

# TELECOMMUNICATIONS LAWS OF THE WORLD

Brazil vs Singapore



Downloaded: 1 July 2025

# BRAZIL



Last modified 6 October 2022

## OVERVIEW OF LEGAL LANDSCAPE

Telecommunications is a regulated activity in Brazil.

The practice of telecom activities in the country requires the prior attainment of specific authorisations before the Brazilian Telecommunications Agency (*Agência Nacional de Telecomunicações - ANATEL*), which is linked to the Brazilian Ministry of Communications. The type of authorisation and the related requirements vary according to the intended telecom activity.

As a regulatory agency, ANATEL is responsible for the regulation, inspection and granting of authorisations required for the performance of telecom activities in Brazil. ANATEL also has the power to apply administrative sanctions in the case of violations to the provisions of the telecom regulation.

## KEY TELECOMMUNICATIONS LAWS, REGULATIONS AND POLICIES

### Primary Telecom Legislation

The primary legislation governing telecom activities in Brazil is the General Telecommunications Law (Federal Law No. 9,472 of 1997, as amended - LGT).

The LGT was enacted in 1997 as a consequence of the denationalisation of telecom activities in Brazil. It provides the key definitions relating to telecom activities and establishes the basis for the organisation of telecom sector.

### ANATEL's Regulatory Framework

ANATEL's regulatory framework involves a high number of regulatory acts (including regulations, instructions and opinions) which apply to several aspects of telecom activities. Such regulation has been going through amendments to reflect technology developments and streamline the telecom regulatory environment.

# SINGAPORE



Last modified 21 November 2022

## OVERVIEW OF LEGAL LANDSCAPE

With effect from 1 October 2016, the regulatory landscape changed with the restructuring of the Info-communication Development Authority of Singapore (IDA) and the Media Development Authority of Singapore (MDA) to form the Info-communications Media Development Authority of Singapore (IMDA). The IMDA - alongside accompanying telecommunications legislation and regulation - aims to pave the way for a pro-consumer and pro-business telecommunications environment within Singapore.

## KEY TELECOMMUNICATIONS LAWS, REGULATIONS AND POLICIES

The Info-Communications Media Development Authority Act 2016 is an Act that establishes and incorporates the IMDA, to provide for its functions and powers, and for connected matters. It deals with matters that include:

- the establishment, incorporation and constitution of IMDA
- the functions, duties and powers of IMDA
- the staff, finances and assets of IMDA

Additionally, subsidiary legislation under the Info-Communications Media Development Authority Act can be found [here](#).

The Telecommunications Act 1999 is an Act that aims to provide for the operation and provision of telecommunication systems and services in Singapore. It deals with matters that include:



ANATEL regulates the following aspects relating to the telecom sector, among others:

- ANATEL's organisation, objectives and functioning;
- Telecom strategic planning, the general telecom regulation plan and inspection/administrative proceedings;
- Fixed telecom service (or STFC) (related to the communication between two fixed points/either local or long distance);
- Mobile telecom service (or SMP) (related to mobile communications services);
- Multimedia communications service (or SCM) (related to the provision of capacity to transmit, emit and receive multimedia information to subscribers within a determined private area);
- Limited use telecom services (private telecom services utilised by the user itself or by private groups, and related to certain activities such as aerospace research, meteorology services, etc);
- Radio communications (related to communications via radio);
- Satellite (related to satellite exploration);
- TV subscription (related to paid TV services);
- Radio diffusion (related to open TV and radio);
- Inter-connection (related to telecom network interconnection);
- Telecom product certification (related to requirements and procedures for the certification of telecom equipment);
- Radiofrequency (related to, among other things, procedures and authorisations for the uses of radiofrequency); and
- Rights and obligations of telecom market players (providers, users, equipment manufacturers, etc).

