

SEVENTEENTH CONGRESS OF THE)
REPUBLIC OF THE PHILIPPINES)
First Regular Session)

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S E N A T E

RECEIVED BY:

COMMITTEE REPORT NO. 92

Submitted by the Committee on Public Services on MAY 17 2017

Re : H.B. No. 5177

Recommending its approval with amendments

Sponsor : Senator Grace Poe

MR. PRESIDENT:

The Senate Committee on Public Services, to which was referred **H.B. No. 5177**, introduced by Representatives Cosalan and Alvarez (F.) entitled:

“AN ACT

RENEWING FOR ANOTHER TWENTY-FIVE (25) YEARS THE FRANCHISE GRANTED TO INFOCOM COMMUNICATIONS NETWORK, INC. (PRESENTLY KNOWN AS NOW TELECOM COMPANY, INC.) UNDER REPUBLIC ACT NO. 7301, ENTITLED “AN ACT GRANTING INFOCOM COMMUNICATIONS NETWORK, INC. (ICNI), A FRANCHISE TO CONSTRUCT, ESTABLISH, OPERATE, AND MAINTAIN MOBILE RADIO SYSTEMS SUCH AS RADIO PAGING SYSTEMS, CELLULAR PHONE SYSTEMS, PERSONAL COMMUNICATION NETWORK (PCN), AND TRUNKED RADIO SYSTEMS WITHIN AND WITHOUT THE PHILIPPINES FOR A PERIOD OF TWENTY FIVE (25) YEARS, AND FOR OTHER PURPOSES,” AS AMENDED BY REPUBLIC ACT NO. 7490”

has considered the same and has the honor to report it back to the Senate with the recommendation that the attached **H.B. No. 5177** be approved with the following amendments, *to wit*:

1. On page 2, line 19, after the word “(NTC)” delete the phrase “a Certificate of Public Convenience and Necessity or”;
2. On the same page, line 21, delete the word “certificate” and replace with “**PERMIT**”;
3. On page 4, line 6, after the period, insert the following paragraphs:

“THE GRANTEE SHALL IMPROVE AND EXTENDS ITS SERVICES IN AREAS NOT YET SERVED, AND IN HAZARD-AND TYPHOON-PRONE AREAS THAT SHALL BE DETERMINED BY THE NATIONAL DISASTER RISK REDUCTION AND MANAGEMENT COUNCIL IN COORDINATION WITH THE NTC.”

“THE GRANTEE SHALL ALSO 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.’”

4. On page 5, line 1, between the words “be” and “in effect”, insert the phrase “**EXTENDED AND**”;
5. On the same page, line 10, after the word “Act” and the period “.”, delete the word “Nonacceptance” and insert the phrase “**REFUSAL OR FAILURE TO ACCEPT THE FRANCHISE**”;
6. On the same page, after line 11, insert a new section, which shall read as follows:

“TAX PROVISIONS.- THE GRANTEE, ITS SUCCESSORS OR ASSIGNEES, SHALL BE LIABLE TO PAY THE SAME TAXES ON THEIR REAL ESTATE, BUILDINGS AND PERSONAL PROPERTY, EXCLUSIVE OF THIS FRANCHISE, AS OTHER PERSONS OR CORPORATIONS WHICH ARE NOW OR HEREAFTER MAY BE REQUIRED BY LAW TO PAY, EXCEPT RADIO TELECOMMUNICATIONS AND ELECTRONIC COMMUNICATIONS EQUIPMENT, MACHINERY, AND SPARE PARTS NEEDED IN CONNECTION WITH THE BUSINESS OF THE GRANTEE WHICH SHALL BE EXEMPT FROM CUSTOMS DUTIES, TARIFFS AND OTHER TAXES, AS WELL AS THOSE DECLARED EXEMPT IN THIS SECTION. IN ADDITION

