

Republic of the Philippines
HOUSE OF REPRESENTATIVES
Quezon City

SIXTEENTH CONGRESS
Second Regular Session

HOUSE BILL NO. 5607



Introduced by REP. GIORGIDI B. AGGABAO

EXPLANATORY NOTE

The rapid development and advancement in the areas of telecommunications and information and communications technology (ICT) have brought about numerous opportunities for our 21st century investors, entrepreneurs and our people in general who can now readily avail for themselves easy and reliable access to communications and information. Having become particularly aware of its importance, value and utility in their day to day activities, the information and the ease of access in obtaining the same by virtue of their connectivity to the information hi-way have all freed them from ignorance, empowered them and enabled them to become productive participants in the social and economic progress and development of our society.

Our present experience proves much of this assessment. When the telecommunication industry was liberalized in the early 90s, the telecommunications sector have grown to such extent that people are able to communicate and be connected (while at the same time obtain profit from such), to a level never before experienced during the pre-liberalization era. To cite but one simple example (and there are many in this regard) – the call center industry which has grown so fast in the country that the Philippines has actually overtaken India as the call-center capital of the world. However, India still rules the IT outsourcing realm, but our army of graduates each year now dominate most every other kind of task known as business process outsourcing or "BPO". By next year, economists estimate that our country's BPO will generate US \$25 Billion in revenue and as much as the total amount expected to be remitted by the 11 Million OFW heroes.

The telecom and ICT are industries that have so much potential for growth such that the more public telecom utilities there are in the field to enhance competition, the more the products and services as well as choices will be made available, thus giving our innovators, entrepreneurs and other consumers more access to an ever growing market for services.

In this light, INFINIVAN, Inc. seeks to offer itself as one of the service providers in the telecommunications industry. It possesses the technical and financial capacity and capability to provide broadband and internet connectivity and backbone and transmission systems and networks for the benefit of our

consuming public in general and our innovators, entrepreneurs and other business entities in particular, by means of wire and/or wireless telecommunications and broadband systems. This bill seeks to grant the company the franchise required for it to be able to operate and offer its services herein mentioned and therefore open the way for more opportunities for access to information and choice in communications services through the fostering of healthy competition.

In view of the foregoing, approval of this measure is earnestly sought.



REP. GIORGIDI B. AGGABAO
4th District, Isabela

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HOUSE BILL NO. **5607**

Introduced by REP. GIORGIDI B. AGGABAO

AN ACT
GRANTING THE INFINIVAN, INC. A FRANCHISE TO CONSTRUCT, INSTALL,
ESTABLISH, OPERATE AND MAINTAIN 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 1987
2 Philippine Constitution and applicable laws, rules and regulations, there is hereby granted to
3 INFINIVAN, INC., hereunder referred to as the grantee, its successors or assignees, a
4 franchise to construct, install, establish, operate, and maintain for commercial purposes and
5 in the public interest, throughout the Philippines and between the Philippines and other
6 countries and territories, wire and/or wireless telecommunications systems, including but not
7 limited to mobile cellular, paging, fiber optics, satellite transmit and receive systems,
8 switches, and their value-added services such as, but not limited to, transmission of voice,
9 data, facsimile, control signs, audio and video, information services, and all other
10 telecommunications systems technologies as are at present available or will be made
11 available through technological advances or innovations in the future; and/or construct,
12 acquire, lease, and operate or manage transmitting and receiving stations, lines, cables, or
13 systems as are convenient or essential to efficiently carry out the purpose of this franchise.

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

1 SEC.3. *Authority of the National Telecommunications Commission.* – The grantee
2 shall secure from the National Telecommunications Commission (NTC) a certificate of public
3 convenience and necessity or the appropriate permits and licenses for the construction,
4 installation and operation of its telecommunications systems/facilities. In issuing the
5 certificate, the NTC shall have the power to impose such conditions relative to the
6 construction, operation, maintenance, or service level of the telecommunications system.
7 The NTC shall have the authority to regulate the construction and operation of its
8 telecommunications systems. The grantee shall not use any frequency in the radio spectrum
9 without authorization from the NTC. Such certificate shall state the areas covered and date
10 the grantee shall commence the service. The NTC, however, shall not unreasonably
11 withhold or delay the grant of any such authority, permits, or licenses.

