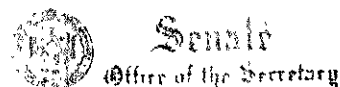


SIXTEENTH CONGRESS OF THE REPUBLIC)
OF THE PHILIPPINES)
Second Regular Session)



15 APR 30 P3:38

SENATE
S. B. No. 2743

RECEIVED BY: *J*

Introduced by SENATOR LOREN LEGARDA

AN ACT

RENEWING THE FRANCHISE GRANTED TO SATELLITE PAGING SYSTEMS PHILIPPINES, INC. (PRESENTLY KNOWN AS NOW TELECOM COMPANY, INC.) UNDER REPUBLIC ACT NO. 7301, AS AMENDED BY REPUBLIC ACT NO. 7940, ENTITLED "AN ACT GRANTING SATELLITE PAGING SYSTEMS PHILIPPINES, INC., A FRANCHISE TO CONSTRUCT, ESTABLISH, OPERATE AND MAINTAIN RADIO PAGING SYSTEMS AND TRUNKED RADIO SYSTEMS WITHIN THE PHILIPPINES FOR A PERIOD OF TWENTY-FIVE (25) YEARS, AND FOR OTHER PURPOSES" FOR ANOTHER TWENTY-FIVE (25) YEARS FROM THE EFFECTIVITY OF THE ACT

EXPLANATORY NOTE

Section 20 of the Philippine Constitution provides that, "*The State recognizes the indispensable role of the private sector, encourages private enterprise, and provides incentives to needed investments.*"

Satellite Paging Systems was originally granted a franchise to construct, establish, operate and maintain a radio paging systems and trunked radio systems through Republic Act No. 7301. The said franchise was later expanded to include cellular phone systems and personal communication network (PCN) and was extended for another twenty-five (25) years by R.A. No. 7940.

This measure aims to further extend the franchise granted to Infocom Communications Network Incorporated (ICNI) and seeks to expand the nature and scope of its franchise, amending for the purpose R.A. No. 7940 and further seeks to change its name to *Now Telecom Company*.

Given the importance of having efficient and modern telecommunication systems in the country, the proposed measure seeks to further amend the aforementioned franchise as to include fiber optics, satellite and wire and/or wireless communication systems. In view of the foregoing, immediate passage of this bill is earnestly sought.


LOREN LEGARDA
Senator

15 APR 30 P3 38

SENATE
S. B. No. 2743

RECEIVED BY: 

Introduced by SENATOR LOREN LEGARDA

AN ACT
RENEWING THE FRANCHISE GRANTED TO SATELLITE PAGING SYSTEMS PHILIPPINES, INC. (PRESENTLY KNOWN AS NOW TELECOM COMPANY, INC.) UNDER REPUBLIC ACT NO. 7301, AS AMENDED BY REPUBLIC ACT NO. 7940, ENTITLED "AN ACT GRANTING SATELLITE PAGING SYSTEMS PHILIPPINES, INC., A FRANCHISE TO CONSTRUCT, ESTABLISH, OPERATE AND MAINTAIN RADIO PAGING SYSTEMS AND TRUNKED RADIO SYSTEMS WITHIN THE PHILIPPINES FOR A PERIOD OF TWENTY-FIVE (25) YEARS, AND FOR OTHER PURPOSES" FOR ANOTHER TWENTY-FIVE (25) YEARS FROM THE EFFECTIVITY OF THE ACT

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

Chapter I
General Provisions

1 **Section 1.** *Nature and Scope of Franchise.* - Subject to the provisions of the
2 1987 Philippine Constitution and applicable laws, rules and regulations, the
3 franchise granted to Satellite Paging Systems Philippines, Inc., (now Now
4 Telecom Company, Inc.) under Republic Act No. 7301 entitled "An Act Granting
5 Satellite Paging Systems Philippines, Inc., A Franchise To Construct, Establish,
6 Operate and Maintain Radio Paging Systems and Trunked Radio Systems
7 Within The Philippines For A Period of Twenty-Five (25) Years, And For Other
8 Purposes," and hereunder referred to as the Grantee, its successors or assigns,
9 a franchise to construct, install, establish, operate and maintain for
10 commercial purposes and in the public interest, wire and/or wireless

