

Republic of the Philippines
HOUSE OF REPRESENTATIVES
Quezon City, Philippines

SIXTEENTH CONGRESS
First Regular Session

HOUSE BILL NO. 1514



INTRODUCED BY: HON. MARCELINO "MARCY" R. TEODORO

EXPLANATORY NOTE

The telecommunications industry was deregulated by virtue of Republic Act 7925 or the Public Telecommunications Policy Act which was enacted in 1995. This promoted competition among industry players thereby allowing the sector's growth through the years. Telecommunications is one public utility where the need of a legislative franchise is required before an entity goes into business, or where approval of Congress is also being sought in case of any sale, lease, transfer, and grant of usufruct of the franchise of any telecommunications entity, as provided for by its respective legislative franchise.

It is observed, however, that certain provisions of Republic Act 7925 were not very clear and may allow telecommunications players not to be consistent with the provisions and conditionalities of their respective franchises. As an example, Section 7 of RA 7925 provides telecommunications to own or operate one or more telecommunications categories, as long as they are covered by a franchise. Impliedly, telecommunications entities with legislative franchise which merged or sold out need not go anymore to Congress in order to do so.

Another provision which is also being used to justify the actions of telecommunications players not to seek Congress' approval in the sale, transfer, lease or usufruct of their franchise is Section 23 which grants, ipso facto, equal treatment among telecommunications players, and automatically provides existing telecommunications players any advantage, favor, exemption, or immunity granted into a new player. This provision weakens the congressional mandate in granting the privilege of a legislative franchise.

Sec. 11, Article XII of the 1987 Constitution so provides that "neither shall any such franchise or right be granted except under the condition that it shall be subject to amendment, alteration, or repeal by the Congress when the common good so requires.

With this situation, there is a clamor from lawmakers and the public alike that the right of the State to regulate public utilities be strengthened through Congress or the authorized regulatory agency. This is to assure the protection of the public from these emerging corporate trends which tend to control ownerships and monopolize public utilities. Given this, a review of RA 7925 is very timely, hence this bill proposes to amend Section 4, 7, 16 and 23 of the said law.

In view of the foregoing, expeditious approval of this bill is earnestly requested.

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1st District, Marikina City

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AN ACT
AMENDING SECTIONS 4, 7, 16 AND 23 OF REPUBLIC ACT 7925,
OTHERWISE KNOWN AS THE PUBLIC TELECOMMUNICATIONS POLICY
ACT OF THE PHILIPPINES

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

SECTION 1. Article II, Section 4, (f) of Republic Act No. 7925, otherwise known as the Public Telecommunications Policy of the Philippines Act is hereby amended to read as follows:

"SECTION 4. *Declaration of National Policy* – (f) A healthy competitive environment shall be fostered, one in which telecommunications carriers are free to make business decisions EXCLUDING SALE, LEASE, TRANSFER OR GRANT OF USUFRUCT OF THEIR LEGISLATIVE FRANCHISE and to interact with one another in providing telecommunications services, with the end in view of encouraging their financial viability while maintaining affordable rates."
xxx

SECTION 2. Article IV, Section 7 of the same Act shall be amended to read as follows:

"SECTION 7. *Categories of Telecommunications Entities*. – A telecommunications entity shall be authorized to operate in one or more of the telecommunications categories mentioned in this Act provided each category is covered by its franchise AND AFTER PRIOR NOTIFICATION AND APPROVAL OF CONGRESS WITH REGARDS TO THE SAID ACT."

SECTION 3. Article VI, Section 16 of the same Act shall be amended to read as follows:

"SECTION 16. *LEGISLATIVE Franchise*. – No person shall commence or conduct business of being a public telecommunications entity without first obtaining a LEGISLATIVE franchise.

The Commission, in granting a Certificate of Public Convenience and Necessity (CPCN), may impose such conditions as to duration and termination of the privilege, concession or standard or technical aspects of the equipment, rates, or service, not contrary to the terms of the franchise. In no case however, shall the CPCN be shorter than five (5) years, nor longer than the life of the franchise. A CPCN expiring at the same time as the franchise shall be deemed to have been renewed for the same term if the franchise itself is also renewed or extended.

Expansion and financing of network and services, utilizing equipment compatible with or homologous to existing or previously approved plant and facilities, in order to service additional demand in the same areas where the previously approved network and services have been installed, shall [not]

require approval by the Commission. *LIKEWISE*, THE BOARD SHALL NOTIFY CONGRESS PRIOR TO ANY ACTION IT SHALL MAKE.

FURTHER, ANY SALE, LEASE OR PURCHASE OF A LEGISLATIVE FRANCHISE FROM ONE TELECOMMUNICATIONS COMPANY TO ANOTHER MUST SEEK PRIOR APPROVAL OF CONGRESS BEFORE CONSUMMATION OF ANY CONTRACT PERTAINING TO ANY SUCH ACT."

SECTION 3. Article VIII, Section 23 of the same Act shall be amended to read as follows:

"SECTION 23. *Equality of Treatment in the Telecommunications Industry.* – Any advantage, favor, privilege, exemption, or immunity granted under existing franchises, or may hereafter be granted, shall, UPON PRIOR REVIEW AND APPROVAL OF CONGRESS, [*ipso facto*] become part of previously granted telecommunications franchises and shall be accorded immediately and unconditionally to the grantees of such franchises: *Provided, however,* That the foregoing shall neither apply to nor affect 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. PROVIDED FURTHER THAT THE FOREGOING SHALL NOT APPLY TO THE SALE, LEASE, TRANSFER OR GRANT OF USUFRUCT OF LEGISLATIVE FRANCHISES WITH PRIOR CONGRESSIONAL APPROVAL.

SECTION 4. *Separability Clause.* – If any provision of this Act is declared invalid or unconstitutional, the other provisions not affected thereby shall continue to be in full force and effect.

SECTION 5. *Repealing Clause.* – All laws, decrees, executive orders, proclamations, rules and regulations and other issuances, or parts thereof which are inconsistent with the provisions of this Act are hereby repealed, amended or modified.

SECTION 6. *Effectivity Clause.* — This Act shall take effect fifteen (15) days after its publication in at least two (2) newspapers of general circulation in the Philippines.

Approved,