

# Doing Business in Chile

## Guide 2025

### TELECOMMUNICATIONS (CONCESSIONS)



## Executive Summary

This Chapter describes the regulatory framework for the telecoms industry in Chile, as well as the most relevant topics and trends within the industry at the present time.

The purpose of this Chapter is to summarise and briefly explain the most significant topics that any investor should consider before providing telecoms services in Chile. Firstly, the reader will find a brief legal history of telecoms regulations, from the first law related to telegraphic services, and up to the most recent ones, such as the law regulating the Net Neutrality principle. Likewise, this chapter will help the reader to better understand how the most relevant telecom legal concepts are treated in Chilean laws and regulations. This includes the classification of telecoms services and the process for granting various concessions, licences and permits for those services. It will also cover the role that each of the existing regulatory entities play in the development, control, and management of the telecom industry in our country.

Furthermore, this chapter briefly explains: the existing rules for interconnection; competition and foreign investment; tariffs that may be charged by the telecom service providers; radioelectric spectrum allocation and management; and numbering and number portability. In addition, it summarises the most important obligations to be complied with by the telecoms services providers set forth in some of the most recent laws and regulations enacted in Chile over the few last years.



## BRIEF LEGAL HISTORY

The first law passed by the Chilean Congress in connection with telecommunications, enacted on 10 November 1852, was related to telegraphic services. Subsequently, on 31 August 1889, a new law declared that telephone devices were exempt from import duty. Then in 1904, telephone concessions were legally recognised for the first time.

In 1970, the first general law regarding open television was enacted, and, in 1982, this was followed by the General Telecommunications Law, Law N° 18,168 (Ley General de Telecomunicaciones – “GTL”).

In 1989, the first 800 MHz cellular telephone concession was granted. Also, during the 1980’s, trunking services started to be regulated in Chile and the first trunking concessions were granted. In 1994, the Long-Distance Multicarrier System was implemented, and in 1997 three 1900 MHz PCS concessions were granted and. Since then mobile telephony has been available in Chile.

In 2001, the first concessions for Wireless Local Loop services were awarded, and since 2007, WiMax service concessions have been granted throughout the country. Also in 2007, the Chilean telecommunications authority issued a long-awaited regulation regarding VoIP (Voice over Internet Protocol) service.

During 2009, a public bidding process took place for the awarding of bands for third generation (3G) mobile services (the technical rule was issued in 2010). 2010 was a busy year for the industry, and all these new laws were introduced:

Law N° 20,453 was published, setting forth the Network Neutrality principle in the GTL. This principle states that internet service providers and the owners and administrators of the backbone structure of the internet service may not make any discrimination or differentiation regarding the information that runs through their equipment and/or their network infrastructure.

Law N° 20,471 was published, establishing the right to number portability for the users of mobile telephone services, as well as for the users of fixed telephone lines.

Law N° 20,476 came into force, implementing the gradual elimination of Long-Distance services within Chile. This was complemented by Law Number 20,704 of 2013, which finally eliminated the national long-distance services by establishing a single primary zone covering the whole country. The implementation of this whole process was finalised in August 2014.

Law Number 20,478 was published, setting forth new measures to strengthen the critical telecoms infrastructure and develop various plans to improve our telecoms networks and the system’s response and capacity during emergencies. The measures were also designed to create a new type of intermediate telecoms service concessionaires that provide physical infrastructure for other telecoms service concessionaires.

In 2012, a public bidding process took place for the granting of public telecoms service concessions based on 4G technology for



the provision of fixed or mobile data transmission public services in the 2,505-2,565MHz and 2,625-2,685MHz frequency bands. Another public bidding process of this type took place in 2014 for the granting of concessions in the 713-748 and 768-803MHz frequency bands. On 7 November 2014 Subtel issued a technical rule reserving 20MHz of the 700MHz band exclusively for government use to cover the needs of public protection and support in case of catastrophes and emergencies.

In 2012 Law Number 20,599 (the “Antenna Law”) was enacted. This Law regulates the installation of transmitting antennas for telecoms services and their supporting towers.

