

Republic of the Philippines
HOUSE OF REPRESENTATIVES
Quezon City

Seventeenth Congress
Second Regular Session

HOUSE BILL NO. 8163



INTRODUCED BY: HON. KARLO ALEXEI B. NOGRALES AND HON. JERICO JONAS B. NOGRALES

EXPLANATORY NOTE

This proposed law seeks to extend ABS-CBN Convergence, Inc.'s (formerly, Multi-Media Telephony, Inc.) legislative franchise for another twenty-five (25) years.

ABS-CBN Convergence, Inc. was incorporated on September 20, 1993. As of 2014, ABS-CBN Convergence, Inc. operates both a Code Division Multiple Access (CDMA) 2000 1Xrtt/1x Evolution Data Only (EV-DO) Network for fixed and mobile voice/high-speed data services (CDMA Business).

On April 23, 2002, the National Telecommunications Commission (NTC) granted ABS-CBN Convergence, Inc. a Certificate of Public Convenience and Necessity (CPCN) to procure, install, and maintain an Internal Protocol Access Note for a period co-terminus with the life of its legislative franchise under Republic Act No. 8332, subject to certain conditions set by the NTC. The CPCN will expire in 2022. Furthermore, on the same date, the NTC granted ABS-CBN Convergence, Inc., provisional authority (PA) to offer Local Exchange Carrier Service using its duly authorized broadband network covering 53 cities and 37 municipalities nationwide. In October 2005, ABS-CBN Convergence, Inc., was awarded a Public Mobile Telecommunications Systems (PMTS) license by the NTC allowing ABS-CBN Convergence, Inc., to introduce mobile phone service.

In 2013, ABS-CBN Convergence, Inc., expanded its telecommunications business via a network sharing agreement with Globe Telecom, Inc. (Globe). The groundbreaking partnership bridges two separate industries – it enables ABS-CBN Corporation to deliver its content and offer traditional telecommunication services on mobile devices. Through the network-sharing agreement, Globe provides capacity and coverage on its existing cellular mobile telephony network to ABS-CBN Convergence, Inc., on a nationwide basis.

ABS-CBN Convergence, Inc., sees a lot of opportunities in the wireless market, especially in the wireless broadband segment. The next phase in competition in the telecommunications industry lies in broadband internet service. Wireless broadband service is seen by ABS-CBN Convergence, Inc., as the preferred choice of service due to its ease in use and mobility. As such, ABS-CBN Convergence, Inc., decided that it will expand its current wireless business by introducing more products and partnerships.

The extension of ABS-CBN Convergence, Inc.'s franchise will allow ABS-CBN Convergence, Inc., to continue providing various telecommunications services throughout the country at rates affordable to the consuming public. It ensures that there is at least a third player in the telecommunications industry other than Globe Telecoms Inc. and Smart Communications. Extending ABS-CBN Convergence, Inc.'s franchise will also ensure the uninterrupted and improved delivery of its service to the Filipino people.

It is to the best interest of the State and public that ABS-CBN Convergence, Inc.'s franchise be extended.

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



KARLO ALEXEI B. NOGRALES



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AN ACT RENEWING FOR ANOTHER TWENTY- FIVE (25) YEARS THE FRANCHISE GRANTED TO MULTI-MEDIA TELEPHONY, INC (PRESENTLY KNOWN AS ABS-CBN CONVERGENCE, INC.) UNDER REPUBLIC ACT NO. 7908, ENTITLED "AN ACT GRANTING THE MULTI-MEDIA TELEPHONY INCORPORATED, A FRANCHISE TO CONSTRUCT, ESTABLISH, OPERATE AND MAINTAIN RADIO PAGING SYSTEM IN THE PHILIPPINES AND FOR OTHER PURPOSES," AS AMENDED BY REPUBLIC ACT. NO. 8332

Be it enacted by the Senate and the 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, the franchise granted to Multi-Media Telephony, Inc. (presently known as ABS-CBN Convergence, Inc.) hereunder referred to as the grantee, its successors or assignees, to construct, establish, install, maintain, lease, purchase, operate and carry on the business of providing telecommunications, including electronic telecommunications or electronic communications service throughout the Philippines and between the Philippines and other countries and territories, including outer space, as public interest may warrant, for public domestic and international telecommunications is hereby extended for twenty-five (25) years from effectivity of this Act. For this purpose, the grantee is hereby granted the right to construct, establish, install, maintain, lease, purchase and operate the corresponding transmitting and receiving stations, satellites, lines, systems, networks, international gateways, local exchanges, and platforms as it may consider necessary, convenient, or reasonable.

In this Act, the term "telecommunication" shall include "electronic communication". In addition, the following terms shall have the meanings set forth herein:

"Electronic communications network" shall mean: (a) a transmission system for conveyance, by use of electrical magnetic or electro-magnetic energy, of signals of any description; and (b) any of the following as are used by the person providing the system and in association with it, for

conveyance of the signals: (1) apparatus comprised in the system; (2) apparatus used for the switching and routing of the signals; and (3) software and stored data.

'Electronic communications service' shall mean a service consisting in, or having as its signals. It includes wire and/or wireless telecommunications systems including international and local exchange earner (LEC), international and domestic gateway facility, international and domestic submarine cable landing stations, mobile cellular, copper, fiber optic, coaxial cable, satellite transmit and receive systems, switches, and their value-added services such as the transmission of voice, data, facsimile, control signs, audio and video, information services and all other telecommunications systems technologies as are at present available or will be made available through technological advances or innovations in the future.

Section 2. Manner of Operation of Stations or 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 wavelength or frequencies of the existing stations or other stations which may be established by law, without in any way diminishing its own right to use its selected wavelength or frequencies and the quality of transmission or reception thereon as should maximize rendition of the grantee's services and/or the availability thereof.

