

TELECOMMUNICATIONS LAWS OF THE WORLD

Japan



Downloaded: 1 May 2025

JAPAN



Last modified 6 October 2022

OVERVIEW OF LEGAL LANDSCAPE

The telecommunications industry is heavily regulated in Japan and the regulatory landscape is broad and complex. There are several laws and regulations governing telecommunications which overlap. Generally speaking, a business operator intending to operate a telecommunications business in Japan must obtain a licence or submit a notification/registration to operate such a business.

KEY TELECOMMUNICATIONS LAWS, REGULATIONS AND POLICIES

Japan currently does not have a unified law or an overarching regulation governing telecommunications activities.

The primary legislation governing telecommunications in Japan is the Telecommunications Business Act (Act No. 86 of December 25, 1984) (the "**Act**"). Other key laws and regulations that apply to telecommunications include:

Telecommunications Business

- The Act;
- Cabinet Order for Enforcement of the Telecommunications Business Act (Cabinet Order No. 75 of 1985);
- Regulations for Enforcement of the Telecommunications Business Act (Ministerial Ordinance of MPT No. 25 of 1985); and
- Rules for Telecommunications Business Accounting (Ministerial Ordinance of MPT No. 26 of 1985).

Wire Telecommunications

- Wire Telecommunications Act (Act No. 96 of 1953);
- Act for Enforcement of the Wire Telecommunications Act and the Telecommunications Business Act (Act No. 98 of 1953);
- Cabinet Order for Enforcement of the Wire Telecommunications Act (Cabinet Order No. 130 of 1953); and
- Rules for Enforcement of the Wire Telecommunications Act (Ministerial Ordinance of MPT No. 36 of 1953).

Radio

- Radio Act (Act No. 131 of 1950);
- Cabinet Order for Enforcement of the Radio Act (Cabinet Order No. 245 of 2001); and

- Regulations for Enforcement of the Radio Act (Radio Regulatory Commission Rules No. 14 of November 30, 1950).

Broadcast

- [The Broadcast Act](#) (Act No.132 of May 2, 1950);
- Cabinet Order for Enforcement of the Broadcast Act (Cabinet Order No. 163 of May 25, 1950); and
- Regulations for Enforcement of the Broadcast Act (Radio Regulatory Commission Rules No. 10 of June 30, 1950).

REGULATORY BODIES OR AUTHORITIES

Ministry of Internal Affairs and Communications ("**MIC**")

Address: 1-2 Kasumigaseki 2-chome, Chiyoda-ku, Tokyo, Japan

Website (English): www.soumu.go.jp

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

Telecommunications Business

The Act regulates individuals and entities undertaking "Telecommunications Business". The Act defines "Telecommunications Business" as follows:

"Telecommunications Business" means the business of providing "Telecommunications Services" (intermediating communications of others through the use of telecommunications facilities, or any other acts of providing telecommunications facilities for the use of communications by others) in order to meet the demands of others.

This definition does not require the individual or entity providing the services to establish their own telecommunications facilities (network). Therefore, even if a service is provided over another provider's network, the individual or entity providing that service is subject to the same regulations.

Wire Telecommunications

The Wire Telecommunications Act regulates individuals or entities that install and own wire telecommunications facilities in Japan.

Radio

The Radio Act regulates individuals and entities that install and own radiation-emitting facilities in Japan.

Broadcast

The Broadcast Act regulates individuals and entities undertaking a broadcast-related business in Japan.

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

Telecommunications Business

Under the Act, individuals or entities operating a Telecommunications Business in Japan must either apply for registration with the MIC, or, in other cases, provide a notification to MIC of their operation of a Telecommunications Business. Whether a registration or notification is necessary depends on the scope and scale of the Telecommunications Business to be undertaken. Only entities owning (or in certain cases obtaining usage rights almost synonymous with ownership) large-scale telecommunications circuit facilities must register with the MIC.

Wire Telecommunications

Under the Wire Telecommunications Act, an individual or entity must send a notification to the MIC two weeks prior to the installation of wire telecommunications facilities.

Radio

It is a primary requirement under the Radio Act that an individual or entity installing radiation-emitting facilities in Japan must obtain a licence from the MIC (with some exceptions).

Broadcast

It is the primary requirement of the Broadcast Act that an individual or entity operating a Broadcasting business in Japan must either obtain a licence from MIC if operating a basic broadcasting business (broadcasting using radio waves of frequencies allocated either exclusively or preferentially to radio stations broadcasting pursuant to the Radio Act), or in certain situations, register with the MIC.

