

(AS AMENDED BY THE SENATE)

CONGRESS OF THE PHILIPPINES  
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HOUSE OF REPRESENTATIVES

H. No. 8861

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BY REPRESENTATIVES MARQUEZ, MACEDA, GUYA, NOGRALES (J.J.), DY (F.M.C.), GARCIA (P.J.), FORTUNO, RIVERA, ARENAS, ZUBIRI, VIOLAGO, QUIMBO, BORDADO, ALONTE, ROMUALDO, GULLAS, UNABIA, ROBES, BAUTISTA, VARGAS ALFONSO, FERRER (L.), CASTELO, TEJADA, ALMARIO, TAN (A.S.) AND ALVAREZ (F.), PER COMMITTEE REPORT NO. 791

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**AN ACT**

**RENEWING FOR ANOTHER TWENTY-FIVE (25) YEARS THE FRANCHISE GRANTED TO PANAY TELEPHONE CORPORATION UNDER REPUBLIC ACT NO. 8704, ENTITLED "AN ACT GRANTING THE PANAY TELEPHONE CORPORATION, INC. A FRANCHISE TO CONSTRUCT, ESTABLISH, INSTALL, MAINTAIN AND OPERATE LOCAL EXCHANGE NETWORK IN THE PROVINCES OF AKLAN AND ANTIQUE AND IN THE MUNICIPALITY OF JANIUAY, PROVINCE OF ILOILO", LIMITING THE AREA OF OPERATION TO THE PROVINCES OF AKLAN AND ANTIQUE**

*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  
2 the Constitution and applicable laws, rules and regulations, the franchise granted to  
3 Panay Telephone Corporation, hereunder referred to as the grantee, its successor or  
4 assignees under Republic Act No. 8704, to construct, install, establish, operate, and  
5 maintain for commercial purposes and in the public interest in the Provinces of Aklan  
6 and Antique, wire and wireless telecommunications system, copper, fiber optics,  
7 satellite transmit and receive systems, switches and their value-added services such  
8 as the transmission of voice, data, facsimile, control signs, audio and video,  
9 information services and all other telecommunication system technologies as are at  
10 present available or will be made available through technological advances or  
11 innovations in the future; or construct, acquire, lease, and operate, or manage

1 transmitting and receiving stations, lines, cables, or systems as are convenient and  
2 essential to efficiently carry out the purpose of this franchise, is hereby renewed for  
3 another twenty-five (25) years.

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

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

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

28  
29 **SEC. 4. Excavation and Restoration Works.** – For the purpose of erecting  
30 and maintaining poles or other supports for said wires or other conductors for the  
31 purpose of laying and maintaining underground wires, cables, or other conductors, it  
32 shall be lawful for the grantee, its successors or assignees, with the prior approval of  
33 the Department of Public Works and Highways (DPWH) or the local government unit  
34 (LGU) concerned, as may be appropriate, to make excavations or lay conduits in any

1 of the public places, roads, highways, streets, lanes, alleys, avenues, sidewalks, or  
2 bridges of the province, cities, or municipalities: *Provided, however,* That a public  
3 place, road, highway, street, lane, alley, avenue, sidewalk, or bridge disturbed,  
4 altered or changed by reason of erection of poles or other supports or the  
5 underground laying of wires, other conductors or conduits, shall be repaired and  
6 replaced in workmanlike manner by said grantee, its successors or assignees, in  
7 accordance with the standards set by the DPWH or the LGU concerned. Should the  
8 grantee, its successors or assignees, after the ten (10)-day notice from the said  
9 authority, fail, refuse, or neglect to repair or replace any part of public place, road,  
10 highway, street, lane, alley, avenue, sidewalk, or bridge altered, changed or  
11 disturbed by the said grantee, its successors or assignees, then the DPWH or the  
12 LGU concerned shall have the right to have the same repaired and placed in good  
13 order and condition, and charge the grantee, its successors or assignees at double  
14 the amount of the costs and expenses for such repair or replacement.

