

Republic of the Philippines
HOUSE OF REPRESENTATIVES
Quezon City

EIGHTEENTH CONGRESS
First Regular Session



244
COMMITTEE REPORT NO. _____

Submitted by the Committee on Legislative Franchises on FEB 24 2020

Re: House Bill No. 6371

Recommending its approval in substitution of House Bill No. 5797

Sponsors: Representatives Franz E. Alvarez and Jose "Ping-Ping" I. Tejada

Mr. Speaker:

The Committee on Legislative Franchises to which was referred House Bill No. 5797, authored by Rep. Jose "Ping-Ping" I. Tejada, entitled:

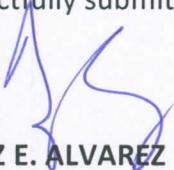
"AN ACT EXTENDING FOR ANOTHER TWENTY-FIVE (25) YEARS THE FRANCHISE GRANTED TO INTERNATIONAL COMMUNICATIONS CORPORATION PRESENTLY KNOWN AS BAYAN TELECOMMUNICATIONS INC., FURTHER AMENDING CERTAIN SECTIONS OF REPUBLIC ACT NO. 3259, ENTITLED 'AN ACT GRANTING THE INTERNATIONAL COMMUNICATIONS CORPORATION A FRANCHISE TO ESTABLISH RADIO STATIONS, FOR DOMESTIC TELECOMMUNICATIONS, RADIOPHONE, BROADCASTING AND TELECASTING' AS AMENDED BY REPUBLIC ACT NO. 7633, AND FOR OTHER PURPOSES"

has considered the same and recommends that the attached House Bill No. 6371, entitled:

"AN ACT RENEWING FOR ANOTHER TWENTY-FIVE (25) YEARS THE FRANCHISE GRANTED TO INTERNATIONAL COMMUNICATIONS CORPORATION, PRESENTLY KNOWN AS BAYAN TELECOMMUNICATIONS, INC., UNDER REPUBLIC ACT NO. 3259, ENTITLED 'AN ACT GRANTING THE INTERNATIONAL COMMUNICATIONS CORPORATION A FRANCHISE TO ESTABLISH RADIO STATIONS FOR DOMESTIC TELECOMMUNICATIONS, RADIOPHONE, BROADCASTING AND TELECASTING' AS AMENDED BY REPUBLIC ACT NOS. 4905 AND 7633"

be approved in substitution of House Bill No. 5797 with Reps. Jose "Ping-Ping" I. Tejada and Franz E. Alvarez, as authors thereof.

Respectfully submitted:


FRANZ E. ALVAREZ
Chairman
Committee on Legislative Franchises

THE HONORABLE SPEAKER
HOUSE OF REPRESENTATIVES
QUEZON CITY

Republic of the Philippines
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EIGHTEENTH CONGRESS

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6371

HOUSE BILL NO. _____

Introduced by REP. JOSE "PING-PING" I. TEJADA AND FRANZ E. ALVAREZ

1 **"AN ACT**

2 RENEWING FOR ANOTHER TWENTY-FIVE (25) YEARS THE FRANCHISE GRANTED TO
3 INTERNATIONAL COMMUNICATIONS CORPORATION, PRESENTLY KNOWN AS BAYAN
4 TELECOMMUNICATIONS, INC., UNDER REPUBLIC ACT NO. 3259, ENTITLED 'AN ACT
5 GRANTING THE INTERNATIONAL COMMUNICATIONS CORPORATION A FRANCHISE TO
6 ESTABLISH RADIO STATIONS FOR DOMESTIC TELECOMMUNICATIONS, RADIOPHONE,
7 BROADCASTING AND TELECASTING' AS AMENDED BY REPUBLIC ACT NOS. 4905 AND
8 7633"

9

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

12

13

14 SECTION 1. *Nature and Scope of Franchise.* – Subject to the provisions of the
15 Constitution and applicable laws, rules and regulations, the franchise granted to International
16 Communications Corporation, presently known as Bayan Telecommunications, Inc.,
17 hereunder referred to as the grantee, its successors or assignees, under Republic Act No.
18 3259, as amended by Republic Act Nos. 4905 and 7633, to construct, install, establish,
19 operate and maintain for commercial purposes and in the public interest, in the Philippines
20 and between the Philippines and other countries and territories, wire and/or wireless
21 telecommunications system including landline or local exchange services, mobile cellular,
22 copper, fiber optics, satellite transmit and receive systems, switches and their value-added
23 services such as the transmission of voice, data, facsimile, control signs, audio and video,
24 information services including services for ships at sea, airplanes and other conveyances, by
25 means of electricity, electromagnetic waves, or any other kind of energy, force, variations or
26 impulses, radiated through space or transmitted through any other medium, and all other
27 telecommunications system technologies as are at present available or will be made available
28 through technological advances or innovations in the future; or construct, acquire, lease, and
29 operate, or manage transmitting and receiving stations, lines, cables, or systems as are
30 convenient or essential to efficiently carry out the purpose of this franchise, is hereby
31 renewed for another twenty-five (25) years.

