



*Republic of the Philippines
House of Representatives
Quezon City, Metro Manila*



Eighteenth Congress

Second Regular Session

House Bill No. 7843

Introduced by

HON. DATU ROONIE Q. SINSUAT, SR.

EXPLANATORY NOTE

Performance records clearly indicate that the telecommunications industry in the Philippines today is in a sorry state of poor service delivery stunted by the monopoly of a few giant operators in the field. The dire situation has been aggravated by the COVID-19 pandemic exposing its inadequacies in meeting the needs of the people for on-line services to facilitate virtual educational and business activities, as well as for their personal communications. In the context of social distancing and quarantine protocols, the need to digitally connect and sustain the connection in an efficient and reasonably priced manner has been accentuated. Unfortunately, there is much to be desired in the current capabilities of existing players in the field to meet the demand.

FICTAP Telecommunications, Inc. is a newly-organized corporation with its incorporators and managing officials having a combined professional experience of more than fifty (50) years in the business of telecommunications and public service. The amalgamated resources of the corporation's stockholders, particularly their respective existing 'middle mile'

and 'last mile' infrastructures for connectivity, are well functioning and can be immediately utilized to serve the public at short notice.

Efficient and affordable telecommunications services remain an elusive dream to many Filipinos. The general public has long endured the abuses of being short-changed by false advertisements of services that are actually wanting and inadequate but are expensively priced. The fact is, the quality of telecommunications services in the Philippines rank way below global and regional standards. It is time to address the problem.

This bill seeks to grant FICTAP Telecommunications, Inc. a franchise to install, operate and maintain telecommunications services in the Philippines and other international points for the purpose of expanding the pool of service providers in the country and thereby promote a levelled and more competitive field for the benefit of the general public.

For the foregoing reasons, the immediate consideration and approval of this bill is earnestly sought.

A handwritten signature in black ink, consisting of a series of loops and a long horizontal stroke extending to the right.

HON. DATU ROONIE Q. SINSUAT, SR.
1ST DISTRICT, MAGUINDANAO
AND COTABATO CITY



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AN ACT

**GRANTING FICTAP TELECOMMUNICATIONS, INC. A FRANCHISE TO
INSTALL, OPERATE AND MAINTAIN TELECOMMUNICATION SERVICES
WITHIN THE TERRITORY OF THE REPUBLIC OF THE PHILIPPINES AND
INTERNATIONAL POINTS, AND FOR OTHER PURPOSES**

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

SECTION 1. Nature and Scope of Franchise – Subject to the conditions established in this Act and the provisions of the Constitution, and the provisions of laws, orders or issuances not inconsistent herewith, there is hereby granted to FICTAP Telecommunications, Inc., its successors or assignees, a franchise to construct, establish, install, lease, co-use, purchase, operate and maintain for commercial purposes and in the public interest, all types of mobile, wire and/or wireless telecommunications systems, including international and local exchange carriers, international gateway facilities / services, international and domestic submarine cable landing stations, copper, fiber optics, coaxial cable, stations and associated equipment for international satellite communications, 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 available at present or will be made available through technological advances or innovations in the future; construct, acquire, lease and operate, or manage transmitting and receiving stations, lines, cables, or systems as are convenient or essential to efficiently carry out the purpose of this franchise within the territory of the Philippines and with other countries and territories.

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 wavelengths or frequencies of existing stations or other stations which may be established by law, without in any way diminishing its own privilege to use its assigned 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.

SECTION 3. *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.

The President of the Philippines, in times of war, rebellion, public peril, calamity, emergency, disaster or disturbance of peace and order, may temporarily take over and operate the stations, transmitter systems, facilities and equipment of the grantee, temporarily suspend the operation of any station 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, transmitter systems, facilities and equipment during the period when these shall be operated.