- the licencing of telecoms systems and services and the granting of spectrum rights
- the erection, maintenance and repair of telecom installations
- IMDA's powers to issue codes of practice, standards of performance, directions and advisory guidelines relating to telecom systems and services
- telecom cable detection work
- ownership and management controls over designated telecom licencees
- offences and penalties relating to telecom systems and services

Subsidiary legislation under the Telecommunications Act can be found [here](#).

In addition, the IMDA also regulates the provision of postal services and postal systems. While these are typically not categorized

as telecommunications, postal and telecommunications services do fall under the same wider category of communications services.

## REGULATORY BODIES OR AUTHORITIES

### Agência Nacional de Telecomunicações

Address: SAUS Quadra 6 Bloco H, Ala Norte, Brasília, Brazil, Zip Code 70070-940

Website: [Anatel](#)

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

### Telecom Services Legal Definition

The LGT defines telecom services as the “set of activities that enables the telecommunications offering” (“**Telecom Services**”).

The term telecommunications is defined as “the transmittal, production or reception, by wire, radio electricity, optical means or any other electromagnetic process, of symbols, characters, signals, writings, images, sounds or information of any nature”.

The LGT also establishes the activities that do not consist in Telecom Services, which includes:

- The provision of satellite capacity;
- Activities related to the registration and qualification of users and equipment for the access to Telecom Services; and
- The value-added service, defined as “the activity that adds to its corresponding telecommunications service (and to which it holds no similarity), new utilities related to access, storage, presentation, handling and retrieving of information”.

### Classification of Telecom Services

Telecom services/activities may be classified by several aspects, including:

## REGULATORY BODIES OR AUTHORITIES

### Infocomm Media Development Authority of Singapore (IMDA)

Address: 10 Pasir Panjang Road #03-01, Mapletree Business City, Singapore 117438

Contact Centre: +65 6377 3800

Email: [info@imda.gov.sg](mailto:info@imda.gov.sg)

Website: <https://www.imda.gov.sg/>

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

Broadly speaking, a telecommunication service is any service for telecommunications but excludes any broadcasting service. A telecommunication system means any system used or intended to be used for telecommunications, including any such system capable of being used for the operation of any broadcasting service. Any person who operates a network or provides a telecommunication service in Singapore must be licensed and will be regulated by the IMDA. This includes, but is not limited to facilities-based operators, service-based operators, any parties who establish Very Small Aperture Terminal (VSAT) networks, radio-communications stations operators and any parties who works on telecommunication cable detection works.

- Broadness (collective or restricted interest);
- Legal regime (public or private); and
- Authorisation modality (concession, permission or *stricto sensu* authorisation). Similarly, there are several types of telecom services/activities modalities. Each one of such modalities is regulated by ANATEL.

## Telecom Activities Regulated by ANATEL

ANATEL regulation applies to the activities described in ANATEL's Regulatory Framework above.

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

The provision of Telecom Services in Brazil requires prior authorisation from ANATEL.

The type of authorisation (i.e., concession, permission or *stricto sensu* authorisation) and the related requirements vary according to each Telecom Service modality.

ANATEL's prior authorisation is also required for:

- Use of radiofrequency; and
- Telecom equipment certification.

In addition to the above, ANATEL is also responsible for granting satellite exploitation rights (landing rights), as well as for regulating the satellite use for transportation of telecom signals.

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

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

The Info-communication Media Development Authority has the exclusive privilege for the operation and provision of telecommunication systems and services in Singapore. Under the Telecommunications Act 1999, the IMDA has authority to license telecommunication systems and services.

There are various licences regulated by IMDA, including but not limited to the following:

- Facilities Based Operators (FBO) licences for holders that intend to deploy telecoms infrastructure to provide telecoms services to other telecoms licence holders or end users. An FBO must be individually licensed.
- Service Based Operators (SBO) licences for holders that do not intend to deploy telecoms infrastructure, but instead lease telecoms network elements from FBO licence holders to provide telecoms services, or resell telecoms services of other telecoms licence holders. A SBO can be individually or class-licensed.