In May 2014, Law Number 20,750 regulating the Digital Terrestrial TV Law (the “Digital TV Law”) came into effect, after almost six years of discussions in the Chilean National Congress. This Law implemented a progressive digital switchover. It decreed that all open television signals would be digital and available on a complimentary basis across all fifteen regions of the country within a period of five years, a process known as the “analogue switch-off”.

In June 2014, Decree Number 18 (the Telecommunications Services Regulation or “TSR”) was published, establishing new regulations for all telecoms services. The main purpose of the TSR is to regulate the rights and obligations of telecoms service providers and of the subscribers and users of these services.

In January 2015, the Free Choice of Cable, Internet and Telephony Services Law was enacted. This Law sets forth that the free choice of telecoms services must be granted to users in every building. In this regard, every building must have the necessary facilities to allow different telecoms operators to install their infrastructure and provide their services, so that they may compete for the clients without discrimination or restrictions.

In April 2015, the National Music Law was enacted setting forth that Radio Broadcasting Telecommunications Service concessionaries must include at least 20 per cent of local content in their daily transmissions.

In November 2017, a modification to the GTL was enacted through Law No. 21.96, to establish the obligation for Internet service providers to guarantee a minimum internet access speed.

Finally, in July 2024, the Internet Access as a Public Telecommunications Service Law was enacted. This law designates Internet access as a public service, simplifies the concession granting process for providers using shared spectrum bands, as well as those not involving the allocation of radio electric spectrum, and introduces additional obligations and modifications to the sanctions under the General Telecommunications Law.



## MEMBERSHIP OF INTERNATIONAL ORGANISATIONS

The main international telecoms organisations of which Chile is a member are the following:

- ❖ International Telecommunication Union (ITU).
- ❖ International Telecommunications Satellite Organization (Intelsat / Inmarsat).
- ❖ Pacific Telecommunications Council.
- ❖ Inter-American Telecommunications Commission (Comisión Interamericana de Telecomunicaciones - CITEL).
- ❖ Asia-Pacific Economic Cooperation (APEC): This is an organisation that includes the countries of the Pacific Rim. Within APEC there is a working group for telecoms (TELWG), of which Chile is a member.
- ❖ World Trade Organization (WTO).
- ❖ Internet Corporation for Assignment of Names and Numbers (ICANN)
- ❖ Common Market of the South (MERCOSUR): Chile is an associate member of Mercosur and participates in the Telecommunications Sub-Group N° 1.
- ❖ Latin American Telecommunications Regulating Entities Forum (REGULATEL): This is an association of regulators in the region that promotes the development of telecoms and the consequent regional integration.

## FREE TRADE AGREEMENTS

Chile has entered into free trade agreements containing commitments and/or provisions regarding telecoms matters with the following countries:

- ❖ USA
- ❖ European Union
- ❖ Canada
- ❖ Mexico
- ❖ Central America
- ❖ South Korea
- ❖ Australia.
- ❖ Chile is also a member of the Trans-Pacific Partnership (subject to ratification from the National Congress).



## RELEVANT LEGAL CONCEPTS

### Legal Framework

Law Number 18,168 (the GTL) is the primary piece of legislation regulating the telecoms sector in Chile. Additionally, various decrees issued by the Ministry of Transportation and Telecommunications (Ministerio de Transportes y Telecomunicaciones – “MTT”) and other Chilean governmental authorities form part of the regulatory framework.

As will be explained below, the Undersecretary of Telecommunications (Subsecretaría de Telecomunicaciones – “Subtel”) also plays an important role in the regulation of the telecoms market, by ruling on specific aspects of the services through bespoke technical regulations.

Finally, the main legislation regarding open television in Chile is the National Television Council Law, enacted on 30 September 1989, which mainly regulates the attributions of the National Television Council (Consejo Nacional de Televisión – “NTC”) and the concessions for open television broadcasting services.

### Legal definition of telecommunication

According to Article 1 of the GTL, “telecommunications” is any transmission, emission or reception of signs, signals, writing, images, sounds and information of any nature whatsoever, through a physical line, radio electricity, optical means or any other electromagnetic system.

### Non-discrimination principle established in the GTL

The GTL establishes an equal and non-discriminatory right to access telecoms services for everybody in Chile, but always through a telecoms concession, permit or licence in the form and manner prescribed by law.