1 telecommunications systems, including but not limited to mobile, cellular,
2 paging, fiber optics, satellite transmit and receive systems, transoceanic cable
3 landing station and systems, switches, and their value-added services such as,
4 but not limited to, transmission of voice, data, facsimile, control signs, audio
5 and video, information services bureau and all other telecommunications
6 systems technologies as are at present available or will be made available
7 through technological advances or innovations in the future; and/or construct,
8 acquire, lease and operate or manage transmitting and receiving stations, lines,
9 cables or systems within and without the Philippines, is hereby renewed for
10 another twenty-five (25) years from the effectivity of this Act.

11
12 **Section 2.** *Manner of Operation of Stations or Facilities.* – The stations or
13 facilities of the grantee shall be constructed and operated in a manner as will,
14 at most, result only in the minimum interference on the wavelengths or
15 frequencies of existing stations or other stations which may be established by
16 law, without in any way diminishing its own right to use its selected
17 wavelengths or frequencies and the quality of transmission or reception
18 thereon as should maximize rendition of the grantee’s services and/or
19 availability thereof.

20
21 **Section 3.** *Authority of the National Telecommunications Commission (NTC).* –
22 The grantee shall secure from the NTC a Certificate of Public Convenience and
23 Necessity or the appropriate permits and licenses for the construction,
24 installation and operation of its telecommunications systems/facilities. In
25 issuing the certificate, the NTC shall have the power to impose such conditions
26 relative to the construction, operation, maintenance, or service level of the
27 telecommunications system. The NTC shall have the authority to regulate the
28 construction and operation of its telecommunications systems. The grantee
29 shall not use any frequency in the radio spectrum without authorization from
30 the NTC. Such certificate shall state the areas covered and date the grantee

1 shall commence the service. The NTC, however, shall not unreasonably
2 withhold or delay the grant of any such authority, permits or licenses.

3

4 **Section 4. *Excavation and Restoration Works.*** – For the purpose of erecting and
5 maintaining poles or other supports for said wires or other conductors for the
6 purpose of laying and maintaining underground wires, cables or other
7 conductors, it shall be lawful for the grantee, its successors or assigns, with
8 the prior approval of the Department of Public Works and Highways (DPWH) or
9 the local government unit concerned, as may be appropriate, to make
10 excavations or lay conduits in any of the public places, highways, streets,
11 lanes, alleys, avenues, sidewalks or bridges of said province, cities and/or
12 municipalities: *Provided, however,* That a public place, highway, street, lane,
13 alley, avenue, sidewalk or bridge disturbed, altered or changed by reason of
14 erection of poles or other supports or the underground laying of wires, other
15 conductors or conduits, shall be repaired and replaced in workmanlike manner
16 by said grantee, its successors or assigns, in accordance with the standards set
17 by DPWH or the local government unit concerned. Should the grantee, its
18 successors assigns, after the ten (10) day notice from the said authority, fail,
19 refuse or neglect to repair or replace any part of public place, road, highway,
20 street, lane, alley, avenue, sidewalk or bridge altered, changed or disturbed by
21 the said grantee, its successors or assigns, then the DPWH or the local
22 government unit concerned shall have the right to have the same repaired and
23 placed in good order and condition at double expense to be charged against the
24 grantee, its successors or assigns.

25

26 **Section 5. *Responsibility to the Public.*** - The grantee shall conform to the ethics
27 of honest enterprise and not use its stations/facilities for obscene or indecent
28 transmission or for dissemination of deliberately false information or willful
29 misrepresentation, or assist in subversive or treasonable acts.

