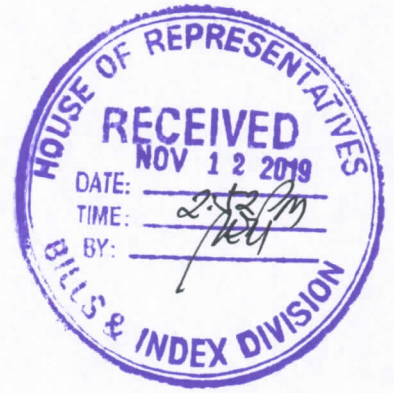


Republic of the Philippines
HOUSE OF REPRESENTATIVES
Quezon City

EIGHTEENTH CONGRESS
First Regular Session

House Bill No. **5439**



Introduced by AKO BICOL Party-List
Rep. ALFREDO A. GARBIN, JR.

EXPLANATORY NOTE

The information and communication technology (ICT) industry is one of the more important industries in the development of the country's economy. It is, thus, disturbing to know that the Philippines has one of the most expensive cost of telecommunications, specifically of internet use.

In a recent study by the Philippine Institute for Development Studies, it was concluded that information and communication technology services in the country remain one of the most expensive in the Asia-Pacific Region. Worse, internet speed is not proportional to the costs. According to PIDS, there is a direct relationship between increased ICT access and economic growth. A World Bank study likewise concluded that for every 10-percent increase in high-speed internet connection, economic growth increases by 1.3 percent.¹

In this regard, it is the author's position that the more telecommunications company operating in an open market would usher technological development and would lower the cost of communication.

Thus, this proposal for the renewal of the legislative franchise granted to the Broadband Everywhere Corp.

The approval of this bill is earnestly sought.


ALFREDO A. GARBIN, JR.
Ako Bicol Party-List

¹ <https://www.pids.gov.ph/press-releases/277>

"AN ACT RENEWING FOR ANOTHER TWENTY- FIVE (25) YEARS THE FRANCHISE GRANTED TO BROADBAND EVERYWHERE CORP. (formerly "TEXTRON CORP.,") UNDER REPUBLIC ACT NO. 8510, ENTITLED "AN ACT GRANTING THE TEXTRON CORPORATION, A FRANCHISE TO CONSTRUCT, ESTABLISH, INSTALL, MAINTAIN AND OPERATE WIRED AND/OR WIRELESS 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 the Broadband Everywhere Corp. (formerly "Textron Corporation"), hereunder
4 referred to as the grantee, its successors or assigns, a franchise to construct, establish,
5 install, maintain and operate for commercial purposes and in the public interest,
6 wired, mobile and fixed wireless telecommunications system, fiber optics,
7 Multichannel Multipoint Distribution System (MMDS), local multipoint distribution
8 system (LMDS), such as Trunked Radio services, IP Telephony, Circuit and Packet
9 Switched networks, Wired and Wireless Broadband networks, 4G and 5G LTE
10 networks related to the foregoing; and/or to construct, acquire, lease and operate or
11 manage transmitting and receiving stations, lines, cables or systems as is necessary
12 or convenient to effectively carry out the purpose of this franchise throughout the
13 Philippines, for public domestic and international telecommunications.

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

21 Sec. 3. Authority of the National Telecommunications Commission. – The
22 grantee shall secure from the National Telecommunications Commission, hereinafter
23 referred to as the Commission, a certificate of public convenience and necessity or
24 the appropriate permits and licenses for the , construction, installation and operation
25 of its telecommunications systems or facilities. In issuing the certificate, the
26 Commission shall have the power to impose such conditions relative to the
27 construction, operation, maintenance, or service level of the telecommunications
28 system. The Commission shall have the authority to regulate the construction and
29 operation of its telecommunications systems. The grantee shall not use any
30 frequency in the radio spectrum without having been authorized by the
31 Commission. Such certificate shall state the areas covered and date the grantee shall
32 commence the service. The Commission, however, shall not unreasonably withhold
33 or delay the grant of any such authority, permits or licenses.

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

20 Sec. 5. Responsibility to the Public. — The grantee shall conform to the ethics of
21 honest enterprise and shall not use its stations for obscene or indecent transmission
22 or for dissemination of deliberately false information or willful misrepresentation or
23 assist in subversive or treasonable acts.

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

29 Sec. 6. Rates for Services. — The charges and rates for telecommunications
30 services of the grantee, except the rates and charges on those that may hereafter be
31 declared or considered as non-regulated services, whether flat rates or measured
32 rates or variation thereof, shall be subject to the approval of the Commission or its
33 legal successor. The rates to be charged by the grantee shall be unbundled, separable
34 and distinct among the services offered and shall be determined in such a manner
35 that regulated services do not subsidize the unregulated ones.

36 Sec. 7. Right of Government. — The radio spectrum is a finite resource that is a
37 part of the national patrimony and the use thereof is a privilege conferred upon the
38 grantee by the State and may be withdrawn anytime, after due process.

39 A special right is hereby reserved to the President of the Philippines, in times
40 of war, rebellion, public peril, calamity, emergency, disaster or disturbance of peace
41 and order, to temporarily take over and operate the stations, transmitters, facilities
42 or equipment of the grantee, to temporarily suspend the operation of any station,
43 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
2 the government, upon due compensation to the grantee for the use of said stations,
3 transmitters, facilities or equipment during the period when they shall be so
4 operated.