### Telecommunications services governed by the GTL

The GTL recognises and regulates the following types of telecoms services:

- Free Reception or Radio-Broadcasting Telecommunications Services (“RBTS”)
- Public Telecommunications Services (“PTS”)
- Limited Telecommunications Services (“LTS”).
- Amateur Radio-transmission Services
- Intermediate Telecommunications Services (“ITS”).



In 2010, the ITS was created as part of government policy aimed at rebuilding the telecoms infrastructure affected by the earthquake that struck Chile that same year. This new category of intermediate telecoms service concessionaire was created through changes introduced in the GTL by Law 20.478 during the same year.

This new category is for intermediate telecoms service concessionaires that only provide physical infrastructure for telecoms. They benefit from a more flexible concession regime compared to the general concession regime for intermediate telecoms services set forth by GTL. This facilitates the deployment of physical telecoms infrastructure that is fixed or incorporated into land or buildings, either underground or above ground, and intended for the installation and support of telecoms equipment, systems, and networks.

This includes conduits, ducts, poles, towers, cables, optic fibre, energy, backup, and regeneration, and may also include those intelligence systems and/or equipment necessary to optimize the use of such infrastructure, including network management and the provision of services strictly related to the available infrastructure.

#### Permission required to provide telecommunications services

In general, the provision of any telecoms service requires authorisation from the MTT, the NTC or Subtel. The authorisation and application processes vary and depend on the type of service the applicant wants to provide.

### REGULATORY ENTITIES

#### Ministry of Transportation and Telecommunications (MTT)

According to Article 6 of the GTL, the application and control of the GTL and/or other telecoms regulations is part of the remit of MTT, which, for such purposes, must act through Subtel.

#### The Undersecretary of Telecommunications (Subtel)

Subtel is a governmental entity and part of the MTT. It oversees the application and control of the GTL and other telecoms regulations.

Subtel also has the exclusive authority for the technical interpretation of the legal and regulatory provisions that govern telecoms in Chile. Its action, however, does not affect the authority of the courts, and particularly the Chilean Antitrust/Competition Court.



The main roles of Subtel are to:

- ❖ Propose and develop national telecoms policies, which must then be approved by the President of the Republic.
- ❖ Coordinate the domestic telecoms sector.
- ❖ Ensure that operators comply with telecoms laws, regulations, technical rules and internal provisions, treaties and international agreements, as well as the telecoms policies approved by the government.
- ❖ Control the execution of telecoms plans and projects from a technical perspective.
- ❖ Issue general and mandatory resolutions, instructions and technical rules required by the telecoms field.
- ❖ Manage the use of the radioelectric spectrum.
- ❖ Inform any interested party regarding the law applicable to telecoms concessions, their suspension, expiration or termination.
- ❖ Request the necessary information in relation to audit reports of entities and public bodies acting in the telecoms field.
- ❖ Represent the country as the Chilean Telecommunications Management body (Administración Chilena de Telecomunicaciones) before the ITU and other international organizations.

#### The National Television Council (NTC)

Established in Article 19 N° 12 of the Chilean Constitution, the NTC was created by the NTC Law (“NTCL”). Its role is mixed, in the sense that it has the authority to regulate certain technical aspects of television transmissions, as well as the content of broadcasting.

From a technical perspective, the NTC is the entity in charge of granting, renewing and modifying concessions for the provision of open television broadcasting services (“OTBS”) and supervising that OTBS concessionaires comply with the provisions of the NTCL. From a content perspective, the NTC, through several faculties contained in the NTCL, is focused mainly on the supervision of “proper performance” for both open and cable television.

Article 1 of the NTCL defines proper performance as permanent respect for democracy, peace, pluralism (defined in the NTCL), regional development, the environment, the family, the spiritual and intellectual education of children and young people, aboriginal people, human dignity and its expression in the rights of equal treatment all men and women, as well as for all fundamental rights recognised in the Constitution and International treaties in force and ratified by Chile.

The concept of proper performance also contemplates full compliance with applicable Intellectual Property regulations, Artists’ Moral and Property Rights, and Labour laws. Finally, also included as part of the concept of proper performance are the incorporation of transmission access facilities for people with special physical needs, the broadcasting of public utility campaigns, and the diffusion of programs of educational, cultural and national interest.

