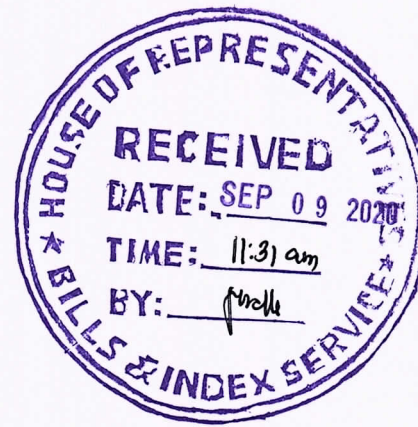


Republic of the Philippines
HOUSE OF REPRESENTATIVES
Quezon City

EIGHTEENTH CONGRESS

Second Regular Session

HOUSE BILL NO. 7617



INTRODUCED BY REPRESENTATIVE XAVIER JESUS D. ROMUALDO

EXPLANATORY NOTE

This measure seeks to renew the legislative franchise of Transpacific Broadband Group Int'l., Inc. (TBGI) for another 25 years.

TBGI is a publicly-listed telecommunications company with interests in very small aperture terminal-based internet services, wireless networking, educational programs, applications hosting, and content conversion. It is an information and communications technology (ICT) business that generates substantial positive development impacts in line with those envisaged by international development finance institutions and development banks, such as the Asian Development Bank, which have made the growth of the ICT sector a priority of their less developed member-countries.

As a leader in the ICT industry, TBGI has accomplished broad and universal development goals through commercially sustainable propagation of internet and computer use, which, in turn, engenders a range of derivative benefits in education, business and employment opportunities, e-governance, and health services through better communications and delivery of information.

Among the ICT development programs being implemented by TBGI is the creation of multipurpose community telecenters (MCTs) in disadvantaged or underserved communities. MCTs are a group of personal computers with internet connectivity like TBGI's computer laboratories but are available for broad community use. The unique and groundbreaking public-private partnerships of TBGI with various marginalized communities, as well as schools, has generated a great deal of well-documented impacts, which may still be scaled up. Such engagements of TBGI demonstrate increasing positive results relevant to the country's attainment of development and poverty reduction goals.

Accordingly, the timely approval of this measure is earnestly requested.


XAVIER JESUS D. ROMUALDO

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HOUSE BILL NO. 7617

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AN ACT

RENEWING FOR ANOTHER TWENTY-FIVE (25) YEARS THE FRANCHISE GRANTED TO TRANSPACIFIC BROADBAND GROUP INT’L., INC., UNDER REPUBLIC ACT NO. 8657, TO CONSTRUCT, ESTABLISH, INSTALL, MAINTAIN AND OPERATE COMMUNICATIONS SYSTEMS FOR THE RECEPTION AND TRANSMISSION OF MESSAGES WITHIN 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 the Franchise.* – Subject to the provisions of the Constitution
2 and applicable laws, rules, and regulations, there is hereby granted to the Transpacific Broadband
3 Group Int’l., Inc., hereinafter referred to as the grantee, its successors, or assigns, a franchise to
4 construct, establish, install, maintain, and operate, for commercial purposes and in the public
5 interest, communications systems for the reception and transmission of messages, such as voice,
6 audio, data, facsimile, video, and such other intelligence by radio, wire, satellite, and other means
7 now known to science or which in the future may be developed, and, in connection therewith,
8 render communications services between any point that the earth station can cover in the world or
9 within reach of the earth station in the territorial boundaries of the Philippines, including the
10 service of up-linking the above mentioned messages from any point within the Philippines to a
11 communications satellite in orbit in space and the service of down-linking such messages from
12 unlimited number of such satellites and transmission of such messages to any point within the
13 Philippines.

14
15 SEC. 2. *Manner of Operation of Stations or Facilities.* – The stations or facilities of the grantee
16 shall be constructed and operated in a manner as will, at most, result only in the minimum

1 interference on the wavelengths or frequencies of existing stations or other stations which may
2 be established by law, without in any way diminishing its own right to use its assigned
3 wavelengths or frequencies and the quality of transmission or reception thereon as should
4 maximize rendition of the grantee's services and availability thereof.

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

17
18 *SEC. 4. Responsibility to the Public.* – The grantee shall conform to the ethics of honest
19 enterprise and shall not use its stations for obscene or indecent transmission or for dissemination
20 of deliberately false information or willful misrepresentation, or assist in subversive or
21 treasonable acts.

