

THIRTEENTH CONGRESS OF THE REPUBLIC  
OF THE PHILIPPINES  
First Regular Session

)  
)  
)  
'04 JUN 30 P5:24

RECEIVED BY: Rule

SENATE

S. No. 427

Introduced by Senator S. R. Osmeña III

### EXPLANATORY NOTE

Republic Act No. 7925, otherwise known as the "Public Telecommunications Policy Act of 1995", was enacted to promote and govern the development of the Philippine telecommunications industry as well as to provide the basic policies for the delivery of efficient public telecommunications service. In keeping with this objective, Section 23 of the above-mentioned Act provides:

"Any advantage, favor, privilege, exemption, or immunity granted under existing franchises, or may hereafter be granted, shall *ipso facto* become part of previously granted telecommunications franchise and shall be accorded immediately and unconditionally to the grantees of such franchise: *Provided, however,* that the foregoing shall not 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."

This particular Section intended to level the playing field by making sure that any and all advantages, privileges, exemption or immunities granted to one firm would inure to the benefit of all other franchise holders.

However, while the objective was noble, the application of the law resulted in some confusion as R.A. No. 7925 makes no distinction as to the nature and type of the telecommunications entity. Thus, it is possible for one type of telecommunications firm to enjoy the same benefits granted to another class of telecommunications franchise. Theoretically, a situation could arise wherein a paging company would be entitled to the same benefits granted to a telephone company, resulting in a situation where the former could also, avail of the right to exercise the power of eminent domain or the right of egress when it has no practical use for these rights.

Moreover, Section 23 provides that the equality clause shall not apply to provisions concerning territory covered, the life-span of and the type of service authorized by the franchise. This enumeration is exclusive and necessarily implies that all other types of provisions not belonging to these categories may be modified accordingly.

Republic Act No. 7674, which amended Section 9 of Republic Act No. 7617, the original franchise of Telecommunications Technologies Philippines, Inc. (TTPI), granted the corporation several exemptions to the rule of prior Congressional approval in the sale or transfer of the franchise.


RECEIVED BY:       Cebu      

A franchise is a special privilege conferred by the State to an individual or group of individuals for their exclusive exercise. It is granted based on the integrity, financial stability and capability as well as future investment plans of the franchise holders. To allow the transfer of controlling interest without Congressional approval could result in the franchise falling into the hands of new owners who may not be similarly qualified. Furthermore, it will encourage the application for a franchise of dummies who will peddle the franchise once it is granted.

With the equality clause of R.A. No. 7925, the need for prior Congressional approval may be obviated. This may result in the controlling interest of other telecommunications franchises being transferred to individuals or firms which are not qualified.

Therefore, this legislation proposes the inclusion, in the exemptions enumerated under Section 23 of R.A. No. 7925, of the prohibition against the transfer of controlling interest, whether by transfer or sale of shares of stock or by an increase in capitalization without the requisite Congressional approval.

In view of the foregoing, the early approval of this bill is earnestly requested.

  
**SERGIO OSMEÑA III**  
Senator

THIRTEENTH CONGRESS OF THE REPUBLIC  
OF THE PHILIPPINES  
First Regular Session

04 JUN 30 P5:24

RECEIVED BY: Osmeña

S E N A T E

S. No. 427

Introduced by Senator S. R. Osmeña III

AN ACT  
FURTHER RESTRICTING THE TRANSFER OF TELECOMMUNICATION  
FRANCHISES LEGISLATIVE, AMENDING FOR THE PURPOSE SECTION 23,  
ARTICLE VIII OF REPUBLIC ACT NO. 7925, OTHERWISE KNOWN AS THE  
"PUBLIC TELECOMMUNICATIONS POLICY ACT OF THE PHILIPPINES OF  
1995".

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

SECTION 1. Section 23, Article VIII of Republic Act 7925, otherwise  
known as the "Public Telecommunications Policy Act of the Philippines of 1995",  
is hereby amended to read as follows:

"Sec. 23. **Equality of Treatment in the  
Telecommunications Industry.** - Any advantage, favor, privilege,  
exemption or immunity granted under existing franchises, or may  
hereafter be granted, shall *ipso facto* become part of previously granted  
telecommunications franchises **OF THE SAME NATURE** and shall be  
accorded immediately and unconditionally to the grantees of such  
franchises: *Provided, however,* 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, **OR ANY TRANSFER OF**

1    **CONTROLLING INTEREST, WHETHER BY TRANSFER OR SALE OF**  
2    **SHARES OF STOCK OR BY AN INCREASE IN CAPITALIZATON.**

3        **Sec. 2. *Repealing Clause.*** - All equality clauses of  
4    telecommunications franchises inconsistent with this Act are hereby  
5    deemed repealed or modified accordingly.

6        **Sec. 3. *Effectivity Clause.*** - This Act shall take effect fifteen  
7    (15) days from the date of its publication in at least two (2) newspapers of  
8    general circulation.

Approved,