COMMITTEE REPORT NO. 844

Submitted by the Committee on Legislative Franchises on ________________.

Re: House Bill No. 8971

Recommending its approval in substitution of House Bill No. 8479

Sponsors: Representatives Franz E. Alvarez and Xavier Jesus D. Romualdo

Mr. Speaker:

The Committee on Legislative Franchises to which was referred House Bill No. 8479, authored by Rep. Xavier Jesus D. Romualdo entitled:

"AN ACT GRANTING ISMO, INC., A FRANCHISE TO CONSTRUCT, INSTALL, ESTABLISH, MAINTAIN, AND OPERATE TELECOMMUNICATIONS SYSTEMS IN THE PHILIPPINES"

has considered the same and recommends that the attached House Bill No. 8971 entitled:

"AN ACT GRANTING ISMO INCORPORATED, A FRANCHISE TO CONSTRUCT, INSTALL, ESTABLISH, OPERATE, AND MAINTAIN TELECOMMUNICATIONS SYSTEMS IN THE PHILIPPINES"

be approved in substitution of House Bill No. 8479 with Reps. Xavier Jesus D. Romualdo, Franz E. Alvarez, and Edward Vera Perez Maceda, as authors thereof.
Respectfully submitted:

FRANZ E. ALVAREZ
Chairperson
Committee on Legislative Franchises

THE HONORABLE SPEAKER
HOUSE OF REPRESENTATIVES
QUEZON CITY
Republic of the Philippines
HOUSE OF REPRESENTATIVES
Quezon City

EIGHTEENTH CONGRESS
Second Regular Session

HOUSE BILL NO. 8971
(In substitution of House Bill No. 8479)

Introduced by REPRESENTATIVES XAVIER JESUS D. ROMUALDO, FRANZ E.
ALVAREZ, and EDWARD VERA PEREZ MACEDA

AN ACT
GRANTING ISMO INCORPORATED, A FRANCHISE TO CONSTRUCT, INSTALL,
ESTABLISH, OPERATE, AND MAINTAIN 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
Constitution and applicable laws, rules and regulations, there is hereby granted to
ismo incorporated, hereunder referred as the grantee, its successor or
assignees, a franchise to construct, install, establish, operate and maintain for
commercial purposes and in the public interest, throughout the Philippines and
between the Philippines and other countries and territories, wired or wireless
telecommunications systems, including international and local exchange carrier,
international and domestic gateway facility, international and domestic submarine
cable landing stations, mobile, cellular, fixed line, trunked radio, fiber optics, multi-
channel multipoint distribution system, satellite transmit and receive systems,
switches, electronic telecommunications or electronic communications services in or
outside the Philippines and also in outer space, and value added services, such as
transmission of voice, data, facsimile, control signs, audio and video, information
services, and all other telecommunications systems and technologies as are at present
available or will be made available through technical advances or innovations in the
future; and to construct, establish, install, maintain, acquire, lease, operate, and
manage the corresponding transmitting and receiving stations, lines, cables, or
systems, as are convenient or essential to efficiently carry out the purpose of this franchise.

As used in this Act:

*Electronic communications network* refers to (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: (1) apparatus comprised in the system; (2) apparatus used for the switching and routing of the system; and (3) software and stored data;

*Electronic communications service* refers to 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 or mobile, or integrated telecommunications services, including value-added services, or technologies related to such services which are at present available or made available through technological advances or innovations, and fixed and mobile stations;

*Telecommunications* refers to any process which enables a telecommunications entity to relay and receive voice, data, electronic messages, written or printed matter, fixed or moving pictures, words, music or visible or audible signals or any control signals of any design and for any purpose by wire, radio or other electromagnetic, spectral, optical, or electronic means.

SEC. 2. 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 existing stations or other stations which may be established by law, without in any way diminishing its own right to use its assigned wavelengths or frequencies and the quality of transmission or reception thereon as should maximize rendition of the grantee’s services or the availability thereof.

SEC. 3. Authority of the National Telecommunications Commission. – The grantee shall secure from the National Telecommunications Commission (NTC) a Certificate of Public Convenience and Necessity or the appropriate permits and licenses for the construction, installation, and operation of its telecommunications systems or facilities. In issuing the certificate, the NTC shall have the power to regulate
and impose such conditions relative to the construction, operation, maintenance, or
service level of the telecommunications systems or facilities. Such certificate shall
state the areas covered and the date the grantee shall commence the service. The
grantee shall not use any frequency in the radio spectrum without authorization from
the NTC. The NTC, however, shall not unreasonably withhold or delay the grant of
such authority, permit, or license.