12 SEC. 4. *Excavation and Restoration Works.* – For the purpose of erecting and
13 maintaining poles or other supports for the said wires or other conductors for the purpose of
14 laying and maintaining underground wires, cables, or other conductors, it shall be lawful for
15 the grantee, its successors or assignees, with the prior approval of the Department of Public
16 Works and Highways (DPWH) or the local government unit concerned, as may be
17 appropriate, to make excavations or lay conduits in any of the public places, highways,
18 streets, lanes, alleys, avenues, sidewalks, or bridges of said province, cities and/or
19 municipalities: *Provided, however,* That a public place, highway, street, lane, alley, avenue,
20 sidewalk or bridge disturbed, altered, or changed by reason of erection of poles or other
21 supports or the underground laying of wires, other conductors, or conduits, shall be repaired
22 and replaced in workmanlike manner by the grantee, its successors or assignees, in
23 accordance with the standards set by DPWH or the local government unit concerned.
24 Should the grantee, its successors assignees, after the ten (10) day notice from the said
25 authority, fail, refuse or neglect to repair or replace any part of public place, road, highway,
26 street, lane, alley, avenue, sidewalk or bridge altered, changed or disturbed by the said
27 grantee, its successors or assignees, then the DPWH or the local government unit
28 concerned shall have the right to have the same repaired and placed in good order and
29 condition at double expense to be charged against the grantee, its successors or assignees.

30
31 SEC. 5. *Responsibility to the Public.* - The grantee shall conform to the ethics of
32 honest enterprise and not use its stations or facilities for obscene or indecent transmission;
33 or for dissemination of deliberately false information; or willful misrepresentation; or assist in
34 subversive or treasonable acts.

35

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

13
14 The grantee shall operate and maintain all its stations, lines, cables, systems, and
15 equipment for the transmission and reception of messages, signals, and pulses in a
16 satisfactory manner at all times, and as far as economical and practicable, modify, improve,
17 or change such stations, lines, cables, systems, and equipment to keep abreast with the
18 advances in science and technology.

19 SEC. 6. *Rates for Services.* – The charges and rates for telecommunications
20 services of the grantee, except the rates and charges on those that may hereafter be
21 declared or considered as non-regulated services, whether flat rates or measured rates or
22 variation thereof, shall be subject to the approval of the NTC or its legal successor. The rates
23 to be charged by the grantee shall be unbundled, separable, and distinct among the services
24 offered and shall be determined in such a manner that regulated services do not subsidize
25 the unregulated ones.

26 SEC. 7. *Right of Government.* – A special right is hereby reserved to the President
27 of the Philippines, in times of war, rebellion, public peril, calamity, emergency, disaster or
28 disturbance of peace and order: to temporarily take over and operate the stations,
29 transmitters, facilities or equipment of the grantee; to temporarily suspend the operation of
30 any station, transmitter, facility or equipment in the interest of public safety, security and
31 public welfare; or to authorize the temporary use and operation thereof by any agency of the
32 government, upon due compensation to the grantee for the use of the stations, transmitters,
33 facilities, or equipment during the period when they shall be so operated.

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

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

8
9 (a) Commence operations within one (1) year from the approval of its operating permit
10 by the National Telecommunications Commission;

11 (b) Commence operations within three (3) years from the effectivity of this Act; and

12
13 (c) Operate continuously for two (2) years.
14

15 SEC. 9. *Acceptance and Compliance.* – Acceptance of this franchise shall be given
16 in writing to the Congress of the Philippines, through the Committee on Legislative
17 Franchises of the House of Representatives and the Committee on Public Services of the
18 Senate within sixty (60) days from the effectivity of this Act. Upon giving such acceptance,
19 the grantee shall exercise the privileges granted under this Act. Nonacceptance shall render
20 the franchise void.

