



GOVERNMENT OF GIBRALTAR
OFFICE OF THE MINISTER FOR HOUSING AND
COMMUNICATIONS
The City Hall
Gibraltar

11 August 2011

ADMINISTRATIVE NOTICE NUMBER 1/2011

Right to install facilities

This Notice is issued by the Minister for Communications under Section 11(1) of the Communications Act 2006 ("the Act") to set out the criteria and any variation in the criteria from time to time by reference to which the Minister proposes to exercise his functions under the Act.

Section 49 of the Act requires a person authorised to provide a public electronic communications network who requires to install facilities on, over or under public or private land to apply to the Minister for a right to install such facilities. It also provides that the Minister shall establish procedures for the determination of such applications.

Pending the Minister's adoption of procedures under section 49(3) of the Act, the Minister shall consider that a person who has applied to the Development and Planning Commission for the necessary permissions to be granted, and has been granted rights to install facilities after complying with all the due processes established by that Commission, shall be deemed to have complied with the obligation imposed on such a person by section 49 of the Act to apply to the Minister for the grant of rights to install facilities on, over or under public or private land.

In adopting this Administrative Notice I have been influenced by the following facts:

- (a) the procedure that I would adopt pursuant to section 49 would serve the same purpose as the procedure applied by the Development and Planning Commission when assessing applications for planning permission to be granted.
- (b) I am satisfied that the procedure applied by the Development and Planning Commission is consistent with the requirements set out in EC Directive 2002/21 to the effect that procedures for the granting of rights to install facilities must be timely, non-discriminatory and transparent, in order to guarantee the conditions for fair and effective competition.
- (c) I am satisfied that when assessing such applications the Development and Planning Commission acts on the basis of simple, efficient, transparent and publicly available procedures, which the Commission applies without discrimination and without delay, and that, in any event, it makes its decision

within six months of the application, except in cases of expropriation, in accordance with requirements set out in Article 11 of EC Directive 2002/21.

- (d) That, in the circumstances, to require a person to comply with two procedures which effectively serve the same purpose would be an unnecessary duplication of efforts which would cause inconvenience and delay, contrary to the terms and objectives of the Act and of EC Directive 2002/21 and EC Directive 2002/20.

The Development and Planning Commission has been instructed to consult me, and to keep me informed, of all applications made to it by the persons referred to in section 49 of the Act.

F J Vinet
Minister for Communications