



HOUSE OF REPRESENTATIVES

H. No. 8970

BY REPRESENTATIVES PIMENTEL, ALVAREZ (F.) AND MACEDA, PER COMMITTEE REPORT NO. 848

AN ACT

RENEWING FOR ANOTHER TWENTY-FIVE (25) YEARS THE FRANCHISE GRANTED TO MERIDIAN TELEKOMS, INC., PRESENTLY KNOWN AS SMART BROADBAND, INC., UNDER REPUBLIC ACT NO. 8337, ENTITLED "AN ACT GRANTING THE MERIDIAN TELEKOMS, INC., A FRANCHISE TO CONSTRUCT, INSTALL, ESTABLISH, MAINTAIN, LEASE AND OPERATE WIRE AND/OR WIRELESS TELECOMMUNICATIONS SYSTEMS THROUGHOUT 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, the franchise granted to
3 MERIDIAN TELEKOMS, INC., presently known as SMART BROADBAND, INC.,
4 under Republic Act No. 8337, hereunder referred as the grantee, its successor or
5 assignees, to construct, install, establish, maintain, lease and operate, for commercial
6 purposes and in the public interest, throughout the Philippines and between the
7 Philippines and other countries and territories, wired or wireless telecommunications
8 systems including mobile, cellular, fixed line, trunked radio, fiber optics, multi-channel
9 multipoint distribution system (MMDS), local multi-point distribution system (LMDS),
10 satellite transmit and receive systems, switches, and value added services such as
11 transmission of voice, data, images, facsimile, control signs, audio and video,
12 information services, and all other telecommunications systems technologies as are
13 present available or will be made available through technological advances or
14 innovations in the future; or construct, acquire, lease, and operate or manage
15 transmitting and receiving stations, landing stations of submarine cables, lines,
16 systems, or other cables as it may consider necessary and convenient to efficiently

1 carry out the purpose of this franchise, is hereby renewed for another twenty-five (25)
2 years.

3
4 **SEC. 2. *Manner of Operation of Stations or Facilities.*** – The stations or facilities
5 of the grantee shall be constructed and operated in a manner as will, at most, result
6 only in the minimum interference on the wavelengths or frequencies of existing stations
7 or other stations which may be established by law, without in any way diminishing its
8 own right to use its assigned wavelengths or frequencies and the quality of
9 transmission or reception thereon as should maximize rendition of the grantee's
10 services or the availability thereof.

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

23
24 In case of any violation of the provisions of this franchise, the NTC shall have
25 the authority to revoke or suspend, after due process, the permits or licenses it issued
26 pursuant to the franchise. The NTC may recommend to Congress the revocation of
27 the franchise for any violation of the provisions of this franchise.

28
29 **SEC. 4. *Excavation and Restoration Works.*** – For the purposes of erecting and
30 maintaining poles or other supports for wires or other conductors and for laying and
31 maintaining of underground wires, cables, or other conductors, it shall be lawful for the
32 grantee, its successors or assignees, with the prior approval of the Department of
33 Public Works and Highways (DPWH) or the local government unit (LGU) concerned,
34 as may be appropriate, to make excavations or lay conduits in any of the public places,
35 roads, highways, streets, lanes, alleys, avenues, sidewalks, or bridges of the province,

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

14
15 **SEC. 5. Responsibility to the Public.** - The grantee shall conform to the ethics
16 of honest enterprise and not use its stations or facilities for obscene or indecent
17 transmission, or for dissemination of deliberately false information, or willful
18 misrepresentation, or assist in subversive or treasonable acts.

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

25
26 The grantee shall improve and extend its services in areas not yet served, and
27 in hazard- and typhoon-prone areas that shall be determined by the National Disaster
28 Risk Reduction and Management Council, or its legal successor, in coordination with
29 the NTC.

30
31 The grantee shall also improve and upgrade its equipment, facilities and
32 services, in order to ensure effective compliance with the objectives of Republic Act
33 No. 10639 or "The Free Mobile Disaster Alerts Act".

1 SEC. 6. *Rates for Services.* – The charges and rates for telecommunications
2 services of the grantee, except the rates and charges on those that may hereafter be
3 declared or considered as nonregulated services, whether flat rates or measured rates
4 or variations thereof, shall be subject to the approval of the NTC or its legal successor.
5 The rates to be charged by the grantee shall be unbundled, separable, and distinct
6 among the services offered and shall be determined in such a manner that regulated
7 services do not subsidize the unregulated ones.

8
9 SEC. 7. *Right of Government.* – The radio spectrum is a finite resource that is
10 part of the national patrimony and the use thereof is a privilege conferred upon the
11 grantee by the State and may be withdrawn any time after due process.

12
13 A special right is hereby reserved to the President of the Philippines, in times
14 of war, rebellion, public peril, calamity, emergency, disaster, or disturbance of peace
15 and order: to temporarily take over and operate the stations, transmitters, facilities, or
16 equipment of the grantee; to temporarily suspend the operation of any station,
17 transmitter, facility, or equipment in the interest of public safety, security, and public
18 welfare; or to authorize the temporary use and operation thereof by any agency of the
19 government, upon due compensation to the grantee for the use of the stations,
20 transmitters, facilities, or equipment during the period when these shall be so operated.

21
22 SEC. 8. *Term of Franchise.* – This franchise shall be in effect for a period of twenty-
23 five (25) years from the date of the effectivity of this Act, unless sooner cancelled. This
24 franchise shall be deemed *ipso facto* revoked in the event the grantee fails to operate
25 continuously for two (2) years.

