



HOUSE OF REPRESENTATIVES

H. No. 8972

BY REPRESENTATIVES SINSUAT, ALVAREZ (F.) AND MACEDA, PER COMMITTEE REPORT NO. 845

AN ACT
GRANTING FICTAP TELECOMMUNICATIONS INC. A FRANCHISE TO
CONSTRUCT, INSTALL, ESTABLISH, OPERATE, AND MAINTAIN
TELECOMMUNICATION SERVICES WITHIN THE PHILIPPINES AND WITH
INTERNATIONAL POINTS

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

1 SECTION 1. *Nature and Scope of Franchise.* - Subject to the provisions of the
2 Constitution and applicable laws, rules and regulations, there is hereby granted to
3 FICTAP TELECOMMUNICATIONS INC., hereunder referred as the grantee, its
4 successor or assignees, a franchise to construct, establish, install, operate, and
5 maintain, for commercial purposes and in the public interest, within the Philippines and
6 between the Philippines and other countries and territories, wired or wireless
7 telecommunications systems including mobile, international and local exchange
8 carrier, international gateway facilities or services, international and domestic
9 submarine cable landing stations, copper, fiber optics, coaxial cable, stations and
10 associated equipment for international satellite communications, and their value added
11 services such as transmission of voice, data, facsimile, control signs, audio and video,
12 information services, and all other telecommunications systems technologies as are
13 present available or will be made available through technological advances or
14 innovations in the future; or construct, acquire, lease, and operate or manage
15 transmitting and receiving stations, lines, cables, or systems as are convenient or
16 essential to efficiently carry out the purpose of this franchise.

1 SEC. 2. *Manner of Operation of Stations or Facilities.* – The stations or facilities
2 of the grantee shall be constructed and operated in a manner as will, at most, result
3 only in the minimum interference on the wavelengths or frequencies of existing stations
4 or other stations which may be established by law, without in any way diminishing its
5 own right to use its assigned wavelengths or frequencies and the quality of
6 transmission or reception thereon as should maximize rendition of the grantee's
7 services or the availability thereof.

8
9 SEC. 3. *Authority of the National Telecommunications Commission.* – The
10 grantee shall secure from the National Telecommunications Commission (NTC) a
11 Certificate of Public Convenience and Necessity or the appropriate permits and
12 licenses for the construction, installation, and operation of its telecommunications
13 systems or facilities. In issuing the certificate, the NTC shall have the power to regulate
14 and impose such conditions relative to the construction, operation, maintenance, or
15 service level of the telecommunications systems or facilities. Such certificate shall
16 state the areas covered and the date the grantee shall commence the service. The
17 grantee shall not use any frequency in the radio spectrum without authorization from
18 the NTC. The NTC, however, shall not unreasonably withhold or delay the grant of
19 such authority, permit, or license.

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

25
26 SEC. 4. *Excavation and Restoration Works.* – For the purposes of erecting and
27 maintaining poles or other supports for wires or other conductors and for laying and
28 maintaining of underground wires, cables, or other conductors, it shall be lawful for the
29 grantee, its successors or assignees, with the prior approval of the Department of
30 Public Works and Highways (DPWH) or the local government unit (LGU) concerned,
31 as may be appropriate, to make excavations or lay conduits in any of the public places,
32 roads, highways, streets, lanes, alleys, avenues, sidewalks, or bridges of the province,
33 cities, or municipalities: *Provided, however,* That a public place, road, highway, street,
34 lane, alley, avenue, sidewalk, or bridge disturbed, altered, or changed by reason of
35 erection of poles or other supports or the underground laying of wires, other

1 conductors or conduits, shall be repaired and replaced in workmanlike manner by the
2 grantee, its successors or assignees, in accordance with the standards set by the
3 DPWH or the LGU concerned. Should the grantee, its successors or assignees, after
4 the ten (10)-day notice from the said authority, fail, refuse, or neglect to repair or
5 replace any part of public place, road, highway, street, lane, alley, avenue, sidewalk,
6 or bridge altered, changed or disturbed by the grantee, its successors or assignees,
7 then the DPWH or the LGU concerned shall have the right to have the same repaired
8 and placed in good order and condition, and charge the grantee, its successors or
9 assignees at double the amount of the costs and expenses for such repair or
10 replacement.

11
12 SEC. 5. *Responsibility to the Public.* - The grantee shall conform to the ethics
13 of honest enterprise and not use its stations or facilities for obscene or indecent
14 transmission, or for dissemination of deliberately false information, or willful
15 misrepresentation, or assist in subversive or treasonable acts.

