Republic of the Philippines
HOUSE OF REPRESENTATIVES
EIGHTEENTH CONGRESS
First Regular Session

HOUSE BILL NO. 6917

Introduced by HONORABLE WES GATCHALIAN

AN ACT RENEWING FOR ANOTHER TWENTY-FIVE (25) YEARS THE FRANCHISE
GRANTED TO MINDANAO ISLAMIC TELEPHONE COMPANY, INC., PRESENTLY
KNOWN AS DITO TELECOMMUNITY CORPORATION, AND AMENDING FOR THE
PURPOSE REPUBLIC ACT NO. 8627, ENTITLED "AN ACT GRANTING THE
MINDANAO ISLAMIC TELEPHONE COMPANY, INC., A FRANCHISE TO
CONSTRUCT, ESTABLISH, INSTALL, MAINTAIN AND OPERATE WIRE AND/OR
WIRELESS TELECOMMUNICATIONS SYSTEMS IN THE PHILIPPINES"

EXPLANATORY NOTE

The COVID pandemic that has necessitated community quarantines in the entire
country lasting for more than two (2) months in some areas, exposed the demand for
network connectivity. There never was a time that connectivity meant so much
important than during the quarantine. It became our most important tool to check on
other members of our family, friends, whether local or overseas, and keep abreast of
going-ons around us.

Consumers benefit from competition in markets. Without competition, there is no
motivation for businesses to provide convenient and fast services to consumers, and no
reason to innovate products. When businesses compete, consumers benefit through
lower prices, more product choices, and better-quality goods and services. The presence
of a 3rd player in the telecommunity market is expected to encourage efficiency and
innovation to provide better services for our consumers.

This bill seeks the renewal of the Congressional franchise of Mislatel, presently
known as Dito Telecommunity Corporation.
In 1998, the Mindanao Islamic Telephone Company, Inc. (Mislatel) was established by Congressional legislation, under Republic Act 8627. The franchise allowed Mislatel to construct, install, establish, operate and maintain a telecommunication system throughout the Philippines.\textsuperscript{1} Pursuant to Memorandum Circular No. 09-09-2018 dated 20 September 2018\textsuperscript{2}, and after undergoing a public, open, and competitive selection process, the National Telecommunications Commission (NTC) awarded Mislatel – presently known as Dito Telecommunity Corporation (Dito) as the New Major Player (NMP) in the Philippine telecommunications market.\textsuperscript{3} Thereafter, on 08 July 2019, NTC issued a Resolution granting Dito its Certificate of Public Convenience and Necessity (CPCN) to own, install, operate, and maintain fixed (wired and wireless) networks, mobile networks, and offer all types of national and international telecommunications services, including broadband, and to charge rates therefor, for a period of fifteen (15) years

In order to comply with its obligation to renew its Congressional Franchise within the applicable reglementary period, and in order to further carry out its obligations under the NMP bid and the CPCN issued by the NTC, the renewal or extension of its Congressional Franchise initially granted under Republic Act No. 8627, which granted a term of twenty-five (25) years from effectivity of said Act is earnestly sought.

With the advent of the environment of a new normal, we are hopeful that a 3\textsuperscript{rd} telco player will usher in the much-needed boost to provide changes in the landscape of telecommunication companies to provide stable and efficient service for all the Filipino consumers.

HON. WES GATCHALIAN
Representative, 1\textsuperscript{st} District of Valenzuela

\begin{footnotesize}
\footnote{Azer Parrocha, PRRD hands Mislatel Consortium permit to operate as 3rd telco, Philippine News Agency, 8 July 2019, available at https://www.pna.gov.ph/articles/1074398}
\end{footnotesize}
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AN ACT RENEWING FOR ANOTHER TWENTY-FIVE (25) YEARS THE FRANCHISE GRANTED TO MINDANAO ISLAMIC TELEPHONE COMPANY, INC., PRESENTLY KNOWN AS DITO TELECOMMUNITY CORPORATION, AND AMENDING FOR THE PURPOSE REPUBLIC ACT NO. 8627, ENTITLED "AN ACT GRANTING THE MINDANAO ISLAMIC TELEPHONE COMPANY, INC., A FRANCHISE TO CONSTRUCT, ESTABLISH, INSTALL, MAINTAIN AND OPERATE WIRE AND/OR WIRELESS TELECOMMUNICATIONS SYSTEMS IN THE PHILIPPINES"

