

DRAFT

Rights-of-Way Guidelines ("ROW Guidelines")

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PURPOSE AND SCOPE OF GUIDELINES

A. Introduction

These Guidelines set out the provisions for optimal utilization of Rights-of-Way (ROW) based on extensive analysis and research on international best practices. These Guidelines are intended to assist current and future Service Providers to exploit ROW to deploy their outside plant (OSP) network infrastructure (e.g. cables, ducts) along intra-city and inter-city streets, roads and highways. The Guidelines are in line with the CITC vision for universally available, high quality and affordable ICT services, and with the CITC mission to provide a fair, clear and transparent regulatory environment to promote competition and safeguard public interest and stakeholder rights.

The regulatory framework for ROW is set out in the Telecommunications Act (Act), the Telecommunications Bylaw (Bylaw), the Communications and Information Technology Commission (CITC) Rules of Procedures, and the Ordinance of the Communications Commission (Ordinance).

The Act provides for ROW in Art. 33 which states that all operators enjoy equal right of access to public and private properties for the purpose of providing telecommunications services. Chapter 3 (Art. 23 to 28) of the Bylaw further establishes which rights and obligations are attached thereto.

ROW is considered a scarce resource. ROW is therefore seen as one of the important issues and a major requirement for further telecom market liberalization in the Kingdom of Saudi Arabia (KSA).

B. Definitions

The words and expressions defined in the Commission's Statutes shall have the same meaning when used in these Guidelines. The following words and expressions shall have the meaning assigned to them below, unless the context requires otherwise.

- 1 **"CITC"** or **"Commission"** means the Communications and Information Technology Commission.
- 2 **"CITC Statutes"** means the Telecom Act, the CITC Ordinance, the Bylaw, the Rules of Procedure, any other Bylaw adopted under the Act, or any other legal instrument that is enforceable by the Commission, as amended from time to time.
- 3 **"Co-location"** means access of one Service Provider to locate and operate its telecommunications transmission systems and related equipment in already established sites, infrastructure or facilities of another Service Provider. This can take place at any technically feasible point (such as sites, manholes, handholes, street cabinets, trenches, ducts, vaults, poles, masts on public ground, or any other telecommunications facilities).
- 4 **"Co-location Guidelines"** means the Co-location for Outside Plant (OSP) Guidelines.
- 5 **"Dominant Service Provider"** means a Service Provider which has been designated as dominant in the relevant market by CITC.

- 6 **“Duct”** means an infrastructure (such as conduits or pipes) that encloses underground telecommunications cables to protect them from direct contact with the soil. Ducts can be divided into sub-ducts.
- 7 **“Joint construction”** means the joint building and establishment of telecommunications transmission systems and related equipment in parallel.
- 8 **“KSA”** or **“Kingdom”** means the Kingdom of Saudi Arabia.
- 9 **“Network”** means a system used for provision of terrestrial telecommunications services and associated equipment.
- 10 **“Other Utility Installations”** means installations used to maintain public ways, drains, water and gas lines, oil pipelines, tracks, electrical installations, and other utility services.
- 11 **“Rights-of-Way”** (ROW) means (1) the granting of the right to use land for the installation, construction, establishment and operation of telecommunications infrastructure, and (2) the subsequent authorizations necessary to exploit the ROW, such as civil works permits.
- 12 **“Service Provider”** means a facilities-based provider licensed by CITC.
- 13 **“Shared Trench”** means a single trench to accommodate two or more underground telecommunications facilities of at least two separate Service Providers.
- 14 **“Sharing”** means the joint use of land, specific infrastructure, and/or facilities by several parties. It can cover existing land, infrastructure or facilities and also refer to such facilities and infrastructure which are planned to be established together in the future.
- 15 **“Corridor”** means a part of the public land which is specifically foreseen for the installation and establishment of physical infrastructure of a specific type of utility (e.g. telecommunications, sewer, power).
- 16 **“Trench”** means an underground infrastructure into which several ducts can be installed. A trench is an occupied part of a corridor created for laying cables, ducts and other telecom materials.
- 17 **“Utility”** means a company building and operating networks including, but not limited to, telecommunications, power, gas and oil networks, as well as railroad tracks.