In June 2024, to prevent, sanction, and eradicate violence against women based on gender Law 21.675 was enacted. This law





incorporated a new paragraph into Article 1 of the NTCL to state that proper performance also includes protection against the dissemination of images and situations that portray women, girls, or groups of women or girls in a stereotypical manner, or that in any way normalises situations of gender violence.

## TELECOMMUNICATIONS CONCESSIONS AND PERMITS

### Concessions

Concessions in Chile can only be granted to legal entities that are incorporated and legally established in the country, regardless of whether their owners or final controllers are Chilean or foreign. However, for RBTS concessions (related to reserved sectors), if 10% or more of the entity is controlled by foreign investors, the concession can only be granted if the foreign investor's country of origin offers reciprocity—granting Chilean citizens the same rights as they would enjoy in Chile.

Additionally, under the GTL (General Telecommunications Law), the chairpersons, managers, administrators, legal representatives, and a majority of the board members of RBTS concessionaires must be Chilean citizens.

Concessions are not limited by number, type of service, or geographical area. Therefore, it is possible to grant two or more concessions for the provision of the same service in the same location, except where technical limitations exist, in which case only the number of concessions permitted by the respective technical rule may be granted for a single service area.

Under the GTL, concessions for the provision of PTS and ITS are granted for 30-year periods, renewable for identical periods if requested by the concessionaire. RBTS concessions are granted for 25-year periods, after which, subject to the terms stipulated in the GTL, the operator will be given priority should it wish to continue operating the concession.

The procedure for granting and amending PTS and ITS concessions is regulated in detail in the GTL, which in general terms consists of the following steps:

- **Application Submission:** The interested party must submit a formal application before Subtel, addressed to the President of the Republic. It should include a detailed technical project outlining the installations and operation of the concession, the type of service, the service area, timeframes for the execution of the works and the start of the service, and other required legal and regulatory documentation. Additionally, a duly supported financial plan, exclusively related to the installation, exploitation, and operation of the concession, must be included with the formal application.
- **Technical Evaluation:** Subtel will analyze the application and verify compliance with the formal and technical legal and regulatory requirements.
- **Publication:** If there are no objections or amendments from Subtel, it will order the publication of an excerpt of the application in the Official Gazette and on the Undersecretary's website, allowing any interested party to oppose the



granting or modification of the concession within 30 days from the date of publication.

- Decree: If there is no opposition, the Minister will proceed to issue the Decree, granting the concession or its modification.

In normal cases, the granting of PTS or ITS concessions may take between six months and one year.

On the other hand, Decree No. 99 establishes the requirements to obtain, install, operate, and exploit intermediate telecoms service concessions that only provide physical infrastructure for telecoms. They will also be granted for a 30-year period, renewable for identical periods if requested by the concessionaire.

The procedure for granting and amending intermediate telecoms service concessions that provide only physical infrastructure does not require a publication process if the telecoms infrastructure is not intended to support radiating elements. Additionally, if the infrastructure does support radiating elements but uses pre-existing structures (like streetlights, electric poles, advertising elements, signage, or urban furniture) instead of installing new towers, the publication process is not necessary. This simplifies the approval process for certain types of telecoms infrastructure.

Concessions and permits cannot be assigned, transferred or leased without the prior authorisation of Subtel, which cannot deny the authorisation without reasonable cause.

According to the GTL, the grounds for the termination of a concession are the following:

- ❖ The term of the concession has come to an end.
- ❖ The holder gives up the concession.
- ❖ Dissolution of the holder of the concession.
- ❖ The applicant fails to publish the supreme decree that grants the concession in the Official Gazette within 30 days of being notified.
- ❖ Cancellation (caducidad) of the concession by MTT, if the conditions stated in Articles 28 and 36 of the GTL are met.

The holder of a concession may appeal before the courts any decision on the termination or cancellation of the concession, if the holder believes that the relevant decree is illegal.

### Open Television Broadcasting Services (OTBS) Concessions

These concessions may only be granted to legal entities that are incorporated and legally established in Chile, regardless of the nationality of the owner or controller of such entities. Additionally, OTBS concessions will only be granted to those legal entities whose lifespan is not inferior to the duration of the relevant concession.