5 Sec. 8. Term of Franchise. – This franchise shall be in effect for a period of
6 twenty-five (25) years from the date of effectivity of this Act, unless sooner revoked
7 or cancelled. This franchise shall be deemed ipso facto revoked, in the event the
8 grantee fails to operate continuously for two (2) years or comply with any of the
9 license or permit as may be required by the National Telecommunications
10 Commission;

11 Sec. 9. Renewal or Extension of Franchise. – The Grantee shall apply for the
12 renewal or extension of its franchise three (3) years before its expiration wherein the
13 reckoning date is fifteen (15) days after the publication of the franchise in the Official
14 Gazette or in a newspaper of general circulation, whichever is earlier.

15 SEC. 10. Acceptance and Compliance. – Acceptance of this franchise shall be
16 given in writing to the Congress of the Philippines, through the Committee on
17 Legislative Franchises of the House of Representatives and the Committee on Public
18 Services of the Senate, within sixty (60) days from the effectivity of this Act. Upon
19 giving such acceptance, the grantee shall exercise the privileges granted under this
20 Act. Non-acceptance shall render the franchise void.

21 Section 11. Right of Interconnection. – The grantee is hereby authorized to
22 connect or demand connections of its telecommunications systems to any other
23 telecommunications systems installed, operated and maintained by any other duly
24 authorized person or entity in the Philippines for the purpose of providing extended
25 and improved telecommunications services to the public under such terms and
26 conditions mutually agreed upon by the parties concerned and the same shall be
27 subject to the review or modification of the Commission.

28 Section 12. Warranty in Favor of National and Local Government. – The
29 grantee shall hold the national, provincial, city and municipal governments of the
30 Philippines harmless from all claims, accounts, demands or actions arising out of
31 accidents or injuries, whether to property or to persons, caused by the construction
32 or operation of the stations, transmitters, facilities and equipment of the grantee.

33 Section 13. Sale, Lease, Transfer, Usufruct, etc. – The grantee shall not sell,
34 lease, transfer, grant the usufruct of, nor assign this franchise or the rights and
35 privileges acquired thereunder to any person, firm, company, corporation or other
36 commercial or legal entity, nor merge with any other corporation or entity, nor shall
37 transfer the controlling interest of the grantee, whether as a whole or in part, and
38 whether simultaneously or contemporaneously, to any such person, firm, company,
39 corporation, or entity without the prior approval of the Congress of the Philippines:
40 Provided, That Congress shall be informed of any sale, lease, transfer, grant of

usufruct, or assignment of franchise or the rights or privileges acquired thereunder, or the merger or transfer of the controlling interest of the grantee, within sixty (60) days after the completion of said transaction: Provided, further, That failure to report to Congress such change of ownership shall render the franchise revoked: Provided, finally, That any person or entity to which this franchise is sold, transferred, or assigned, shall be subject to the same conditions, terms, restrictions, and limitations of this Act.

Section 17. Dispersal of Ownership. - In accordance with the constitutional provisions to encourage public participation in the public utilities, the grantee shall offer at least thirty percentum (30%) of its outstanding capital stock or a higher percentage that may hereafter be provided by law of its common stocks in any securities exchange in the Philippines within five (5) years from the renewal of its franchise. Provided, That in cases where public offer of shares is not applicable, establishment of cooperatives and other modes of encouraging public participation by citizens and corporations operating public utilities must be implemented.

Non-compliance therewith shall RENDER THIS FRANCHISE VOID.

Section 18. Equality Clause. - If any subsequent franchise for telecommunication service is awarded or granted by the Congress of the Philippines with terms, privileges and conditions more favorable and beneficial than those contained in this Act, then the same privileges or advantages shall, ipso facto, accrue to the herein grantee and be deemed part of this Act.

Section 19. Business Development and/or Expansion Plan. - The Grantee shall submit its business development and/or expansion plan at the time of application which shall contain the phases of business development or expansion, courses of action to achieve the objectives of the franchise, capitalization, and expected milestones within the franchise term.

The submitted development and/or expansion plan shall be one of the bases for the determination of the grantee's faithful compliance to the terms and conditions of its franchise, failure of which shall be a ground for the revocation of the franchise.

Section 20. Reportorial Requirement. - The grantee shall submit an annual report to the Congress of the Philippines, through the Committee on Legislative Franchises of the House of Representatives and the Committee on Public Services of the Senate, on its compliance with the terms and conditions of the franchise and on its operations on or before April 30 of every year during the term of its franchise. The annual report shall include an update on the roll-out, development or expansion of the business; audited Financial Statements as certified by the Securities and Exchange Commission; latest General information Sheet; Certification of the Commission on the status of permits; and an update on the dispersal of ownership undertaking.

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

1 Section 21. Fine.- Failure of the grantee to submit the requisite annual report
2 to Congress shall be penalized by a fine in the amount of Five hundred pesos
3 (P500.00) per working day of non-compliance. The fine shall be collected separately
4 by the NTC distinct from the penalties it imposes for non-compliance of its own
5 reportorial requirements.

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

10 Section 23. Separability Clause. - If any of the sections or provisions of this
11 Act is held invalid, all other provisions not affected thereby shall remain valid.

12 Section 24. Repealing Clause. - Section 7 of REPUBLIC ACT 8510 is hereby
13 repealed. All other laws, decrees, executive orders, rules and regulations, or any
14 parts or provisions thereof which are not consistent with this Act are hereby
15 repealed, amended, or modified accordingly.

16 Section 25. Effectivity.- This Act shall take effect fifteen (15) days after its
17 publication in the Official Gazette or in a newspaper of general circulation.

Approved.