providers to enter the Telecommunications Industry Ombudsman scheme. ACMA has also recently published codes regarding:

- **emergencies:** The C536:2020 Emergency Call Services Requirements Industry Code (Updated 17 December 2020) requires carriers and carriage service providers to ensure access to emergency call services. Carriers are also required under the Telecommunications Act 1997 to provide help as is reasonably necessary, in the event of a National Emergency Declaration or state of disaster or emergency; and
- **scams:** Industry Code C661:2022 Reducing Scam Calls and Scam SMS (Updated 12 July 2022) provides for processes for carriers and carriage service providers to disrupt scam calls and SMS. This includes provision for processes that enable carriers to exchange information in relation to spam materials, to facilitate the reduction of spam in telecommunications.

## Specific NBN Co Laws, Regulations and Policies

The regulatory framework for the NBN was established through the [National Broadband Network Companies Act 2011](#) and the [Telecommunications Legislation Amendment \(National Broadband Network Measures - Access Arrangements\) Act 2011](#) which added to the existing generic telecommunications regulatory framework. In addition:

- **Nondiscrimination obligations:** The Australian Competition and Consumer Commission (ACCC) must publish guidance on NBN Co's non-discrimination obligations.
- **ACCC explanatory material on the Part XIC nondiscrimination provisions:** Under the legislation, NBN Co can choose to publish a standard form of access agreement and/or give a special access undertaking to the ACCC in relation to its terms and conditions for the supply of wholesale services. Where an access agreement differs from the standard form of access agreement, NBN Co must provide a

[Ministerial Resolution No. 10 of 2007](#) issuing the Executive Regulation covers the following points:

- Procedures required to obtain a telecoms licence
- The review process for submitted applications
- Issuance of technical specifications
- Rules governing type approval of telecom equipment
- Rules governing the usage of telecommunications services

The remainder of the regulatory framework can be found on the [TRA website](#) and include the following:

- **Regulations and Decisions** including on:
  - The National Numbering Plan
  - Access and Utilisation of Passive Infrastructure
  - Ex Ante and Ex Post Regulations
  - Universal Service Implementation
  - Domain Names
  - VoIP
- **Guidelines:** rules and advisory documents which are issued on an ad hoc basis, directed at the operators of Class I, Class II and Class III licences, including:
  - Tariff Transparency
  - Billing Accuracy
  - Site Sharing
  - Tariff Rebalancing
  - International Roaming
  - Access Deficit Contribution
- **Determinations:** issued to resolve disputes which parties have not been able to resolve themselves

statement of the differences to the ACCC.

- **Special Access Undertaking (SAU):** In December 2013, the ACCC accepted an SAU lodged by NBN Co, in accordance with section 152CBA of Part XIC of the Competition and Consumer Act. The SAU specifies basic terms and conditions under which NBN Co will provide its wholesale services.
- **Authorised conduct:** The NBN Access Act introduced Division 16 into Part XIB of the Competition and Consumer Act, which authorises, for the purposes of the Act, certain conduct by NBN Co that is reasonably necessary for it to achieve uniform national wholesale pricing. This conduct relates to refusal to interconnect other than at listed points of interconnection, the bundling of services and cross-subsidising in charging for services. However, current Government policy on the issue of uniform pricing may result in differential charging between urban, rural and remote locations.
- **Telecommunications Act:** The NBN Access Act applies to fixed-line local access networks, or parts of such networks, that are built, upgraded, altered or extended after 1 January 2011 so that they are capable of providing a carriage service where the download transmission speed is normally more than 25 megabits per second to residential or small business owners.

## REGULATORY BODIES OR AUTHORITIES

The Australian Competition and Consumer Commission's main responsibilities include:

- The promotion of competition within the Australian telecommunications industry and to ensure that consumers' interests are protected
- Overseeing the telecommunications access regime provisions for controlling anti-competitive conduct and price control arrangements
- Focussing on access determinations to bottleneck services

## REGULATORY BODIES OR AUTHORITIES

The Telecommunications Regulatory Authority (TRA) is a financially and administratively independent body.

