

TELECOMMUNICATIONS LAWS OF THE WORLD

Sweden



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SWEDEN



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OVERVIEW OF LEGAL LANDSCAPE

In order to promote functioning competition and to ensure a nationwide efficient infrastructure, the telecommunications market in Sweden is subject to certain regulation mechanisms.

Applicable national and European legislation aims at opening the telecommunications markets and creating equal competition conditions. The Swedish Telecommunications Act (*Lag 2022:482 om elektronisk kommunikation - LEK*) provides the Swedish Post and Telecommunications Agency (*Post-och Telestyrelsen - PTS*) with ample regulatory instruments to foster effective competition.

KEY TELECOMMUNICATIONS LAWS, REGULATIONS AND POLICIES

Provisions relating to the regulation of telecommunications are found in the LEK as well as in various other regulations. These include:

- Electronic Communications Regulation (*Förordning (2022:511) om elektronisk kommunikation*)
- National internet domain names act (*Lag (2006:24) om nationella toppdomäner för Sverige på Internet*)
- Regulation about support for telephony and Internet accessibility measures (*Förordning (2018:20) om stöd för åtgärder som ger tillgång till telefoni och funktionell tillgång till internet*)
- Act on measures to support broadband network roll-outs (*Lag (2016:534) om åtgärder för utbyggnad av bredbandsnät*)
- Regulation on measures to support broadband network roll-outs (*Förordning (2016:538) om åtgärder för utbyggnad av bredbandsnät*)
- Act on information security for socially critical and digital services (*Lag om informationssäkerhet för samhällsviktiga och digitala tjänster (2018:1174)*)
- Protective security act (*Säkerhetsskyddslagen (2018:585)*)
- Protective security regulation (*Säkerhetsskyddsförordningen 2018:658*)
- Act about radio equipment (*Radioutrustningslagen (2016:392)*)
- Regulation about radio equipment (*Radioutrustningsförordningen (2016:394)*)

The key features of the LEK are:

- Any person operating a public telecommunications network on a profit-oriented basis or providing a publicly available telecommunications service on a profit-oriented basis shall notify the PTS without undue delay of their intention to provide, or of their ceasing to provide the activity and/or any changes in their undertaking (Chapter 2, Section 1 LEK)
- The PTS has the power to put in place market regulation measures regarding markets which lack effective competition and to impose measures on undertakings having significant market power (Chapter 5 LEK)
- Specific customer protection provisions - eg pertaining to price transparency and information obligations prior to concluding contracts with customers (Chapter 7 LEK)
- Regulation of services that are society universal - eg requirements on pricing (Chapter 6 LEK)
- The granting of frequencies and numbers (Chapter 4 LEK)
- Provisions pertaining to the processing of traffic data and integrity protection. In particular, it regulates that operators must delete or anonymise traffic data when no longer needed for the transmission of an electronic piece of communication, with certain exemptions (Chapter 9 LEK)
- Provisions pertaining to the competence and powers of the PTS. Eg the PTS may access facilities and premises where activities covered by the LEK are carried out, resolve certain disputes between operators and impose sanctions on operators that breach the LEK (Chapters 11 and 12 LEK)

REGULATORY BODIES OR AUTHORITIES

Post- och telestyrelsen

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

The LEK distinguishes between providers of telecommunications networks and providers of telecommunications services. These categories are then further sub-divided into public and private providers.

A 'telecommunications network' is defined in the LEK as a system for transmitting, connecting and directing signals, including passive network parts and other resources, by wire, radio, optical or other electromagnetic means, including satellite networks, fixed and mobile terrestrial networks, electricity cable systems (to the extent that they are used for the purpose of transmitting signals, networks used for radio and television broadcasting, and cable television networks, irrespective of the type of information conveyed) (Chapter 1, Section 7 LEK).

A 'telecommunications service' is defined as a service normally provided against remuneration using telecommunications networks and that – excluding firstly services that constitute the supply of content that is transmitted through telecommunications networks or communications services and secondly services that entail editorial responsibility for such content – are internet connectivity services, interpersonal communications services or services that wholly or partially involve the transmission of signals (Chapter 1, Section 7 LEK).

In addition to operators of telecommunications networks and telecommunications services, the LEK covers also certain other usage of radio equipment (Chapter 1, Section 2 LEK).