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

As a rule, in order to provide Telecom Services in Brazil the entity must be incorporated, organised and domiciled in the country. Foreign participation in or control of those entities is allowed.

In fact, telecommunications sector counts with foreign capital presence since the privatization of the Telebras system back in 1998. However, before 2021, it was necessary for non-domiciled persons to incorporate a local holding in the country to directly hold the Brazilian telecommunications company shareholding control.

## EXISTENCE OF RELEVANT INTERCONNECTION/ROAMING REGULATIONS

Interconnection is regulated by the LGT and by ANATEL.

Interconnection regulation includes:

- Requirements for the execution of interconnection agreements among the telecom providers (which must be approved by ANATEL); and
- Definition of related interconnection compensation/tariff.

In order for a company to be granted an FBO licence by the IMDA, the company can be foreign-owned but must be incorporated under the Singapore Companies Act 1967. As for SBO licensees, these must be companies incorporated or foreign companies registered under the Singapore Companies Act 1967. SBO (Class) licences may also be held by a Limited Liability Partnership (LLP) or a Limited Partnership.

## EXISTENCE OF RELEVANT INTERCONNECTION/ROAMING REGULATIONS

The Code of Practice for Competition in the Provision of Telecommunications and Media Services 2022 ('Code') distinguishes between licensees who are able to act without significant competitive restraints from competitors and licensees who are not able to act without significant competitive restraints from competitors. Most licensees are subject to competitive market forces and, therefore, IMDA will impose minimum regulatory 'rules of the road', coupled with the *ex post* enforcement of general prohibitions on anti-competitive conduct, on these licensees. By contrast, where a licensee's or regulated person's conduct is not constrained by competitive market forces, IMDA will require it to comply with more stringent regulatory requirements (The Code 2.1).

Several sections of the Code impose *ex ante* regulatory obligations on licensees. Some of these duties include:

- The duty to provide service at just and reasonable prices, terms and conditions;
- Non-discrimination;
- Service unbundling;
- Duty to provide service on reasonable request;
- Duty to allow resale of end-user services;
- Duty to allow sales agency
- Duty for Wholesale Services; and
- Duties in relation to tariffs.

Other sections of the Code provide a basis for IMDA to take enforcement action if a Licensee has engaged in conduct that unreasonably restricts, or is likely to unreasonably restrict, competition (ex post enforcement). These include:

- Abuse of dominant position and unfair methods of competition
- Agreements involving Licensees that unreasonably restrict competition

## TELECOMMUNICATION LAWS AND REGULATIONS AFFECTING CONSUMERS

Telecom Services users' rights and contracting requirements are subject to Anatel regulation. For such purposes, Telecom Services user (or consumer) is considered as any legal entity or individual which uses telecom services.

Telecom service users' basic rights include the following:

- Access to Telecom Services in the Brazilian territory that satisfy a certain standard in terms of quality and consistency;
- Freedom of choice regarding the Telecom Services provider;
- Non-discrimination regarding conditions for Telecom Services access and fruition;
- Access to adequate information regarding the Telecom Services rendering conditions, tariffs /prices and services suspension;
- The inviolability and secrecy of communication (subject to an exception for specific cases, as provided for by law);
- A right to request the non-disclosure of its user access code;
- Non-suspension of services rendered under the public regime (as the STFC), except in specific cases (eg debt directly derived from the services utilisation and breach of contractual obligations);
- Personal data privacy;

## TELECOMMUNICATION LAWS AND REGULATIONS AFFECTING CONSUMERS

There are no major differences between the telecommunication laws and regulations applying to the provision of services to businesses and those which apply to the provision of services to consumers. Specifically, consumer protection provisions in the Code apply equally to both residential and business end users in the telecommunications market. This is except for the prohibition of detrimental or disadvantageous mid-contract changes which will only be applied to residential end users.

