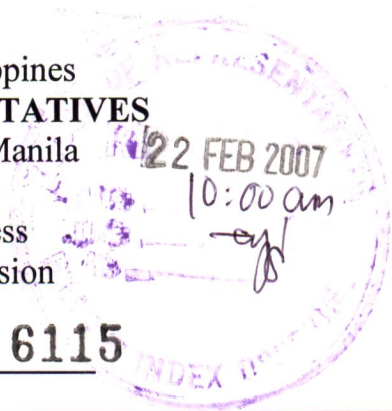


Original

Republic of the Philippines
HOUSE OF REPRESENTATIVES
Quezon City, Metro Manila

Thirteenth Congress
Second Regular Session

HOUSE BILL NO. 6115



Introduced by Hon. SIMEON A. DATUMANONG

EXPLANATORY NOTE

The purpose of this bill is to establish a definite period of effectivity of the telecommunications franchise of Capitol Wireless, Inc. (CAPWIRE) under Republic Act Numbered 2037, as amended by Republic Act Numbered 2373 and Republic Act Numbered 4387, and to amend the title of said franchise to reflect the name of the present holder thereof.

CAPWIRE's franchise originated as a "temporary right and privilege of constructing, installing, establishing and operating in the Philippines and at such places as the grantee may select, ... public coastal road stations with the corresponding relay stations, and public fixed and public base and land mobile stations for the reception and transmission of wireless messages on radiotelephony (voice) and/or radiotelegraphy, or both, within the Philippines and with vessels at sea and aircrafts over the air, irrespective of whether such vessels and aircrafts are within or without the Philippines" granted to Mr. Ricardo P. Ocampo under Section 1 of Republic Act Numbered 2037. The authority to establish and operate the communications facilities was limited to "lumber and mining concessions, farms, municipalities and other places not at present served by public radiotelegraph and/or radiotelephone systems." Section 3 of Republic Act Numbered 2037 provided that:

"SEC. 3. This temporary permit shall continue to be in force during the time that the Government has not established similar service at the places selected by the grantee, and is made upon the express condition that the same shall be void unless the construction of said stations be begun within three years from the date of approval of this Act and be completed within five years from said date." (Emphasis supplied).

Republic Act Numbered 2037 did not provide for a fixed period of effectivity. The above-quoted provision, therefore, was the only provision establishing some form of limitation on the effectivity of the authority granted.

Republic Act Numbered 2373 amended Republic Act Numbered 2037 by deleting the limitation on the area of operations, among others. Thus, the authority to establish and operate the communications facilities and services became no longer limited to “lumber and mining concessions, farms, municipalities and other places not at present served by public radiotelegraph and/or radiotelephone systems.” Also, Section 4 of Republic Act Numbered 2373 repealed the above-quoted Section 3 of Republic Act Numbered 2037 such that the authority granted under said Act was no longer subject to any limitation as to its duration or period of effectivity. Despite the repeal of Section 3, Republic Act Numbered 2373 did not provide for the renumbering of the other provisions of Republic Act Numbered 2037.

Republic Act Numbered 4387 approved the transfer of the franchise from Mr. Ocampo to CAPWIRE. It also expanded the authority granted, amended Sections 12 and 13 of Republic Act Numbered 2037, and inserted Sections 13-A and 13-B on payments to be made to the government. Said Act, however, did not provide for any limitation on the duration or effectivity of the franchise. Hence, as it stands to date, CAPWIRE’s franchise does not contain any limitation whatsoever on the period during which it shall remain in full force and effect. In order to comply with Section 11, Article XII of the Constitution providing that no franchise or any form of authorization for the operation of a public utility shall be granted for a longer period than fifty (50) years, said franchise should be amended by establishing a definite period of effectivity. In addition, despite the approval of the franchise to CAPWIRE, the title of Republic Act Numbered 2037 was not amended such that it still refers to Mr. Ocampo, not CAPWIRE, as the grantee of the franchise. Thus, the title of Republic Act Numbered 2037 should also be amended accordingly.


REP. SIMEON A. DATUMANONG

Republic of the Philippines
HOUSE OF REPRESENTATIVES
Quezon City, Metro Manila

Thirteenth Congress
Second Regular Session

H. NO. 6115

Introduced by Hon. SIMEON A. DATUMANONG

**AN ACT ESTABLISHING A FIXED PERIOD OF
EFFECTIVITY OF THE FRANCHISE OF CAPITOL
WIRELESS, INC. UNDER REPUBLIC ACT
NUMBERED 2037, AS AMENDED BY REPUBLIC
ACT NUMBERED 2373 AND REPUBLIC ACT
NUMBERED 4387**

*Be it enacted by the Senate and House of Representatives of the Philippines in Congress
Assembled:*

1 Section 1. The title of Republic Act Numbered 2037 is hereby amended to read,
2 as follows:

3 “An Act granting Capitol Wireless, Inc. a franchise to construct,
4 install, establish and operate public radiotelephone and radiotelegraph
5 coastal stations, with the corresponding relay stations, and public fixed and
6 public based and land mobile stations and radio-paging system for the
7 reception and transmission of radiotelephone and radiotelegraph
8 communications within the Philippines.”

