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REPUBLIC OF THE PHILIPPINES)
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RECEIVED BY: 

Introduced by Sen. Juan Ponce Enrile

A RESOLUTION

URGING THE APPROPRIATE SENATE COMMITTEES TO CONDUCT AN INQUIRY, IN AID OF LEGISLATION, INTO THE ISSUES CONCERNING THE TELECOMMUNICATIONS INDUSTRY AT PRESENT BROUGHT ABOUT BY THE ALLEGED QUESTIONABLE DECISIONS OF THE NATIONAL TELECOMMUNICATIONS COMMISSION WITH RESPECT TO THE ISSUANCE OF 3G-FREQUENCY TO THE CONNECTIVITY UNLIMITED RESOURCES, INC. WHICH EVENTUALLY SOLD ITS ASSETS TO SMART TELECOMMUNICATIONS, AS WELL AS THE GRANT OF BWA/WIMAX BANDWIDTH TO EXISTING AND NEW PUBLIC TELECOMMUNICATION ENTITIES, WITHOUT PROMULGATING THE NECESSARY AND APPROPRIATE GUIDELINES, WITH THE END IN VIEW OF RECOMMENDING IMMEDIATE REMEDIAL MEASURES TO ENSURE NON-DISCRIMINATION AND FAIR COMPETITION AMONG THE INDUSTRY PLAYERS AND, MORE IMPORTANTLY, PROTECT THE WELL-BEING OF OUR CONSUMERS

Whereas, the services offered by public telecommunication entities constantly and rapidly change such that in the last few years alone, the services and features of mobile telecommunications have evolved from the advanced mobile phone system (AMPS or 1G), to nationwide public mobile telephone system (NPMT or 2G), to the most recent universal mobile telephone system (UNMTS or 3G). The next growth market in telecommunications and data communications is envisioned to be in the use of broadband technology;

Whereas, presently, there are two (2) major mobile technologies that are able to deliver data through broadband, and these are: first, 3G or third generation mobile service which uses WideBand Code Division Multiple Access (WCDMA) modulation technique and operates in the 1.9GHz – 2.1 GHz frequency band and, second, Worldwide Interoperability for Microwave Access (WIMAX);

Whereas, these operating bandwidths are limited and, consequently, should be treated as a precious and scarce resource. In view thereof, said bandwidth or radio frequency spectrum should be administered in the public interest and shall be granted to the best qualified, as stated in Republic Act No. 7925 which further provides that *“the government shall allocate the spectrum to service providers who will use it efficiently and effectively to meet public demand for telecommunications services and may avail of new and cost-effective technologies in the use of methods for its utilizations”* [Sec. 4(c)];

Whereas, the National Telecommunications Commission (NTC), the government agency primarily tasked to govern the business operations of the telecommunications industry in the country, has reportedly adopted a list of criteria to determine which public telecommunications entities shall be granted licenses to provide 3G mobile services under Memorandum Circular Nor. 07-08-2005;

Whereas, based on this set of criteria, the NTC assessed the PTEs and issued licenses to only four (4) qualified PTEs to allow the same to offer 3G-mobile services. These are Smart Telecommunications, Globe Telecommunications, Digitel, and, allegedly to the exclusion of other more qualified PTEs, Connectivity Unlimited Resource Enterprise, Inc. (CURE), which is a newly-established and non-operating company;



Whereas, CURE, allegedly without any proven technical or financial capability to undertake a 3G rollout, has reportedly sold 100% of its shares to Smart Telecommunications in April 2008 even before CURE could commence its commercial operations;

Whereas, this is clearly a violation of the franchise granted under Republic Act No. 9130 which specifically states under Sec. 16 that *“The grantee shall not lease, transfer, grant the usufruct of, sell 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, whether as a whole or in parts and whether simultaneously or contemporaneously, to any such person, firm, company, corporation or entity without the prior approval of the Congress of the Philippines;*

Whereas, there have been reports that the NTC has likewise awarded BWA/WIMAX bandwidth to existing and new franchises without the necessary license applications and, therefore, without any public hearing. Said indiscriminate granting of license to use precious resource without clear criteria and implementing guidelines;

Whereas, one of the policy objectives of the charter of the National Telecommunications Commission, under RA 7925 states that: *“For efficiency, practicability, and convenience, but with due regard to the observance of due process at all times, regulation of telecommunications entities shall rely principally on an administrative process that is stable, transparent and fair, giving due emphasis on technical, legal, economic and financial considerations”;*

Now, therefore, **BE IT RESOLVED, AS IT IS HEREBY RESOLVED**, for the appropriate Senate committees to conduct an inquiry, in aid of legislation, into the issues concerning the telecommunications industry at present, brought about by the alleged questionable decisions of the National Telecommunications Commission with respect to the issuance of 3G-frequency to the Connectivity Unlimited Resources, Inc., which eventually sold its assets to Smart Telecommunications, as well as the grant of BWA/WIMAX bandwidth to existing and new public telecommunication entities, without promulgating the necessary and appropriate guidelines, with the end in view of recommending immediate remedial measures to ensure non-discrimination and fair competition among the industry players and, more importantly, protect the well-being of our consumers.

Adopted ,


JUAN PONCE ENRILE
Senator