The Telecoms Law establishes the TRA's basic aims which include:

- Ensuring the provision of telecommunications services throughout Oman at reasonable prices
- Encouraging the use of telecoms services with the aim of facilitating access to global markets and information, encouraging visible and non-visible exports
- Ensuring optimal use of frequency

**The Australian Communications and Media Authority's** main responsibilities include:

- Forming part of the Department of Infrastructure, Transport, Regional Development and Communications
- As a converged telecommunications regulator, overseeing the broadcasting, internet, radio communications and telecommunications industries
- Regulating technical and non-competition aspects of the industry, licensing telecommunications carriers, regulating fixed-line and mobile telecommunications, developing codes of practice for the industry and monitoring compliance, monitoring the performance of carriage service providers, setting and enforcing industry and technical standards and monitoring industry performance numbering, advising consumers on their rights and safeguards and managing the delivery of services to people with communication impairment

**The Telecommunications Industry Ombudsman's** main responsibilities include:

- The provision of a fast, free and fair dispute resolution service for small businesses and residential consumers who have a complaint about their telephone or internet service
- Being an independent body that complies with the Commonwealth's Benchmarks for Industry-Based Customer Dispute Resolution Services here

**The Communications Alliance's** main responsibilities include:

- Being an industry body for the communications industry
- Promoting the growth of the communications industry and the protection of consumer interests by fostering the highest standards of business ethics and behaviour through industry self-governance that uses practical, self-imposed solutions that are developed co-operative processes

**The Communications Compliance's** main responsibilities include being an independent monitoring body that oversees conduct of the Telecommunications Consumer

- Safeguarding the interests of beneficiaries and dealers regarding the prices of equipment, quality and efficiency of telecommunication services
- Preparing suitable conditions for competition between licensees

### **Telecommunications Regulatory Authority**

Address: P.O. Box 3555, P.C. 111, Muscat, Sultanate of Oman

Website: [www.tra.gov.om](http://www.tra.gov.om)

Protections Code Compliance Framework, providing guidance on how to comply with the code and providing an overview of industry compliance. It should be noted that the Communications Compliance does not actually enforce compliance (ACMA is, in most cases, the key enforcement body).

The Attorney General's Department's main responsibilities include administering the Telecommunications (Interception and Access) Act 1979 and the Surveillance Devices Act 2004. However, the department does not investigate crimes (relevant police enforcement agencies investigate and potentially prosecute).

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

### **Installing Facilities**

The Telecommunications Act 1997 restricts carriers in their installation of telecommunications facilities. Primarily only low-impact facilities, which are designed to be unobtrusive and to be installed in line with the legislation, are permitted. Superfast network obligations also arise under the same legislation which limit the installation of superfast networks (in connection with the rollout of the NBN).

Approval of telecommunications facilities is the responsibility of the local government authority in the area.

### **Service Providers**

Service providers including Carriage Service Providers (CSP), that use, but do not own, a telecommunications network unit to provide carriage services to the public (including Internet Service Providers and Internet Access Providers, as they fall within the category of a CSP), and content service providers that supply content services to the public must comply with obligations imposed by the telecommunications access regime, in addition to the following regulations:

- The Telecommunications Act 1997
- The Telecommunications (Consumer Protection and Service Standards) Act 1999
- The Competition and Consumer Act 2010

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

A licence is required in order to 'establish, operate, or manage':

- 'A system that permits the conveyance of signals or symbols or signs or texts or visual and non-visual images or sound or data or information of any nature between defined terminal points by wire or radio or optical and other electromagnetic or electronic means'
- 'Telecommunications systems or a group of integrated systems including the necessary infrastructure that permits telecommunication between and among defined network termination points including means to access the World Wide Web'
- 'Services through which telecommunications are conveyed in whole or in part regardless of the systems or means used'
- 'Specified radio frequencies'

- The Telecommunications Consumer Protections Code

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

In addition to the registration of a business name with the Australian Securities and Investments Commission, the following registration and licensing requirements must be adhered to:

- **Telecommunications licence:** Except in limited circumstances, the owner of a network unit (cable, wireless, or satellite) used to supply carriage services to the public must hold a Carrier Licence. Carriage Service Providers do not need a licence but must comply with the codes set out in the “Carriers and Carriage Service Providers” section.
- **Content Service Providers:** If a company uses, or proposes to use, any point-to-point carriage service to supply an online service to any other person that is not an officer of the company or a related body corporate then the company is a Content Service Provider under the Telecommunications Act 1997. A Content Service Provider is a general classification of industry participants supplying content services to the public. There is no licence required, however the company will need to comply with the content rules determined by ACMA.
- **Installation Services:** If a company provides installation services for customers that involve customer cabling then they must register with ACMA and comply with the Telecommunications Cabling Provider Rules 2000 issued by ACMA.
- **Radiocommunications Equipment:** A CSP that operates radiocommunications equipment for the purpose of supplying carriage or content services may need to be licensed under the Radio Communications Act 1992. If a radio transmitter or receiver is required to provide services, the company will require a Spectrum, Class or Apparatus Licence.

