



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



Sixteenth Congress
Second Regular Session

HOUSE BILL NO. 4964

Introduced by Honorable Sergio A.F. Apostol

EXPLANATORY NOTE

This bill seeks to grant Eyeview Wireless Communication, Inc. a franchise to construct, install, establish, operate and maintain telecommunications systems throughout the Philippines.

Section 24, Article II of the 1987 Constitution provides:

“SEC. 24. The State recognizes the vital role of communication and information in nation-building.”

Telecommunication plays an important role not only in the socio-economic development of the country but also in the political behavior of the people. It is a means by which important information can be disseminated to the people especially to those residing in the remote places. Telecommunication makes it convenient for people to transact business in any part of the country.

There is an urgent need to further develop the telecommunications systems in the Philippines today. If we are to keep in step with our expected economic recovery, we must use every means available to improve our domestic communications systems.

Eyeview Wireless Communication, Inc. is seeking a legislative franchise to operate and maintain telecommunications business using multi-channel multi-point distribution system (MMDS). MMDS is a broadcasting and communications service that operates in the ultra-high-frequency (UHF) portion of the radio spectrum between 2.1 and 2.7 GHz or higher. MMDS is also known as wireless cable and was conceived as a substitute for conventional cable television (TV), with applications in data communications or high-speed internet access. Because of recent deregulation that allows cable TV companies to provide telephone and internet services, along with the development of digital technologies that make efficient use of available bandwidth, digital MMDS has a lot to offer and has considerable next generation technology. An MMDS network can provide 200 digital TV channels and high-speed internet access together without the constraints of cable connections.

The telecommunications business is a highly capital intensive operation and requires not only national effort but also support from the private sector. The government must implement its avowed policy to encourage competition to improve the telecommunications capability within the country. We must speed-up the process of modernizing our telecommunications systems.

The ability to easily access and share information and stimulate the creation of new ideas is viewed as essential in maintaining a strong economy and enhancing the quality of life of every citizen.

In view of the foregoing, approval of this bill is highly recommended.



SERGIO A.F. APOSTOL



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1 **AN ACT**
2 **GRANTING THE EYEVUEW WIRELESS COMMUNICATION, INC.**
3 **A FRANCHISE TO CONSTRUCT, INSTALL, ESTABLISH,**
4 **OPERATE AND MAINTAIN TELECOMMUNICATIONS SYSTEMS**
5 **THROUGHOUT THE PHILIPPINES**

6
7 *Be it enacted by the Senate and the House of Representatives of the*
8 *Philippines in Congress assembled:*
9

10 **SECTION 1. *Nature and Scope of Franchise.*** – Subject to the
11 provisions of the 1987 Constitution and applicable laws, rules and
12 regulations, there is hereby granted to Eyeview Wireless Communication,
13 Inc., hereunder referred to as the grantee, its successors or assigns, a
14 franchise to construct, install, establish, operate and maintain for
15 commercial purposes and in the public interest, throughout the Philippines
16 and between the Philippines and other countries and territories, wire and
17 wireless telecommunications systems including, but not limited to, mobile,

1 cellular, paging, fiber optics, multi-channel multi-point distribution system
2 (MMDS), local multi-point distribution system (LMDS), satellite transmit
3 and receive systems, switches and their value-added services such as, but not
4 limited to, transmission of voice, data, facsimile, control signs, audio and
5 video, information services bureau and all other telecommunications systems
6 technologies as are at present available or will be made available through
7 technological advances or innovations in the future; and construct, acquire,
8 lease and operate or manage transmitting and receiving stations, lines, cables
9 or systems as are convenient or essential to efficiently carry out the purpose
10 of this franchise.

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

19 SEC. 3. *Authority of the National Telecommunications*
20 *Commission.* – The grantee shall secure from the National

1 Telecommunications Commission (NTC), hereinafter referred to as the
2 Commission, a Certificate of Public Convenience and Necessity or the
3 appropriate permits and licenses for the construction, installation and
4 operation of its telecommunications systems and facilities. In issuing the
5 certificate, the Commission shall have the power to impose such conditions
6 relative to the construction, operation, and maintenance or service level of
7 the telecommunications system. The Commission shall have the authority to
8 regulate the construction and operation of its telecommunications systems.
9 The grantee shall not use any frequency in the radio spectrum without
10 having been authorized by the Commission. Such certificate shall state the
11 areas covered and date the grantee shall commence the service. The
12 Commission, however, shall not unreasonably withhold or delay the grant of
13 any such authority, permits or licenses.