16
17 The grantee shall operate and maintain all its stations, lines, cables, systems,
18 and equipment for the transmission and reception of messages, signals, and pulses in
19 a satisfactory manner at all times, and as far as economical and practicable, modify,
20 improve, or change such stations, lines, cables, systems, and equipment to keep
21 abreast with the advances in science and technology.

22
23 The grantee shall improve and extend its services in areas not yet served, and
24 in hazard- and typhoon-prone areas that shall be determined by the National Disaster
25 Risk Reduction and Management Council, or its legal successor, in coordination with
26 the NTC.

27
28 The grantee shall also improve and upgrade its equipment, facilities and
29 services, in order to ensure effective compliance with the objectives of Republic Act
30 No. 10639 or "The Free Mobile Disaster Alerts Act".

31 SEC. 6. *Rates for Services.* – The charges and rates for telecommunications
32 services of the grantee, except the rates and charges on those that may hereafter be
33 declared or considered as nonregulated services, whether flat rates or measured rates
34 or variations thereof, shall be subject to the approval of the NTC or its legal successor.

1 The rates to be charged by the grantee shall be unbundled, separable, and distinct
2 among the services offered and shall be determined in such a manner that regulated
3 services do not subsidize the unregulated ones.

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5 SEC. 7. *Right of Government.* – The radio spectrum is a finite resource that is
6 part of the national patrimony and the use thereof is a privilege conferred upon the
7 grantee by the State and may be withdrawn any time after due process.

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9 A special right is hereby reserved to the President of the Philippines, in times
10 of war, rebellion, public peril, calamity, emergency, disaster, or disturbance of peace
11 and order: to temporarily take over and operate the stations, transmitters, facilities, or
12 equipment of the grantee; to temporarily suspend the operation of any station,
13 transmitter, facility, or equipment in the interest of public safety, security, and public
14 welfare; or to authorize the temporary use and operation thereof by any agency of the
15 government, upon due compensation to the grantee for the use of the stations,
16 transmitters, facilities, or equipment during the period when these shall be so operated.

17
18 SEC. 8. *Term of Franchise.* – This franchise shall be in effect for a period of twenty-
19 five (25) years from the date of the effectivity of this Act, unless sooner cancelled. This
20 franchise shall be deemed *ipso facto* revoked in the event that the grantee fails to
21 comply with any of the following conditions:

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

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

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

27
28 SEC. 9. *Renewal or Extension of Franchise.* – The grantee shall apply for the
29 renewal or extension of its franchise three (3) years before its expiration which shall
30 be reckoned from fifteen (15) days after the publication of the franchise in the *Official*
31 *Gazette* or in a newspaper of general circulation.

32
33 SEC. 10. *Bond.* – The grantee shall file a bond with the NTC, in the amount that
34 the NTC shall determine, to guarantee compliance with and fulfillment of the conditions
35 under which this franchise is granted. If, after three (3) years from the date of approval

1 of its permit by the NTC, the grantee shall have fulfilled the same, the bond shall be
2 released by the NTC. Otherwise, the bond shall be forfeited in favor of the government
3 and the franchise *ipso facto* revoked.
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5 SEC. 11. *Right of Interconnection.* – The grantee is hereby authorized to
6 connect or demand connection of its telecommunications systems to other
7 telecommunications systems installed, operated, and maintained by any other duly
8 authorized person or entity in the Philippines for the purpose of providing extended
9 and improved telecommunications services to the public, under the terms and
10 conditions mutually agreed upon by the parties concerned. This right shall be subject
11 to the review and modification of the NTC.
12

13 SEC. 12. *Mobile Number Portability.* – The grantee shall provide mobile
14 number portability (MNP) and its implementing mechanism, including required
15 infrastructure and processes, and shall interconnect, directly or indirectly, with the
16 infrastructure, facilities, systems, or equipment of other telecommunications franchise
17 grantees. It shall not install network features, functions, or capabilities that will impede
18 the implementation of a nationwide MNP system.
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20 SEC. 13. *Warranty in Favor of the National and Local Governments.* - The
21 grantee shall hold the national, provincial, city, and municipal governments of the
22 Philippines free from all claims, liabilities, accounts, demands, or actions arising out of
23 accidents causing injury to persons or damage to properties, during the construction
24 or operation of the stations, transmitters, facilities, or equipment of the grantee.
25