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

Providers of publicly available electronic communications networks that are generally provided against remuneration and publicly available electronic communications services may only provide networks or services of these kinds following a notification to the PTS. This does however not apply to communications services that are number-independent or certain program content (such as in radio, TV or other similar media) that is covered by the Swedish constitutional right to freedom of speech (Chapter 2, Section 1 LEK).

A notification does not suffice, however, where applicable provisions require an express authorisation for carrying out other activities. For instance, radio transmitters may only be used in Sweden following an authorisation (Chapter 3, Section 1).

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

From a telecommunications law perspective, there is no requirement for a provider of telecommunications services to be domiciled in Sweden prior to, or during, the provision of services. However, the LEK includes certain general requirements about the consideration that should be given to Swedish national security when applying the LEK, which may require consideration to be given to the domicile of certain providers of communications services and networks (Chapter 1, Section 1 LEK).

EXISTENCE OF RELEVANT INTERCONNECTION/ROAMING REGULATIONS

Operators of publicly available telecommunications networks are required to negotiate interconnectivity with operators that provide or intend to provide a publicly available telecommunications services that are not number-independent interpersonal communications services (Chapter 5, Section 1 LEK).

In addition, the PTS has the power to impose obligations, upon request, on public telecommunications network operators that control access to end-users and that provide a telecommunications network or service that must be notified to the PTS to enable interconnectivity or other measures that enable end-users to reach each other or to make their services interoperable with other operators' services (Chapter 5, Section 3 LEK). Similar powers apply to number-independent interpersonal communications services with significant geographical coverage or with a significant number of users (Chapter 5, Section 4 LEK).

Further, the PTS has the power to impose certain obligations on public telecommunications network operators with significant market power. Those obligations may include, among others: (i) transparency obligations relating to technical specifications, network properties (Chapter 5, Section 12 LEK), (ii) non-discrimination obligations to provide equal terms to equal opposite parties (Chapter 5, Section 13 LEK), and (iii) inter-connectivity obligations to provide others with access to certain parts of its network (Chapter 5, Section 16 LEK).

TELECOMMUNICATION LAWS AND REGULATIONS AFFECTING CONSUMERS

The LEK contains numerous provisions pertaining to customer protection which cannot, for the most part, be excluded. These provisions do not exclusively refer to the term 'customer' but also to 'consumers', 'end-consumers', 'end-users', 'subscribers' and 'invoice recipients'.

"User" means a user of a publicly available telecommunications service (Chapter 1, Section 7 LEK).

"End-user" means a user that is not operating a public telecommunications network or providing a publicly available telecommunications service (Chapter 1, Section 7 LEK).

"Subscriber" means those individuals that have concluded a contract with an operator of a publicly available telecommunications service about receipt of such services (Chapter 1, Section 7 LEK).

Specific obligations relating to customer protection include:

- The requirement to inform consumers about contract terms (Chapter 7, Section 1 LEK)
- The initial minimum contract term of a contract with a consumer may not exceed 24 months (Chapter 7, Section 8 LEK)
- The obligation to provide to subscribers itemised billing upon request free of charge (Chapter 7, Section 29 LEK)
- The obligation to take into account the interests of disabled end-users (Chapter 7, Section 37 LEK)
- The availability of number portability to all subscribers (Chapter 7, Section 19 LEK)

REGULATORY TAXES AND FEES

Chapter 14 of the LEK empowers the PTS to impose certain fees on operators that must notify the PTS about their telecommunications network or telecommunications service (among certain others). These fees include administration fees to cover the PTS' costs for dealing with regulatory matters, annual fees and a specific fee to finance measures against peacetime threats and stresses.

On the basis of the LEK, the PTS has implemented fee regulations (*Post- och telestyrelsens föreskrifter om avgifter*). These fee regulations are generally updated annually. Simplified, the administrative fees constitute fixed amounts while the annual fees and the fees to finance measures against peacetime threats are based on the turnover of the operator, although certain revenue thresholds apply below which no fees are payable.

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

The LEK provides for various measures which are at the PTS' disposal to enforce the applicable telecommunications regulations. These measures include formal information requests, investigations, seizures and the prohibition of business operations.

Breaches of the LEK can also trigger penalties (Chapter 12 LEK). The penalties range from fines between SEK 5,000 to SEK 10,000,000. Other violations can trigger criminal liability which can lead to fines or imprisonment of up to six months.

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