32

33 SEC. 2. *Manner of Operation of Stations or Facilities.* – The stations or facilities of the
34 grantee shall be constructed and operated in a manner as will, at most, result only in the

1 minimum interference on the wavelengths or frequencies of existing stations or other
2 stations which may be established by law, without in any way diminishing its own right to use
3 its assigned wavelengths or frequencies and the quality of transmission or reception thereon
4 as should maximize rendition of the grantee's services or the availability thereof.

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

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

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

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

42

1 The grantee shall improve and extend its services in areas not yet served, and in
2 hazard- and typhoon-prone areas that shall be determined by the National Disaster Risk
3 Reduction and Management Council, or its legal successor, in coordination with the NTC.
4

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

8 SEC. 6. *Rates for Services.* – The charges and rates for telecommunications services of
9 the grantee, except the rates and charges on those that may hereafter be declared or
10 considered as non-regulated services, whether flat rates or measured rates or variation
11 thereof, shall be subject to the approval of the NTC or its legal successor.

12 SEC. 7. *Right of Government.* – The radio spectrum is a finite resource that is part of
13 the national patrimony and the use thereof is a privilege conferred upon the grantee by the
14 State and may be withdrawn any time after due process.
15

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

24 SEC. 8. *Term of Franchise.* – This franchise shall be renewed and in effect for a period
25 of twenty-five (25) years from the expiration thereof on 9 August 2021, unless sooner revoked
26 or cancelled.
27

28 SEC. 9. *Right of Interconnection.* – The grantee is hereby authorized to connect or
29 demand connection of its telecommunications systems to other telecommunications systems
30 installed, operated, and maintained by any other duly authorized person or entity in the
31 Philippines for the purpose of providing extended and improved telecommunications services
32 to the public, under the terms and conditions mutually agreed upon by the parties concerned.
33 This right shall be subject to review and modification by the NTC.
34

35 SEC. 10. *Mobile Number Portability.* – The grantee shall provide mobile number
36 portability (MNP) and its implementing mechanism, and shall interconnect, directly or
37 indirectly, with the infrastructure, facilities, systems, or equipment of other
38 telecommunications franchise grantees. It shall not install network features, functions, or
39 capabilities that will impede the implementation of a nationwide MNP system. The NTC shall
40 issue rules and regulations for this purpose, the effectiveness of which shall commence upon
41 applicability with other telecommunications franchise grantees

42 SEC. 11. *Warranty in Favor of the National and Local Governments.* - The grantee shall
43 hold the national, provincial, city, and municipal governments of the Philippines free from all
44 claims, liabilities, accounts, demands, or actions arising out of accidents causing injury to

1 persons or damage to properties, during the construction or operation of the stations,
2 transmitters, facilities, or equipment of the grantee.

3
4 SEC. 12. *Sale, Lease, Transfer, Grant of Usufruct, or Assignment of Franchise.* – The
5 grantee shall not sell, lease, transfer, grant the usufruct of, nor assign this franchise or the
6 rights and privileges acquired thereunder to any person, firm, company, partnership,
7 corporation or other commercial or legal entity, nor merge with any person, firm, company,
8 partnership or corporation organized for the same purpose without the prior approval of the
9 Congress of the Philippines, except (a) where the grantee is the surviving corporation; (b)
10 when the transfer is done through a stock exchange transaction; (c) when the transfer is done
11 for the purposes of qualifying persons for election to the board; (d) when the transferee is a
12 corporation that is controlled by the same stockholders as that of the grantee; (e) when the
13 vendor/lessee/transferee/grantee/assignee is a person, firm, company, corporation or entity
14 with a valid and existing legislative franchise for telecommunications; *Provided, further,* That
15 any such transfer, sale or issuance is in accordance with any applicable constitutional
16 provision.

17
18 Any corporation to which this franchise may be sold, transferred or assigned shall be
19 subject to all conditions, terms, restrictions and limitations of this Act.

