

(AS AMENDED BY THE SENATE)

CONGRESS OF THE PHILIPPINES
EIGHTEENTH CONGRESS
Second Regular Session

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HOUSE OF REPRESENTATIVES

H. No. 8971

BY REPRESENTATIVES ROMUALDO, ALVAREZ (F.) AND MACEDA, PER COMMITTEE REPORT NO. 844

**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:*

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 ISMO INCORPORATED, hereunder referred as the grantee, its successor or
4 assignees, a franchise to construct, install, establish, operate and maintain for
5 commercial purposes and in the public interest, throughout the Philippines and
6 between the Philippines and other countries and territories, wired or wireless
7 telecommunications systems, including international and local exchange carrier,
8 international and domestic gateway facility, international and domestic submarine
9 cable landing stations, mobile, cellular, fixed line, trunked radio, fiber optics, multi-
10 channel multipoint distribution system, satellite transmit and receive systems,
11 switches, electronic telecommunications or electronic communications services in or
12 outside the Philippines and also in outer space, and value added services, such as
13 transmission of voice, data, facsimile, control signs, audio and video, information
14 services, and all other telecommunications systems and technologies as are at present
15 available or will be made available through technical advances or innovations in the
16 future; and to construct, establish, install, maintain, acquire, lease, operate, and
17 manage the corresponding transmitting and receiving stations, lines, cables, or

1 systems, as are convenient or essential to efficiently carry out the purpose of this
2 franchise.

3
4 As used in this Act:

5 *Electronic communications network* refers to (a) a transmission system for
6 conveyance by means of electrical, magnetic, or electromagnetic energy, of signals of
7 any description; and (b) any of the following as are used by the persons providing the
8 system and in association with it, for conveyance of the signals: (1) apparatus
9 comprised in the system; (2) apparatus used for the switching and routing of the
10 system; and (3) software and stored data;

11 *Electronic communications service* refers to a service consisting in or having as
12 its principal feature the conveyance by means of electronic communications network
13 of signals. It includes wired, wireless, fixed, cellular or mobile, or integrated
14 telecommunications services, including value-added services, or technologies related
15 to such services which are at present available or made available through
16 technological advances or innovations, and fixed and mobile stations;

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

22
23 **SEC. 2. *Manner of Operation of Stations or Facilities.*** – The stations or facilities
24 of the grantee shall be constructed and operated in a manner as will, at most, result
25 only in the minimum interference on the wavelengths or frequencies of existing stations
26 or other stations which may be established by law, without in any way diminishing its
27 own right to use its assigned wavelengths or frequencies and the quality of
28 transmission or reception thereon as should maximize rendition of the grantee's
29 services or the availability thereof.

30
31 **SEC. 3. *Authority of the National Telecommunications Commission.*** – The
32 grantee shall secure from the National Telecommunications Commission (NTC) a
33 Certificate of Public Convenience and Necessity or the appropriate permits and
34 licenses for the construction, installation, and operation of its telecommunications
35 systems or facilities. In issuing the certificate, the NTC shall have the power to regulate

1 and impose such conditions relative to the construction, operation, maintenance, or
2 service level of the telecommunications systems or facilities. Such certificate shall
3 state the areas covered and the date the grantee shall commence the service. The
4 grantee shall not use any frequency in the radio spectrum without authorization from
5 the NTC. The NTC, however, shall not unreasonably withhold or delay the grant of
6 such authority, permit, or license.

7
8 In case of any violation of the provisions of this franchise, the NTC shall have
9 the authority to revoke or suspend, after due process, the permits or licenses it issued
10 pursuant to the franchise. The NTC may recommend to Congress the revocation of
11 the franchise for any violation of the provisions of this franchise.

12
13 **SEC. 4. *Excavation and Restoration Works.*** – For the purposes of erecting and
14 maintaining poles or other supports for wires or other conductors and for laying and
15 maintaining of underground wires, cables, or other conductors, it shall be lawful for the
16 grantee, its successors or assignees, with the prior approval of the Department of
17 Public Works and Highways (DPWH) or the local government unit (LGU) concerned,
18 as may be appropriate, to make excavations or lay conduits in any of the public places,
19 roads, highways, streets, lanes, alleys, avenues, sidewalks, or bridges of the province,
20 cities, or municipalities: *Provided, however,* That a public place, road, highway, street,
21 lane, alley, avenue, sidewalk, or bridge disturbed, altered or changed by reason of
22 erection of poles or other supports or the underground laying of wires, other
23 conductors or conduits, shall be repaired and replaced in workmanlike manner by the
24 grantee, its successors or assignees, in accordance with the standards set by the
25 DPWH or the LGU concerned. Should the grantee, its successors or assignees, after
26 the ten (10)-day notice from the said authority, fail, refuse, or neglect to repair or
27 replace any part of public place, road, highway, street, lane, alley, avenue, sidewalk,
28 or bridge altered, changed or disturbed by the grantee, its successors or assignees,
29 then the DPWH or the LGU concerned shall have the right to have the same repaired
30 and placed in good order and condition, and charge the grantee, its successors or
31 assignees at double the amount of the costs and expenses for such repair or
32 replacement.