Be it enacted by the Senate and House of Representatives of the Philippines in Congress assembled:

SECTION 1. Nature and Scope of Franchise. – Subject to the provisions of the Philippine Constitution and applicable laws, rules and regulations, the franchise granted to Mindanao Islamic Telephone Company Inc., now known as Dito Telecommunity Corporation, granted under Republic Act No. 8627 and hereunder referred as the grantee, its successors or assignees, the right, privilege and authority to carry on the business of providing telecommunications services in and between provinces, cities and municipalities in the Philippines and between the Philippines and other countries and territories and, for this purpose, to establish, operate, manage, lease, maintain and purchase telecommunications systems, including mobile, cellular and wired or wireless telecommunications systems, fiber optics, satellite transmission and reception systems, and other telecommunications systems and their value-added services such as transmission of voice, data, facsimile, control signals, audio and video, information service bureau, and all other telecommunications systems technologies as are at present available or be made available through technical advances or innovations in the future, or construct, acquire, lease, and operate or manage transmitting and receiving stations and switching stations, both for local and international services, lines, cables or systems, as is, or are, convenient or essential to efficiently carry out the purposes of this
franchise is hereby renewed for another twenty-five (25) years upon effectivity of this Act.

SEC. 2. Definition of Terms. In this Act, the term
(1) "Telecommunications" shall include "electronic telecommunications;"
(2) "Electronic communications network" shall mean (a) a transmission system for conveyance by means of electrical, magnetic, or electromagnetic energy, of signals of any description; and (b) any of the following as are used by the persons providing the system and in association with it, for conveyance of the signals: (i) apparatus comprised in the system; (ii) apparatus used for the switching and routing of the system; and (iii) software and stored data;
(3) "Electronic communications service" shall mean a service consisting in or having as its principal feature the conveyance by means of electronic communications network of signals. It includes wired, wireless, fixed, cellular, and/or mobile, or integrated telecommunications/computer/electronic services, including value-added services, or technologies related to such service, which are at present available or made available through technological advances or innovations in the future, and fixed and mobile stations.

SEC. 3. Manner of Operation of Stations or Facilities. – The stations or facilities of the grantee shall be constructed and operated in a manner as will, at most, result only in the minimum interference on the wavelengths or frequencies of the existing stations or other stations which may be established by law, without in any way diminishing its own right to use its selected wavelengths or frequencies and the quality of transmission or reception thereon as should maximize rendition of the grantee's services and/or the availability thereof.

SEC. 4. Authority of the National Telecommunications Commission. – The grantee shall secure from the National Telecommunications Commission, hereinafter referred to as the Commission, a certificate of public convenience and necessity or the appropriate permits and licenses for the location, construction, installation and operation of its telecommunications systems. In issuing the certificate, the Commission shall have the power to impose such conditions relative to the construction, operation, maintenance, or service level of the telecommunications system. The Commission shall have the authority to regulate the construction and operation of its telecommunications systems. The grantee shall not use any
frequency in the radio spectrum without having been authorized by the Commission. Such certificate shall state the areas covered and date the grantee shall commence the service. The Commission, however, shall not unreasonably withhold or delay the grant of any such authority, permits or licenses.