30

1 The grantee shall provide basic or enhanced telephone service in any city
2 and/or municipality in the Philippines where it has an approved Certificate of
3 Public Convenience and Necessity for the establishment, operation and
4 maintenance of a local exchange service, without discrimination to any
5 applicant therefor, in the order of the date of their applications, up to the limit
6 of the capacity of its local telephone exchange, and should the demand for the
7 telephone service at any time increase beyond the capacity thereof, the grantee
8 shall increase the same to meet such demand: *Provided*, That in case the total
9 demand to be satisfied by the expansion is less than the smallest viable local
10 exchange available in the market as determined by the NTC, the grantee shall
11 not be obliged to furnish such service unless the applicant for telephone service
12 defrays the actual expenses for the installation of the telecommunications
13 apparatus necessary for such services and in such case, the NTC may extend
14 the time within which the grant shall furnish such service.

15
16 The grantee shall operate and maintain all its stations, lines, cables, systems,
17 and equipment for the transmission and reception of messages, signals and
18 pulses in a satisfactory manner at all times, and as far as economical and
19 practicable, modify, improve or change such stations, lines, cables, systems,
20 and equipment to keep abreast with the advances in science and technology.

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

30

1 **Section 7. *Right of Government.*** – A special right is hereby reserved to the
2 President of the Philippines, in times of war, rebellion, public peril, calamity,
3 emergency, disaster or disturbance of peace and order, to temporarily take over
4 and operate the stations, transmitters, facilities or equipment of the grantee, to
5 temporarily suspend the operation of any station, transmitter, facility or
6 equipment in the interest of public safety, security and public welfare, or to
7 authorize the temporary use and operation thereof by any agency of the
8 government, upon due compensation to the grantee for the use of said stations,
9 transmitters, facilities or equipment during the period when they shall be so
10 operated.

11
12 The radio spectrum is a finite resource that is part of the national patrimony
13 and the use thereof is a privilege conferred upon the grantee by the State and
14 may be withdrawn anytime after due process.

15
16 **Section 8. *Term of Franchise.*** – This franchise shall be in effect for a period of
17 twenty-five (25) years from the date of effectivity of this Act, unless sooner
18 cancelled. This franchise shall be deemed *ipso facto* revoked in the event the
19 grantee fails to operate continuously for two (2) years.

20
21 **Section 9. *Acceptance and Compliance.*** – Acceptance of this franchise shall be
22 given in writing to the Congress of the Philippines, through the Committee on
23 Legislative Franchises of the House of Representatives and the Committee on
24 Public Services of the Senate within sixty (60) days from the effectivity of this
25 Act. Upon giving such acceptance, the grantee shall exercise the privileges
26 granted under this Act. Non-acceptance shall render the franchise void.

27
28 **Section 10. *Bond.*** - The grantee shall file a bond with the NTC in the amount
29 that it shall determine to guarantee compliance with and fulfillment of the
30 conditions under which this franchise is granted. If after three (3) years from

1 the date of the approval of its permit by the NTC, the grantee shall have
2 fulfilled the conditions, the bond shall be cancelled by the NTC. Otherwise, the
3 bond shall be forfeited in favor of the government and the franchise *ipso facto*
4 revoked.

5
6 **Section 11. *Right of Interconnection.*** – The grantee is hereby authorized to
7 connect or demand connection of its telecommunications systems to other
8 telecommunications systems installed, operated and maintained by any other
9 duly authorized person or entity in the Philippines for the purpose of providing
10 extended and improved telecommunications services to the public, under such
11 terms and conditions mutually agreed upon by the parties concerned and the
12 same shall be subject to the review and modification of the NTC.

13
14 **Section 12. *Gross Receipts.*** - The grantee, its successors or assigns, shall keep
15 a separate account of the gross receipts of the business transacted by it and
16 shall furnish the Commission on Audit (COA) and the National Treasury a copy
17 of such account not later than the thirty-first (31st) day of January of each
18 year for the preceding twelve (12) months.

19 **Section 13. *Books and Accounts.*** – The books and accounts of the grantee, its
20 successor or assigns, shall always be open to the inspection of the Commission
21 on Audit (COA) and its duly-authorized representatives. It shall be the duty of
22 the grantee to submit to the COA two (2) copies of the quarterly reports on the
23 gross receipts, the net profits and the general condition of the business.

