



< PAVING THE WAY FOR DIVERSITY IN THE TELECOMMUNICATIONS BUSINESS >

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One Asia Lawyers Vietnam Office

I. Introduction

With an approval rate of 94.74%, on the morning of 24 November 2023, the National Assembly of the Socialist Republic of Vietnam officially passed the Telecommunications Law No. 24/2023/QH15, effective from 1 July 2024, comprising 10 chapters and 73 articles (“**Telecommunication Law 2023**”). Through this newsletter, we would like to present an update on the significant changes in the Telecommunications Law 2023, highlighting new regulations in the telecommunications service business.

II. Notable changes in Telecommunications Law 2023

1. Diversifying telecommunications products and services to align with new trends

The Telecommunications Law 2023 has expanded its scope to include three new telecommunications services: data center services, cloud computing services, and basic telecommunications services on the Internet¹. This expansion aims to address challenges faced by Vietnamese businesses and the domestic market economy, compelling organizations to embrace digital transformation to maintain competitiveness globally.

Further, the Telecommunications Law 2023 as the highest specialized legal document in this domain, features a dedicated section for these digital telecommunications services, establishing a clear legal framework for enterprises to confidently engage in their provisions. Demonstrating the government’s support for innovation in these areas, the Telecommunications Law 2023 provides benefits such as unrestricted foreign investment ratios in business cooperation contracts², reduced regulatory burdens for enterprises, and simplified requirements for service provision registration or notification instead of full business licensing³.

In addition, recognizing the potential difficulties enterprises may encounter in familiarizing themselves with these new services, the Telecommunications Law 2023 schedules its regulatory implementation to commence from 01 January 2025, approximately one year after its enactment. This timeframe allows enterprises ample opportunity to study, research, and implement these services effectively.

2. Expanding locations for telecommunications infrastructure construction

¹ Clauses 8, 9, 10 of Article 3 and Section 3 of Chapter II of the Telecommunications Law 2023

² Point a, Clause 1, Article 28; Point a, Clause 1, Article 29 of the Telecommunications Law 2023

³ Clause 2, Article 28; Clause 2, Article 29 of the Telecommunications Law 2023



The Telecommunications Law 2023 has allowed telecommunications infrastructure to be constructed and installed on public assets such as working offices, public service facilities, land, assets of armed forces, and infrastructure assets serving national and public interests, provided that it does not affect the operations of agencies or organizations located at the public assets and ensures technical feasibility, safety, and security⁴. This progressive regulation enhances public-private cooperation, optimizing the use of public resources, reducing waste, and improving investment efficiency. Utilizing locations such as administrative buildings, schools, and hospitals for telecom infrastructure installation helps enterprises cut costs, save time, and increase state revenue for reinvestment in public infrastructure development and maintenance.

However, these benefits entail responsibilities and stricter management. Effective implementation requires cooperation from enterprises, investors and authorities at all levels to prevent misuse or obstruction as provided in Article 65 of this law.

Along with the provisions in section 3 below, the regulations on installing infrastructure at the aforementioned public locations above are also considered a state incentive for small and medium-sized enterprises to engage in telecommunications activities. It helps lower barriers in site selection and optimize cost burdens and time compared to acquiring and clearing new sites.

3. Supporting small and medium-sized enterprises to participate in the competitive telecommunications market

The Telecommunications Law 2023 has regulated that telecommunications enterprises with dominant market positions have the obligation to conduct wholesale activities in telecommunications - that is, leasing telecommunications networks to other enterprises or selling their telecommunications traffic or services to support the provision of telecommunications services - when requested, and are prohibited from providing telecommunications services below actual costs unless promotional activities are permitted by law⁵. This regulation can boost confidence for small and medium-sized enterprises to participate in healthy market competition with lower investment costs, encouraging these enterprises to "start up" and develop new telecommunications services even when they may not yet have sufficient equipment or human resources. Consequently, all parties will enhance cooperation, creating a diverse and flexible telecommunications ecosystem with healthy competition for mutual development.

4. Supplementing responsibilities for personal data protection in accordance with Decree 13/2023/NĐ-CP

The Telecommunication Law 2023 has been updated with stricter regulations under Decree 13/2023/ND-CP, which took effect from 01 July 2023, focusing on enhancing personal data protection. The Telecommunications Law 2023 has tightened regulations, requiring enterprises to obtain user consent in various situations involving access to user data⁶.

⁴ Clause 3, Article 65 of the Telecommunications Law 2023

⁵ Article 17 of the Telecommunications Law 2023

⁶ Article 26, 28 and 29 of the Telecommunication Law 2023



Regarding personal data, the Telecommunications Law 2023 distinguishes the rights and obligations of service providers with and without network infrastructure into separate clauses. Accordingly, the service providers without network infrastructure face stricter requirements relating to managing subscriber information. Under this Law, enterprises are only allowed to provide services to clients whose information matches the identification documents presented when signing telecommunications contracts; enterprises must authenticate, store, use subscriber information, and handle SIM cards with incomplete or inaccurate subscriber information; prevent and stop illegal messages and calls, and terminate telecommunications services for subscribers who violate telecommunications laws⁷. These provisions will significantly help prevent spam messages, fraudulent calls, and scams, providing the best protection for users. This, in turn, will increase user trust in the enterprises and continue to promote the growth of the telecommunications industry both domestically and internationally.

In addition to the aforementioned highlights, the Telecommunications Law 2023 also introduces several other new points, such as simplifying regulations on investment in telecommunications service businesses⁸, providing a separate article for cross-border telecommunications services⁹, and changing the types of telecommunications service business licenses¹⁰, among others.

The Telecommunications Law 2023 just came into effect on 1 July 2024. In the near future, the Government may issue detailed guidance for the enterprises to study and apply.

⁷ Clause 2 Article 13 of the Telecommunication Law 2023

⁸ Article 12 of the Telecommunication Law 2023 in comparison to Article 18 of the Telecommunication Law 2009

⁹ Article 21 of the Telecommunication Law 2023

¹⁰ Clause 2 Article 33 of the Telecommunication Law 2023 in comparison to clause 2 Article 34 of the Telecommunication Law 2009

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