C. The Purpose of the Guidelines

The purpose of these Guidelines is to:

- define the rights and obligations of Service Providers in using their Rights-of-Way to deploy their OSP telecommunications facilities;
- define the regulatory rules to assist current and future Service Providers to best utilize Rights-of-Way;

- facilitate efficient utilization of this scarce resource to minimize recurrent OSP works related to Rights-of-Way by improving coordination between the Service Providers;
- assist in ensuring that all Service Providers are treated fairly and in a non-discriminatory manner with respect to the exploitation of Rights-of-Way;
- encourage good practice between Service Providers with respect to Rights-of-Way;
- minimize capital expenditures and operational costs of Service Providers; and
- encourage the cooperation of the Service Providers.

These Guidelines should be read in conjunction with the Act, the Bylaw, the Rules of Procedures, the CITC Ordinance, the Co-location Guidelines, and the Interconnection Guidelines.

It is obligatory for every Service Provider to fulfill certain duties, to participate in coordination meetings with other Service Providers and to enable joint construction where appropriate. Service Providers are required to negotiate and implement bilateral agreements if joint construction takes place with other Service Providers.

D. The Scope of the Guidelines

These Guidelines apply to all Service Providers using Rights-of-Way to install telecommunications facilities to roll out their networks in the KSA.

Rights-of-Way Guidelines

Part I

GENERAL PROVISIONS

Section 1

General

- 1.1 Rights-of-Way is a scarce resource and considered to be a key factor for successful telecom market liberalization. Therefore, all concerned parties are expected to exploit this resource efficiently and effectively in accordance with the rules defined by these Guidelines.
- 1.2 All Service Providers are required to comply with national and international safety and security practices, as well as related CITC instructions and decisions, in the construction and operation of their networks.
- 1.3 Pursuant to Art. 33 of the Telecom Act all Service Providers enjoy equal right of access to public and private properties for the purpose of providing telecommunications services.
- 1.4 The Service Providers are entitled to enter public and private properties after obtaining the approval of the property owner or his representative and use it within the necessary limits for the purpose of the construction, operation and maintenance of their telecommunication networks. The Service Provider has to pay the owner appropriate financial compensation based on reasonable agreed terms and conditions and in accordance with Art.34 and 35 of the Act.
- 1.5 Chapter 3 of the Bylaw addresses the provisions related to the access of public and private properties for the construction, operation and maintenance of telecom networks. These Guidelines provide further explanations of those provisions.

Part II

THE ROLE OF CITC

Section 2

Responsibilities and Powers of CITC with Regard to Rights-of-Way

- 2.1 In accordance with Chapter 7 and 9 of the Telecom Act and Art. 4.2 of the Interconnection Guidelines, CITC shall perform the following functions and duties in relation to ROW:
 - 2.1.1 promote adequate and efficient usage of ROW for telecommunications facilities by Service Providers, in order to contribute to a further roll-out and enhancement of telecommunications facilities in the Kingdom; and
 - 2.1.2 resolve disputes related to ROW in a timely and impartial manner.
- 2.2 Based on its powers, CITC shall support the Service Providers in obtaining and exploiting their ROW, including:
 - 2.2.1 prepare and update the ROW Guidelines and ensure their efficient and effective application;
 - 2.2.2 encourage the cooperation of the Service Providers for the best utilization of the ROW;
 - 2.2.3 ensure compliance of all Service Providers with their obligations towards other Service Providers, especially with respect to the obligations of joint construction and of reserve spare capacity (sections 5 and 6 of these Guidelines); and
 - 2.2.4 ensure the commitment of the Service Providers to conduct coordination meetings and exchange the necessary information about their construction activities (section 7 of these Guidelines).
- 2.3 Resolve disputes between Service Providers in regard to ROW and make decisions according to section 10 of these Guidelines.
- 2.4. In case Service Providers do not comply with their obligations stated in these Guidelines, CITC will take the necessary legal measures based on its Statutes to ensure compliance.
- 2.5 From time to time, the Guidelines may be updated by CITC. Service Providers will be notified of changes to the Guidelines before the effective date of such updates.
- 2.6 CITC may review the Guidelines at any time, for example, in response to changes in relevant legislation, the CITC Statutes, license conditions or directions made by any relevant authority.

