

Republic of the Philippines
HOUSE OF REPRESENTATIVES

EIGHTEENTH CONGRESS
First Regular Session

HOUSE BILL NO. 6917



Introduced by HONORABLE WES GATCHALIAN

AN ACT RENEWING FOR ANOTHER TWENTY-FIVE (25) YEARS THE FRANCHISE GRANTED TO MINDANAO ISLAMIC TELEPHONE COMPANY, INC., PRESENTLY KNOWN AS DITO TELECOMMUNITY CORPORATION, AND AMENDING FOR THE PURPOSE REPUBLIC ACT NO. 8627, ENTITLED " AN ACT GRANTING THE MINDANAO ISLAMIC TELEPHONE COMPANY, INC., A FRANCHISE TO CONSTRUCT, ESTABLISH, INSTALL, MAINTAIN AND OPERATE WIRE AND/OR WIRELESS TELECOMMUNICATIONS SYSTEMS IN THE PHILIPPINES"

EXPLANATORY NOTE

The COVID pandemic that has necessitated community quarantines in the entire country lasting for more than two (2) months in some areas, exposed the demand for network connectivity. There never was a time that connectivity meant so much important than during the quarantine. It became our most important tool to check on other members of our family, friends, whether local or overseas, and keep abreast of goings-on around us.

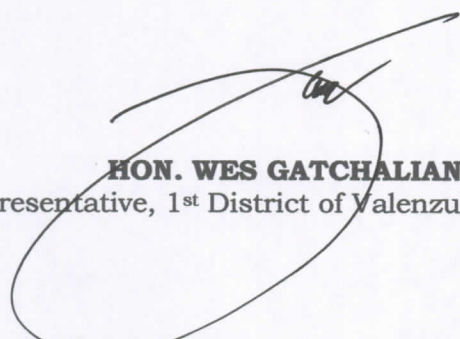
Consumers benefit from competition in markets. Without competition, there is no motivation for businesses to provide convenient and fast services to consumers, and no reason to innovate products. When businesses compete, consumers benefit through lower prices, more product choices, and better-quality goods and services. The presence of a 3rd player in the telecommunity market is expected to encourage efficiency and innovation to provide better services for our consumers.

This bill seeks the renewal of the Congressional franchise of Mislattel, presently known as Dito Telecommunity Corporation.

In 1998, the Mindanao Islamic Telephone Company, Inc. (Mislattel) was established by Congressional legislation, under Republic Act 8627. The franchise allowed Mislattel to construct, install, establish, operate and maintain a telecommunication system throughout the Philippines.¹ Pursuant to Memorandum Circular No. 09-09-2018 dated 20 September 2018², and after undergoing a public, open, and competitive selection process, the National Telecommunications Commission (NTC) awarded Mislattel – presently known as Dito Telecommunity Corporation (Dito) as the New Major Player (NMP) in the Philippine telecommunications market.³ Thereafter, on 08 July 2019, NTC issued a Resolution granting Dito its Certificate of Public Convenience and Necessity (CPCN) to own, install, operate, and maintain fixed (wired and wireless) networks, mobile networks, and offer all types of national and international telecommunications services, including broadband, and to charge rates therefor, for a period of fifteen (15) years

In order to comply with its obligation to renew its Congressional Franchise within the applicable reglementary period, and in order to further carry out its obligations under the NMP bid and the CPCN issued by the NTC, the renewal or extension of its Congressional Franchise initially granted under Republic Act No. 8627, which granted a term of twenty-five (25) years from effectivity of said Act is earnestly sought.

With the advent of the environment of a new normal, we are hopeful that a 3rd telco player will usher in the much-needed boost to provide changes in the landscape of telecommunication companies to provide stable and efficient service for all the Filipino consumers.



HON. WES GATCHALIAN
Representative, 1st District of Valenzuela

¹ Rep. Act 8627 (1998). Mindanao Islamic Telephone Company, Inc. Franchise

² Memo. Circ. No. 09-09-2018 (2018). Rules and Regulations on the Selection Process for the New Major Player in the Philippine Telecommunications Market.