As a restriction on foreign investment, investment in a Japanese broadcast operator by a foreign individual or entity may require notification to the Ministry of Finance through the Bank of Japan within six months prior to the investment. The Ministry of Finance may recommend or order a termination or modification of the investment.

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

General requirements

In order to undertake continuous business activities in Japan, an entity must either appoint and register a representative residing in Japan or alternatively maintain a legal presence in Japan. This presence often takes the form of either a branch office of a foreign entity (with a representative holding a Japanese address) or a subsidiary entity in the form of a *godo kaisha* or *kabushiki kaisha*. This applies in all industries and is not dependent on whether telecommunications authorisation is required.

Generally speaking, a foreign telecommunications business operator is required to establish a branch office which operates telecommunications business in Japan, at a minimum. If legally required (as discussed below), a foreign telecommunications business operator is required to establish a subsidiary to operate specific telecommunications businesses in Japan.

The specific requirements for each telecommunications activity are as follows.

Telecommunications Business

The Act was amended in May 2020. After the amendment, telecommunication business operators locating outside Japan must appoint a local representative or agent in Japan to conduct telecommunication businesses in Japan. Though the Act does not have explicit rules as to extraterritorial application, this local appointment rule is strengthening enforcement to offshore telecommunication business operators.

Wire Telecommunications

The Wire Telecommunications Act does not expressly require the business operator to have a permanent establishment in Japan in order to install wire telecommunications facilities in Japan.

Radio

The Wire Radio Act does not expressly require the business operator to have a permanent establishment in Japan in order to install radiation-emitting facilities in Japan.

Broadcast

The Broadcast Act requires basic broadcasting business operators to establish a business entity in Japan in order to obtain a licence (this would not apply if the business operator is only subject to registration). Additionally, the operation of basic broadcasting businesses in Japan is subject to certain restrictions on foreign investment under the Broadcast Act.

EXISTENCE OF RELEVANT INTERCONNECTION/ROAMING REGULATIONS

Under the Act, Telecommunications Business operators are required to agree to network interconnection with other operators when requested, unless the operator has a legitimate reason to refuse this, for pre-defined reasons specified under the Act.

Those Telecommunications Business operators that possess a large market share of the Telecommunication Business market are subject to detailed regulations (including the obligation to obtain approval from MIC or agreement to interconnection). However, in principle, roaming and interconnection services are not regulated under the Act, and are typically determined by agreement amongst operators.

TELECOMMUNICATION LAWS AND REGULATIONS AFFECTING CONSUMERS

Some special regulations apply to the provision of Telecommunications Services in relation to consumer protection. The key regulations provide that:

- a Telecommunications Business operator must explain the terms of the services (including the associated service fees) to customers before agreeing to the contract;
- a Telecommunication Business operator must without delay prepare and deliver agreements to customers after agreeing to the contract; and
- customers may terminate the agreement within eight days of receiving the contract for any reason.

REGULATORY TAXES AND FEES

In Japan, fees for registry, registration, patents, licenses, permits, licenses, approvals, certifications, designations and certifications of competence are regulated by the Registration and License Tax Act. Fees related to telecommunications businesses are specified as follows:

Telecommunication Business

Operators must pay a registration fee of JPY 150,000.

Wire Telecommunications

N/A

Radio

Business Operators must pay a registration fee ranging between JPY 30,000 to JPY 150,000.

Broadcast

Broadcast Operators must pay a registration fee of JPY 90,000.

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

The following fines (with equivalent limitations) applicable to a natural person will also apply to the legal entity if its representative /employee violates any of the relevant requirements under Japanese law.

Telecommunications Business

Operating a Telecommunications Business without the required registration will result in a fine of up to JPY 2,000,000 and/or imprisonment of up to three years. Operating a Telecommunications Business without submitting the required notification will result in a fine of up to JPY 500,000 or imprisonment of up to six months. After the amendment in May 2020, the MIC can announce the name and other necessary information of business operators violating the Act.

Wire Telecommunications

Installing a wire telecommunications facility without prior notification to the MIC will result in a fine of up to JPY 100,000.

Radio

Installing radiation-emitting facilities without obtaining the required licence will result in a fine of up to JPY 1,000,000 or imprisonment of up to one year.

Broadcast

The MIC may order a business operator to cease their broadcasting business upon breach of the Broadcast Act. Non-compliance with the cessation order or operation of a broadcasting business without the necessary licence will result in a fine of up to JPY 500,000 or imprisonment of up to six months.

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