20
21 SEC. 13. *Dispersal of Ownership.* - Subject to the requirements of the Securities and
22 Exchange Commission and the stock exchange concerned, the herein grantee shall make
23 public utilities offering to the stock exchanges at least thirty percent (30%) of its authorized
24 capital stock in any securities exchange in the Philippines within a period of three (3) years
25 from the date of the effectivity of this Act, unless the grantee is wholly owned by a public
26 listed company with at least thirty percentum (30%) of whose authorized capital stock is
27 publicly owned."

28
29 SEC. 14. *Contract with Telecommunications Entities.* – The grantee is authorized to
30 contract the installation and operations of telecommunications systems which is the subject
31 of this grant with entities with expertise in the field of telecommunications under such terms
32 and conditions as may be approved by the NTC.

33
34 SEC. 15. *Commitment to Provide and Promote the Creation of Employment
Opportunities.* – The grantee shall create employment opportunities as well as accept on-the-
35 job trainees in their franchise operations: *Provided,* That priority shall be accorded to the
36 residents of the place where their principal office is located: *Provided further,* That the
37 grantee shall follow the applicable labor standards and allowance entitlement under existing
38 labor laws, rules and regulations and similar issuances: *Provided, finally,* That the employment
39 opportunities or jobs created shall be reflected in the General Information Sheet (GIS) to be
40 submitted to the Securities and Exchange Commission (SEC) annually.

41
42 SEC. 16. *Reportorial Requirement.* – The grantee shall submit an annual report to the
43 Congress of the Philippines, through the Committee on Legislative Franchises of the House of
44 Representatives and the Committee on Public Services of the Senate, on its compliance with
45 the terms and conditions of the franchise and on its operations on or before April 30 of every
46 year during the term of its franchise.

1 The annual report shall include an update on the roll-out, development, operation
2 and/or expansion of business; audited financial statements; latest GIS officially submitted to
3 the SEC, if applicable; certification of the NTC on the status of its permits and operations; and
4 an update on the dispersal of ownership undertaking, if applicable.

5
6 The reportorial compliance certificate issued by Congress shall be required before any
7 application for permit or certificate is accepted by the NTC.

8
9 SEC. 17. *Fine.* – Failure of the grantee to submit the requisite annual report to Congress
10 shall be penalized with a fine in the amount of One million pesos (P1,000,000.00) per working
11 day of noncompliance, the effectivity of which shall commence upon applicability with other
12 telecommunications franchisees: *Provided*, That in the interim, the grantee shall be
13 liable to pay the fine of Five hundred pesos (P500.00) per working day of noncompliance. The
14 fine shall be collected by the NTC from the delinquent franchise grantee separate from the
15 reportorial penalties imposed by the NTC, and the same shall be remitted to the Bureau of
16 Treasury.

17
18 SEC. 18. *Equality Clause.* – Any advantage, favor, privilege, exemption, or immunity
19 granted under existing franchises, or which may hereafter be granted, upon prior review and
20 approval of Congress, shall become part of this franchise and shall be accorded immediately
21 and unconditionally to the herein grantee: *Provided*, That the foregoing shall neither apply to
22 nor affect the provisions of telecommunications franchises concerning territorial coverage,
23 the term, or the type of service authorized by the franchise.

24
25 SEC. 19. *Applicability Clause*— The grantee, its successors or assigns shall be subject to
26 the corporation laws of the Philippines now existing or hereafter enacted.

27
28 SEC. 20. *Repealability and Nonexclusivity Clause.* – This franchise shall be subject to
29 amendment, alteration, or repeal by the Congress of the Philippines when the public interest
30 so requires and shall not be interpreted as an exclusive grant of the privilege herein provided
31 for.

32 SEC. 21. *Separability Clause.* – If any of the sections or provisions of this Act is held
33 invalid, all other provisions not affected thereby shall remain valid.

34
35 SEC. 22. *Repealing Clause.* – All laws, decrees, orders, resolutions, instructions, rules
36 and regulations, and other issuances or parts thereof which are inconsistent with the
37 provisions of this Act are hereby repealed, amended, or modified accordingly.

38
39 SEC. 23. *Effectivity.* – This Act shall take effect fifteen (15) days after its publication in
40 the Official Gazette or in a newspaper of general circulation.