33
34 **SEC. 5. *Responsibility to the Public.*** - The grantee shall conform to the ethics
35 of honest enterprise and not use its stations or facilities for obscene or indecent

1 transmission, or for dissemination of deliberately false information, or willful
2 misrepresentation, or assist in subversive or treasonable acts.

3
4 The grantee shall operate and maintain all its stations, lines, cables, systems,
5 and equipment for the transmission and reception of messages, signals, and pulses in
6 a satisfactory manner at all times, and as far as economical and practicable, modify,
7 improve, or change such stations, lines, cables, systems, and equipment to keep
8 abreast with the advances in science and technology.

9
10 The grantee shall improve and extend its services in areas not yet served, and
11 in hazard- and typhoon-prone areas that shall be determined by the National Disaster
12 Risk Reduction and Management Council, or its legal successor, in coordination with
13 the NTC.

14
15 The grantee shall also improve and upgrade its equipment, facilities, and
16 services, in order to ensure effective compliance with the objectives of Republic Act
17 No. 10639 or “The Free Mobile Disaster Alerts Act”.

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

25
26 **SEC. 7. *Right of Government.*** – The radio spectrum is a finite resource that is
27 part of the national patrimony and the use thereof is a privilege conferred upon the
28 grantee by the State and may be withdrawn any time after due process.

29
30 A special right is hereby reserved to the President of the Philippines, in times
31 of war, rebellion, public peril, calamity, emergency, disaster, or disturbance of peace
32 and order: to temporarily take over and operate the stations, transmitters, facilities, or
33 equipment of the grantee; to temporarily suspend the operation of any station,
34 transmitter, facility, or equipment in the interest of public safety, security, and public

1 welfare; or to authorize the temporary use and operation thereof by any agency of the
2 government, upon due compensation to the grantee for the use of the stations,
3 transmitters, facilities, or equipment during the period when these shall be so operated.
4

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

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

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

13 (c) continuous operation for two (2) years.
14

15 ~~[SEC. 9. *Renewal or Extension of Franchise.* – The grantee shall apply for the~~
16 ~~renewal or extension of its franchise three (3) years before its expiration which shall~~
17 ~~be reckoned from fifteen (15) days after the publication of the franchise in the *Official*~~
18 ~~*Gazette* or in a newspaper of general circulation.]~~
19

20 SEC. [40] 9. *Bond.* – The grantee shall file a bond with the NTC, in the amount
21 that the NTC shall determine, to guarantee compliance with and fulfillment of the
22 conditions under which this franchise is granted. If, after three (3) years from the date
23 of approval of its permit by the NTC, the grantee shall have fulfilled the same, the bond
24 shall be released by the NTC. Otherwise, the bond shall be forfeited in favor of the
25 government and the franchise *ipso facto* revoked.
26

27 SEC. [44] 10. *Right of Interconnection.* – The grantee is hereby authorized to
28 connect or demand connection of its telecommunications systems to other
29 telecommunications systems installed, operated, and maintained by any other duly
30 authorized person or entity in the Philippines for the purpose of providing extended
31 and improved telecommunications services to the public, under the terms and
32 conditions mutually agreed upon by the parties concerned. This right shall be subject
33 to the review and modification of the NTC.

1 SEC. [42] 11. *Mobile Number Portability.* – The grantee shall provide mobile
2 number portability (MNP) and its implementing mechanism, including the required
3 infrastructure and processes, and shall interconnect, directly or indirectly, with the
4 infrastructure, facilities, systems, or equipment of other telecommunications franchise
5 grantees. It shall not install network features, functions, or capabilities that will impede
6 the implementation of a nationwide MNP system.

7
8 SEC. [43] 12. *Warranty in Favor of the National and Local Governments.* - The
9 grantee shall hold the national, provincial, city, and municipal governments of the
10 Philippines free from all claims, liabilities, accounts, demands, or actions arising out of
11 accidents causing injury to persons or damage to properties, during the construction
12 or operation of the stations, transmitters, facilities, or equipment of the grantee.