14 SEC. 4. *Excavation and Restoration Works.* – For the purpose of
15 erecting and maintaining poles or other supports for said wires or other
16 conductors for the purpose of laying and maintaining underground wires,
17 cables or other conductors, it shall be lawful for the grantee, its successors or
18 assigns, with the prior approval of the Department of Public Works and
19 Highways (DPWH) or the local government units concerned, as may be
20 appropriate, to make excavations or lay conduits in any of the public places,

1 roads, highways, streets, lanes, alleys, avenues, sidewalks or bridges of said
2 provinces, cities or municipalities: *Provided, however,* That a public place,
3 road, highway, street, lane, alley, avenue, sidewalk or bridge disturbed,
4 altered or changed by reason of erection of poles or other supports or the
5 underground laying of wires, other conductors or conduits, shall be repaired
6 and replaced in workmanlike manner by said grantee, its successors or
7 assigns, in accordance with the standards set by the DPWH or the local
8 government units concerned. Should the grantee, its successors or assigns,
9 after the ten day notice from the said authority, fail, refuse or neglect to
10 repair or replace any part of public place, road, highway, street, lane, alley,
11 avenue, sidewalk or bridge altered, changed or disturbed by the said grantee,
12 its successors or assigns, then the DPWH or the local government units
13 concerned shall have the right to have the same repaired and placed in good
14 order and condition at double expense to be charged against the grantee, its
15 successors or assigns.

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

1 The grantee shall provide basic or enhanced telephone service in any
2 city or municipality in the Philippines where it has an approved Certificate
3 of Public Convenience and Necessity for the establishment, operation and
4 maintenance of a local exchange service, without discrimination to any
5 applicant therefor, in the order of the date of their applications, up to the
6 limit of the capacity of its local telephone exchange, and should the demand
7 for the telephone service at any time increase beyond the capacity thereof,
8 the grantee shall increase the same to meet such demand: *Provided*, That in
9 case the total demand to be satisfied by the expansion is less than the
10 smallest viable local exchange available in the market as determined by the
11 Commission, the grantee shall not be obliged to furnish such service unless
12 the applicant for telephone service defrays the actual expenses for the
13 installation of the telecommunications apparatus necessary for such services
14 and in such case, the Commission may extend the time within which the
15 grantee shall furnish such service.

16 The grantee shall operate and maintain all its stations, lines, cables,
17 systems and equipment for the transmission and reception of messages,
18 signals and pulses in a satisfactory manner at all times, and as far as
19 economical and practicable, modify, improve or change such stations, lines,

1 cables, systems and equipment to keep abreast with the advances in science
2 and technology.

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

11 SEC. 7. *Right of Government.* – A special right is hereby reserved to
12 the President of the Philippines, in times of war, rebellion, public peril,
13 calamity, emergency, disaster or disturbance of peace and order, to
14 temporarily take over and operate the stations, transmitters, facilities or
15 equipment of the grantee, to temporarily suspend the operation of any
16 station, transmitter, facility or equipment in the interest of the public safety,
17 security and public welfare, or to authorize the temporary use and operation
18 thereof by any agency of the government, upon due compensation to the
19 grantee, for the use of said stations, transmitters, facilities or equipment
20 during the period when they shall be operated.

1 The radio spectrum is a finite resource that is part of the national
2 patrimony and the use thereof is a privilege conferred upon the grantee by
3 the State and may be withdrawn anytime after due process.

4 SEC. 8. ***Term of Franchise.*** – This franchise shall be in effect for a
5 period of twenty-five (25) years from the effectivity of this Act, unless
6 sooner revoked or cancelled. This franchise shall be deemed *ipso facto*
7 revoked in the event the grantee fails to comply with any of the following
8 conditions:

9 a) Commence operation within one (1) year from the approval of its
10 operating permit or provisional authority by the NTC;

11 b) Operate continuously for two (2) years; and

12 c) Commence operations within three (3) years from the effectivity
13 of this Act.

14 SEC. 9. ***Acceptance and Compliance.*** – Acceptance of this franchise
15 shall be given in writing to the Congress of the Philippines within sixty (60)
16 days from the effectivity of this Act. Upon giving such acceptance, the
17 grantee shall exercise the privileges granted under this Act. Nonacceptance
18 shall render the franchise void.