21 SEC. 10. *Bond.* - The grantee shall file a bond with the NTC in the amount that it shall
22 determine to guarantee compliance with and fulfillment of the conditions under which this
23 franchise is granted. If after three (3) years from the date of the approval of its permit by the
24 NTC, the grantee shall have fulfilled the conditions, the bond shall be cancelled by the NTC.
25 Otherwise, the bond shall be forfeited in favor of the government and the franchise *ipso facto*
26 revoked.
27

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

1
2 SEC. 12. *Gross Receipts.* - The grantee, its successors or assignees, shall keep a
3 separate account of the gross receipts of the business transacted by it and shall furnish the
4 Commission on Audit (COA) and the National Treasury a copy of such account not later than
5 the thirty-first (31st) day of January of each year for the preceding twelve (12) months.

6 SEC. 13. *Books and Accounts.* - The books and accounts of the grantee, its
7 successor or assignees, shall always be open to the inspection of the Commission on Audit
8 (COA) and its duly-authorized representatives. It shall be the duty of the grantee to submit to
9 the COA two (2) copies of the quarterly reports on the gross receipts, the net profits, and the
10 general condition of the business.

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

16
17 SEC. 15. *Sale, Lease, Transfer, Usufruct, or Assignment of Franchise.* - The grantee
18 shall not sell, lease, transfer, grant the usufruct of, or assign this franchise or the rights and
19 privileges acquired thereunder to any person, firm, company, corporation, or other
20 commercial or legal entity, or merge with any other corporation or entity, or shall transfer the
21 controlling interest of the grantee, whether as a whole or in parts, and whether
22 simultaneously or contemporaneously, to any such person, firm, company, corporation, or
23 entity without the prior approval of the Congress of the Philippines: *Provided*, That Congress
24 shall be informed of any sale, lease, transfer, grant of usufruct, or assignment of franchise or
25 the rights or privileges acquired thereunder, or of the merger, or transfer of controlling
26 interest of the grantee, within sixty (60) days after the completion of the said transaction:
27 *Provided, further*, That failure to report to Congress such change of ownership shall render
28 the franchise *ipso facto* revoked: *Provided, finally*, That any person or entity to which this
29 franchise is sold, transferred, or assigned, shall be subject to the same conditions, terms,
30 restrictions, and limitations of this Act.

31
32 SEC. 16. *Dispersal of Ownership.* - In accordance with the constitutional provision to
33 encourage public participation in public utilities, the grantee shall offer to Filipino citizens at
34 least thirty per cent (30%) or a higher percentage that may hereafter be provided by law of

1 its outstanding capital stock in any securities exchange in the Philippines within five (5) years
2 from the commencement of its operations. *Provided*, That in cases where public offer of
3 shares is not applicable, establishment of cooperatives and other methods of encouraging
4 public participation by citizens and corporations operating public utilities must be
5 implemented. Noncompliance therewith shall render the franchise *ipso facto* revoked.

6
7 SEC. 17. *Reportorial Requirement*. – The grantee shall submit an annual report to
8 the Congress of the Philippines, through the Committee on Legislative Franchises of the
9 House of Representatives and the Committee on Public Services of the Senate, on its
10 compliance with the terms and conditions of the franchise and on its operations on or before
11 April 30 of every year during the term of the franchise. The reportorial compliance certificate
12 issued by Congress shall be required before any application for permit or certificate is
13 accepted by the NTC.

14
15 SEC. 18. *Penalty Clause*. – Failure to submit the requisite annual report to Congress
16 shall be penalized with a fine of five hundred pesos (P500.00) per working day of
17 noncompliance. The fine shall be collected by the NTC from the delinquent franchise grantee
18 separate from the reportorial penalties imposed by the NTC.

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

27
28 SEC. 20. *Separability Clause*. – If any of the sections or provisions of this Act is held
29 invalid, all other provisions not affected thereby shall remain valid.

30
31 SEC. 21. *Repealability and Nonexclusivity Clause*. – This franchise shall be subject
32 to amendment, alteration, or repeal by the Congress of the Philippines when the public
33 interest so requires and shall not be interpreted as an exclusive grant of the privilege herein
34 provided for.

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

Approved,

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