³ Azer Parrocha, PRRD hands Mislattel Consortium permit to operate as 3rd telco, Philippine News Agency, 8 July 2019, available at <https://www.pna.gov.ph/articles/1074398>

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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
2 Philippine Constitution and applicable laws, rules and regulations, the franchise
3 granted to Mindanao Islamic Telephone Company Inc., now known as Dito
4 Telecommunity Corporation, granted under Republic Act No. 8627 and hereunder
5 referred as the grantee, its successors or assignees, the right, privilege and authority
6 to carry on the business of providing telecommunications services in and between
7 provinces, cities and municipalities in the Philippines and between the Philippines
8 and other countries and territories and, for this purpose, to establish, operate,
9 manage, lease, maintain and purchase telecommunications systems, including
10 mobile, cellular and wired or wireless telecommunications systems, fiber optics,
11 satellite transmission and reception systems, and other telecommunications systems
12 and their value-added services such as transmission of voice, data, facsimile, control
13 signals, audio and video, information service bureau, and all other
14 telecommunications systems technologies as are at present available or be made
15 available through technical advances or innovations in the future, or construct,
16 acquire, lease, and operate or manage transmitting and receiving stations and
17 switching stations, both for local and international services, lines, cables or systems,
18 as is, or are, convenient or essential to efficiently carry out the purposes of this

franchise is hereby renewed for another twenty-five (25) years upon effectivity of this Act.

SEC. 2. Definition of Terms. In this Act, the term

(1) "*Telecommunications*" shall include "electronic telecommunications;"

(2) "*Electronic communications network*" shall mean (a) a transmission system for conveyance by means of electrical, magnetic, or electromagnetic energy, of signals of any description; and (b) any of the following as are used by the persons providing the system and in association with it, for conveyance of the signals: (i) apparatus comprised in the system; (ii) apparatus used for the switching and routing of the system; and (iii) software and stored data;

(3) "*Electronic communications service*" shall mean a service consisting in or having as its principal feature the conveyance by means of electronic communications network of signals. It includes wired, wireless, fixed, cellular, and/or mobile, or integrated telecommunications/computer/electronic services, including value-added services, or technologies related to such service, which are at present available or made available through technological advances or innovations in the future, and fixed and mobile stations.

SEC. 3. 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 wavelengths 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 wavelengths or frequencies and the quality of transmission or reception thereon as should maximize rendition of the grantee's services and/or the availability thereof.

SEC. 4. 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 and necessity or the appropriate permits and licenses for the location, construction, installation and operation of its telecommunications systems. In issuing the certificate, the Commission shall have the power to impose such conditions relative to the construction, operation, maintenance, or service level of the telecommunications system. The Commission shall have the authority to regulate the construction and operation of its telecommunications systems. The grantee shall not use any

1 frequency in the radio spectrum without having been authorized by the Commission.
2 Such certificate shall state the areas covered and date the grantee shall commence
3 the service. The Commission, however, shall not unreasonably withhold or delay the
4 grant of any such authority, permits or licenses.

5
6 The grantee may install, operate and maintain radio telecommunications
7 system to provide telephone service and other telecommunications services including
8 mobile services within the territory of the Republic of the Philippines and between
9 the Republic of the Philippines and ships at sea, aircraft in the air, and the
10 telecommunications systems of other countries: *Provided*, that the location,
11 installation or operation of any such radio telecommunications system must be
12 previously approved by the Commission: *Provided, further*, that the Commission
13 shall have the authority to supervise and regulate the installation or operation of
14 such radio telecommunications system.