In case of any violation of the provisions of this franchise, the NTC shall have
the authority to revoke or suspend, after due process, the permits or licenses it issued
pursuant to the franchise. The NTC may recommend to Congress the revocation of
the franchise for any violation of the provisions of this franchise.

SEC. 4. Excavation and Restoration Works. – For the purposes of erecting and
maintaining poles or other supports for wires or other conductors and for laying and
maintaining of 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, 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 the
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 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, and charge the grantee, its successors or
assignees at double the amount of the costs and expenses for such repair or
replacement.

SEC. 5. Responsibility to the Public. - The grantee shall conform to the ethics
of honest enterprise and not use its stations or facilities 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 stations, 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.

The grantee shall improve and extend its services in areas not yet served, and
in hazard- and typhoon-prone areas that shall be determined by the National Disaster
Risk Reduction and Management Council, or its legal successor, in coordination with
the NTC.

The grantee shall also improve and upgrade its equipment, facilities, and
services, in order to ensure effective compliance with the objectives of Republic Act
No. 10639 or “The Free Mobile Disaster Alerts Act”.

SEC. 6. 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 nonregulated services, whether flat rates or measured rates
or variations thereof, shall be subject to the approval of the NTC or its legal successor.
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. 7. Right of Government. – The radio spectrum is a finite resource that is
part of the national patrimony and the use thereof is a privilege conferred upon the
grantee by the State and may be withdrawn any time after due process.

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 the stations,
transmitters, facilities, or equipment during the period when these shall be so operated.

SEC. 8. Term of Franchise. — This franchise shall be in effect for a period of twenty-
five (25) years from the effectivity of this Act, unless sooner revoked or cancelled. This
franchise shall be deemed ipso facto revoked in the event the grantee fails to comply
with any of the following conditions:

(a) commencement of operations within three (3) years from the approval of its
operating permit by the NTC;

(b) commencement of operations within five (5) years from the effectivity of this
Act; and

(c) continuous operation for two (2) years.

SEC. 9. Renewal or Extension of Franchise. — The grantee shall apply for the
renewal or extension of its franchise three (3) years before its expiration which shall
be reckoned from fifteen (15) days after the publication of the franchise in the Official
Gazette or in a newspaper of general circulation.

SEC. 10. Bond. — The grantee shall file a bond with the NTC, in the amount that
the NTC shall determine, to guarantee compliance with and fulfillment of the conditions
under which this franchise is granted. If, after three (3) years from the date of approval
of its permit by the NTC, the grantee shall have fulfilled the same, the bond shall be
released by the NTC. Otherwise, the bond shall be forfeited in favor of the government
and the franchise ipso facto revoked.

SEC. 11. Right of Interconnection. — The grantee is hereby authorized to
connect or demand connection of its telecommunications systems to 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 the terms and
conditions mutually agreed upon by the parties concerned. This right shall be subject
to the review and modification of the NTC.
SEC. 12. Mobile Number Portability. - The grantee shall provide mobile number portability (MNP) and its implementing mechanism, including the required infrastructure and processes, and shall interconnect, directly or indirectly, with the infrastructure, facilities, systems, or equipment of other telecommunications franchise grantees. It shall not install network features, functions, or capabilities that will impede the implementation of a nationwide MNP system.

SEC. 13. Warranty in Favor of the National and Local Governments. - The grantee shall hold the national, provincial, city, and municipal governments of the Philippines free from all claims, liabilities, accounts, demands, or actions arising out of accidents causing injury to persons or damage to properties, during the construction or operation of the stations, transmitters, facilities, or equipment of the grantee.