19

1 SEC. 10. **Bond.** – The grantee shall file a bond with the NTC in the
2 amount that the NTC shall determine, to guarantee compliance with and
3 fulfillment of the conditions under which this franchise is granted. If, after
4 five (5) years from the date of the approval of its permit by the Commission,
5 the grantee shall have fulfilled the same, the bond shall be cancelled by the
6 Commission. Otherwise, the bond shall be forfeited in favor of the
7 government and the franchise *ipso facto* revoked.

8 SEC. 11. **Right of Interconnection.** – The grantee is hereby
9 authorized to connect or demand connection of its telecommunications
10 systems to any other telecommunications systems installed, operated and
11 maintained by any other duly authorized person or entity in the Philippines
12 for the purpose of providing extended and improved telecommunications
13 services to the public, under such terms and conditions mutually agreed
14 upon by the parties concerned and the same shall be subject to the review
15 and modification of the Commission.

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

1 SEC. 13. *Books and Accounts.* – The books and accounts of the
2 grantee, its successors or assigns, shall always be open to the inspection of
3 the Commission on Audit or its duly authorized representatives. It shall be
4 the duty of the grantee to submit to the COA two (2) copies of the quarterly
5 reports on the gross receipts, the net profits and the general condition of the
6 business.

7 SEC. 14. *Warranty in Favor of National and Local Governments.* –
8 The grantee shall hold the national, provincial, city and municipal
9 governments of the Philippines free from all claims, accounts, demands or
10 actions arising out of accidents or injuries, whether to property or to persons,
11 caused by the construction or operation of the stations, transmitters, facilities
12 and equipment of the grantee.

13 SEC. 15. *Nontransferability of Franchise.* – The grantee shall not
14 lease, transfer, grant the usufruct of, sell nor assign this franchise or the
15 rights and privileges acquire thereunder to any person, firm, company,
16 corporation or other commercial or legal entity, nor merge with any other
17 corporation or entity, nor shall the controlling interest of the grantee be
18 transferred, whether as a whole or in parts and whether simultaneously or
19 contemporaneously, to any such person, firm, company, corporation or
20 entity without the prior approval of the Congress of the Philippines. The

1 conditions, terms, restrictions and limitations set by this Act shall be
2 imposed on any person or entity to which this franchise is sold, transferred
3 or assigned.

4 SEC. 16. ***Dispersal of Ownership.*** – In accordance with the
5 constitutional provision to encourage public participation in public utilities,
6 the grantee shall offer at least thirty *per centum* (30%) or a higher percentage
7 that may hereafter be provided by law of its outstanding capital stock in any
8 securities exchange in the Philippines within five (5) years from the
9 commencement of its operations. Noncompliance therewith shall render the
10 franchise *ipso facto* revoked.

11 SEC. 17. ***Reportorial Requirement.*** – The grantee shall submit an
12 annual report to the Congress of the Philippines, through the Committee on
13 Legislative Franchises of the House of Representatives and the Committee
14 on Public Services of the Senate, on its compliance with the terms and
15 conditions of the franchise and on its operations on or before April 30 of the
16 succeeding year.

17 SEC. 18. ***Penalty Clause.*** – In case the grantee fails to submit the
18 annual report to Congress of the Philippines, the grantee shall be fined Five
19 hundred pesos (P500.00) per working day of non-compliance. Such fine
20 shall be collected by the NTC from the grantee which shall accrue to the

1 monitoring funds of the NTC in line with its supervisory and regulatory
2 functions. The reportorial compliance certificate issued by Congress shall
3 be required before any application for permit or certificate is accepted by
4 NTC.

5 SEC. 19. *Equality Clause.* – Any advantage, favor, privilege,
6 exemption or immunity granted under existing telecommunications
7 franchise, or may hereafter be granted upon prior review and approval of
8 Congress, shall become part of previously granted telecommunications
9 franchises and shall be accorded immediately and unconditionally to the
10 grantees of such franchises: *Provided, however,* That the foregoing shall
11 neither apply to nor affect the provisions of telecommunications franchises
12 concerning territory covered by the franchise, the life span of the franchise
13 or the type of service authorized by the franchise.

14 SEC. 20. *Separability Clause.* – If any provision or section of this Act,
15 or any part thereof, is declared invalid or unconstitutional, all other sections or
16 provisions not affected thereby shall remain in force and effect.

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

1 SEC. 22. **Publication.** – This Act shall be published, through the
2 initiative of the grantee fifteen (15) days after this Act is signed by the
3 President of the Philippines or has lapsed into law.

4 SEC. 23. **Effectivity.** – This Act shall take effect fifteen (15) days
5 after its publication in the *Official Gazette* or in at least two (2) newspapers
6 of general circulation.

7 Approved,