22
23 The grantee shall provide basic or enhanced telephone service in any city and municipality in the
24 Philippines where it has a CPCN for the establishment, operation, and maintenance of a local
25 exchange service, without discrimination to any applicant therefore, in the order of the date of
26 their applications, up to the limit of the capacity of the local telephone exchange, and should the
27 demand for the telephone service at any time increase beyond the capacity thereof, the grantee
28 shall increase the same to meet such demand; Provided, that, in case the total demand to be
29 satisfied by the expansion is less the smallest viable local exchange available in the market as

determined by the NTC, the grantee shall not be obliged to furnish said services, unless the applicant for telephone service defrays the actual expenses for the installation of the telecommunication apparatus necessary for such services and in such case the NTC may extend the time within which the grantee shall furnish such services.

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. 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 non-regulated services, whether flat rates or measured rates or variation thereof, shall be subject to the approval of the NTC 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. 6. *Right of the Government.* — 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 any time after due process.

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, transmitters, 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 these shall be so operated.

1 SEC. 7. *Term of the Franchise.* – This franchise shall be in effect for a period of twenty-five (25)
2 years from the date of effectivity of this Act, unless sooner cancelled. This franchise shall be
3 deemed *ipso facto* revoked in the event the grantee fails to continuously operate for two (2)
4 years.

5
6 SEC. 8. *Right of Interconnection.* – The grantee is hereby authorized to connect or demand
7 connections of its telecommunications systems to any other telecommunications systems
8 installed, operated, and maintained by any other duly-authorized person or entity in the
9 Philippines for the purpose of providing extended and improved telecommunications services to
10 the public under such terms and conditions mutually agreed upon by the parties concerned and
11 the same shall be subject to the review or modification of the NTC.

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

18
19 SEC. 10. *Sale, Lease, Transfer, Grant of Usufruct, or Assignment of Franchise.* – The grantee
20 shall not sell, lease, transfer, grant the usufruct of, nor assign this franchise or the rights and
21 privileges acquired thereunder to any person, firm, company, corporation or other commercial or
22 legal entity, nor merge with any other corporation or entity, nor shall transfer the controlling
23 interest of the grantee, whether as a whole or in part, and whether simultaneously or
24 contemporaneously, to any such person, firm, company, corporation, or entity without the prior
25 approval of the Congress of the Philippines; Provided, That Congress shall be informed of any
26 sale, lease, transfer, grant of usufruct, or assignment of franchise or the rights and privileges
27 acquired thereunder, or of the merger or transfer of the controlling interest of the grantee, within
28 sixty (60) days after the completion of said transaction; Provided, further, That failure to report
29 to Congress such change of ownership shall render the franchise *ipso facto* revoked; Provided,

1 finally, That any person or entity to which this franchise is sold, transferred or assigned, shall be
2 subject to the same conditions, terms, restrictions, and limitations of this Act.

3
4 SEC. 11. *Dispersal of Ownership.* – In accordance with the constitutional provision to encourage
5 public participation in public utilities, the grantee shall offer to Filipino citizens at least thirty
6 percent (30%), or a higher percentage that may hereafter be provided by law, of its outstanding
7 capital stock in any securities exchange in the Philippines within five (5) years from the
8 commencement of its operations; Provided, That in cases where public offer of shares is not
9 applicable, the establishment of cooperatives operating public utilities must be implemented.
10 Noncompliance therewith shall render the franchise *ipso facto* revoked.

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

18
19 SEC. 13. *Fine.* – Failure of the grantee to submit the requisite annual report to the Congress shall
20 be penalized by a fine of five hundred pesos (P500.00) per working day of non-compliance. The
21 fine shall be collected by the NTC from the grantee and shall be separate and distinct from other
22 penalties imposed by the NTC for non-compliance with its reportorial requirements.

23
24 SEC. 14. *Equality Clause.* – Any advantage, favor, privilege, exemption, or immunity granted
25 under other existing franchises, or which may hereafter be granted, upon prior review and
26 approval of Congress, shall become part of this franchise and shall be accorded immediately and
27 unconditionally to the grantee, except for taxes and custom duties; Provided, That the foregoing
28 shall neither apply to nor affect the 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. 15. *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. 16. *Separability Clause.* – If any of the sections or provisions of this Act is held invalid, all
other provisions not affected thereby shall remain in full force and effect.

SEC. 17. *Effectivity.* – This Act shall take effect fifteen (15) days after its publication in the
Official Gazette or in a newspaper of general circulation.

Approved,