9 Section 2. Section 3 of Republic Act Numbered 2037, as amended by Republic
10 Act Numbered 2373 and Republic Act Numbered 4387, is hereby reinstated, to read, as
11 follows:

12 “Section 3. This franchise shall continue to be in force for a period
13 of fifty (50) years from effectivity of this Section 3.”

14 Section 3. All other provisions, terms and conditions contained in Republic Act
15 Numbered 2037 as amended by Republic Act Numbered 2373 and Republic Act
16 Numbered 4387, which are otherwise not affected hereby are hereby made integral parts
17 of this Act.

18 Section 4. This Act shall take effect fifteen (15) days from the date of its
19 publication, upon the initiative of the grantee, in at least two newspapers of general
20 circulation in the Philippines.

21 Approved:

June 23, 1957
REPUBLIC ACT NO. 2037

AN ACT GRANTING MR. RICARDO P. OCAMPO, RESIDING AT NUMBER ONE HUNDRED FORTY C. FRANCISCO, MAKATI, RIZAL, PHILIPPINES, A TEMPORARY PERMIT TO CONSTRUCT, INSTALL, ESTABLISH AND OPERATE PUBLIC RADIOTELEPHONE AND RADIOTELEGRAPH COASTAL STATIONS, WITH THE CORRESPONDING RELAY STATIONS, AND PUBLIC FIXED AND PUBLIC BASE AND LAND MOBILE STATIONS FOR THE RECEPTION AND TRANSMISSION OF RADIOTELEPHONE AND RADIOTELEGRAPH COMMUNICATIONS WITHIN THE PHILIPPINES NOT AT PRESENT SERVED BY PUBLIC RADIOTELEGRAPH AND/OR RADIOTELEPHONE SYSTEMS SUCH AS IN LUMBER AND MINING CONCESSIONS, FARMS, DEEP-SEA FISHING AND ISOLATED MUNICIPALITIES

SECTION 1. There is hereby granted and conceded to Mr. Ricardo P. Ocampo, residing at 140 C. Francisco, Makati, Rizal, Philippines, his successors or assigns, the temporary right and privilege of constructing, installing, establishing and operating in the Philippines and at such places as the grantee may select, subject to the approval of the Department Secretary under whose jurisdiction the Radio Control Division is functioning, or any competent authority who is or shall be authorized now or in the future to give said approval, public coastal road stations with the corresponding relay stations, and public fixed and public base and land mobile stations for the reception and transmission of wireless messages on radiotelephony (voice) and/or radiotelegraphy, or both, within the Philippines and with vessels at sea and aircrafts over the air, irrespective of whether such vessels and aircrafts are within or without the Philippines: Provided, however, That Mr. Ricardo P. Ocampo shall only establish and operate such public fixed and public base and land mobile stations in lumber and mining concessions, farms, municipalities and other places not at present served by public radiotelegraph and/or radiotelephone systems.

SECTION 2. The President of the Philippines shall have the power and authority to permit the location on the public domain upon such terms as he may prescribed any or all of the land radio stations that may be established under this grant.

SECTION 3. This temporary permit shall continue to be in force during the time that the Government has not established similar service at the places selected by the grantee, and is made upon the express condition that the same shall be void unless the construction of said stations be begun within three years from the date of approval of this Act and be completed within five years from said date.

SECTION 4. A special right is hereby reserved to the President of the Philippines in time of war, insurrection, public peril, calamity or disaster to cause the closing of the stations or to authorize the temporary use or possession thereof by any department of the Government, upon payment of just compensation.

SECTION 5. The grantee, his successors or assigns, shall hold the national, provincial and municipal governments of the Philippines harmless from all claims, accounts, demands, or actions arising out of accidents or injuries, whether to property or to persons caused by the construction, or operation of the stations for reception and transmission of wireless messages by the grantee, his successors or assigns.

SECTION 6. The grantee, his successors or assign, shall so construct and operate his radio stations as not to interfere with the operation of other radio stations maintained and operated in the Philippines.

SECTION 7. No private property shall be taken for any purpose by the grantee of this temporary permit, his successors or assigns, without proper condemnation proceedings and just compensation paid or tendered therein, and any authority to take and occupy land contained herein shall not authorize the taking, use, or occupation of any land except such as is required for the actual necessary purposes for which the temporary permit is granted. All lands or rights of use and occupation of lands granted to the grantee, his successors or assigns, shall, upon the termination of this temporary permit or upon its revocation or repeal, revert to the national, provincial or municipal government to which such land or right to use and occupy belonged at the time of the grant thereof or the right to use and occupy the same was conceded to the grantee herein, his successors or assigns.