26 SEC. 14. *Sale, Lease, Transfer, Grant of Usufruct, or Assignment of Franchise.*
27 – The grantee shall not sell, lease, transfer, grant the usufruct of, nor assign this
28 franchise or the rights and privileges acquired thereunder to any person, firm,
29 company, corporation, or other commercial or legal entity, nor merge with any other
30 corporation or entity, nor shall the controlling interest of the grantee be transferred,
31 simultaneously or contemporaneously, to any person, firm, company, corporation, or
32 entity without the prior approval of Congress. The grantee shall inform Congress,
33 through the Office of the Speaker of the House of Representatives and the Office of
34 the Senate President, of any sale, lease, transfer, grant of usufruct, or assignment of
35 franchise or the rights and privileges acquired thereunder, or of the merger or transfer

1 of the controlling interest of the grantee, within sixty (60) days after the completion of
2 the said transaction. Failure to report to Congress such change of ownership shall
3 render the franchise *ipso facto* revoked. Any person or entity to which this franchise is
4 sold, transferred, or assigned shall be subject to the same conditions, terms,
5 restrictions, and limitations of this Act.

6
7 SEC. 15. *Dispersal of Ownership.* - In accordance with the constitutional
8 provision to encourage public participation in public utilities, the grantee shall offer to
9 Filipino citizens at least thirty percent (30%) of its common stocks, or a higher
10 percentage that may hereafter be provided by law, in any securities exchange in the
11 Philippines within five (5) years from the effectivity of this Act: *Provided*, That in cases
12 where public offer of shares is not applicable, other methods of encouraging public
13 participation by citizens and corporations operating public utilities must be
14 implemented. Noncompliance therewith shall render the franchise *ipso facto* revoked.

15
16 Sec. 16. *Commitment to Provide and Promote the Creation of Employment*
17 *Opportunities.* - The grantee shall create employment opportunities and accept on-
18 the-job trainees in its franchise operations: *Provided*, That priority shall be accorded
19 to the residents of the place where the principal office of the grantee is located:
20 *Provided* further, That the grantee shall ensure that at least sixty percent (60%) of its
21 employees are regular employees and in no case shall the percentage of contractual,
22 job order, or casual employees, and independent contractors combined, exceed forty
23 percent (40%) of its total workforce: *Provided, finally*, That the grantee shall comply
24 with the applicable labor standards and allowance entitlement under existing labor
25 laws, rules and regulations, and similar issuances.

26
27 The employment opportunities or jobs created shall be reflected in the General
28 Information Sheet (GIS) to be submitted to the Securities and Exchange Commission
29 (SEC) annually. In addition, the grantee shall include in its annual report to Congress
30 the number of trainees and workers whose employment status are made regular, and
31 append the appropriate certificate from the Department of Labor and Employment
32 attesting that it has complied with the employment requirement under this Section.

33
34 SEC. 17. *Reportorial Requirement.* - The grantee shall submit an annual report
35 on its compliance with the terms and conditions of the franchise and on its operations

1 to the Congress of the Philippines, through the Committee on Legislative Franchises
2 of the House of Representatives and the Committee on Public Services of the Senate,
3 on or before April 30 of every year during the term of its franchise.
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5 The annual report shall include an update on the commencement of activities,
6 development, operation, and expansion of business; audited financial statements;
7 latest GIS officially submitted to the SEC, if applicable; certification of the NTC on the
8 status of its permits and operations; and an update on the dispersal of ownership
9 undertaking, if applicable.
10

11 The reportorial compliance certificate issued by Congress shall be required
12 before any application for permit or certificate is accepted by the NTC.
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14 SEC. 18. *Fine.* – Failure of the grantee to submit the requisite annual report to
15 Congress shall be penalized with a fine in the amount of One million pesos
16 (P1,000,000.00) for each working day of noncompliance, the effectivity of which shall
17 commence upon applicability with other telecommunications franchise grantees:
18 *Provided, That* in the interim, the grantee shall be liable to pay the fine of Five hundred
19 pesos (P500.00) per working day of noncompliance to the NTC. The fine shall be
20 collected separately from the reportorial penalties imposed by the NTC, and it shall be
21 remitted to the Bureau of the Treasury.
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23 SEC. 19. *Equality Clause.* – Any advantage, favor, privilege, exemption, or
24 immunity granted under existing franchises, or which may hereafter be granted for
25 telecommunications, upon prior review and approval of Congress, shall become part
26 of this franchise and shall be accorded immediately and unconditionally to the herein
27 grantee: *Provided, however,* That the foregoing shall neither apply to nor affect the
28 provisions of telecommunications franchises concerning territory covered by the
29 franchise, the life span of the franchise, or the type of service authorized by the
30 franchise.
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32 SEC. 20. *Repealability and Nonexclusivity Clause.* – This franchise shall be
33 subject to amendment, alteration, or repeal by Congress when the public interest so
34 requires and shall not be interpreted as an exclusive grant of the privilege herein
35 provided for.

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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,