15
16 **SEC. 5. *Excavation and Restoration Works.*** – For the purpose of erecting and
17 maintaining poles or other supports for said wires or other conductors for the
18 purpose of laying and maintaining underground wires, cables or other conductors,
19 it shall be lawful for the grantee, its successors or assignees, with the prior approval
20 of the Department of Public Works and Highways (DPWH) or the local government
21 unit (LGU) concerned, as may be appropriate, to make excavations or lay conduits
22 in any of the public places, roads, highways, streets, lanes, alleys, avenues,
23 sidewalks, or bridges of the province, cities, and/or municipalities: *Provided*,
24 *however*, That a public place, road, highway, street, lane, alley, avenue, sidewalk, or
25 bridge disturbed, altered or changed by reason of erection of poles or other supports
26 or the underground laying of wires, other conductors or conduits, shall be repaired
27 and replaced in workmanlike manner by said grantee, its successors or assignees,
28 in accordance with the standards set by the DPWH or the LGU concerned. Should
29 the grantee, its successors or assignees, after the ten (10)-day notice from the said
30 authority, fail, refuse or neglect to repair or replace any part of public place, road,
31 highway, street, lane, alley, avenue, sidewalk, or bridge altered, changed or disturbed
32 by the said grantee, its successors or assignees, then the DPWH or the LGU
33 concerned shall have the right to have the same repaired and placed in good order
34 and condition with all expenses to be charged against the grantee, its successors or
35 assignees.

1 **SEC. 6. *Responsibility to the Public.*** – The grantee shall conform to the ethics
2 of honest enterprise and shall not use its stations for obscene or indecent
3 transmission or for dissemination of deliberately false information or willful
4 misrepresentation or assist in subversive or treasonable acts.

5
6 The grantee shall operate and maintain all its facilities, lines, cables, systems,
7 and equipment for the transmission and reception of messages, signals, and pulses
8 in a satisfactory manner at all times, and as far as economical and practicable,
9 modify, improve, or change such stations, lines, cables, systems, and equipment to
10 keep abreast with the advances in science and technology.

11
12 **SEC. 7. *Rates for Services.*** – The charges and rates for telecommunications
13 services of the grantee, except the rates and charges on those that may hereafter be
14 declared or considered as non-regulated services, whether flat rates or measured
15 rates or variation thereof, shall be subject to the approval of the Commission or its
16 legal successors. The rates to be charged by the grantee shall be unbundled,
17 separable and distinct among the services offered and shall be determined in such a
18 manner that regulated services do not subsidize the unregulated ones.

19
20 **SEC. 8. *Right of Government.*** – A special right is hereby reserved to the
21 President of the Philippines, in times of war, rebellion, public peril, calamity,
22 emergency, disaster or disturbance of peace and order, to temporarily take over and
23 operate the stations, transmitters, facilities or equipment of the grantee, to
24 temporarily suspend the operation of any station, transmitter, facility or equipment
25 in the interest of public safety, security and public welfare, or to authorize the
26 temporary use and operation thereof by any agency of the government, upon due
27 compensation to the grantee for the use of said stations, transmitters, facilities or
28 equipment during the period when they shall be so operated.

29
30 The radio spectrum is a finite resource that is a part of the national patrimony
31 and the use thereof is a privilege conferred upon the grantee by the State and may
32 be withdrawn anytime, after due process.

33
34 **SEC. 9. *Term of Franchise.*** – This franchise shall be for a term of twenty-five
35 (25) years from effectivity of this Act, unless sooner revoked or canceled. This

1 franchise shall be deemed *ipso facto* revoked, in the event the grantee fails to
2 construct or operate continuously for two (2) years.

3
4 **SEC. 10. *Renewal or Extension of Franchise.*** – The grantee shall apply for the
5 renewal or extension of its franchise five (5) years before its expiration date which
6 shall be reckoned fifteen (15) days after the publication of the franchise in the *Official*
7 *Gazette* or in any newspaper of general circulation, whichever comes earlier.

8
9 **SEC. 11. *Tax Provisions.*** – The grantee shall be liable to pay the same taxes
10 on its real estate, buildings and personal property exclusive of this franchise, except
11 on its antennas, radios, base transceiver stations, telecommunications and
12 electronic communications equipment, machineries and spare parts needed in
13 connection with the business from the grantee, as well as the self-supporting,
14 monopole and/or guyed towers, and other similar structures and facilities on which
15 said antennas, radios, telecommunications and electronic communications
16 equipment, machineries and spare parts are installed, which shall be exempt from
17 customs duties, tariffs, and other taxes and fees. In addition thereto, the grantee, its
18 successors, or assignees, shall pay a value-added tax on all gross receipts of the
19 business transacted under this franchise by the grantee, its successors, or assignees
20 in the Philippines, in lieu of any and all taxes of any kind, nature, or description
21 levied, established, or collected by an authority whatsoever, including, but not
22 limited to, city, municipal, provincial, or national, from which the grantee is hereby
23 expressly exempted effective from the date of effectivity of this Act. *Provided*, that the
24 grantee shall continue to be liable for income taxes payable under Title II of the
25 National Internal Revenue Code pursuant to Section 2 of Executive Order No. 72
26 unless the latter enactment is amended or repealed, in which case the amendment
27 or repeal shall be applicable thereon.