SEC. 14. Sale, Lease, Transfer, Grant of Usufruct, or Assignment of Franchise. - The grantee shall not sell, lease, transfer, grant the usufruct of, nor assign this franchise or the rights and privileges acquired thereunder to any person, firm, company, corporation, or other commercial or legal entity, nor merge with any other corporation or entity, nor shall the controlling interest of the grantee be transferred, simultaneously or contemporaneously, to any person, firm, company, corporation, or entity without the prior approval of Congress. The grantee shall inform Congress, through the Office of the Speaker of the House of Representatives and the Office of the Senate President, of any sale, lease, transfer, grant of usufruct, or assignment of franchise or the rights and privileges acquired thereunder, or of the merger or transfer of the controlling interest of the grantee, within sixty (60) days after the completion of the said transaction. Failure to report to Congress such change of ownership shall render the franchise ipso facto revoked. Any person or entity to which this franchise is sold, transferred, or assigned shall be subject to the same conditions, terms, restrictions, and limitations of this Act.

SEC. 15. Dispersal of Ownership. - In accordance with the constitutional provision to encourage public participation in public utilities, the grantee shall offer to Filipino citizens at least thirty percent (30%) of its common stocks, or a higher percentage that may hereafter be provided by law, in any securities exchange in the Philippines within five (5) years from the effectivity of this Act: Provided, That in cases where public offer of shares is not applicable, other methods of encouraging public
participation by citizens and corporations operating public utilities must be
implemented. Noncompliance therewith shall render the franchise *ipso facto* revoked.

Sec. 16. *Commitment to Provide and Promote the Creation of Employment
Opportunities.* – The grantee shall create employment opportunities and accept on-
the-job trainees in its franchise operations: *Provided,* That priority shall be accorded
to the residents of the place where the principal office of the grantee is located:
*Provided further,* That the grantee shall ensure that at least sixty percent (60%) of its
employees are regular employees and in no case shall the percentage of contractual,
job order, or casual employees, and independent contractors combined, exceed forty
percent (40%) of its total workforce: *Provided, finally,* That the grantee shall comply
with the applicable labor standards and allowance entitlement under existing labor
laws, rules and regulations, and similar issuances.

The employment opportunities or jobs created shall be reflected in the General
Information Sheet (GIS) to be submitted to the Securities and Exchange Commission
(SEC) annually. In addition, the grantee shall include in its annual report to Congress
the number of trainees and workers whose employment status are made regular, and
append the appropriate certificate from the Department of Labor and Employment
attesting that it has complied with the employment requirement under this Section.

SEC. 17. *Reportorial Requirement.* – The grantee shall submit an annual report
on its compliance with the terms and conditions of the franchise and on its operations
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 or before April 30 of every year during the term of its franchise.

The annual report shall include an update on the commencement of activities,
development, operation, and expansion of business; audited financial statements;
latest GIS officially submitted to the SEC, if applicable; certification of the NTC on the
status of its permits and operations; and an update on the dispersal of ownership
undertaking, if applicable.

The reportorial compliance certificate issued by Congress shall be required
before any application for permit or certificate is accepted by the NTC.
SEC. 18. Fine. – Failure of the grantee to submit the requisite annual report to Congress shall be penalized with a fine in the amount of One million pesos (P1,000,000.00) for each working day of noncompliance, the effectivity of which shall commence upon applicability with other telecommunications franchise grantees: Provided, That in the interim, the grantee shall be liable to pay the fine of Five hundred pesos (P500.00) per working day of noncompliance to the NTC. The fine shall be collected separately from the reportorial penalties imposed by the NTC, and it shall be remitted to the Bureau of the Treasury.

SEC. 19. Equality Clause. – Any advantage, favor, privilege, exemption, or immunity granted under existing franchises, or which may hereafter be granted for telecommunications, upon prior review and approval of Congress, shall become part of this franchise and shall be accorded immediately and unconditionally to the herein grantee: Provided, however, That the foregoing shall neither apply to nor affect the 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. 20. Repealability and Nonexclusivity Clause. – This franchise shall be subject to amendment, alteration, or repeal by Congress when the public interest so requires and shall not be interpreted as an exclusive grant of the privilege herein provided for.

SEC. 21. Separability Clause. – If any of the sections or provisions of this Act is held invalid, all other provisions not affected thereby shall remain valid.

SEC. 22. Repealing Clause. – All laws, decrees, orders, resolutions, instructions, rules and regulations, and other issuances or parts thereof which are inconsistent with the provisions of this Act are hereby repealed, amended, or modified accordingly.