13
14 SEC. [44] 13. *Sale, Lease, Transfer, Grant of Usufruct, or Assignment of*
15 *Franchise.* – The grantee shall not sell, lease, transfer, grant the usufruct of, nor assign
16 this franchise or the rights and privileges acquired thereunder to any person, firm,
17 company, corporation, or other commercial or legal entity, nor merge with any other
18 corporation or entity, nor shall the controlling interest of the grantee be transferred,
19 simultaneously or contemporaneously, to any person, firm, company, corporation, or
20 entity without the prior approval of Congress. The grantee shall inform Congress,
21 through the Office of the Speaker of the House of Representatives and the Office of
22 the Senate President, of any sale, lease, transfer, grant of usufruct, or assignment of
23 franchise or the rights and privileges acquired thereunder, or of the merger or transfer
24 of the controlling interest of the grantee, within sixty (60) days after the completion of
25 the said transaction. Failure to report to Congress such change of ownership shall
26 render the franchise *ipso facto* revoked. Any person or entity to which this franchise is
27 sold, transferred, or assigned shall be subject to the same conditions, terms,
28 restrictions, and limitations of this Act.

29
30 SEC. [45] 14. *Dispersal of Ownership.* - In accordance with the constitutional
31 provision to encourage public participation in public utilities, the grantee shall offer to
32 Filipino citizens at least thirty percent (30%) of its [~~common~~] OUTSTANDING CAPITAL
33 stocks, or a higher percentage that may hereafter be provided by law, in any securities
34 exchange in the Philippines within five (5) years from the effectivity of this Act:
35 *Provided, That in cases where public offer of shares is not applicable, other methods*

1 of encouraging public participation by citizens and corporations operating public
2 utilities must be implemented. Noncompliance therewith shall render the franchise *ipso*
3 *facto* revoked.

4
5 Sec. [16] 15. *Commitment to Provide and Promote the Creation of*
6 *Employment Opportunities.* – The grantee shall create employment opportunities and
7 accept on-the-job trainees in its franchise operations: *Provided*, That priority shall be
8 accorded to the residents of the place where the principal office of the grantee is
9 located: [~~*Provided further*, That the grantee shall ensure that at least sixty percent~~
10 ~~(60%) of its employees are regular employees and in no case shall the percentage of~~
11 ~~contractual, job order, or casual employees, and independent contractors combined,~~
12 ~~exceed forty percent (40%) of its total workforce:~~] *Provided*, [~~*finally*,~~] *FURTHER*, That
13 the grantee shall comply with the applicable labor standards and allowance entitlement
14 under existing labor laws, rules and regulations, and similar issuances.

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

22
23 SEC. [17] 16. *Reportorial Requirement.* – The grantee shall submit an annual
24 report on its compliance with the terms and conditions of the franchise and on its
25 operations to the Congress of the Philippines, through the Committee on Legislative
26 Franchises of the House of Representatives and the Committee on Public Services of
27 the Senate, on or before April 30 of every year during the term of its franchise.

28
29 The annual report shall include an update on the commencement of activities,
30 development, operation, and expansion of business; audited financial statements;
31 latest GIS officially submitted to the SEC, if applicable; certification of the NTC on the
32 status of its permits and operations; and an update on the dispersal of ownership
33 undertaking, if 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. [18] 17. *Fine.* – Failure of the grantee to submit the requisite annual report
5 to Congress shall be penalized with a fine in the amount of One million pesos
6 (P1,000,000.00) for 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 hundred
9 pesos (P500.00) per working day of noncompliance to the NTC. The fine shall be
10 collected separately from the reportorial penalties imposed by the NTC, and it shall be
11 remitted to the Bureau of the Treasury.

12
13 SEC. [19] 18. *Equality Clause.* – Any advantage, favor, privilege, exemption, or
14 immunity granted under existing franchises, or which may hereafter be granted for
15 telecommunications, upon prior review and approval of Congress, shall become part
16 of this franchise and shall be accorded immediately and unconditionally to the herein
17 grantee: *Provided, however,* That the foregoing shall neither apply to nor affect the
18 provisions of telecommunications franchises concerning territory covered by the
19 franchise, the life span of the franchise, or the type of service authorized by the
20 franchise.

21
22 SEC. [20] 19. *Repealability and Nonexclusivity Clause.* – This franchise shall
23 be subject to amendment, alteration, or repeal by Congress when the public interest
24 so requires and shall not be interpreted as an exclusive grant of the privilege herein
25 provided for.

26
27 SEC. [21] 20. *Separability Clause.* – If any of the sections or provisions of this
28 Act is held invalid, all other provisions not affected thereby shall remain valid.

29
30 SEC. [22] 21. *Repealing Clause.* – All laws, decrees, orders, resolutions,
31 instructions, rules and regulations, and other issuances or parts thereof which are
32 inconsistent with the provisions of this Act are hereby repealed, amended, or modified
33 accordingly.

1 SEC. [23] 22. *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,