SECTION 8. The right is hereby reserved to the Government of the Philippines, through the Public Service Commission, or such other government agency as may hereafter be duly authorized, to fix the maximum rates or charges to be charged by the grantee.

SECTION 9. The grantee shall keep a separate account of the gross receipts of the business transacted by him in the Philippines, and shall furnish the Auditor General and the Treasurer of the Philippines a copy of such account not later than the thirty-first day of January of each year for the preceding year. For the purpose of auditing the accounts so rendered to the Auditor General and the National Treasurer, all the books and accounts of the grantee, or duplicates thereof, so far as they relate to the business transacted in the Philippines shall be kept in the Philippines, and shall be subject to the official inspection of the Auditor General or his authorized representatives, and the audit and approval of such accounts shall be final and conclusive evidence as to the amount of said gross receipts, except that the grantee shall have the right to appeal to the courts of the Philippines, under the terms and conditions provided in the laws of the Philippines.

SECTION 10. As a condition of the granting of this temporary permit the grantee shall execute a bond in favor of the Government of the Philippines in the sum of fifty thousand pesos, in form and with sureties satisfactory to the Secretary of Public Works and Communications, conditioned upon the faithful performance of the grantee's obligations hereunder during the first three years of the life of this temporary permit. If, after three years from the date of the acceptance of this temporary permit, the grantee shall have fulfilled the same, the bond aforesaid shall be cancelled by the Secretary of Public Works and Communications.

SECTION 11. Acceptance of this temporary permit shall be given in writing within six months after approval of this Act. When so accepted by the grantee and upon the approval

of the bond aforesaid by the Secretary of Public Works and Communications the grantee shall be empowered to exercise the privilege granted thereby.

SECTION 12. The grantee shall not lease, transfer, grant the usufruct of, sell or assign this temporary permit, nor the rights or privileges acquired thereunder to any person, firm, company, corporation or other commercial or legal entity, nor merge with any other person, company or corporation organized for the same purpose, without the approval of the Congress of the Philippines first had. Any corporation to which this temporary permit may be sold, transferred, or assigned, shall be subject to the corporation laws of the Philippines now existing or hereafter enacted, and any person, firm, company, corporation or other commercial or legal entity to which this temporary permit is sold, transferred, or assigned shall be subject to all conditions, terms, restrictions and limitations of this temporary permit as fully and completely and to the same extent as if the temporary permit had been originally granted to the said person, firm, company, corporation or other commercial or legal entity.

SECTION 13. This temporary permit 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 privilege herein provided for. aisa dc

SECTION 14. This Act shall take effect upon its approval.

Enacted, without Executive Approval, June 23, 1957.

June 20, 1959
REPUBLIC ACT NO. 2373

AN ACT AMENDING THE TITLE AND SECTIONS ONE
AND TEN, AND REPEALING SECTION THREE OF
REPUBLIC ACT NUMBERED TWO THOUSAND
THIRTY-SEVEN

SECTION 1. The title of Republic Act Numbered Two thousand thirty-seven is amended to read as follows:

“An Act granting Mr. Ricardo P. Ocampo, residing at number one hundred forty C. Francisco, Makati, Rizal, Philippines, a temporary permit to construct, install, establish and operate public radiotelephone and radiotelegraph coastal stations, with the corresponding relay stations, and public fixed and public based and land mobile stations and radio-paging system for the reception and transmission of radiotelephone and radiotelegraph communications within the Philippines.”

SECTION 2. Section one of the same Act is amended to read as follows:

"Sec. 1. There is hereby granted and conceded to Mr. Ricardo P. Ocampo, residing at 140 C. Francisco, Makati, Rizal, Philippines, his successors or assigns, the temporary right and privilege of constructing, installing, establishing and operating in the Philippines and at such places as the grantee may select, subject to the approval of the Department Secretary under whose jurisdiction the Radio Control Division is functioning, or any competent authority who is or shall be authorized now or in the future to give said approval, public coastal radio stations with the corresponding relay stations, and public fixed and public based and land mobile stations and radio-paging system for the reception and transmission of wireless messages on radiotelephony (voice) and/or radiotelegraphy, or both, within the Philippines and with vessels at sea and aircrafts over the air, irrespective of whether such vessels and aircrafts are within or without the Philippines.”