26
27 SEC. 9. *Renewal or Extension of Franchise.* – The grantee shall apply for the
28 renewal or extension of its franchise three (3) years before its expiration which shall
29 be reckoned from fifteen (15) days after the publication of the franchise in the *Official*
30 *Gazette* or in a newspaper of general circulation.

31
32 SEC. 10. *Right of Interconnection.* – The grantee is hereby authorized to
33 connect or demand connection of its telecommunications systems to other
34 telecommunications systems installed, operated, and maintained by any other duly
35 authorized person or entity in the Philippines for the purpose of providing extended

1 and improved telecommunications services to the public, under the terms and
2 conditions mutually agreed upon by the parties concerned. This right shall be subject
3 to the review and modification of the NTC.
4

5 **SEC. 11. *Mobile Number Portability.*** – The grantee shall provide mobile
6 number portability (MNP) and its implementing mechanism, including the required
7 infrastructure and processes, and shall interconnect, directly or indirectly, with the
8 infrastructure, facilities, systems, or equipment of other telecommunications franchise
9 grantees. It shall not install network features, functions, or capabilities that will impede
10 the implementation of a nationwide MNP system.

11 **SEC. 12. *Warranty in Favor of the National and Local Governments.*** - The
12 grantee shall hold the national, provincial, city, and municipal governments of the
13 Philippines free from all claims, liabilities, accounts, demands, or actions arising out of
14 accidents causing injury to persons or damage to properties, during the construction
15 or operation of the stations, transmitters, facilities, or equipment of the grantee.
16

17 **SEC. 13. *Sale, Lease, Transfer, Grant of Usufruct, or Assignment of Franchise.***
18 – The grantee shall not sell, lease, transfer, grant the usufruct of, nor assign this
19 franchise or the rights and privileges acquired thereunder to any person, firm,
20 company, corporation, or other commercial or legal entity, nor merge with any other
21 corporation or entity, nor shall the controlling interest of the grantee be transferred,
22 simultaneously or contemporaneously, to any person, firm, company, corporation, or
23 entity without the prior approval of Congress. The grantee shall inform Congress,
24 through the Office of the Speaker of the House of Representatives and the Office of
25 the Senate President, of any sale, lease, transfer, grant of usufruct, or assignment of
26 franchise or the rights and privileges acquired thereunder, or of the merger or transfer
27 of the controlling interest of the grantee, within sixty (60) days after the completion of
28 the said transaction. Failure to report to Congress such change of ownership shall
29 render the franchise *ipso facto* revoked. Any person or entity to which this franchise is
30 sold, transferred, or assigned shall be subject to the same conditions, terms,
31 restrictions, and limitations of this Act.
32

33 **SEC. 14. *Dispersal of Ownership.*** - In accordance with the constitutional
34 provision to encourage public participation in public utilities, the grantee shall offer to
35 Filipino citizens at least thirty percent (30%) of its common stocks, or a higher

1 percentage that may hereafter be provided by law, in any securities exchange in the
2 Philippines within five (5) years from the effectivity of this Act: *Provided*, That in cases
3 where public offer of shares is not applicable, other methods of encouraging public
4 participation by citizens and corporations operating public utilities must be
5 implemented. Noncompliance therewith shall render the franchise *ipso facto* revoked.
6

7 **Sec. 15. Commitment to Provide and Promote the Creation of Employment**
8 **Opportunities.** – The grantee shall create employment opportunities and accept on-
9 the-job trainees in its franchise operations: *Provided*, That priority shall be accorded
10 to the residents of the place where the principal office of the grantee is located:
11 *Provided further*, That the grantee shall ensure that at least sixty percent (60%) of its
12 employees are regular employees and in no case shall the percentage of contractual,
13 job order, or casual employees, and independent contractors combined, exceed forty
14 percent (40%) of its total workforce: *Provided, finally*, That the grantee shall comply
15 with the applicable labor standards and allowance entitlement under existing labor
16 laws, rules and regulations, and similar issuances.
17

18 The employment opportunities or jobs created shall be reflected in the General
19 Information Sheet (GIS) to be submitted to the Securities and Exchange Commission
20 (SEC) annually. In addition, the grantee shall include in its annual report to Congress
21 the number of trainees and workers whose employment status are made regular, and
22 append the appropriate certificate from the Department of Labor and Employment
23 attesting that it has complied with the employment requirement under this Section.
24

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

31 The annual report shall include an update on the commencement of activities,
32 development, operation, and expansion of business; audited financial statements;
33 latest GIS officially submitted to the SEC, if applicable; certification of the NTC on the
34 status of its permits and operations; and an update on the dispersal of ownership
35 undertaking, if applicable.

1
2 The reportorial compliance certificate issued by Congress shall be required
3 before any application for permit or certificate is accepted by the NTC.
4

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

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

23 SEC. 19. *Repealability and Nonexclusivity Clause.* – This franchise shall be
24 subject to amendment, alteration, or repeal by Congress when the public interest so
25 requires and shall not be interpreted as an exclusive grant of the privilege herein
26 provided for.
27

28 SEC. 20. *Separability Clause.* – If any of the sections or provisions of this Act
29 is held invalid, all other provisions not affected thereby shall remain valid.
30

31 SEC. 21. *Repealing Clause.* – All laws, decrees, orders, resolutions,
32 instructions, rules and regulations, and other issuances or parts thereof which are
33 inconsistent with the provisions of this Act are hereby repealed, amended, or modified
34 accordingly.
35

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

3 Approved,