The grantee may install, operate and maintain radio telecommunications system to provide telephone service and other telecommunications services including mobile services within the territory of the Republic of the Philippines and between the Republic of the Philippines and ships at sea, aircraft in the air, and the telecommunications systems of other countries: Provided, that the location, installation or operation of any such radio telecommunications system must be previously approved by the Commission: Provided, further, that the Commission shall have the authority to supervise and regulate the installation or operation of such radio telecommunications system.

SEC. 5. Excavation and Restoration Works. – For the purpose of erecting and maintaining poles or other supports for said wires or other conductors for the purpose of laying and maintaining underground wires, cables or other conductors, it shall be lawful for the grantee, its successors or assignees, with the prior approval of the Department of Public Works and Highways (DPWH) or the local government unit (LGU) concerned, as may be appropriate, to make excavations or lay conduits in any of the public places, roads, highways, streets, lanes, alleys, avenues, sidewalks, or bridges of the province, cities, and/or municipalities: Provided, however, That a public place, road, highway, street, lane, alley, avenue, sidewalk, or bridge disturbed, altered or changed by reason of erection of poles or other supports or the underground laying of wires, other conductors or conduits, shall be repaired and replaced in workmanlike manner by said grantee, its successors or assignees, in accordance with the standards set by the DPWH or the LGU concerned. Should the grantee, its successors or assignees, after the ten (10)-day notice from the said authority, fail, refuse or neglect to repair or replace any part of public place, road, highway, street, lane, alley, avenue, sidewalk, or bridge altered, changed or disturbed by the said grantee, its successors or assignees, then the DPWH or the LGU concerned shall have the right to have the same repaired and placed in good order and condition with all expenses to be charged against the grantee, its successors or assignees.
SEC. 6. Responsibility to the Public. – The grantee shall conform to the ethics of honest enterprise and shall not use its stations for obscene or indecent transmission or for dissemination of deliberately false information or willful misrepresentation or assist in subversive or treasonable acts.

The grantee shall operate and maintain all its facilities, lines, cables, systems, and equipment for the transmission and reception of messages, signals, and pulses in a satisfactory manner at all times, and as far as economical and practicable, modify, improve, or change such stations, lines, cables, systems, and equipment to keep abreast with the advances in science and technology.

SEC. 7. Rates for Services. – The charges and rates for telecommunications services of the grantee, except the rates and charges on those that may hereafter be declared or considered as non-regulated services, whether flat rates or measured rates or variation thereof, shall be subject to the approval of the Commission or its legal successors. The rates to be charged by the grantee shall be unbundled, separable and distinct among the services offered and shall be determined in such a manner that regulated services do not subsidize the unregulated ones.

SEC. 8. Right of Government. – A special right is hereby reserved to the President of the Philippines, in times of war, rebellion, public peril, calamity, emergency, disaster or disturbance of peace and order, to temporarily take over and operate the stations, transmitters, facilities or equipment of the grantee, to temporarily suspend the operation of any station, transmitter, facility or equipment in the interest of public safety, security and public welfare, or to authorize the temporary use and operation thereof by any agency of the government, upon due compensation to the grantee for the use of said stations, transmitters, facilities or equipment during the period when they shall be so operated.

The radio spectrum is a finite resource that is a part of the national patrimony and the use thereof is a privilege conferred upon the grantee by the State and may be withdrawn anytime, after due process.

SEC. 9. Term of Franchise. – This franchise shall be for a term of twenty-five (25) years from effectivity of this Act, unless sooner revoked or canceled. This
franchise shall be deemed ipso facto revoked, in the event the grantee fails to construct or operate continuously for two (2) years.

SEC. 10. **Renewal or Extension of Franchise.** – The grantee shall apply for the renewal or extension of its franchise five (5) years before its expiration date which shall be reckoned fifteen (15) days after the publication of the franchise in the Official Gazette or in any newspaper of general circulation, whichever comes earlier.