28
29 **SEC. 12. *Acceptance and Compliance.*** – Acceptance of this franchise shall be
30 given in writing to the Congress of the Philippines, through the Committee on
31 Legislative Franchises of the House of Representatives and the Committee on Public
32 Services of the Senate, within sixty (60) days from the effectivity of this Act. Upon
33 giving such acceptance, the grantee shall exercise the privileges granted under this
34 Act. Non acceptance shall render the franchise void.

35 **SEC. 13. *Right of Interconnection.*** – The grantee is hereby authorized to
36 connect or demand connections of its telecommunications systems to any other

1 telecommunications systems installed, operated and maintained by any other duly-
2 authorized person or entity in the Philippines for the purpose of providing extended
3 and improved telecommunications services to the public under such terms and
4 conditions mutually agreed upon by the parties concerned and the same shall be
5 subject to the review or modification of the Commission.
6

7 **SEC. 14. Gross Receipts.** – The grantee, its successors or assigns, shall keep
8 a separate account of the gross receipts of the business transacted by it and shall
9 furnish the Commission on Audit and the National Treasury a copy of such account
10 not later than the 31st day of January of each year, for the preceding twelve (12)
11 months.
12

13 **SEC. 15. Books and Accounts.** – The books and accounts of the grantee, its
14 successors or assigns, shall always be open to the inspection of the Commissioner
15 on Audit or his authorized representatives, and it shall be the duty of the grantee to
16 submit to the Commission on Audit, two (2) copies of the quarterly reports on the
17 gross receipts, the net profits and the general condition of the business.
18

19 **SEC. 16. Warranty in Favor of National and Local Governments.** - The grantee
20 shall hold the national, provincial, city and municipal governments of the Philippines
21 harmless from all claims, accounts, demands or actions arising out of accidents or
22 injuries, whether to property or to persons, caused by the construction or operation
23 of the stations, transmitters, facilities and equipment of the grantee.
24

25 **SEC. 17. Sale, Lease, Transfer, Usufruct, etc.** – The grantee shall not lease,
26 transfer, grant the usufruct of, sell nor assign this franchise or the rights and
27 privileges acquired there under to any person, firm, company, corporation or other
28 commercial or legal entity, nor merge with any corporation or entity, nor shall the
29 direct controlling interest of the shares in the grantee be transferred, whether as a
30 whole or in parts and whether simultaneously or contemporaneously, to any such
31 person, firm, company, corporation or entity without the prior approval of the
32 Congress of the Philippines: *Provided*, that the foregoing limitation shall not apply to:
33 (a) any transfer or issuance of shares of stock in the implementation of the
34 requirement for the dispersal of the grantee's ownership pursuant to Section 17 of
35 this Act; (b) any transfer or sale of shares of stock to a foreign investor or investors;
36 (c) any issuance of shares to a foreign or local investor pursuant to or in connection

1 with any increase in the grantee's authorized capital stock which results in the
2 dilution of the stockholdings of the grantee's then existing stockholders; or (d) any
3 combination thereof where such transfer, sale, or issuance is effected in order to
4 enable the grantee to raise necessary capital or financing for the provision of the
5 services for which the grantee has been incorporated or organized.