THERETO, THE GRANTEE, ITS SUCCESSORS, OR ASSIGNEES, SHALL PAY A VALUE-ADDED TAX ON ALL GROSS RECEIPTS OF THE BUSINESS TRANSACTED UNDER THIS FRANCHISE BY THE GRANTEE, ITS SUCCESSORS OR ASSIGNEES, IN THE PHILIPPINES, IN LIEU OF ANY AND ALL TAXES OF ANY KIND, NATURE, OR DESCRIPTION LEVIED, ESTABLISHED, OR COLLECTED BY AN AUTHORITY WHATSOEVER INCLUDING, BUT NOT LIMITED TO, CITY, MUNICIPAL, PROVINCIAL, OR NATIONAL, FROM WHICH THE GRANTEE IS HEREBY EXPRESSLY EXEMPTED EFFECTIVE FROM THE DATE OF THE EFFECTIVITY OF THIS ACT: *PROVIDED*, THAT THE GRANTEE ITS SUCCESSORS OR ASSIGNEES, SHALL CONTINUE TO BE LIABLE FOR INCOME TAXES PAYABLE UNDER TITLE II OF THE NATIONAL INTERNAL REVENUE CODE PURSUANT TO SECTION 2 OF EXECUTIVE ORDER NO. 72 UNLESS THE LATTER ENACTMENT IS AMENDED OR REPEALED, IN WHICH CASE THE AMENDMENT OR REPEAL SHALL BE APPLICABLE THERETO.

“THE GRANTEE SHALL FILE THE RETURN WITH AND PAY THE TAX THEREON TO THE COMMISSIONER OF INTERNAL REVENUE OR HIS DULY AUTHORIZED REPRESENTATIVE IN ACCORDANCE WITH THE NATIONAL INTERNAL REVENUE CODE AND THE RETURN SHALL BE SUBJECT TO AUDIT BY THE BUREAU OF INTERNAL REVENUE.”

7. On the same page, line 19, after the word “NTC” and the period “.”, insert a new section, which shall read as follows:

SEC. 11. MOBILE NUMBER PORTABILITY. THE GRANTEE SHALL PROVIDE MOBILE NUMBER PORTABILITY (MNP). IT SHALL SET UP A MECHANISM FOR THE PURPOSE OF IMPLEMENTING MNP. IT SHALL INTERCONNECT DIRECTLY OR INDIRECTLY WITH THE INFRASTRUCTURE, FACILITIES, SYSTEMS, OR EQUIPMENT OF OTHER TELECOMMUNICATIONS FRANCHISE GRANTEES. IT SHALL NOT INSTALL NETWORK FEATURES, FUNCTIONS, OR CAPABILITIES THAT WILL IMPEDE THE IMPLEMENTATION OF A NATIONWIDE MNP SYSTEM. THE NTC SHALL ISSUE RULES AND REGULATIONS FOR THIS PURPOSE, THE EFFECTIVITY OF WHICH SHALL

COMMENCE UPON APPLICABILITY WITH OTHER TELECOMMUNICATIONS FRANCHISE GRANTEES.”

8. On the same page, delete lines 20 to 27;
9. On page 6, delete lines 1 and 2;
10. On the same page, delete lines 17 to 21;
11. On the same page, line 22, delete the phrase “*ipso facto* revoked: Provided finally, That”;
12. On the same page, line 23, between the phrase “franchise is” and the word “sold”, insert the word “**VALIDLY**”;

Hence, the entire Section 14 shall now read as follows:

Sec. 14. Sale, Lease, Usufruct, or Assignment of Franchise.- The grantee shall not sell, lease, transfer, grant the usufruct of, 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 transfer the controlling interest of the grantee, whether as a whole or in parts, and whether simultaneously or contemporaneously, to any person, firm, company, corporation, or entity without the prior approval of the Congress of the Philippines: Provided, That any person to which this franchise is sold, transferred or assigned shall be subject to the same conditions, terms, restrictions, and limitations of this Act.”