- A right to have complaints duly answered by the Telecom Services provider;
- A right to present claims against the Telecom Services provider before ANATEL and the consumer defence authorities; and
- A right to be indemnified for any damages caused by virtue of its users' rights violation.

## REGULATORY TAXES AND FEES

### Main Taxes Levied Over Telecom Companies (applicable rates vary depending on the chosen tax regime)

- Corporate Income Tax - (*Imposto de Renda da Pessoa Jurídica - IRPJ*);
- Social Contribution on Net Profits (*Contribuição Social Sobre o Lucro Líquido – CSLL*); and
- Tax on Social Integration Program (*Programa de Integração Social - PIS*) and Tax for Social Security Financing (*Contribuição para o Financiamento da Seguridade Social - COFINS*).

### Main Taxes and Fees Levied Over Telecom Activities

- Value-Added Tax on Sales and Services (*Imposto sobre a Circulação de Mercadorias e Serviços de Transporte Interestadual e Intermunicipal e de Comunicação - ICMS*), which is a State Tax;
- Fund for Universal Access to Telecommunications Services (*Fundo de Universalização dos Serviços de Telecomunicações - FUST*);
- Fund for Telecommunications Technological Development (*Fundo para o Desenvolvimento Tecnológico das Telecomunicações - FUNTTEL*); and
- Telecommunications Inspection Fund (*Fundo de Fiscalização das Telecomunicações - FISTEL*) - The main FISTEL revenue sources are: Installation Inspection Fee (*Taxa de Fiscalização de Instalação - TFI*) and Functioning Inspection Fee (*Taxa de Fiscalização de Funcionamento - TFF*).

## REGULATORY TAXES AND FEES

### SBO Class Licence

SGD 200 per licence (one-time payment).

### SBO Individual Licence

SGD 4,000 per annum licensing fee for the first SGD 50 million of the Annual Gross Turnover (AGTO).

The next SGD 50-100 million in AGTO attracts a fee of 0.5% of the AGTO.

For a company with above SGD 100 million in the AGTO, there is a licensing fee of 0.8% of the AGTO.

### FBO Licence

SGD 80,000 or SGD 200,000 minimum licensing fee for the first SGD 50 million of the Annual Gross Turnover (AGTO), depending on whether the FBO licensee is an FBO or an FBO designated as a public telecommunication licensee.

The next SGD 50-100 million in AGTO attracts a fee of 0.8% of the AGTO.

For a company with above SGD 100 million in the AGTO, there is a licensing fee of 1% of the AGTO.

FBO licensees holding licences for terrestrial telecommunication network for broadcasting purposes only or satellite uplink / downlink for broadcasting purposes must pay an annual fee of SGD 5,000.



Also, administrative fees are applied by ANATEL to telecom authorisations requests.

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

Administrative sanctions in the case of breaches /contraventions of telecom laws and regulations include the following:

- Warnings;
- Fines;
- Temporary suspension of the authorisation granted by ANATEL regarding the telecom activity;
- Extinction of the authorisation granted by ANATEL regarding the telecom activity; and
- Temporary banning from participating in public bids.

ANATEL is responsible for the investigation of the breaches/contraventions and imposition of sanctions. The imposition of sanctions depends on a prior administrative proceeding in which the infracting party has a right of defence. Administrative sanctions are applied in addition to any civil and criminal sanctions.

The LGT defines the unlawful development of telecom activities as a crime.

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

Any person guilty of an offence under the Telecommunications Act or any regulations made under it, may be subject to a fine not exceeding SGD 10,000, or to imprisonment for a term not exceeding three years or to both and, in the case of a continuing offence, to a further fine not exceeding SGD 1,000 for every day or part thereof during which the offence continues after conviction.

### KEY CONTACTS



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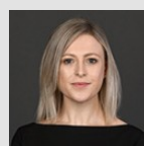
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