

Republic of the Philippines
HOUSE OF REPRESENTATIVES
Quezon City



SEVENTEENTH CONGRESS
First Regular Session

House Bill No. **4515**

Introduced by: **REPRESENTATIVE HENRY S. OAMINAL**

EXPLANATORY NOTE

The Constitution has long recognized the importance of information and communication technology in nation-building. In pursuance of this expressed mandate, Section of Republic Act No. 8792 otherwise known as the Electronic Commerce Act of 2000 declares the need to create an information-friendly environment which supports and ensures availability, diversity and affordability of ICT products and services.

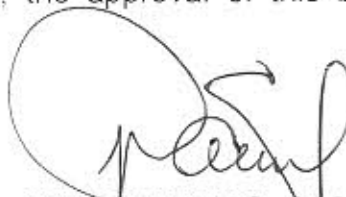
Considering the current landscape of the technology industry in the Philippines where certain business interests have kept prices high and quality low, it is clear that there is a need for a better alternative. In order to address this issue, it is imperative for the government to welcome and encourage other groups and companies, whether small or big business, to directly invest in telecommunications. Indeed, the more quality players in the industry will be more beneficial to our country and people.

This bill therefore seeks to grant Ignite Telecommunications, Inc. a franchise to construct, install, establish, operate and maintain telecommunication system throughout the Philippines and shall include but not limited to paging, fiber optics, multi-channel multi-point distribution system (MMDS), local multi-point distribution systems (LMDS), satellite transmit and received systems, switches and their value-added services, such as but not limited to, transmission of voice, data, facsimile, control signs, audio and video, information service bureau and all other value-added technologies as are presently available or will be available or will be made available through technological advances or innovations in the future, and/or construct, acquire lease and operate or manage transmitting and receiving stations, lines, cables or systems as is or are convenient or essential to efficiently carry out the purpose of this franchise.

Ignite Telecommunications, Inc. intends to help improve the present state of our telecommunications industry with its best human and management resource and by offering the latest technology at competitive rates.

The entry of another worthy investor in the market, like the Ignite Telecommunications, Inc. will surely improve the services at lesser costs and enliven the telecommunications industry for the great benefit of our consumers.

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



ATTY. HENRY S. OAMINAL
Representative
Second District, Misamis Occidental

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AN ACT
GRANTING IGNITE TELECOMMUNICATIONS, INCORPORATED A
FRANCHISE TO CONSTRUCT, INSTALL, ESTABLISH, OPERATE AND
MAINTAIN TELECOMMUNICATIONS SYSTEM THROUGHOUT THE
PHILIPPINES

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

SECTION 1. *Nature and Scope of Franchise.* - Subject to the provisions of the Philippine Constitution and applicable laws, rules and regulations, there is hereby granted Ignite Telecommunications, Incorporated hereunder referred to as the grantee, its successors or assigns, a franchise to construct, install, establish, operate and maintain for commercial purposes and in the public interest, throughout the Philippines and between the Philippines and other countries and territories, wire and/or wireless telecommunications system and shall include but not limited to paging, fiber optics, multi-channel multi-point distribution system (MMDS), local multi-point distribution systems (LMDS), satellite transmit and received systems, switches and their value-added services, such as but not limited to, transmission of voice, data, facsimile, control signs, audio and video, information service bureau and all other value-added technologies as are presently available or will be available or will be made available through technological advances or innovations in the future, and/or construct, acquire lease and operate or manage transmitting and receiving stations, lines, cables or systems as is or are convenient or essential to efficiently carry out the purpose of this franchise.

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

SEC. 3. Authority of the National Telecommunications Commission (NTC). - The grantee shall secure from the National Telecommunications Commission (NTC) hereinafter referred to as the Commission, the appropriate permits and licenses for the construction, installation and operation of its telecommunications system and facilities. The grantee shall not use any frequency in the radio/television spectrum without authorization from the Commission. The Commission, however, shall not unreasonably withhold or delay the grant of any such authority, permits or licenses.

SEC. 4. Ingress and Egress. - For the purpose of erecting and maintaining poles or other supports for said wires or other conductors for the purpose of laying and maintaining underground wires, cables or other conductors, it shall be unlawful for the grantee, without prior approval of the Department of Public Works and Highways (DPWH), to make excavations or lay conduits in any public places, highways, streets, lanes, alleys, avenues, sidewalks or bridges of said province, cities or municipalities: *Provided, however,* That a public place, highway, street, lane, alley, avenue, sidewalk or bridge altered, changed or disturbed, altered, or changed by reason of erection of poles or other supports or the underground laying of wires, other conductors or conduits, shall be repaired and replaced in a workmanlike manner by said grantee in accordance with the standard set by the DPWH. Should the grantee after ten (10) days notice from said authority, fail, refuse or neglect to repair or replace any part of public place, road, highway, street, lane, alley, avenue, sidewalk or bridge altered, changed or disturbed by said grantee, the DPWH shall have the right to have the same repaired and placed in good order and condition at double expense to be charged against the grantee.