There are two types of OTBS concession: those where the relevant service is provided by the concessionaire through its own means, and those provided through third party means. The former have a lifespan of at least 20 years, whereas the latter have a lifespan of 5 years.



Concessions under which services are provided with own means are granted through a public bidding process. When these concession terms finish, the incumbent holders will have priority over other applicants in the bidding process if their proposal equals or improves, for broadcast quality purposes, the best technical proposal received.

On the other hand, concessions allowing the provision of service via third party means are granted by the NTC at any time and without the need for a bidding process. The interested party must expressly declare that it will use third party means that can transmit digital television radio signals. There is no renovation procedure, nor any priority rights contemplated in the law for this kind of concession.

Provided the relevant amendment is feasible from a technical and practical standpoint, both types of OTBS concession may be amended in all its aspects.

These concessions are terminated for the following reasons:

- ❖ The term of the concession has come to an end.
- ❖ Cancellation (caducidad) of the concession declared through a final and conclusive resolution issued by the NTC.
- ❖ The holder gives up the concession.

## Permits

LTS may only be installed, operated and exploited after receiving a permit issued by Subtel through a simplified or exempt resolution. Such permits last for 10 years and may be renewed upon the request of the interested party, except for permits for the provision of cable television services that do not use the electromagnetic spectrum, in which case the duration is indefinite.

Interested parties may also request a permit for experimental station purposes only, which will be issued by Subtel through a simplified resolution. According to the GTL, this permit will have a duration term of 5 years and may be renewed for equal periods upon request from the interested party. However, in practice, this permit is granted for periods of 6 months, renewable.

## COMPLEMENTARY OR ADDITIONAL TELECOMMUNICATIONS SERVICES

Article 8 of the GTL establishes that PTS concessionaires or any other entity or person may provide complementary services through the public switched telecoms networks. Such complementary services consist of additional services that are rendered through the connection of the equipment of the complementary service providers to the public switched telecoms networks, i.e. telephone information services. The equipment must comply with the technical regulations issued by Subtel and cannot alter the essential technical characteristics of the telecoms networks to which it is connected.



The provision or commercialisation of complementary services does not require a concession, permit, licence, a contractual or verbal agreement, or authorisation from any PTS concessionaire or governmental authority including Subtel. Nevertheless, before a complementary services provider starts operating, Subtel must issue a resolution stating that the respective provider's equipment complies with the relevant technical regulations.

PTS concessionaires cannot behave in a way that may imply discrimination in favour of any complementary telecoms service provider over the others or in a way that may hinder free competition.

## INTERCONNECTION

Article 25 of the GTL states that both the PTS and ITS concessionaires have the obligation to establish and accept interconnections to enable subscribers of public services of the same type to communicate with each other, inside or outside Chile. For these purposes, Article 2 e) of the Telecommunications Services Regulation states that public telecoms services of the same type are all those services technically compatible with each other.

The general principle that rules this interconnection in the GTL is that the new concessionaire must bear all the costs and expenses necessary to interconnect its network to the pre-existing networks, except in the case of interconnection of public telephone networks and long-distance telephone networks. In this case, the long-distance concessionaire, regardless of if it is pre-existing or not, is responsible for access to the telephone networks.

The fees and tariffs charged between the concessionaires for any service rendered through interconnection (particularly access charges) must be fixed every five years by the authorities in accordance with a tariff-setting procedure (based on the cost structure and expansion plans of the respective operator) set out in Articles 30 to 30-J of the GTL.

On 18 December 2012 the Competition Court issued a General Instruction to the telecoms market and imposed additional regulations in relation to access charges. The General Instruction stated that from the entrance into force of the next tariff decree through which the authority will determine the new access charges, companies may not commercialise plans with different pricing for on-net calls and off-net calls or deliver a different number of minutes.

This General Instruction was issued to mitigate the anticompetitive effects produced by the different rates which the mobile telephone companies had been charging to users depending on whether the calls were terminated on their own network (on-net calls) or on the network of another company (off-net calls).