Part III

ADVANCEMENT OF EFFICIENT USE OF TELECOM CORRIDOR

Section 3

Extent of ROW

- 3.1 The ROW of each Service Provider includes the obligation to facilitate on a best efforts basis the exploitation of the ROW by all other Service Providers, including, among others by:
 - 3.1.1 supporting the efficient use of the telecom corridor;
 - 3.1.2 sharing its ROW or the use of its telecommunications facilities, in the form of joint construction pursuant to section 5 of these Guidelines, or other forms of shared use as provided for in these Guidelines or the Co-location Guidelines;
 - 3.1.3 cooperating with all concerned governmental authorities, other Service Providers and utilities;
 - 3.1.4 delivering the required information and keeping the necessary records; and
 - 3.1.5 participating in coordination meetings with other Service Providers.
- 3.2 In case the exploitation of the ROW is not technically feasible or only feasible at disproportionately high cost, co-location is required in accordance with articles specified in section 5 of the Co-location Guidelines.
- 3.3 A Service Provider enjoying the right to use spare capacity pursuant to section 6 shall pay adequate financial compensation, mutually agreed between the two parties, to the party obliged to grant spare capacity. In case the parties cannot agree on conditions of such compensation within sixty (60) days after the request for such compensation has arisen, either party may refer the matter to CITC by notice in writing. CITC shall resolve the dispute pursuant to section 10 of these Guidelines.
- 3.4 A Service Provider granting the right to use spare capacity based on these Guidelines must treat other Service Providers on a non-discriminatory basis. For a granting Service Provider, that means that the requesting Service Provider shall receive timely provision of spare capacity that is equivalent to that which the granting Service Provider provides to itself. This includes taking all reasonable steps as far as practicable and having regard to its legitimate business interests and the interests of third parties.
- 3.5 Any Service Provider exercising its ROW must, pursuant to section 6 of these Guidelines, install spare capacity in its telecommunications facilities, in addition to the capacity planned for its own usage, in order to enable shared use by other Service Providers. This spare capacity comprises, among others, spare ducts, subducts, cables, fibers, space for co-location (e.g. in cabinets, manholes and other telecom sites).

Section 4

Obligations of All Service Providers

- 4.1 A Service Provider shall, while exploiting its ROW:
 - 4.1.1 adhere to good engineering standards and practice. Service Providers shall construct, operate and maintain their network infrastructure effectively, including taking into consideration joint construction with other Service Providers;
 - 4.1.2 protect the safety of the public and property, observing all relevant laws, rules, guidelines and standards issued by CITC and/or other governmental authorities;
 - 4.1.3 adhere to the relevant security obligations, observing all relevant laws, rules, guidelines and standards issued by CITC or other governmental authorities;
 - 4.1.4 ensure that the design, planning and installation of the facilities is in accordance with best practices and complies with industry codes and/or standards, set by the Ministry of Municipal and Rural Affairs (MOMRA), the Ministry of Transport (MOT), CITC and/or other concerned governmental authorities;
 - 4.1.5 co-operate with other Service Providers and utilities who are undertaking similar activities on the same land to minimize inconvenience and damage; and
 - 4.1.6 install only the minimum practicable number of items of telecommunications facilities consistent with the intended provision of services and allowing for an estimate of growth in demand for such services.
- 4.2 Pursuant to section 5 of these Guidelines, Service Providers, where practically possible and as necessary, must agree to and participate in coordination meetings for joint construction with other Service Providers. Also, Service Providers are required to negotiate and implement bilateral agreements if joint construction takes place with other Service Providers in order to maximize the efficient rollout of networks and to reduce the cost of provisioning or refurbishment of telecommunications facilities.
- 4.3 A Service Provider, when installing any telecommunications facilities, shall, so far as reasonably practicable, minimize:
 - 4.3.1 the negative impact on the visual appearance of public and private properties;
 - 4.3.2 any potential hazards posed by work carried out in installing the apparatus or by the apparatus once installed; and
 - 4.3.3 disruption of traffic.
- 4.4 Where telecommunications facilities are to be installed underground in public land, the Service Provider shall ensure that:
 - 4.4.1 in the case of intra-city networks, cables shall be installed in ducts and in accordance with the requirements of concerned authorities;
 - 4.4.2 in the case of inter-city networks, cables shall be installed in ducts, and in accordance with the requirements of concerned authorities, unless it is not reasonably practicable to do so;