There may also be local council planning regulations relating to the location of certain infrastructure (base

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

The regulatory regime provides for three main types of licence:

- **Class I licence:** Permits licensees to establish or operate a public telecommunications network or international telecommunications infrastructure, and/or offer public telecommunications services or international access services. This licence type is issued by Royal Decree following a proposal by the Minister of Transport and Communications after approval by the TRA. The Decree will determine the duration of the licence and will detail the terms and conditions under which the licensee must operate. According to the Law, these licences may not be exclusive. Class I licences include fixed, mobile and international gateway services licences.
- **Class II licence:** This class of licence is issued to those operators providing public telecommunications services which rely upon a Class I licence network capacity. In addition, licensees holding a Class II licence may provide 'additional, or value added, public telecommunications services which make use of numbering resources'. Class II licences are issued pursuant to a Ministerial Decision from the Minister of Transport and Communications based on an approved proposal by the TRA. According to the Law, the licence duration may not exceed 10 years but may be renewed upon application.
- **Class III licence:** Issued by the TRA to operators of private telecommunications services (not connected to the public network) who meet the requisite qualifying criteria (as set by the TRA). According to the Law, the licence duration may not exceed five years but may be renewed upon application.

The TRA also issues licences for the use of telecoms radio frequency and for the operation of radio stations and radio equipment.

stations, transmitters etc). The nature of these regulations differ between different council areas.

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

No domicile requirements apply for carrier licences, provided that the applicant is a 'constitutional corporation', an 'eligible partnership' or a public body.

## **EXISTENCE OF RELEVANT INTERCONNECTION/ROAMING REGULATIONS**

### **Domestic inter-carrier roaming**

Domestic inter-carrier roaming is not a declared service (although it has been the subject of a regulatory enquiry to determine whether it should be) and is regulated through commercial agreements reached between the relevant carriers.

### **International roaming**

This is governed by the Telecommunications Service Provider (International Mobile Roaming) Determination 2019.

The Standard focused on four key consumer protection measures:

- A notification via a nominated method of communication to be sent to all consumers on arrival overseas, warning them that significantly higher charges for using roaming services may apply
- Enabling customers to stop international roaming at any time and at the maximum cost of AUD 1, including from an overseas location
- A notification to be sent via a nominated method of communication to customers of service

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

There are no express domicile restrictions or requirements for the application of a licence.

However, foreign nationals and foreign companies may not conduct business activities in any sector of the Omani economy or participate in an Omani company without obtaining a licence to do so from the Ministry of Commerce and Industry. Such a licence is only granted once certain requirements have been met.

## **EXISTENCE OF RELEVANT INTERCONNECTION/ROAMING REGULATIONS**

The Telecoms Law provides licensees with a right to interconnect and share sites. Parties must seek to negotiate these agreements. If such negotiations do not result in an agreement within three months then the parties may seek the intervention of the TRA.

Dominant operators must issue a Reference Interconnection Offer (RIO), and the TRA may choose to approve or amend the RIO.

Terms and conditions must be reasonable and non-discriminatory, and be in accordance with the Executive Regulation.

The Executive Regulation details the TRA's Interconnection Principles, and outlines the required content of a RIO and pricing principles.

In 2012, the TRA issued regulations for ex-ante provisions 'to ensure fair competition in the telecom market', and a regulation regarding ex-post enforcement and guidelines was issued in 2013. These are contained in TRA Decisions 69 of 2012 and 70 of 2013 respectively.



providers giving them pricing information for using a range of roaming services. These services include any that would normally be free in the domestic market, such as receiving a call on a mobile device

- Spend management tools, including notifications in AUD 100 increments for data usage and notifications at 50, 85 and 100% of included value, if a customer has purchased an included value travel package from their International Roaming Mobile (IMR) service provider

## TELECOMMUNICATION LAWS AND REGULATIONS AFFECTING CONSUMERS

### Differences between provision of services to businesses and provision of services to consumers

Subject to contractual commitments agreed between the service provider and the end customer, and as set out below, there are no significant differences in terms of the regulatory treatment of end users of telecommunications services from a general level.

### Requirements for provision of services to consumers

- This is principally governed by the Telecommunications Consumer Protections Code, and complaints handling is governed by the Telecommunications (Consumer Complaints Handling) Industry Standard 2018
- Consumers and small businesses can complain to the Telecommunications Industry Ombudsman. Resolutions by the ombudsman are legally binding to the value of AUD 50,000
- If a service is 'declared' by the ACCC, standard access obligations then apply updated consumer protections have been implemented by industry code C628:2019 Incorporating Variation No.1 /2022 Telecommunications Consumer Protections (Updated 16 June 2022), which provides further consumer protection safeguards relating to sales, service and contracts, billing, credit and debt management and changing suppliers. It also sets out a framework of code compliance and monitoring

## TELECOMMUNICATION LAWS AND REGULATIONS AFFECTING CONSUMERS

The TRA has issued [Consumer Guidelines](#) outlining its powers, and its complaints and investigation process. [The Omani Consumer Rights Law](#) also states that 'the Consumer shall have the right to obtain correct information about the good he buys or uses or the service he receives'. Therefore, with regard to telecommunications services, the following should be 'clearly indicated':

- Price
- Characteristics
- After sales services

Prohibition on unfair contract terms in the Australian Consumer Law will likely apply to any standard form contract agreed between a service provider and an individual end user or corporate customer (where certain conditions are met).