## COMPETITION AND FOREIGN INVESTMENT POLICIES

Chile's telecoms sector is one of the most competitive in Latin America, with a system that currently includes over 18 local telephone operators, 5 mobile telephone operators with nationwide coverage, and many operational Mobile Virtual Network Operators (MVNOs). The latter are defined as public mobile telephone service and/or data transmission service concessionaires that do not have their own spectrum but utilise the spectrum (and normally also the infrastructure) of other authorised concessionaires that have it.

There are virtually no restrictions on foreign investment in the telecoms sector and 100% foreign ownership of a telecoms services provider or equipment manufacturer is allowed. Foreign companies operating in Chile enjoy the same protection and operate under the same conditions as local companies.

However, as mentioned above, foreign investors may own 10% or more of a RBTS concessionaire only if the reciprocity conditions described in that section are met.

Resolutions in connection with anti-competitive practices, including any practice affecting the telecoms and broadcasting sectors, are the responsibility of the Competition Court, pursuant to general antitrust law. In addition, the GTL expressly forbids discriminatory conduct among telecoms operators, especially in relation to interconnection and information matters. In such cases, the MTT is empowered to intervene.

## INTERNET SERVICE PROVIDERS

In 2010, the Net Neutrality Law was enacted, which explicitly recognizes Internet service providers as public or intermediate concessionaires. It establishes prohibitions against arbitrary discrimination, blocking, interference, hindrance, and restriction of the right of any Internet user to use, receive, or offer any legal content, application, or service via the Internet.

Concurrently, the Regulation governing the characteristics and conditions of net neutrality in Internet access service was published. This Regulation establishes the minimum conditions that Internet service providers must meet, including the obligation to publish and update on their website information related to the level of service contracted. This information must include criteria for routing, available access speeds, level of link aggregation or oversubscription, link availability over time, service restoration times, the use of traffic management or administration tools, and other elements specific to the type of service offered that correspond to generally applicable international quality standards.



## TARIFFS OR FEES THAT MAY BE CHARGED BY CONCESSIONAIRES

Concessionaires may freely establish the tariffs or fees for their services. They must ensure that updated information on prices and rates, technical and commercial characteristics, after-sales services, and all conditions related to the services they offer and their associated benefits is available on all their customer service channels, ensuring a transparent and non-discriminatory offer.

However, if the Competition Court resolves that the conditions prevailing in the local or long-distance public telephone services are not compatible with free competition, the tariffs of the telecoms services and operators referred to in the Competition Court's relevant resolution must be set by the government through a supreme decree. In this case, the tariffs must be set by the government for a five-year period, based on an 'efficient company' model. The tariff-setting procedure currently contemplates the participation of third parties, who may express their points of view to Subtel in the form stipulated in the relevant regulations.

## RADIOELECTRIC SPECTRUM ALLOCATION AND MANAGEMENT

Chile fully complies with the regulations concerning the radioelectric spectrum allocation and management established by the ITU.

Subtel, through its Frequency Management Department, manages the spectrum in Chile. For such purposes, a Plan for the General Use of the Radioelectric Spectrum was enacted through Decree 127 of 2006. In general, Subtel takes measures and issues regulations aimed at improving efficiency in the use of the spectrum.

When granting concessions, permits and licences, Subtel may distribute the required frequencies on an exclusive or shared basis. The only existing restrictions are technical in nature, because of congestion or interference in some specific frequency bands.

Finally, Article 31 of the GTL provides that the concessionaires, permission-holders and holders of telecoms licences, including open television operators, whose frequencies use the radioelectric spectrum, are subject to the payment of the fees. These fees are calculated based on the transmission power, bandwidth emission, frequency bands in which they operate and number of stations.



## NUMBERING

Providers of public telephone services must comply with the telephone Numbering Technical Fundamental Plan.

This plan contains the provisions ruling numbering in the entire country for fixed and mobile telephony, complementary services and other services compatible with the telephone service (services of the same type).

## PRE-SELECTION AND PORTABILITY

The free-market policies implemented by the authorities in recent years have resulted in the granting of several overlapping concessions for telephone services in the same geographical area. This means that, at least in the major cities, the user has the freedom to choose the company to which he or she wishes to subscribe.

Regarding international long-distance services, several companies participate in an aggressive and competitive free market. The user can choose the long-distance carrier of preference by subscribing to the service or simply dialling the code – usually a three-number figure – corresponding to the carrier (multi-carrier dial system).