- 4.4.3 any telecommunications facilities are installed at such a depth that they will not interfere with the use of the land (as at the date of the installation);
 - 4.4.4 its underground facilities are arranged to provide a reasonable working space around the cables and equipment and to provide adequate clearances between all other cables and equipment;
 - 4.4.5 its underground telecommunications facilities equipment and cables are located so as to not hinder the access of other utility owners and staff to their own facilities to carry out necessary work from time to time; and
 - 4.4.6 the location of the telecommunications facilities is indicated by an appropriate marker tape to warn others subsequently excavating the trench.
- 4.5 After completion of work on the telecommunications facilities, the Service Provider enjoying the ROW is to restore the land to original condition as far as reasonably possible and without undue delay.
- 4.6 A Service Provider shall periodically inspect and maintain its telecommunications facilities, installed underground or inside a building or other permanent structure, so as to ensure that it will not cause injury to any person or damage to property.

Section 5

Joint Construction

- 5.1 Service Providers are obliged to enable the joint building and establishment of joint infrastructure where it:
 - 5.1.1 is economically reasonable and no major additional construction work is needed; or
 - 5.1.2 is obligatory for a dominant Service Provider; or
 - 5.1.3 is ordered by CITC based on the Co-location Guidelines.
- 5.2 When two or more Service Providers undertake joint construction, physical separations and arrangements of the telecommunications facilities installed, e.g. in a shared trench, including the method of installation and construction requirements, shall be agreed between the Service Providers. The Service Providers shall take into consideration the need for each party to be able to access its plant for future maintenance or augmentation works. In case the parties cannot agree on the contractual conditions of such an agreement within 60 days after an agreement has been requested by one party, either party may refer the matter to CITC by notice in writing. CITC shall resolve the dispute pursuant to section 10 of these Guidelines.
- 5.3 The Service Providers must ensure that joint construction agreements include the following principles:
 - 5.3.1 The Service Provider that re-opens a joint infrastructure, e.g. a shared trench, will exercise due skill and care to avoid damage to the facilities of other Service Providers or other utilities;
 - 5.3.2 It will be the responsibility of the party causing damage to the facilities of any other party to repair any such damage brought about by working on a joint infrastructure; and
 - 5.3.3 The Service Provider that has authorized work in an existing joint infrastructure will be responsible for all restoration work associated with that joint infrastructure.
- 5.4 A Service Provider shall ensure that, where its telecommunications facilities are to be co-located in another Service Provider's trench they are physically separated from the other Service Provider's cables in a way that facilitates the installation and removal of cables with minimum interference with the other Service Provider's cables. The use of sub-duct is an appropriate method of achieving this physical separation.
- 5.5 Service Providers may carry out maintenance or re-arrangement of another Service Provider's telecommunications facilities in a joint infrastructure only with the consent of, and according to the instructions of, the other Service Provider.
- 5.6 In order to ensure the availability of information exchange necessary for joint construction and to initiate negotiations between Service Providers, coordination meetings shall be conducted according to section 7 of these Guidelines.