SECTION 3. Section ten of the same Act is amended to read as follows:

“Sec. 10. As a condition of the granting of this temporary permit the grantee shall execute a bond in favor of the Government of the Philippines in the sum of twenty-five thousand pesos, in form and with sureties satisfactory to the Secretary of Public Works and Communications, conditioned upon the faithful performance of the grantee's obligations hereunder during the first three years of the life of this temporary permit. If, after three years from the date of the acceptance of this temporary permit, the grantee shall have fulfilled the same, the bond aforesaid shall be cancelled by the Secretary of Public Works and Communications.

SECTION 4. Section three of the same Act is repealed.

SECTION 5. This Act shall take effect upon its approval.

Approved: June 20, 1959

June 19, 1965
REPUBLIC ACT NO. 4387

AN ACT AMENDING REPUBLIC ACT NUMBERED TWO
THOUSAND THIRTY-SEVEN, AS AMENDED BY
REPUBLIC ACT NUMBERED TWO THOUSAND THREE
HUNDRED SEVENTY-THREE

SECTION 1. The transfer of the franchise granted to Ricardo P. Ocampo by Republic Act Numbered Two thousand thirty-seven, as amended by Republic Act Numbered Two thousand three hundred seventy-three, in favor of Capitol Wireless, Inc., together with all the rights and privileges appurtenant thereto, including those radio stations already established and operating under said Acts, and any channel and/or frequency assignments and permits that may have been granted to the former, is hereby authorized approved, subject to the provisions of the Constitution as well as of all other relevant and applicable laws not inconsistent with this Act.

SECTION 2. Section one of Republic Act Numbered Two thousand thirty-seven, as amended, is further amended to read as follows:

“Sec. 1. (a) There is hereby granted and conceded to Mr. Ricardo P. Ocampo, residing at 140 C. Francisco, Makati, Rizal, Philippines, his successors or assigns, a franchise to construct, install, establish and operate in the Philippines and at such places as the grantee may select, subject to the approval of the Department Secretary under whose jurisdiction the Radio Control Division is functioning, or any competent authority who is or shall be authorized now or in the future to give said approval, stations for international telecommunications, public coastal radio stations with the corresponding relay stations, and public fixed and public based and land mobile stations and radio paging systems for the reception and transmission of wireless messages on radiotelephony (voice) and/or radiotelegraphy, or both, within the Philippines and with vessels at sea and aircraft over the air, irrespective of whether such vessels and aircraft are within or without the Philippines.

“(b) For his own private use, the herein grantee is further granted the right and privilege to erect poles, string wires, build or install pipes and conduits, lay cables, and to construct, maintain and use such generally accepted means of electrical or telegraphic conduction necessary: Provided, however, That the above provision shall be without prejudice to the grantee's right to enter into negotiations with any individual, co-partnership, association, or corporation which is operating any local or national electrical light and power and/or telephone system in any province, city, municipality, or municipal district for the right to use the poles or installations of such individual co-partnership, association or corporation in the province or provinces, city or cities, municipality or municipalities or municipal district or districts where they are respectively operating.”

SECTION 3. Section twelve of the same Act is amended to read as follows:

“Sec. 12. The grantee shall not lease, transfer, grant the usufruct of, sell or assign this franchise, nor the rights or privileges acquired thereunder to any person, firm, company, corporation or other commercial or legal entity,

nor merge with any other person, company or corporation organized for the same purpose, without the approval of the Congress of the Philippines first had. Any corporation to which this franchise may be sold, transferred, or assigned, shall be subject to the corporation laws of the Philippines now existing or hereafter enacted, and any person, firm, company, corporation or other commercial or legal entity to which this franchise is sold, transferred, or assigned shall be subject to all conditions, terms, restriction and limitations of this franchise as fully and been originally granted to the said person, firm, company, corporation or other commercial or legal entity.”

SECTION 4. Section thirteen of the same Act is amended to read as follows:

“Sec. 13. 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 privilege herein provided for.

“Any term or terms or authorized services more favorable than those herein granted, that in the past have been granted or might in the future be granted in a similar fashion or temporary permit by Congress to any competing person, natural or judicial, tending to place the herein grantee at any disadvantage, shall *ipso facto* become a part of the terms hereof and shall operate equally in favor of the grantee as in the case of said competing person.”

SECTION 5. The same Act is further amended by adding between Sections thirteen and fourteen thereof a new section which shall read as follows:

“Sec. 13-A. (a) The grantee shall be liable to pay the same taxes on its real estate, buildings, and personal property, exclusive of this franchise, as other persons or corporations are now or hereinafter may be required by law to pay.

“(b) The grantee shall further pay to the Treasurer of the Philippines each year, within ten days after the audit and approval of the accounts as prescribed in this Act, one and one-half per centum of all gross receipts for the business transacted in the Philippines under this franchise by the grantee.”

SECTION 6. This Act shall take effect upon its approval.

Approved: June 19, 1965