## REGULATORY TAXES AND FEES

Telecommunications carriers who earn AUD 25 million or more in any eligible revenue period are required to pay annual levies and charges including the telecommunications industry levy, and the annual Carrier Licence charge. These are calculated based on their eligible revenue for the previous financial year.

The current fee for an application for a Carrier Licence is AUD2122. This fee covers the cost of processing the application.

### Installation services

All individuals performing cabling work, except 'plug and play' cabling of customer equipment (which is not in a wall or ceiling cavity) must be a registered cabler for open cabling work.

### Importation of goods for the provision of telecommunication services

Goods imported into Australia with a value above AUD 1000, including commercial quantities, must be cleared by submitting a completed import declaration form and paying duty, GST, and other taxes and charges that apply. The duty rates payable will depend on the tariff classification, the value of the goods in the exporting country and where the goods were manufactured. The Customs Tariff Act 1995 provides the tariff classifications, duty rates, interpretive rates and information on preference schemes, and other concessions and exemptions that may apply.

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

### Infringement Notices

Under the Telecommunications Act 1997, ACMA can, instead of instituting court proceedings, give infringement notices for alleged contraventions of certain civil penalty

## REGULATORY TAXES AND FEES

Once an entity obtains a licence as required by the Telecoms Law, it will be required to pay the prescribed licence fee as set by the TRA.

Although it is often considered a 'tax free' jurisdiction, Oman has a number of taxes that apply to corporations.

Further fees are payable to government ministries depending upon the activities being performed by a company.

Detailed advice can be provided upon request, taking into account your individual circumstances.

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

Any person who establishes, operates, assists or incites another to establish or operate a telecommunications system or offer a service without a licence, or who uses

provisions relating to telecommunications. If the penalty under the infringement notice is paid within the specified time frame (or other period agreed to by ACMA) then civil penalty proceedings cannot be initiated and the matter is disposed of without admission of guilt or a conviction. If the penalty is not paid then court action may be taken for civil penalties in relation to the alleged contravention.

## Civil Penalties

The penalty specified in an infringement notice given to a body corporate must be a pecuniary penalty equal to 60 penalty units or, for breaches of the service provider rules or carrier licence conditions, the Minister for the Department of Infrastructure, Transport, Regional Development, Communications and The Arts may set a pecuniary penalty amount in a Determination up to 1,800 penalty units.

## Privacy Laws

The Office of the Australian Information Commissioner is responsible for breaches of the Privacy Act 1988 (Cth).

## Breach of Telecommunications Consumer Protections Code

ACMA enforces the code and it can take the following steps:

- Agree with the telecommunications provider on steps it will take to remedy the breach or improve compliance
- Give a formal warning
- Give a Direction to Comply with code provisions

## Telecommunications Industry Ombudsman

- Is authorised to investigate complaints by residential and small business users of telecommunications and internet services
- Can enforce resolution of complaints of up to AUD 50,000, and make recommendations for complaints of up to AUD 100,000

non-type approved equipment is liable to a criminal punishment of imprisonment of up to two years or a fine of up to OMR 50,000 or both.

There are a range of other offences outlined in the Telecoms Law.

The TRA is given discretion by the Telecoms Law to take any one or more of the following actions 'according to the size of the violation':

- Suspend the licence granted to the licensee for three months
- Remedy the violation at the expense of the violator
- Reduce the licensed services of the licensee by one service per violation
- Reduce the licence duration for a period not exceeding half of the licence period
- Collect a financial fine of not more than OMR 1,000,000 for each violation
- Take custody of the seized equipment, devices, and instruments and hold them until the dispute is settled by a final court order
- Cancel the licence

The Telecoms Law also provides that: 'The fine shall be doubled in case of repetition or the violator pays up to two times the value of the damage, whichever is higher'.

However, any party concerned may request for the TRA to review any decision within one month of the decision being handed down if any new information which was not originally considered becomes available. A verdict on such a request must be made within 30 working days of the request being submitted, and any rejection by the TRA requires a justification. If no reply is given by the TRA within the 30 working day period, the lack of reply will constitute a rejection of the request.

## KEY CONTACTS

**Tim Lyons**  
Partner

## KEY CONTACTS

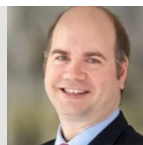
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