As mentioned above, Law Number 20,471 established the right to number portability for the users of mobile telephone services, as well as for the users of fixed telephone lines. This law amended the GTL, including a new Article '25 bis'. This modification obliges the concessionaries of the public telephone services, and the providers of complementary services connected to the public switched telephone network, to implement the number portability system and to comply with the regulations issued for the correct operation of the system.

This law further establishes the existence of a Portability Management Body (PMB), which is a centralised and unique database responsible for performing the technical implementation of number portability. The PMB must also manage the respective enquiry mechanisms and the database in a non-discriminatory and efficient way and in such a manner that the operation costs of the number portability system are kept to a minimum.

The implementation in Chile of number portability for mobile and fixed telephony, VoIP, rural telephony, complementary services etc. started in December 2011 and finished with complete portability on 5 September 2016. It even allows the possibility to transfer a fixed telephony number to a mobile telephone service and vice versa.

Also, regarding number portability, Subtel issued a new technical regulation on 13 June 2016 to facilitate such number portability and to eliminate limitations and restrictions that currently affect the ability of users to switch between operators without the need to purchase different devices from different providers. This new regulation obliges the concessionaries of mobile services to include in the labelling of their mobile devices a logo which informs the users about the frequency bands with which the mobile device is compatible. This new regulation also contains homologation obligations and prohibits the commercialisation



of mobile devices that are not compatible with at least all the existing frequency bands available for any of the technologies deployed in Chile (currently 2G, 3G, 4G, and 5G).

## THE ANTENNA LAW

On 11 June 2012 Law Number 20,599 (The “Antenna Law”) came into force. The Antenna Law regulates the installation of transmitting antennas for telecoms services and their supporting towers. This Law amends the GTL and the Urbanism and Construction Law (DFL N° 458) by introducing into both several new requirements, restrictions and obligations for the installation of antennas and their supporting towers.

This new law has substantially changed the telecom infrastructure regulatory framework and imposes new regulations for the concessionaries of mobile telecom services when installing an antenna and its supporting towers.

The most relevant new requirements, restrictions and obligations to be complied with are:

- ❖ The obligation to obtain an authorisation from the municipal (local) authority, by means of a complex procedure in which the direct participation of the affected community is considered.
- ❖ Mandatory camouflage of antenna towers or mitigation measures in favour of the relevant community, which is now entitled to decide upon one of these two options.
- ❖ Co-location obligation. Prior the installation of an antenna and its supporting tower, verification must be made to ascertain whether there is another antenna tower belonging to a different telecom operator on which it is feasible to add an additional antenna. This co-location obligation exceptionally applies with retroactive effects (i.e. over antenna towers installed prior to the entering into force of the Antenna Law) in the following cases:
  - In those territories which are already saturated with telecoms infrastructure (“antenna forests”).
  - In territories declared as restricted radio-electrical propagation zones.
- ❖ Prohibition from installing antenna towers in sensitive areas (educational institutions, nursing homes, kindergartens, hospitals, clinics, etc.) or at sites located within a certain distance from these places. Regulations regarding sensitive areas also set forth co-location obligations with retroactive effect.





## THE TELECOMMUNICATIONS SERVICES REGULATION (“TSR”)

The main topics treated in the TSR are the following:

- ❖ Contracting and minimum contract provisions: Providers must ensure that users have an informed and transparent contracting procedure. Additionally, the contract must contain certain minimum provisions (e.g. information regarding technical assistance, maintenance and repair services etc.).
- ❖ Payment and compensation: Providers may not charge users for services that have not been delivered. Additionally, providers of public voice services and internet service providers must deduct from monthly invoices the time during which the relevant service was suspended, interrupted or altered for any cause not attributable to the users. Should the suspension, interruption or alteration exceed a timeframe of 48 continuous or discontinuous hours during a month for reasons other than force majeure or act of God, the relevant provider must also indemnify the users with the equivalent of three times the value of the daily rate for each day of suspension, interruption or alteration of the service.
- ❖ Suspension of services: Providers may suspend a service if the user has not paid the relevant invoice within a five-day term from the payment date. The deadline for restoring the service must be the business day following the one on which the service was duly paid.
- ❖ Termination: Users can terminate the contract at any time at their own discretion. The lack of payment of a service within 90 days from the due date of an invoice enables the relevant provider to terminate the contract.