SEC. 23. Effectivity. – This Act shall take effect fifteen (15) days after its publication in the Official Gazette or in a newspaper of general circulation.
Approved,
FACT SHEET

House Bill No. 8971
In substitution of House Bill No. 8479
(As approved on _____________)

AN ACT GRANTING ISMO INCORPORATED, A FRANCHISE TO CONSTRUCT, INSTALL, ESTABLISH, OPERATE, AND MAINTAIN TELECOMMUNICATIONS SYSTEMS IN THE PHILIPPINES

Introduced by: HON. XAVIER JESUS D. ROMUALDO

Committee Referral: LEGISLATIVE FRANCHISES
Committee Chairperson: HON. FRANZ E. ALVAREZ

OBJECTIVE:

- To allow ISMO INCORPORATED to operate efficient and effective telecommunications services nationwide.

KEY PROVISIONS:

- Grants ISMO INCORPORATED a franchise to construct, install, establish, operate, and maintain telecommunications system for twenty-five (25) years;

- Requires the grantee to apply for the renewal or extension of its franchise three (3) years before its expiration;

- Prohibits the grantee to lease, transfer, sell, grant the usufruct, or assign the franchise, rights or privileges, or its controlling interest without the prior approval of Congress;

- Mandates the grantee to secure the appropriate permits and licenses for the construction, installation, and operation of its telecommunications systems or facilities from the NTC;

- Mandates the grantee to provide mobile number portability (MNP) and its implementing mechanism, and shall ensure interconnection with the infrastructure of other telecommunications franchise grantees;

- Allows the grantee to make excavations or lay conduits for the purpose of erecting and maintaining poles, with the obligation to repair and replace in workmanlike manner any public place, road, highway, street, lane, alley, avenue, sidewalk, or bridge that has been disturbed, altered, or changed by reason of erection of poles or other supports or the underground laying of wires;

- Mandates the grantee to conform to the ethics of honest enterprise, operate its facilities in a satisfactory manner at all times, and to extend its services in compliance with Republic Act No. 10639 or the "Free Mobile Disaster Alerts Act";
- Gives the President of the Philippines the right to temporarily take over and operate the stations or facilities of the grantee, to temporarily suspend the operation of any station or facility 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 in times of war, rebellion, public peril, calamity, emergency, disaster or disturbance of peace and order;

- Provides that the national and local governments shall not be held liable for any damage to properties or injury to persons caused by accidents during construction or operation of the stations;

- Requires the grantee to offer to Filipino citizens at least thirty per cent (30%) of its outstanding stock in any security exchange in the Philippines or through other methods of encouraging public participation by citizens and corporations operating public utilities as allowed by law;

- Requires the grantee to create employment opportunities and allow on-the-job trainings in their franchise operation for residents of the place where any of its offices is located subject to applicable labor standards and allowance entitlement under existing labor laws, rules and regulations and similar issuances;

- Mandates the grantee to ensure that at least sixty percent (60%) of its employees are regular employees and in no case shall the percentage of contractual, job order, or casual employees, and independent contractors combined, exceed forty percent (40%) of its total workforce; and to report to Congress the number of its trainees and workers whose employment status are made regular and append the appropriate certificate from the Department of Labor attesting for its compliance with the employment requirement;

- Requires the grantee to submit an annual report to Congress on its compliance with the terms and conditions of the franchise and its operation on or before April 30 of every year;

- Imposes a fine in the amount of One million pesos (P1,000,000.00) per working day of noncompliance with the reportorial requirement of Congress, the effectivity of which shall commence upon applicability with other telecommunications franchise grantees, and provided that in the interim, the grantee shall be liable to pay the fine of Five hundred pesos (P500.00) per working day of non-compliance; and

- Provides an equality clause which aims to grant existing and potential franchise grantees equal privilege/s.

RELATED LAWS:

- Republic Act No. 7925 – “AN ACT TO PROMOTE AND GOVERN THE DEVELOPMENT OF PHILIPPINE TELECOMMUNICATIONS AND THE DELIVERY OF PUBLIC TELECOMMUNICATIONS SERVICES”
• Republic Act No. 10639 - "The Free Mobile Disaster Alerts Act"

• Republic Act 11202 – "Mobile Number Portability Act"

• Sec. 18, Article II and Sec. 3, Article XIII of the 1987 Constitution - Protection to labor and collective bargaining.

• Article 280 of the Labor Code - Provision for regular and casual employment.