Section 6

Spare Capacity in New Infrastructure Installations

- 6.1 Any Service Provider installing new infrastructure, including as part of a joint construction, must leave at least 50% of its total new installations as spare capacity for use by other Service Providers for co-location. For example, if the Service Provider installs five 4" ducts for its own current and future use, it must install an additional five 4" ducts for use by others, a total of ten. Any Service Provider enjoying the right to use the spare capacity via a co-location agreement may not install more cables or equipment that in the end leads to a spare capacity of less than 50%. For example, if there were five spare 4" ducts to start, the enjoying Service Provider may not use more than two and one-half. This principle applies down to the last duct or sub-duct.
 - 6.1.1 After installing new infrastructure, the installing Service Provider may not use the spare capacity for a period of 5 years. After these 5 years, the installing Service Provider may use the spare capacity on the same basis as any other Service Provider.
 - 6.1.2 The only exception to the principle of keeping 50% spare capacity for other Service Providers is if all other Service Providers waive their right to use the spare capacity and subject to CITC approval.
- 6.2 Where cables cannot be ducted but have to be directly buried, the Service Provider has to provide a spare capacity in the amount of 50 % of total cables to be reserved for other Service Providers. Such spare capacity shall be made available to requesting Service Providers in the form of capacity or dark fibers as a wholesale product for agreed prices pursuant to the applicable legal provisions.
- 6.3 Service Providers shall not have the right to apply for spare capacity for a period of two years starting from the termination of the civil works for a specific OSP project if they did not provide information about their requirements during the coordination meetings, or if they have chosen not to participate in the joint construction pursuant to section 7 of these Guidelines.
- 6.4 Service Providers are obliged to dimension new ducts and associated infrastructure, in which telecommunications equipment or other facilities are located, taking into account the information provided by other Service Providers with respect to their interests. Such interests may be identified in writing either through direct correspondence or in a coordination meeting pursuant to section 7 of these Guidelines.
- 6.5 No Service Provider shall install (in the ducts, sub-ducts and supporting infrastructure) cables, equipment or other facilities that do not correspond to the current or foreseeable needs for serving its customers and which, as a result of the undue excessive space occupation, prevent or limit co-location of facilities by other Service Providers.
- 6.6 In case a Service Provider does not meet its obligations described in sections 5, 6 or 7 of these Guidelines, with the consequence of the unavailability of ducts, sub-ducts or spare capacity for other Service-Providers, CITC may:
 - 6.6.1 order the Service Provider who is in violation to remove the excess facilities in the case where the capacity is needed by other Service Providers;

6.6.2 if the removal of such excess is not possible, order the use of the excess facilities by another Service Provider; or

6.6.3 order the Service Provider who is in violation to offer dark fiber pursuant to section 6.2 of these Guidelines.