13. On page 7, line 5, insert a new section, which shall read as follows:

“COMPLIANCE WITH LABOR STANDARDS.- THE GRANTEE, ITS SUCCESSORS OR ASSIGNS SHALL COMPLY WITH THE APPLICABLE LABOR STANDARDS UNDER EXISTING LABOR LAWS, RULES AND REGULATIONS AND SUCH OTHER ISSUANCES AS MAY BE PROMULGATED BY THE DEPARTMENT OF LABOR AND EMPLOYMENT, TAKING INTO CONSIDERATION THE NATURE AND PECULIARITIES OF THE TELECOMMUNICATIONS INDUSTRY.”

14. On the same page, line 14, delete the word “five” and replace with “**IN THE AMOUNT OF ONE MILLION PESOS (P1,000,000.00)**”;
15. On the same page, line 15, delete the phrase, “hundred pesos (P500.00)”
16. On the same page and line, delete the period “.” and replace it with a comma “,” then insert the phrase “**THE EFFECTIVITY OF WHICH SHALL COMMENCE UPON APPLICABILITY WITH OTHER TELECOMMUNICATIONS FRANCHISE GRANTEES: 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.**”;
17. On the same page, line 17, after the word “NTC”, delete the period “.” and replace with the phrase “**AND THE SAME SHALL BE REMITTED TO THE NATIONAL TREASURY.**”;

Hence, the entire Section 17 shall read:

“Sec. 17. Penalty Clause. Failure of the grantee to submit the requisite annual report to Congress shall be penalized by a fine in the amount of one million pesos (Php 1,000,000.00) per working day of noncompliance, the effectivity of which shall commence upon applicability with other telecommunications franchise grantees: *Provided*, That in the interim, the grantee shall be liable to pay the fine of five hundred pesos (P500.00) per working day of compliance. The fine shall be collected by the NTC from the delinquent franchise grantee separate from the reportorial penalties imposed by the NTC and the same shall be remitted to the National Treasury.”

18. On page 8, line 6, after the period, insert a paragraph, which shall read as follows:

“All other provisions of Republic Act No. 7301 and Republic Act No. 7940 which are not inconsistent with the provisions of this Act and remain unrepealed shall continue to be in full force and effect: *Provided*,

That all pending suits of whatever kind or nature, whether civil, criminal or administrative filed by the or against the grantee in connection with the provisions of Republic Act No. 7301 or Republic Act No. 7940 shall continue to be prosecuted under the said law: *Provided, further,* That all valid and existing liabilities, fines, penalties, surcharges and/or unpaid tax assessments of the grantee from March 26, 1,992 until the effectivity of the new law shall remain valid and enforceable under Republic Act No. 7301 and Republic Act No. 7940.”

19. Renumber the sections accordingly.

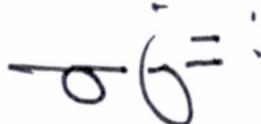
Respectfully submitted:



Grace Poe
GRACE POE
Chairperson



FRANCIS "CHIZ" G. ESCUDERO
Vice Chairperson



JOSEPH VICTOR G. EJERCITO
Vice Chairperson

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RICHARD J. GORDON

PANFILO M. LACSON



JUAN MIGUEL "MIGZ" F. ZUBIRI

ANTONIO "SONNY" F. TRILLANES IV

JOEL VILLANUEVA

Apotederos parecer

RISA HONTIVEROS

PAOLO BENIGNO "BAM" AQUINO IV

*May interpellate
propose amendments.*

Ex-Officio Members:

Franklin M. Drilon

FRANKLIN M. DRILON

Minority Leader

Vicente C. Sotto III

VICENTE C. SOTTO III

Majority Leader

RALPH G. RECTO

Senate President Pro Tempore

The Honorable Senate President
AQUILINO "KOKO" PIMENTEL III

CONGRESS OF THE PHILIPPINES
SEVENTEENTH CONGRESS
First Regular Session }

HOUSE OF REPRESENTATIVES

H. No. 5177

BY REPRESENTATIVES COSALAN AND ALVAREZ (F.), PER COMMITTEE REPORT
NO. 150

AN ACT RENEWING FOR ANOTHER TWENTY-FIVE (25) YEARS THE FRANCHISE GRANTED TO INFOCOM COMMUNICATIONS NETWORK, INC. (PRESENTLY KNOWN AS NOW TELECOM COMPANY, INC.) UNDER REPUBLIC ACT NO. 7301, ENTITLED "AN ACT GRANTING INFOCOM COMMUNICATIONS NETWORK, INC. (ICNI), A FRANCHISE TO CONSTRUCT, ESTABLISH, OPERATE AND MAINTAIN MOBILE RADIO SYSTEMS SUCH AS RADIO PAGING SYSTEMS, CELLULAR PHONE SYSTEMS, PERSONAL COMMUNICATION NETWORK (PCN), AND TRUNKED RADIO SYSTEMS WITHIN AND WITHOUT THE PHILIPPINES FOR A PERIOD OF TWENTY-FIVE (25) YEARS, AND FOR OTHER PURPOSES", AS AMENDED BY REPUBLIC ACT NO. 7940

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
2 provisions of the Philippine Constitution and applicable laws, rules and
3 regulations, the franchise granted to Infocom Communications Network, Inc.
4 (presently known as Now Telecom Company, Inc.) under Republic Act
5 No. 7301, as amended by Republic Act No. 7940 and hereunder referred to as
6 the grantee, its successors or assignees, to construct, install, establish, operate
7 and maintain for commercial purposes and in the public interest, wire and/or
8 wireless telecommunications systems including mobile, cellular, paging, fiber

1 optics, satellite transmit and receive systems, switches, and their value-added
2 services such as transmission of voice, data, facsimile, control signs, audio
3 and video, information services, and all other telecommunications system
4 technologies as are at present available or will be made available through
5 technological advances or innovations in the future; and/c - construct, acquire,
6 lease and operate, or manage transmitting and receiving stations, lines, cables,
7 or systems within and without the Philippines, is hereby renewed for another
8 twenty-five (25) years.

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

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

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

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

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

7 SEC. 6. *Rates for Services.* — The charges and rates for
8 telecommunications services of the grantee, except the rates and charges on
9 those that may hereafter be declared or considered as non-regulated services,
10 whether flat rates or measured rates or variation thereof, shall be subject to the
11 approval of the NTC or its legal successor. The rates to be charged by the
12 grantee shall be unbundled, separable and distinct among the services offered
13 and shall be determined in a manner that regulated services do not subsidize
14 the unregulated ones.

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

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

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

5 SEC. 9. *Acceptance and Compliance.* – Acceptance of this franchise
6 shall be given in writing to the Congress of the Philippines, through
7 the Committee on Legislative Franchises of the House of Representatives
8 and the Committee on Public Services of the Senate, within sixty (60)
9 days from the effectivity of this Act. Upon giving such acceptance, the
10 grantee shall exercise the privileges granted under this Act. Nonacceptance
11 shall render the franchise void.

12 SEC. 10. *Right of Interconnection.* – The grantee is hereby authorized
13 to connect or demand connection of its telecommunications systems to
14 other telecommunications systems installed, operated, and maintained by
15 any other duly authorized person or entity in the Philippines for the purpose
16 of providing extended and improved telecommunications services to
17 the public, under the terms and conditions mutually agreed upon by the
18 parties concerned; this right shall be subject to the review and modification of
19 the NTC.

20 SEC. 11. *Gross Receipts.* – The grantee, its successors or assignees,
21 shall keep a separate account of the gross receipts of the business transacted
22 by it and shall furnish the Commission on Audit (COA) and the National
23 Treasury a copy of such account not later than the thirty-first (31st) day of
24 January of each year for the preceding twelve (12) months.

25 SEC. 12. *Books and Accounts.* – The books and accounts of the
26 grantee, its successors or assignees, shall always be open to the inspection
27 of the COA and its duly authorized representatives. It shall be the duty of the

1 grantee to submit to the COA two (2) copies of the quarterly reports on the
2 gross receipts, the net profits and the general condition of the business.