SECTION 4. *Powers of the National Telecommunications Commission* – The grantee shall not exercise any right or privilege under this franchise without first having obtained such Certificate of Public Convenience and Necessity (CPCN) and such other permits or licenses from the National Telecommunications Commission (NTC). This franchise shall not take effect nor shall any power be exercised by the grantee until the NTC shall have allotted to the grantee the frequencies and wavelengths to be used, determined the stations to and from which each frequency and wavelength may be used, and issued to the grantee a license for such use. However, the NTC shall not unreasonably withhold or delay the grant of any such authority, permits or licenses.

The NTC shall have the authority to supervise and regulate the installation or operation of such telecommunication systems and impose such conditions relative thereto.

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

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.

The grantee shall also improve and upgrade its equipment, facilities and services, in order to ensure effective compliance with the objectives of Republic Act No. 10639 or the 'Free Mobile Disaster Alerts Act'.

SECTION 6. Commitment to Provide and Promote the Creation of Employment Opportunities. - The grantee shall create employment opportunities and shall allow on-the-job trainings in their franchise operation: *Provided*, That priority shall be accorded to the residents in areas where the principal office of the grantee is located: *Provided, further*, That the grantee shall follow the applicable labor standards and allowance entitlement under existing labor laws, rules and regulations and similar issuances: *Provided, finally*, That the employment opportunities or jobs created shall be reflected in the General Information Sheet (GIS) to be submitted to the Securities and Exchange Commission (SEC) annually.

SECTION 7. Mobile Number Portability. - The grantee shall provide mobile number portability (MNP). It shall set up a mechanism for the purpose of implementing MNP. It shall interconnect directly or indirectly with the infrastructure, facilities, systems, or equipment of other telecommunications franchise grantees. It shall not install network features, functions or capabilities that will impede the implementation of a nationwide MNP system. The NTC shall issue rules and regulations for this purpose, the effectivity of which shall commence upon applicability with other telecommunications franchise grantees.

SECTION 8. Term - This franchise shall be for a term of twenty-five (25) years from the effectivity of this Act, unless sooner revoked or cancelled. In any event the grantee fails to operate continuously for two (2) years, this franchise shall be deemed *ipso facto* revoked.

SECTION 9. Rates for Services - The charges and rates of 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 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.

SECTION 10. *Excavation and Restoration Works* - For the purpose of erecting and maintaining poles or other supports for wires or other conductors for laying and maintaining underground wires, cables or other conductors, the grantee, its successors or assignees, shall be authorized to make excavations or lay conduits in any of the public places, roads, highways, streets, lanes, alleys, avenues, sidewalks, bridges of the provinces, cities and/or municipalities, with the prior approval of the Department of Public Works and Highways (DPWH) and the local government unit (LGU) concerned, as may be appropriate: *Provided, however,* That any public place, highway, road, street, lane, alley, avenue, sidewalk or bridge 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, its successors or assignees, in accordance with the standards set by the DPWH and the LGU concerned. Should the grantee, its successors or assignees, after the ten (10)-day notice from the said authority, fail, refuse or neglect to repair or replace any part of a public place, road, highway, street, lane, alley, avenue, sidewalk or bridge disturbed, altered or changed by said grantee, its successors or assignees, then the DPWH or the LGU concerned shall have the right to have the same repaired and placed in good order and condition and charge the grantee, its successors or assignees, at double the amount of the costs and expenses for such repair or replacement.

SECTION 11. *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 services to the terms and conditions mutually agreed upon by the parties concerned, subject to the review and modification of the NTC.

SECTION 12. *Eminent Domain.* - Subject to the limitations and procedures prescribed by law, the grantee is authorized to exercise the right of eminent domain insofar as may be reasonably necessary to further the establishment and efficient maintenance and operation of its telecommunications systems.

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

SECTION 13. Bond – The grantee shall file a bond with the NTC in the amount that it shall determine to guarantee compliance with and fulfillment of the conditions under which this franchise is granted. If, after three (3) years from the date of approval of its permit by the NTC, the grantee shall have fulfilled the conditions, the bond shall be cancelled by the NTC. Otherwise, the bond shall be forfeited in favor of the government and the franchise *ipso facto* revoked.

