

H. No. 5177

Republic of the Philippines
Congress of the Philippines
Metro Manila
Seventeenth Congress
Second Regular Session

Begun and held in Metro Manila, on Monday, the twenty-fourth day of July, two thousand seventeen.

[REPUBLIC ACT NO. 10972]

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:

SECTION 1. *Nature and Scope of Franchise.* – Subject to the provisions of the Philippine Constitution and applicable laws, rules and regulations, the franchise granted to Infocom Communications Network, Inc. (presently known as Now Telecom Company, Inc.) under Republic Act No. 7301, as amended by Republic Act No. 7940 and hereunder referred to as the grantee, its successors or assignees, to construct, install, establish, operate and maintain lease, purchase, and carry on the business of providing telecommunications including electronic communications and electronic communications services throughout the Philippines and between the Philippines and other countries and other territories, including outer space as public interest may warrant, for public domestic and international telecommunications is hereby extended for twenty-five (25) years from the effectivity of this Act. For this purpose, the grantee is hereby granted the right to construct, establish, install, maintain, lease, purchase and operate the corresponding transmitting and receiving stations, satellites, lines, systems, network, local gateways, domestic exchanges and platforms as it may consider necessary, convenient or reasonable.

In this Act, the term “telecommunications” shall include “electronic telecommunications”. In addition, the following terms shall have the meanings set forth below:

“Electronic communications network” shall mean (a) a transmission system for conveyance by means of electrical, magnetic, or electromagnetic energy, of signals of any description; and (b) any of the following as are used by the persons providing the system and in association with it, for conveyance of the signals: (1) apparatus comprised in the system; (2) apparatus used for the switching and routing of the system; and (3) software and stored data.

“Electronic communications service” shall mean a service consisting in or having as its principal feature the conveyance by means of electronic communications network of signals. It includes wired, wireless, fixed, cellular, and/or mobile, or integrated telecommunications/computer/electronic services, including value-added services, or technologies

related to such service, which are at present available or made available through technological advances or innovations in the future, and fixed and mobile stations.

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

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

SEC. 4. *Excavation and Restoration Works.* – For the purpose of erecting and maintaining poles or other supports for said wires or other conductors for the purpose of laying and maintaining underground wires, cables or other conductors, it shall be lawful for the grantee, its successors or assignees, with the prior approval of the Department of Public Works and Highways (DPWH) or the local government unit (LGU) concerned, as may be appropriate, to make excavations or lay conduits in any of the public places, roads, highways, streets, lanes, alleys,

avenues, sidewalks, or bridges of the province, cities, or municipalities: *Provided, however,* That a public place, road, highway, street, lane, alley, avenue, sidewalk, or bridge disturbed, altered or changed by reason of erection of poles or other supports or the underground laying of wires, other conductors or conduits shall be repaired and replaced in workmanlike manner by said grantee, its successors or assignees, in accordance with the standards set by the DPWH or the LGU concerned. Should the grantee, its successors or assignees, after the ten (10)-day notice from the said authority, fail, refuse or neglect to repair or replace any part of public place, road, highway, street, lane, alley, avenue, sidewalk, or bridge altered, changed or disturbed by the said grantee, its successors or assignees, then the DPWH or the LGU concerned shall have the right to have the same repaired and placed in good order and condition at double the amount spent for such repair or replacement, to be charged against the grantee, its successors or assignees.

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

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

The grantee shall improve and extend 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".

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

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

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

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

SEC. 9. *Acceptance and Compliance.* - Acceptance of this franchise shall be given in writing 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, within sixty (60) days from the effectivity of this Act. Upon giving such acceptance, the grantee shall exercise the privileges granted under this Act. Refusal or failure to accept the franchise shall render the franchise void.

SEC. 10. *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 thereafter 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.

SEC. 11. *Right of Interconnection.* – The grantee is hereby authorized to connect or demand connection of its telecommunications systems to other telecommunications systems installed, operated, and maintained by any other duly authorized person or entity in the Philippines for the purpose of providing extended and improved telecommunications services to the public, under the terms and conditions mutually agreed upon by the parties concerned; this right shall be subject to the review and modification of the NTC.

SEC. 12. *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.

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

SEC. 14. *Sale, Lease, Transfer, 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 shall transfer the controlling interest of the grantee, whether as a whole or in part, and whether simultaneously or contemporaneously, to any person, firm, company, corporation, or entity without the prior approval of the Congress of the Philippines and compliance with legal requirements stipulated in other statutes: *Provided*, That any person or entity to which this franchise is validly sold, transferred, or assigned shall be subject to the same conditions, terms, restrictions, and limitations of this Act.

SEC. 15. *Dispersal of Ownership.* – In accordance with the constitutional provision to encourage public participation in public utilities, the grantee shall continue to offer to Filipino citizens at least thirty percent (30%) 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, other methods of encouraging public participation by citizens and corporations operating public utilities must be implemented. Noncompliance therewith shall render the franchise *ipso facto* revoked.

SEC. 16. *Compliance with Labor Standards.* - The grantee, its successors or assignees 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.

SEC. 17. *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 reportorial compliance certificate issued by Congress shall be required before any application for permit or certificate is accepted by the NTC.

SEC. 18. *Penalty Clause.* - Failure of the grantee to submit the requisite annual report to Congress shall be penalized with a fine in the amount of One million pesos (P1,000,000.00) 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 noncompliance. 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.

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

SEC. 20. *Separability Clause.* – If any section or provision of this Act is held invalid, all other provisions not affected thereby shall remain valid.


SEC. 21. *Repealability and Nonexclusivity Clause.* – This franchise shall be subject to amendment, alteration, or repeal by the Congress of the Philippines when the public interest so requires and shall not be interpreted as an exclusive grant of the privileges herein provided for.

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

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 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, 1992 until the effectivity of the new law shall remain valid and enforceable under Republic Act No. 7301 and Republic Act No. 7940.


SEC. 22. *Effectivity.* – This Act shall take effect fifteen (15) days after its publication in the *Official Gazette* or in a newspaper of general circulation.

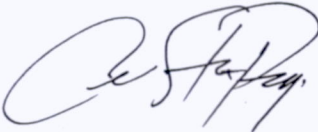
Approved,


AQUILINO "KOKO" PIMENTEL III
President of the Senate



PANTALEON D. ALVAREZ
Speaker of the House of Representatives

This Act which originated in the House of Representatives was passed by the House of Representatives and the Senate on December 11, 2017.


LUTGARDO B. BARBO
Secretary of the Senate


CESAR STRAIT PAREJA
Secretary General House of Representatives

Approved: FEB 22 2018


RODRIGO ROA DUTERTE
President of the Philippines



0