3 SEC. 13. *Warranty in Favor of National and Local Governments.* —
4 The grantee shall hold the national, provincial, city, and municipal
5 governments of the Philippines free from all claims, liabilities, accounts,
6 demands, or actions arising out of accidents that cause injury to persons or
7 damage to properties, during the construction or operation of the stations,
8 transmitters, facilities, or equipment of the grantee.

9 SEC. 14. *Sale, Lease, Transfer, Usufruct, or Assignment of Franchise.*
10 — The grantee shall not sell, lease, transfer, grant the usufruct of, nor assign
11 this franchise or the rights and privileges acquired thereunder to any person,
12 firm, company, corporation or other commercial or legal entity, nor merge
13 with any other corporation or entity, nor shall transfer the controlling interest
14 of the grantee, whether as a whole or in parts, and whether simultaneously or
15 contemporaneously, to any person, firm, company, corporation, or entity
16 without the prior approval of the Congress of the Philippines: *Provided*. That
17 Congress shall be informed of any sale, lease, transfer, grant of usufruct, or
18 assignment of franchise or the rights and privileges acquired thereunder, or of
19 the merger, or transfer of controlling interest of the grantee, within sixty (60)
20 days after the completion of said transaction: *Provided, further*. That failure to
21 report to Congress such change of ownership shall render the franchise
22 *ipso facto* revoked: *Provided, finally*. That any person or entity to which this
23 franchise is sold, transferred, or assigned shall be subject to the same
24 conditions, terms, restrictions, and limitations of this Act.

25 SEC. 15. *Dispersal of Ownership.* — In accordance with the
26 constitutional provision to encourage public participation in public utilities, the
27 grantee shall continue to offer to Filipino citizens at least thirty percent (30%)
28 or a higher percentage that may hereafter be provided by law of its common
29 stocks in any securities exchange in the Philippines within five (5) years from

1 the renewal of its franchise: *Provided*, That in cases where public offer of
2 shares is not applicable, other methods of encouraging public participation
3 by citizens and corporations operating public utilities must be implemented.
4 Noncompliance therewith shall render the franchise *ipso facto* revoked.

5 SEC. 16. *Reportorial Requirement*. – The grantee shall submit an
6 annual report to the Congress of the Philippines, through the Committee on
7 Legislative Franchises of the House of Representatives and the Committee on
8 Public Services of the Senate, on its compliance with the terms and conditions
9 of the franchise and on its operations on or before April 30 of every year
10 during the term of its franchise. The reportorial compliance certificate issued
11 by Congress shall be required before any application for permit or certificate is
12 accepted by the NTC.

13 SEC. 17. *Penalty Clause*. – Failure of the grantee to submit the
14 requisite annual report to Congress shall be penalized with a fine of five
15 hundred pesos (P500.00) per working day of noncompliance. The fine shall be
16 collected by the NTC from the delinquent franchise grantee separate from the
17 reportorial penalties imposed by the NTC.

18 SEC. 18. *Equality Clause*. – Except for taxes and customs duties, any
19 advantage, favor, privilege, exemption, or immunity granted under other
20 existing franchises, or which may hereafter be granted, upon prior review
21 and approval of Congress, shall become part of this franchise and shall
22 be accorded immediately and unconditionally to the herein grantee: *Provided*,
23 That the foregoing shall neither apply to nor affect provisions of
24 telecommunications franchises concerning territory covered by the franchise,
25 the life span of the franchise or the type of service authorized by the franchise.

26 SEC. 19. *Separability Clause*. – If any section or provision of this Act
27 is held invalid, all other provisions not affected thereby shall remain valid.

1 SEC. 20. *Repealability and Nonexclusivity Clause.* — This franchise
2 shall be subject to amendment, alteration, or repeal by the Congress of the
3 Philippines when the public interest so requires and shall not be interpreted as
4 an exclusive grant of the privileges herein provided for.

5 All provisions of Republic Act No. 7301 and Republic Act No. 7940
6 inconsistent with this Act are hereby repealed or modified accordingly.

7 SEC. 21. *Effectivity.* — This Act shall take effect fifteen (15) days after
8 its publication in the *Official Gazette* or in a newspaper of general circulation.

Approved,

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