SECTION 14. Gross Receipts. – The grantee, its successors or assignees, shall keep a separate account of the gross receipts of the telecommunications service business transacted by it and shall furnish the Commission on Audit (COA) and the National Treasurer a copy of such account not later than January 31 of each year for the preceding twelve (12) months.

SECTION 15. Books and Accounts. - The books and accounts of the grantee, its successors or assignees, shall always be open to the inspection of the COA or its authorized representatives, and it shall be the duty of the grantee to submit to the COA quarterly reports in duplicate showing the gross receipts and the net receipts for the past quarter and the general condition of the business.

SECTION 16. Warranty in Favor of the National and Local Governments. – The grantee shall hold the national, provincial, city, and municipal governments of the Philippines free from all claims, liabilities, demands, or actions arising out of accidents causing injury to persons or damage to properties, during the construction or operation of the stations, transmitters, facilities, and equipment of the grantee.

SECTION 17. Sale, Lease, Transfer, Usufruct, or Assignment of Franchise - The grantee shall not sell, lease, transfer, grant the usufruct of, nor assign this franchise or the rights and privileges acquired thereunder to any person, firm, company, corporation or 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 part, and whether simultaneously or contemporaneously, to any such person, firm, company, corporation or entity without the prior approval of the Congress of the Philippines: *Provided*, That Congress shall be informed of any sale, lease, transfer, grant of usufruct, or assignment of franchise or the rights and privileges acquired thereunder, or of the merger, or transfer of the controlling interest of the grantee, within sixty (60) days after completion of the said transaction : *Provided further*, That failure to report to Congress such change of ownership shall render the franchise *ipso facto* revoked: *Provided finally*, That any such transfer, sale or issuance is in accordance with any applicable constitutional provision. Any person or entity to which this franchise is validly sold, transferred or assigned shall be subject to all the same conditions, terms, restrictions and limitations of this Act.

SECTION 18. *Contract with Private Entities.* - The grantee is authorized to contract the installation and operation of the telecommunications system which is the subject of this grant with entities with expertise in the field of telecommunications under such terms and conditions as may be approved by the NTC.

SECTION 19. *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 percent (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: *Provided*, That in cases where public offer of shares is not applicable, the grantee shall apply other methods of encouraging public participation by citizens and corporations operating public utilities as allowed by law. Noncompliance therewith shall render the franchise *ipso facto* revoked.

SECTION 20. *Reportorial Requirements.* - 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 every year during the term of its franchise. The reportorial compliance certificate issued by Congress shall be required before any application for permit or certificate is accepted by the NTC.

Failure of the grantee to submit the requisite and separate annual report to Congress shall be penalized with a fine in the amount to be determined by the NTC. *Provided*, That in the interim, the grantee shall be liable to pay the fine of Five thousand pesos (Php 5,000.00) per working day of non-compliance. The fine shall be collected by the NTC from the delinquent franchise grantee separate from the reportorial penalties imposed by the NTC and the same shall be remitted to the National Treasury.

SECTION 21. *Equality Clause.* - Any advantage, favor, privilege, exemption, or immunity which may hereafter be granted shall *ipso facto* become part of this franchise and shall be accorded immediately and unconditionally to the herein grantee: *Provided*, That the foregoing 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.

SECTION 22. *Repealability and Non-Exclusivity Clause.* - This franchise is granted with the understanding and upon condition that it 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 privilege herein provided.

SECTION 23. *Separability Clause* - If any part, section or provision of this Act shall be held invalid or unconstitutional, the other provisions not affected thereby shall remain in full force and effect.

SECTION 24. *Repealing Clause* - All laws, decrees, executive orders, rules and regulations or issuances or parts thereof inconsistent with the provisions of this Act, are hereby modified or repealed accordingly.

SECTION 25. *Effectivity Clause* - This Act shall take effect fifteen (15) days after its full publication in the Official Gazette or in at least two (2) newspapers of general circulation.

Approved.