6
7 **SEC. 18. *Dispersal of Ownership.*** – In accordance with the constitutional
8 provisions to encourage public participation in the public utilities, the grantee shall
9 offer at least thirty per centum (30%) of its outstanding capital stock or a higher
10 percentage that may hereafter be provided by law in any securities exchange in the
11 Philippines within five (5) years from the time that the grantee becomes qualified to
12 list under the effective rules of any stock exchange in the Philippines; *Provided*, that
13 the obligation to list its shares in a stock exchange shall not apply if the grantee is
14 wholly-owned by a publicly listed company at least thirty per centum (30%) of whose
15 authorized capital stock is publicly owned; *Provided, further*, that in cases where
16 public offer of shares is not applicable, establishment of cooperatives and other
17 modes of encouraging public participation by citizens and corporations operating
18 public utilities must be implemented.

19
20 **SEC. 19. *Business Development and/or Expansion Plan.*** – Except where
21 prevented by *force majeure*, the grantee shall be obliged to carry out its business
22 development and/or expansion plan which shall contain, among others, the phases
23 of business development or expansion, courses of action to achieve the objectives of
24 the franchise, capitalization, and expected milestones within the franchise term.

25
26 **SEC. 20. *Eminent Domain.*** – Subject to the limitations and procedures
27 prescribed by law, the grantee is authorized to exercise the right of eminent domain
28 insofar as may be reasonably necessary to further the establishment and efficient
29 maintenance and operation of its telecommunications systems.

30
31 No private property shall be taken for any purpose by the grantee without
32 proper condemnation proceedings and just compensation paid or tendered therefor,
33 and any authority to take and occupy land contained herein shall not apply to the
34 taking, use or occupation of any land except such as is required for the actual and
35 necessary purposes for which this franchise is granted.

1 **SEC. 21. *Contract with Private Entities.*** – The grantee is authorized to contract
2 the installation and operation of the telecommunications system which is the subject
3 of this grant with entities with expertise in the field of telecommunications under
4 such terms and conditions as may be approved by the Commission.
5

6 **SEC. 22. *Reportorial Requirement.*** – The grantee shall submit an annual
7 report to the Congress of the Philippines, through the Committee on Legislative
8 Franchises of the House of Representatives and the Committee on Public Services of
9 the Senate, on its compliance with the terms and conditions of the franchise and on
10 its operations on or before April 30 of every year during the term of its franchise. The
11 annual report shall include an update on the roll-out, development or expansion of
12 business; audited financial statements as certified by Securities and Exchange
13 Commission; latest general information sheet; certification of the Commission on the
14 status of permits; and an update on the dispersal of ownership undertaking.
15

16 The reportorial compliance certificate issued by Congress shall be required
17 before any application for permit or certificate is accepted by the Commission.
18

19 **SEC. 23. *Fine.*** – Failure of the grantee to submit the requisite annual report
20 to Congress shall be penalized by a fine in the amount of Five Hundred Pesos
21 (P500.00) per working day of non-compliance. The fine shall be collected separately
22 by the Commission distinct from the penalties it imposes for non-compliance of its
23 own reportorial requirements.
24

25 **SEC. 24. *Equality Clause.*** - Any advantage, favor, privilege, exemption, or
26 immunity granted under other existing franchises, or which may hereafter be granted
27 by Congress, shall become part of this franchise and shall be accorded immediately
28 and unconditionally to the herein grantee: *Provided*, that the foregoing shall neither
29 apply to nor affect provisions of telecommunications franchises concerning territory
30 covered by the franchise, the life span of the franchise or the type of service
31 authorized by the franchise.

32 **SEC. 25. *Separability Clause.*** - If any of the sections or provisions of this Act
33 is held invalid, all the other provisions not affected thereby shall remain valid.
34

35 **SEC. 26. *Repealability and Non-Exclusivity Clause.*** - This franchise shall be
36 subject to amendment, alteration, or repeal by the Congress of the Philippines when

1 the public interest so requires and shall not be interpreted as an exclusive grant of
2 the privileges herein provided for.

3
4 **SEC. 27. *Repealing Clause.*** – All other laws, decrees, executive orders, rules
5 and regulations, or any parts or provisions thereof which are not consistent with this
6 Act are hereby repealed, amended, or modified accordingly.

7
8 **SEC. 28. *Effectivity.*** – This Act shall take effect fifteen (15) days after its
9 publication in the Official Gazette or in a newspaper of general circulation.

Approved,