All the TRS provisions are without prejudice to the rights and remedies that are contained in the Consumer Protection Law (Law Number 19,496) and other applicable regulations.

## FREE CHOICE OF CABLE, INTERNET AND TELEPHONY SERVICES LAW

In January 2015, the Free Choice of Cable, Internet and Telephony Services Law was enacted, to set forth that the free choice of telecoms services must be granted to users in every building. Additionally, in 2018 the Regulation for this law was published, which regulates the manner and conditions to ensure the free choice in contracting and receiving these telecoms services in subdivisions, buildings and condominium properties.

This Law and Regulation guarantees that residents have the freedom to choose their preferred telecom services without restrictions imposed by property arrangements.



## MINIMUM INTERNET ACCESS SPEED OBLIGATION

In 2018, the GTL was modified to incorporate the obligation for Internet service providers to guarantee a percentage of the average access speeds offered to end users during peak and off-peak hours, differentiating between wired and wireless connections, and must offer users a measurement tool (e.g., via website or app) per local technical standards.

Additionally, an Independent Technical Organization (“OTI”) was established in 2022 to manage and administer the quality measurement system or application that Internet Service Providers are required to implement and make available to their users for measuring Internet access speeds. The OTI was selected through a public tender by Internet Service Providers.

## INTERNET AS A PUBLIC TELECOMMUNICATIONS SERVICE LAW

In July 2024, The Internet as a public telecoms service Law was enacted. The most relevant provisions of this law are the following:

- ❖ Internet as a public service: The provision of Internet access service is expressly recognized as a public service.
- ❖ Elements of the essence of the concession: For public and intermediate telecoms services, “specific provisions in accordance with technical regulations and the type of service intended to be provided” are included as elements of the essence of the concession.
- ❖ Reinforcement of the principles applicable to public telecoms services: Public telecoms services must adhere to the principles of universality, continuity, technological neutrality, infrastructure sharing, transparency, efficiency, and non-arbitrary discrimination in the allocation and recovery of scarce resources, primarily in radioelectric spectrum and numbering, among others.

The Ministry of Transport and Telecommunications would be responsible for establishing, through a bylaw, the application and development of these principles.

- ❖ Simplifying the concession granting procedure: Concessions for the provision of Internet access services using shared spectrum bands, as well as those not involving the allocation of radio spectrum, will be exempt from certain procedures related to publication in newspapers. Instead, these publications shall be made on the Undersecretariat website.
- ❖ Obligation to report complaints and network failures: All concessionaires must submit a list of user complaints received every six months to the Ministry of Transport and Telecommunications, detailing the type of complaint, region, commune, and specific sector.



Additionally, public service concessionaires must enable web access for Subtel to access real-time information from network control and monitoring centres. They must also provide data on service quality, detection alarms, and resolution of network failures necessary for the Undersecretariat's functions, in near real-time.

- ❖ Obligation to provide service to those who request it: Public service concessionaires are required to provide services within the established service area to interested parties who request it, even if they are outside the service area or in another concessionaire's service area, provided they pay for necessary extensions or reinforcements. Interested parties may carry out these extension or reinforcement works themselves, through an infrastructure concessionaire, the service provider, or third parties. Services must be provided within six months of the date of the request, where infrastructure exists, and within 12 months from obtaining all required permits, where there is no infrastructure.

Public service concessionaires providing fixed Internet access must comply with a minimum geographic unit of their service area which will be, in urban areas, the level of a census zone, and in rural areas, the level defined by the National Statistics Institute.

- ❖ Obligation to provide services during emergencies and catastrophes declared by authority. During states of exception, catastrophe, and health emergencies declared by the Ministry of Health and the National Service for Disaster Prevention and Response. Where it is necessary to ensure access to the Internet for the population as part of emergency response and mitigation, competent authorities must adopt exceptional and provisional measures to immediately enable infrastructure operators and public telecoms service providers, such as Internet Service Providers, to deploy and provide the service to the community.
- ❖ Modifications to sanctions: Fines are increased from 1,000 to 5,000 UTM (337,206 USD)