15

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

20

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

26

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

31

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

35

1           **SEC. 6. Rates for Services.** – The charges and rates for telecommunications  
2 services of the grantee, except the rates and charges on those that may hereafter be  
3 declared or considered as nonregulated services, whether flat rates or measured  
4 rates or variations thereof, shall be subject to the approval of the NTC or its legal  
5 successor. The rates to be charged by the grantee shall be unbundled, separable,  
6 and distinct among the services offered and shall be determined in such a manner  
7 that regulated services do not subsidize the unregulated ones.

8  
9           **SEC. 7. Right of Government.** – The radio spectrum is a finite resource that  
10 is part of the national patrimony and the use thereof is a privilege conferred upon the  
11 grantee by the State and may be withdrawn any time after due process.

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

22  
23           **SEC. 8. Term of Franchise.** – This franchise shall be in effect for a period of  
24 twenty-five (25) years from the date of the effectivity of this Act, unless sooner  
25 cancelled. This franchise shall be deemed *ipso facto* revoked in the event the  
26 grantee fails to operate continuously for two (2) years.

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

32  
33           **SEC. [10] 9. Right of Interconnection.** – The grantee is hereby authorized to  
34 connect or demand connection of its telecommunications systems to other  
35 telecommunications systems installed, operated, and maintained by any other duly

1 authorized person or entity in the Philippines for the purpose of providing extended  
2 and improved telecommunications services to the public, under the terms and  
3 conditions mutually agreed upon by the parties concerned. This right shall be subject  
4 to the review and modification of the NTC.  
5

6 **SEC. [41] 10. *Warranty in Favor of the National and Local Governments.* -**

7 The grantee shall hold the national, provincial, city, and municipal governments of  
8 the Philippines free from all claims, liabilities, accounts, demands, or actions arising  
9 out of accidents causing injury to persons or damage to properties, during the  
10 construction or operation of the stations, transmitters, facilities, or equipment of the  
11 grantee.  
12

13 **SEC. [42] 11. *Sale, Lease, Transfer, Grant of Usufruct, or Assignment of***  
14 ***Franchise.*** – The grantee shall not sell, lease, transfer, grant the usufruct of, nor  
15 assign this franchise or the rights and privileges acquired thereunder to any person,  
16 firm, company, corporation, or other commercial or legal entity, nor merge with any  
17 other corporation or entity, nor shall the controlling interest of the grantee be  
18 transferred, simultaneously or contemporaneously, to any person, firm, company,  
19 corporation, or entity without the prior approval of Congress. The grantee shall inform  
20 Congress of any sale, lease, transfer, grant of usufruct, or assignment of franchise or  
21 the rights and privileges acquired thereunder, or of the merger or transfer of the  
22 controlling interest of the grantee, within sixty (60) days after the completion of the  
23 said transaction. Failure to report to Congress such change of ownership shall  
24 render the franchise *ipso facto* revoked. Any person or entity to which this franchise  
25 is sold, transferred, or assigned shall be subject to the same conditions, terms,  
26 restrictions, and limitations of this Act.  
27

28 **SEC. [43] 12. *Dispersal of Ownership.*** - In accordance with the  
29 constitutional provision to encourage public participation in public utilities, the  
30 grantee shall offer to Filipino citizens at least thirty percent (30%) of its [~~common~~]  
31 OUTSTANDING CAPITAL stocks, or a higher percentage that may hereafter be  
32 provided by law, in any securities exchange in the Philippines within five (5) years  
33 from the effectivity of this Act: *Provided*, That in cases where public offer of shares is  
34 not applicable, other methods of encouraging public participation by citizens and

1 corporations operating public utilities must be implemented. Noncompliance  
2 therewith shall render the franchise *ipso facto* revoked.