Part IV

ADVANCEMENT OF COOPERATION AMONG SERVICE PROVIDERS

Section 7

Coordination Meetings

- 7.1 In order to implement the provisions of section 5 on joint construction, all Service Providers shall conduct periodic joint coordination meetings at least quarterly. These meetings shall lead to a sharing and exchange of information about current and planned construction activities, especially in regard to digging and cable laying.
- 7.2 The first meeting shall take place within the first 8 weeks after issuance of these Guidelines.
- 7.2.1 To achieve this goal, any Service Provider can, within the first 4 weeks after issuance of these Guidelines, on his own initiative invite all other Service Providers for the purpose of conducting such a coordination meeting. If no Service Provider initiates the coordination meeting in the first 4 weeks, the dominant Service Provider shall invite all Service Providers to the first coordination meeting within a period of 4 additional weeks.
- 7.2.2 All Service Providers are obliged to participate in coordination meetings.
- 7.2.3 The Service Provider who invites the others to the first coordination meeting chairs this meeting. Subsequent meetings will be chaired in an alphabetical order by the respective Service Providers or as determined otherwise in the terms and conditions developed per Art. 7.4 of these Guidelines.
- 7.2.4 The record of each coordination meeting shall be drafted by the Service Provider which will chair the following meeting.
- 7.3 CITC, as well as other concerned authorities (e.g. MOMRA, MOT), have the right to participate in any coordination meeting and must be invited by the Service Provider which chairs the first and subsequent meetings.
- 7.4 The purpose of the coordination meetings is the exchange of information and the declaration of requests for joint construction. To make such a process effective, an organizational framework for the coordination meetings is necessary. The first coordination meeting shall conduct the following:
1. Form a Coordination Committee (CC) and nominate representatives from all Service Providers.
 2. Determine the items which the CC is entitled to decide and the quorum necessary for each decision to become effective.
 3. Establish a working group, consisting of one representative from each Service Provider which shall draft the terms and conditions for cooperation, to be completed within the following 8 weeks and on which the CC will vote at the second coordination meeting. The terms and conditions for cooperation have to address the following minimum content:
 - a) Requirements for participation in the coordination meetings;

- b) Rights and obligations of Service Providers;
 - c) Sequence of meetings and chairmanship;
 - d) Content of negotiations regarding joint construction;
 - e) Processes to be followed regarding requests, orders and implementation of joint construction;
 - f) Availability and confidentiality of information;
 - g) Establishment of a standard contract for joint construction.
4. Decide upon the dates of at least the next three meetings. The second coordination meeting shall take place not later than 3 months after the first coordination meeting, to consider the proposed terms and conditions.
- 7.5 To agree the terms and conditions for cooperation pursuant to section 7.4, the Service Providers and their representatives shall negotiate in good faith using.
- 7.6 The terms and conditions for cooperation are to be provided to CITC within 3 months after the first coordination meeting. CITC is entitled to propose changes to these terms and conditions for cooperation in order to ensure the goals and requirements of the CITC Statutes, including these Guidelines, are fulfilled. If the terms and conditions for cooperation are not adopted within the time frame defined above, or are not to the satisfaction of CITC, CITC is entitled to assign an external consultant to draw up the terms and conditions for cooperation and to allocate the costs of the consultants to the Service Providers proportionately to their total revenue in the market. CITC will then order the resulting terms and conditions for cooperation to be binding for all Service Providers.
- 7.7 All Service Providers planning to install telecommunications facilities and requesting the use of ROW are obliged to participate in the meetings. The Service Providers may determine in their terms and conditions for cooperation that the coordination meetings shall be held separately for a single one or several of the 13 regions of the Kingdom. All Service Providers must inform each other during the meetings of all their ROW projects in the respective region at least 3 months before the start of the deployment, providing details concerning the planned infrastructure, including its route and its capacity, necessary to enable other Service Providers to decide on a request for joint construction. Furthermore, Service Providers are obliged to provide the other Service Providers and CITC with an overview of locations in which collocation is possible and under which conditions (e.g. size, cooling, heating, power). The chairman of the coordination meetings is responsible for posting time and place of all coordination meetings at least two weeks in advance by official correspondence (e-mail and letter) to the concerned parties and for inviting participants from the municipalities in the region to the coordination meeting. Such invitation must also be sent to CITC, MOMRA and MOT.
- 7.8 After each coordination meeting, each Service Provider may within the following six weeks declare its interest to participate in joint construction within the framework of the projects presented in the meeting. Service Providers shall inform CITC of any contracts in regard to joint construction of network infrastructure by sending CITC a hard copy.

