

COMMUNICATIONS ACT 2006

Section 49

APPLICATION FOR A RIGHT TO INSTALL FACILITIES

The following applies to any person:

- i. authorised to provide a public electronic communications network who requires to install facilities on, over or under public or private land, or
- ii. authorised to provide an electronic communications network other than to the public who requires to install facilities on, over or under public land,.

Mode of Application

Applications for the said right to install facilities are to be submitted by letter addressed to the Chief Executive of the Gibraltar Regulatory Authority, Suite 603 Europort, Gibraltar.

Content of application

The application must contain the following information:

- (1) In the case of a company, the company name, company number, address of the registered office and details of any subsidiaries, parents and affiliates;
- (2) In the case of a partnership, contact name and address, name of partnership, address of principal place of business;
- (3) In the case of an individual, the individual's name, address and contact details;
- (4) A description of the Electronic Communications Network which the Applicant intends to provide, including the location of that Network or system;
- (5) A description of the purposes for which the Electronic Communications Network (if applicable) is to be used, for example the type of Electronic Communications Service to be Provided over the Network and who is likely to benefit from that Service;

- (6) Where the Applicant is able and willing to share Electronic Communications Apparatus, evidence of his/her/its ability and willingness to share such Apparatus;
- (7) Evidence of the Applicant's ability to meet financial penalties or liabilities, including under any agreement with third parties, that may arise in the exercise of rights to install.

Determination

- (1) In considering whether to grant the application in any applicant's case, the Minister will have regard, in particular, to each of the following matters—
 - i. the benefit to the public of the electronic communications network by reference to which the code is to be applied to that person;
 - ii. the practicability of the provision of that network without the application of the code;
 - iii. the need to encourage the sharing of the use of electronic communications apparatus;
 - iv. whether the Applicant will be able to meet the financial liabilities referred to in para (7) above.
- (2) The Minister will determine the application within 6 months of the application being made, except in cases of expropriation.

Appeals

An Applicant shall have the right to appeal against the decision of the Minister for Communications in accordance with the provisions of section 91 of the Act.

Notes: In this Application 'the Act' means the Communications Act 2006 and words or expressions used in this Application shall have the same meaning as in the Act.