SEC. 5. Responsibility to the Public. - The grantee shall conform to the ethics of honest enterprise and shall not use its stations/facilities for obscene or indecent transmission or dissemination of deliberately false information or willful misinterpretation or assist in subversive or treasonable acts.

The grantee shall provide basic or enhanced telephone service in any local government unit in the Philippines where it has an approved certificate of public convenience and necessity for the establishment, operation and maintenance of local exchange service, without discrimination to any applicant therefore, in the order of the date of their applications, up to the limit of the capacity of its local telephone exchange, and should the demand for the telephone service at any time increase beyond the capacity thereof, the grantee shall increase the same to meet such demand: *Provided, That,* in case the total demand to be satisfied by the expansion is less than the smallest viable local exchange available in the market as determined by the Commission, the grantee shall not be obliged to furnish such service unless the applicant for telephone service defrays the actual expenses for the installation of the telecommunications apparatus necessary for such services and in such case, the Commission may extend the time within which the grantee shall furnish such service.

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

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

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

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

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

- (a) Commence operations within one (1) year from the approval of its operating permit by the NTC;
- (b) Operate continuously for two (2) years.
- (c) Commence operations within three (3) years from the effectivity of this Act; and

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

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

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

SEC. 12. Gross Receipts. – The grantee shall keep a separate account of the gross receipts of the business transacted by it and shall furnish the Commission on Audit and the National Treasury a copy of such account not later than the thirty-first (31st) of January of each year for the preceding twelve months.

SEC. 13. Books of Accounts. – The books of accounts of the grantee shall always be open to the inspection of the Commission on Audit or his authorized representatives, and it shall be the duty of the grantee to submit to the COA, two (2) copies of the quarterly reports on the gross receipts, the net profits and the general condition of the business.

SEC. 14. Warranty in Favor of National and Local Governments. – The grantee shall hold the national, provincial, city 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, transmitters, facilities and equipment of the grantee.

SEC. 15. Sale, Lease, Transfer, Usufruct, or Assignment of Franchise. – The grantee shall not lease, transfer, grant the usufruct of, sell nor assign this franchise or the rights and privilege acquired thereunder to any person, firm, company, corporation or other commercial or legal entity, nor merge with any other corporation or entity, nor shall the controlling interest of the grantee be transferred, whether as a whole or in parts and whether simultaneously or contemporaneously, to any such person, firm, company, corporation or entity.

SEC. 16. *Dispersal of Ownership.* - In accordance with the constitutional provision to encourage public participation in public utilities, the grantee shall offer to Filipino citizens at least *thirty per centum* (30%) or a higher percentage that may hereafter be provided by law of its outstanding capital stock in any securities exchange in the Philippines within five (5) years from the commencement of its operations. The public offering shall comply with the rules and regulations of the Securities and Exchange Commission. Non-compliance therewith shall render the franchise *ipso facto* revoked.

SEC. 17. *Equality Clause.* - Except for taxes, any advantage, favor, privilege, exemption, or immunity granted under existing franchise and shall be accorded immediately and unconditionally to the herein grantee: *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.

SEC. 18. *Reportorial Requirement.* - The grantee shall submit an annual report to the Congress of the Philippines, through the Committee on Legislative Franchises of the House of Representatives and the Committee on Public Services of the Senate, on its compliance with the terms and conditions of the franchise and on its operations on or before April 30 of the succeeding year.

SEC. 19. *Penalty Clause* - Any grantee who fails to submit the Annual Report to Congress will be fined Five Hundred Pesos (P500.00) per working day of non-compliance. Said fine will be collected by the Commission from said delinquent franchise grantee separate from the reportorial penalties imposed by Commission. The collected funds shall accrue to the monitoring fund of the Commission in line with its supervisory and regulatory functions. The reportorial compliance certificate issued by Congress shall be required before any application for permit or certificate is accepted by Commission.

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

SEC. 21. *Repealability and Non-exclusivity Clause.* - 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 privileges herein provided for.

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

SEC. 23. *Effectivity.* - This Act shall take effect fifteen (15) days from its publication in the Official Gazette or in a newspaper of general circulation in the Philippines.

Approved,