Section 3. Authority of the National Telecommunications Commission. - The grantee shall secure from the National Telecommunications Commission, hereinafter referred to as the Commission, a certificate of public convenience or the appropriate permits and licenses for the location, construction, installation and operation of its telecommunication systems. In issuing the certificate, the Commission shall have the power to impose such condition relative to the construction, operation, maintenance, or service level of the telecommunication system. The Commission shall have the authority to regulate the construction and operation of its telecommunication systems. The grantee shall not use any frequency in the radio spectrum without having been authorized by the Commission. Such certificate shall state the areas covered and date the grantee shall commence the service. The Commission, however shall not unreasonably withhold or delay the grant of any such authority, permits or licenses.

Section 4. Responsibility to the Public. – The grantee shall conform to the ethics of honest enterprise and shall not use its station for obscene or indecent transmission or for 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 municipality in the Philippines where it has an approved certificate of public convenience for the establishment, operation, and maintenance of a local exchange service, without discrimination to any applicant therefor, 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 said service, unless the applicant for telephone service defrays the

actual expenses to the installation of the telecommunication 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.

Section 5. Rates for Services. – The charges and rates for telecommunications services of the grantee, except the rates and charges on those that may hereafter be declared or considered as nonregulated services, whether flat rates or measured rates or variation thereof, shall be subjected to the approval of the Commission or its legal successors. The rates to be charges 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.

Section 6. 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, transmissions, facilities, or equipment of the grantee, to temporarily suspend the operation of any station, transmitter, facility, or equipment 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, facilities, or equipment during the period when the franchise shall be operated.

The radio spectrum is a finite resource that is a 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.

Section 7. Term of Franchise. – The franchise shall be extended and in effect for a period of twenty-five (25) years from the date of the effectivity of this Act, unless sooner revoked or cancelled. In the event the grantee fails to operate continuously for two (2) years, this franchise shall be deemed ipso facto revoked.

Section 8. Acceptance and Compliance. – Acceptance of this franchise shall be given in writing 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.

Section 9. Bond. – The grantee shall file a bond issued in favor of the National Telecommunication Commission, which shall determine the amount, to guarantee the compliance with and fulfillment of the conditions, under which this franchise is granted. If after five (5) years 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.

Section 10. Right of Interconnection. – The grantee is hereby authorized to connect or demand connection of its telecommunications systems to any other telecommunications 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 service to the public under such terms and conditions mutually agreed upon by the parties concerned and the same shall be subjected to the review or modification of the Commission.

Section 11. Tax Provision. – The grantee, its successors or assigns, shall be liable to pay the same taxes on their real estate, buildings and personal property, exclusive of this franchise, as other persons or corporations are now or hereafter may be required by law to pay. In addition, thereto, the grantee, its successors or assigns, shall pay the value-added tax under Republic Act No. 7716 or a franchise tax of three (3%) percent per annum or at such percentage as may be prescribed by law, on all gross receipts of its telecommunications business transacted under this franchise, whichever is higher: Provided, That the grantee, its successors or assigns, shall continue to be liable for income taxes payable under Title II of the National Internal Revenue Code pursuant to Section 2 of Executive Order No. 72, unless the latter enactment is amended or repealed, in which case the amendment or repeal shall be applicable thereto.

The grantee shall file the return with and pay the taxes due thereon to the Commissioner of Internal Revenue or his duly authorized representatives in accordance with the National Internal Revenue Code and the return shall be subject to audit by Bureau of Internal Revenue.

Section 12. Gross Receipts. – The grantee, its successors or assigns, 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 day of January of each year, for the preceding twelve (12) months.

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

Section 14. Warranty in favor of National and Local Government. – The grantee shall hold the national, provincial, city, and municipal government of the Philippines harmless from all claims, account, 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.

Section 15. Sales, Lease, Transfer, Usufruct, etc. – The grantee shall not lease, transfer, grant the usufruct of, sell nor assign this franchise or the right and privileges acquired thereunder to any

person, firm, company, corporation or other commercial or legal entity, nor merge with any corporation or entity, nor shall the controlling interest in 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 without the prior approval of the Congress of the Philippines. Any person or entity to which this franchise is sold, transferred or assigned, shall be subject to the same conditions, terms, restrictions, and limitations of this Act.

Section 16. Dispersal of Ownership. – In accordance with the constitutional provisions to encourage public participation in the public utilities, the grantee shall offer at least thirty per centum (30%) of its outstanding capital stocks or a higher percentage that may hereafter be provided by law in any securities exchange in the Philippines within five (5) years from the renewal of its franchise; Provided, That in cases where public offer of shares is not applicable/feasible, other methods of encouraging public participation by citizens and corporations operating public utilities must be implemented. Noncompliance therewith shall render the franchise ipso facto revoked.

Section 17. Equality Clause. – Any advantage, favor, privilege, exemption, or immunity granted under existing franchise, or which may hereafter be granted upon prior review and approval of Congress, shall become part of this franchise and shall be accorded immediately and unconditionally to the herein grantee: Provided, That the forgoing shall neither apply to nor affect provisions of telecommunications franchises concerning territory covered by the franchise, the lifespan of the franchise or the type of service authorized by the franchise.

Section 18. Separability Clause. – If any of the sections or provisions of this Act is held invalid, all the other provisions not affected thereby shall remain valid.

Section 19. Repealability and Nonexclusivity 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.

Section 20. Reportorial Requirement. – The grantee shall submit an annual report to the Congress of the Philippines on its compliance with the terms and conditions of its franchise and on its operations within sixty (60) days from the end of every year.

Section 21. Effectivity Clause. – This Act shall take effect fifteen (15) days from the date of its publication in at least two (2) newspaper of general circulation.

Approved.