SEC. 11. **Tax Provisions.** – The grantee shall be liable to pay the same taxes on its real estate, buildings and personal property exclusive of this franchise, except its antennas, radios, base transceiver stations, telecommunications and electronic communications equipment, machineries and spare parts needed in connection with the business from the grantee, as well as the self-supporting, monopole and/or guyed towers, and other similar structures and facilities on which said antennas, radios, telecommunications and electronic communications equipment, machineries and spare parts are installed, which shall be exempt from customs duties, tariffs, and other taxes and fees. In addition thereto, the grantee, its successors, or assignees, shall pay a value-added tax on all gross receipts of the business transacted under this franchise by the grantee, its successors, or assignees in the Philippines, in lieu of any and all taxes of any kind, nature, or description levied, established, or collected by an authority whatsoever, including, but not limited to, city, municipal, provincial, or national, from which the grantee is hereby expressly exempted effective from the date of effectivity of this Act. *Provided,* that the grantee shall continue to be liable for income taxes payable under Title II of the National Internal Revenue Code pursuant to Section 2 of Executive Order No. 72 unless the latter enactment is amended or repealed, in which case the amendment or repeal shall be applicable thereon.

SEC. 12. **Acceptance and Compliance.** – Acceptance of this franchise shall be given in writing to the Congress of the Philippines, through the Committee on Legislative Franchises of the House of Representatives and the Committee on Public Services of the Senate, within sixty (60) days from the effectivity of this Act. Upon giving such acceptance, the grantee shall exercise the privileges granted under this Act. Non acceptance shall render the franchise void.

SEC. 13. **Right of Interconnection.** – The grantee is hereby authorized to connect or demand connections of its telecommunications systems to any other
telecommunications systems installed, operated and maintained by any other duly-
authorized person or entity in the Philippines for the purpose of providing extended
and improved telecommunications services to the public under such terms and
conditions mutually agreed upon by the parties concerned and the same shall be
subject to the review or modification of the Commission.

SEC. 14. Gross Receipts. – The grantee, its successors or assigns, shall keep
a separate account of the gross receipts of the business transacted by it and shall
furnish the Commission on Audit and the National Treasury a copy of such account
not later than the 31st day of January of each year, for the preceding twelve (12)
months.

SEC. 15. Books and Accounts. – The books and accounts of the grantee, its
successors or assigns, shall always be open to the inspection of the Commissioner
on Audit or his authorized representatives, and it shall be the duty of the grantee to
submit to the Commission on Audit, two (2) copies of the quarterly reports on the
gross receipts, the net profits and the general condition of the business.

SEC. 16. Warranty in Favor of National and Local Governments. - The grantee
shall hold the national, provincial, city and municipal governments of the Philippines
harmless from all claims, accounts, demands or actions arising out of accidents or
injuries, whether to property or to persons, caused by the construction or operation
of the stations, transmitters, facilities and equipment of the grantee.

SEC. 17. Sale, Lease, Transfer, Usufruct, etc. – The grantee shall not lease,
transfer, grant the usufruct of, sell nor assign this franchise or the rights and
privileges acquired there under to any person, firm, company, corporation or other
commercial or legal entity, nor merge with any corporation or entity, nor shall the
direct controlling interest of the shares in the grantee be transferred, whether as a
whole or in parts and whether simultaneously or contemporaneously, to any such
person, firm, company, corporation or entity without the prior approval of the
Congress of the Philippines: Provided, that the foregoing limitation shall not apply to:
(a) any transfer or issuance of shares of stock in the implementation of the
requirement for the dispersal of the grantee’s ownership pursuant to Section 17 of
this Act; (b) any transfer or sale of shares of stock to a foreign investor or investors;
(c) any issuance of shares to a foreign or local investor pursuant to or in connection
with any increase in the grantee’s authorized capital stock which results in the
dilution of the stockholdings of the grantee’s then existing stockholders; or (d) any
combination thereof where such transfer, sale, or issuance is effected in order to
enable the grantee to raise necessary capital or financing for the provision of the
services for which the grantee has been incorporated or organized.