- 7.9. CITC is entitled to release further provisions with respect to the contents and the processes applied in the coordination meetings. Such provisions shall replace or amend the terms and conditions for cooperation, as the case may be.
- 7.10 Failure to comply with the provisions in sections 7.1 to 7.8 shall constitute a violation pursuant to Art. 37 No. 3 of the Act and shall be subject to a penalty pursuant to Art. 38 of the Act.
- 7.11 In case no agreement is reached, any disputes between Service Providers may be referred to CITC by any of the parties for resolution.
- 7.12 Whenever ducts, handholes and supporting infrastructure are planned, a dominant Service Provider shall be subject to more stringent rules for communication at the coordination meetings. A dominant Service Provider shall:
- 7.12.1 inform all other Service Providers about the planned project, at least 6 months before addressing the municipality for civil works permits, in order to enable the other Service Providers to request joint construction or to order a co-location service; and
 - 7.12.2 notwithstanding the obligation pursuant to section 6 of these Guidelines and whenever technically feasible, size the new ducts, handholes and other supporting infrastructure, to account for the demand reported by the Service Providers requesting co-location.

Section 8

Records

- 8.1 A Service Provider shall keep accurate records of where all its installed telecommunications facilities are located. A Service Provider shall retain all its records created prior to the date on which these Guidelines come into force of where its installed telecommunications facilities are located. The records shall be in the form of route plans based on survey map backgrounds on an appropriate scale for the density development in the area concerned.
- 8.2 Where a governmental authority or other person who has reasonable grounds to inspect any records kept pursuant to section 8.1 makes a request to inspect them, a Service Provider shall make them available for that purpose as soon as practicable and, in any case, within one week of the request being made. In case that request is denied, the requesting party may apply for a decision of CITC.
- 8.3 A Service Provider shall, as soon as practicable after a reasonable request is made by a governmental authority, another Service Provider, a relevant contractor or any other person who has reasonable grounds to make such a request, indicate, on-site, the location and nature of its telecommunications facilities.
- 8.4 The foregoing shall apply correspondingly to records concerning the spare capacity pursuant to section 6.

Section 9

Relation to Other Utility Installations

- 9.1 Telecommunications facilities are to be constructed in such a way that they do not adversely affect existing Utility Installations. The party enjoying the right of use, to install alongside the other utility, is to bear the costs incurred for the implementation of any necessary protective measures.
- 9.2 The relocation or modification of existing Utility Installations may be requested by a Service Provider only under the following circumstances:
1. The relocation or modification is undertaken against compensation; and
 2. The route could not be used for the telecommunications facilities otherwise; and
 3. The other Utility Installation can be placed elsewhere in a suitable manner for its intended purpose.

Even if these prerequisites are met, the route shall not be used for the telecommunications facilities if the costs arising from relocation or modification of the other Utility Installation would be disproportionately high in relation to the costs the party enjoying the ROW would incur for use of any other available routing.

- 9.3 Other Utility Installations are to be constructed in such a way that they do not adversely affect existing telecommunications facilities. Where, as a result of any such subsequent other Utility Installation, protective measures to existing telecommunications facilities have to be carried out, the costs arising are to be borne by the party building the other Utility Installation.
- 9.4 Relocation or modification of existing telecommunications facilities may be requested by a party under the following circumstances:
1. The relocation or modification is undertaken against compensation; and
 2. The route could not be used for the facilities of the other Utility otherwise; and
 3. The installation of the telecommunications facilities can be placed elsewhere in a suitable manner for its intended purpose.

Even if these prerequisites are met, the route shall not be used for the other Utility Installation facilities if the costs arising from relocation or modification of the telecommunications facilities would be disproportionately high in relation to the costs the party exploiting the ROW would incur for use of any other land available.

Part V**MISCELLANEOUS****Section 10****Dispute Procedure**

Any disputes between two Service Providers on entering into an agreement, related to the obligations of one of the Service Providers concerned under these Guidelines, such as provision of services/facilities, anti-competitive and discriminatory practices, charging and pricing of services/facilities, non-compliance of the terms and conditions of the agreement, legal issues and provisions contrary to the Law, Regulations, Guidelines, orders and directives, as issued from time to time by CITC, may be referred to CITC by any of the parties according to Chapter 6 of the Bylaw.