41 Approved,

42

FACT SHEET

House Bill No. 6371
In substitution of House Bill No. 5797
(As approved on February 24, 2020)

"AN ACT

RENEWING FOR ANOTHER TWENTY-FIVE (25) YEARS THE FRANCHISE GRANTED TO INTERNATIONAL COMMUNICATIONS CORPORATION, PRESENTLY KNOWN AS BAYAN TELECOMMUNICATIONS, INC., UNDER REPUBLIC ACT NO. 3259, ENTITLED 'AN ACT GRANTING THE INTERNATIONAL COMMUNICATIONS CORPORATION A FRANCHISE TO ESTABLISH RADIO STATIONS FOR DOMESTIC TELECOMMUNICATIONS, RADIOPHONE, BROADCASTING AND TELECASTING' AS AMENDED BY REPUBLIC ACT NOS. 4905 AND 7633"

Introduced by: HON. JOSE "PING-PING" I. TEJADA

*Committee Referral: LEGISLATIVE FRANCHISES
Committee Chairperson: HON. FRANZ E. ALVAREZ*

OBJECTIVE:

- To continue the efficient and effective telecommunications service of Bayan Telecommunications, Inc. (Bayantel)

KEY PROVISIONS:

- Renews the franchise granted to Bayantel to construct, install, establish, operate and maintain wire and/or wireless telecommunications system for another twenty-five (25) years;
- Prohibits the grantee to lease, transfer, sell, grant the usufruct or assign the franchise, rights or privileges or its controlling interest without the prior approval of Congress except: (a) where the grantee is the surviving corporation; (b) when the transfer is done through a stock exchange transaction; (c) when the transfer is done for the purposes of qualifying persons for election to the board; (d) when the transferee is a corporation that is controlled by the same stockholders as that of the grantee; (e) when the transferee is a person, firm, company, corporation or entity with a valid and existing legislative franchise for telecommunications;
- Mandates the grantee to improve and upgrade its equipment, facilities, and services in order to ensure effective compliance with the objectives of Republic Act No. 10639 or the 'Free Mobile Disaster Alerts Act'"
- Allows the grantee to contract the installation and operations of telecommunications systems with entities with expertise in the field of telecommunications;

- Requires the grantee to offer at least thirty per cent (30%) of its authorized capital stock in any security exchange in the Philippines unless the grantee is wholly owned by a public listed company with at least thirty percentum (30%) of whose authorized capital stock is publicly owned;
- Requires the grantee to create employment opportunities as well as accept on-the-job trainees in their franchise operations for residents of the place where any of its offices is located subject to applicable labor standards and allowance entitlement under existing labor laws, rules and regulations and similar issuances;
- Requires the grantee to submit an annual report to the Congress of the Philippines on its compliance with the terms and conditions of the franchise and its operation on or before April 30 of every year;
- Imposes a fine in the amount of One million pesos (P1,000,000.00) per working day of noncompliance with the reportorial requirement of Congress, the effectivity of which shall commence upon applicability with other telecommunications franchise grantees, and provided that in the interim, the grantee shall be liable to pay the fine of Five hundred pesos (P500.00) per working day of noncompliance; and
- Provides an equality clause which aims to grant existing and potential franchise grantees equal privilege.

RELATED LAW:

- REPUBLIC ACT NO. 3259 - AN ACT GRANTING THE INTERNATIONAL COMMUNICATIONS CORPORATION A FRANCHISE TO ESTABLISH RADIO STATIONS FOR DOMESTIC TELECOMMUNICATIONS, RADIOPHONE, BROADCASTING AND TELECASTING
- REPUBLIC ACT NO. 4905 - AN ACT TO AMEND REPUBLIC ACT NUMBERED THIRTY-TWO HUNDRED AND FIFTY-NINE, ENTITLED "AN ACT GRANTING THE INTERNATIONAL COMMUNICATIONS CORPORATION A FRANCHISE TO ESTABLISH RADIO STATIONS FOR DOMESTIC RADIO TELECOMMUNICATIONS, RADIOPHONE, BROADCASTING AND TELECASTING"
- REPUBLIC ACT NO. 7633 - AN ACT AMENDING CERTAIN SECTIONS OF REPUBLIC ACT NO. 3259, AS AMENDED, ENTITLED "AN ACT GRANTING THE INTERNATIONAL COMMUNICATIONS CORPORATION A FRANCHISE TO ESTABLISH RADIO STATIONS, FOR DOMESTIC TELECOMMUNICATIONS, RADIOPHONE," EXTENDING THE TERM OF THE FRANCHISE BY TWENTY-FIVE (25) YEARS FROM AUGUST 9, 1996 AS PROVIDED IN REPUBLIC ACT NO. 4905, AND FOR OTHER PURPOSES