SEC. 18. Dispersal of Ownership. – In accordance with the constitutional
provisions to encourage public participation in the public utilities, the grantee shall
offer at least thirty per centum (30%) of its outstanding capital stock or a higher
percentage that may hereafter be provided by law in any securities exchange in the
Philippines within five (5) years from the time that the grantee becomes qualified to
list under the effective rules of any stock exchange in the Philippines; Provided, that
the obligation to list its shares in a stock exchange shall not apply if the grantee is
wholly-owned by a publicly listed company at least thirty per centum (30%) of whose
authorized capital stock is publicly owned; Provided, further, that in cases where
public offer of shares is not applicable, establishment of cooperatives and other
modes of encouraging public participation by citizens and corporations operating
public utilities must be implemented.

prevented by force majeure, the grantee shall be obliged to carry out its business
development and/or expansion plan which shall contain, among others, the phases
of business development or expansion, courses of action to achieve the objectives of
the franchise, capitalization, and expected milestones within the franchise term.

SEC. 20. Eminent Domain. – Subject to the limitations and procedures
prescribed by law, the grantee is authorized to exercise the right of eminent domain
insofar as may be reasonably necessary to further the establishment and efficient
maintenance and operation of its telecommunications systems.

No private property shall be taken for any purpose by the grantee without
proper condemnation proceedings and just compensation paid or tendered therefor,
and any authority to take and occupy land contained herein shall not apply to the
taking, use or occupation of any land except such as is required for the actual and
necessary purposes for which this franchise is granted.
SEC. 21. Contract with Private Entities. – The grantee is authorized to contract
the installation and operation of the telecommunications system which is the subject
of this grant with entities with expertise in the field of telecommunications under
such terms and conditions as may be approved by the Commission.

SEC. 22. Reportorial Requirement. – The grantee shall submit an annual
report to the Congress of the Philippines, through the Committee on Legislative
Franchises of the House of Representatives and the Committee on Public Services of
the Senate, on its compliance with the terms and conditions of the franchise and on
its operations on or before April 30 of every year during the term of its franchise. The
annual report shall include an update on the roll-out, development or expansion of
business; audited financial statements as certified by Securities and Exchange
Commission; latest general information sheet; certification of the Commission on the
status of permits; and an update on the dispersal of ownership undertaking.

The reportorial compliance certificate issued by Congress shall be required
before any application for permit or certificate is accepted by the Commission.

SEC. 23. Fine. – Failure of the grantee to submit the requisite annual report
to Congress shall be penalized by a fine in the amount of Five Hundred Pesos
(P500.00) per working day of non-compliance. The fine shall be collected separately
by the Commission distinct from the penalties it imposes for non-compliance of its
own reportorial requirements.

SEC. 24. Equality Clause. - Any advantage, favor, privilege, exemption, or
immunity granted under other existing franchises, or which may hereafter be granted
by Congress, shall become part of this franchise and shall be accorded immediately
and unconditionally to the herein grantee: Provided, that the foregoing shall neither
apply to nor affect provisions of telecommunications franchises concerning territory
covered by the franchise, the life span of the franchise or the type of service
authorized by the franchise.

SEC. 25. Separability Clause. - If any of the sections or provisions of this Act
is held invalid, all the other provisions not affected thereby shall remain valid.

SEC. 26. Repealability and Non-Exclusivity Clause. - This franchise shall be
subject to amendment, alteration, or repeal by the Congress of the Philippines when
the public interest so requires and shall not be interpreted as an exclusive grant of
the privileges herein provided for.

SEC. 27. Repealing Clause. – All other laws, decrees, executive orders, rules
and regulations, or any parts or provisions thereof which are not consistent with this
Act are hereby repealed, amended, or modified accordingly.

SEC. 28. Effectivity. – This Act shall take effect fifteen (15) days after its
publication in the Official Gazette or in a newspaper of general circulation.

Approved,