3  
4 **Sec. [14] 13. *Commitment to Provide and Promote the Creation of***  
5 ***Employment Opportunities.*** – The grantee shall create employment opportunities  
6 and accept on-the-job trainees in the franchise operations: *Provided*, That priority  
7 shall be accorded to the residents of the place where the principal office of the  
8 grantee is located: [~~*Provided further*, That the grantee shall ensure that at least sixty~~  
9 ~~percent (60%) of its employees are regular employees and in no case shall the~~  
10 ~~percentage of contractual, job order, or casual employees, and independent~~  
11 ~~contractors combined, exceed forty percent (40%) of its total workforce:]~~ *Provided*,  
12 [~~*finally*~~] *FURTHER*, That the grantee shall comply with the applicable labor standards  
13 and allowance entitlement under existing labor laws, rules and regulations, and  
14 similar issuances.

15  
16 The employment opportunities or jobs created shall be reflected in the  
17 General Information Sheet (GIS) to be submitted to the Securities and Exchange  
18 Commission (SEC) annually. [~~In addition, the grantee shall include in its annual~~  
19 ~~report to Congress the number of trainees, job order workers, casual employees, and~~  
20 ~~contract of service workers whose employment status are made regular, and append~~  
21 ~~the appropriate certificate from the Department of Labor and Employment attesting~~  
22 ~~that it has complied with the employment requirement under this Section.]~~

23  
24 **SEC. [15] 14. *Reportorial Requirement.*** – The grantee shall submit an  
25 annual report on its compliance with the terms and conditions of the franchise and on  
26 its operations to the Congress of the Philippines, through the Committee on  
27 Legislative Franchises of the House of Representatives and the Committee on Public  
28 Services of the Senate, on or before April 30 of every year during the term of its  
29 franchise.

30  
31 The annual report shall include an update on the roll-out, development,  
32 operation, or expansion of business; audited financial statements; latest GIS officially  
33 submitted to the SEC, if applicable; certification of the NTC on the status of its  
34 permits and operations; and an update on the dispersal of ownership undertaking, if  
35 applicable.

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

3  
4 **SEC. [16] 15. *Fine.*** – Failure of the grantee to submit the requisite annual  
5 report to Congress shall be penalized with a fine in the amount of One million pesos  
6 (P1,000,000.00) each working day of noncompliance, the effectivity of which shall  
7 commence upon applicability with other telecommunications franchise grantees:  
8 *Provided*, That in the interim, the grantee shall be liable to pay the fine of Five  
9 hundred pesos (P500.00) per working day of noncompliance. The fine shall be  
10 collected by the NTC from the delinquent franchise grantee separate from the  
11 reportorial penalties imposed by the NTC, and the same shall be remitted to the  
12 Bureau of the Treasury.

13  
14 **SEC. [17] 16. *Equality Clause.*** – Any advantage, favor, privilege, exemption,  
15 or immunity granted under existing franchises, or which may hereafter be granted for  
16 telecommunications, upon prior review and approval of Congress, shall become part  
17 of this franchise and shall be accorded immediately and unconditionally to the herein  
18 grantee: *Provided, however*, That the foregoing shall neither apply to nor affect the  
19 provisions of telecommunications franchises concerning territory covered by the  
20 franchise, the life span of the franchise, or the type of service authorized by the  
21 franchise.

22  
23 **SEC. [18] 17. *Repealability and Nonexclusivity Clause.*** – This franchise  
24 shall be subject to amendment, alteration, or repeal by Congress when the public  
25 interest so requires and shall not be interpreted as an exclusive grant of the privilege  
26 herein provided for.

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28 **SEC. [19] 18. *Separability Clause.*** – If any of the sections or provisions of  
29 this Act is held invalid, all other provisions not affected thereby shall remain valid.

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31 **SEC. [20] 19. *Repealing Clause.*** – All laws, decrees, orders, resolutions,  
32 instructions, rules and regulations, and other issuances or parts thereof which are  
33 inconsistent with the provisions of this Act are hereby repealed, amended, or  
34 modified accordingly.

1           **SEC. [21] 20. *Effectivity.*** – This Act shall take effect fifteen (15) days after its  
2 publication in the *Official Gazette* or in a newspaper of general circulation.

Approved,