24 **Section 14. *Warranty in Favor of the National and Local Governments.*** – The
25 grantee shall hold the national, provincial, city and municipal governments of
26 the Philippines free from all claims, accounts, demands or actions arising out
27 of accidents or injuries, whether to property or to persons, caused by the
28 construction or operation of the stations, transmitters, facilities and equipment
29 of the grantee.

1 **Section 15. Sale, Lease, Transfer, Usufruct, or Assignment of Franchise.** - The
2 grantee shall not sell, lease, transfer, grant the usufruct of, or assign this
3 franchise or the rights and privileges acquired thereunder to any person, firm,
4 company, corporation or other commercial or legal entity, or merge with any
5 other corporation or entity, or shall transfer the controlling interest of the
6 grantee, whether as a whole or in parts and whether simultaneously or
7 contemporaneously, to any such person, firm, company, corporation or entity
8 without the prior approval of the Congress of the Philippines: *Provided*, That
9 Congress shall be informed of any sale, lease, transfer, grant of usufruct, or
10 assignment of franchise or the rights or privileges acquired within sixty (60)
11 days after the completion of said transaction: *Provided, further*, That failure to
12 report to Congress such change of ownership shall render the franchise *ipso*
13 *facto* revoked: *Provided, finally*, That any person or entity to which this
14 franchise is sold, transferred or assigned, shall be subject to the same
15 conditions, terms, restrictions and limitations of this Act.
16

17 **Section 16. Dispersal of Ownership.** - In accordance with the constitutional
18 provision to encourage public participation in public utilities, the grantee shall
19 offer to Filipino citizens at least thirty per centum (30%) or a higher percentage
20 that may hereafter be provided by law of its outstanding capital stock in any
21 securities exchange in the Philippines within five (5) years from the
22 commencement of its operations: *Provided*, That in cases where public offer of
23 shares is not applicable, establishment of cooperatives operating public utilities
24 must be implemented. Noncompliance therewith shall render the franchise *ipso*
25 *facto* revoked.
26

27 **Section 17. Reportorial Requirement.** - The grantee shall submit an annual
28 report to the Congress of the Philippines, through the Committee on Legislative
29 Franchises of the House of Representatives and the Committee on Public
30 Services of the Senate, on its compliance with the terms and conditions of the
31 franchise and on its operations on or before April 30 of the succeeding year.

1 **Section 18. *Penalty Clause.*** – Any grantee who fails to submit the requisite
2 Annual Report to Congress shall be fined Five Hundred Pesos (P500.00) per
3 working day of non-compliance. The fine shall be collected by the NTC from
4 said delinquent franchise grantee separate from the reportorial penalties
5 imposed by NTC. All proceeds from said fines or penalties shall accrue to the
6 monitoring fund of the NTC in line with its supervisory and regulatory
7 functions. The reportorial compliance certificate issued by Congress shall be
8 required before any application for permit or certificate is accepted by NTC.

9
10 **Section 19. *Equality Clause.*** - Any advantage, favor, privilege, exemption, or
11 immunity granted under other existing franchise, or which may hereafter be
12 granted, upon prior review and approval of Congress, shall become part of
13 this franchise and shall be accorded immediately and unconditionally to the
14 herein grantee: *Provided, however,* That the foregoing shall neither apply to nor
15 affect provisions of telecommunications franchises concerning territory covered
16 by the franchise, the life span of the franchise or the type of service authorized
17 by the franchise.

18
19 **Section 20. *Separability Clause.*** – If any of the sections or provisions of this
20 Act is held invalid, all other provisions not affected thereby shall remain valid.

21
22 **Section 21. *Repealability and Non-exclusivity Clause.*** – This franchise shall be
23 subject to amendment, alteration, or repeal by the Congress of the Philippines
24 when the public interest so requires and shall not be interpreted as an
25 exclusive grant of the privilege herein provided for.

26
27 **Section 22. *Effectivity Clause.*** – This Act shall take effect fifteen (15) days after
28 its publication in the Official Gazette or in a newspaper of general circulation in
29 the Philippines.

30 Approved,