



Republic of the Philippines
HOUSE OF REPRESENTATIVES
Quezon City

EIGHTEENTH CONGRESS
Second Regular Session

House Bill No. 9176



Introduced by REPRESENTATIVE FERDINAND L. HERNANDEZ

EXPLANATORY NOTE

"The State recognizes the vital role of communication and information in nation-building."

- Art. II, Sec. 24, The 1987 Constitution of the Republic of the Philippines

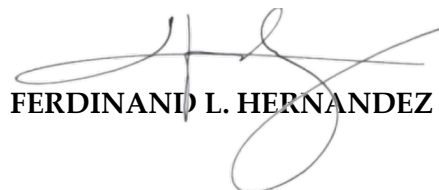
This bill seeks to renew the legislative franchise granted to Omninet Philippines, Inc. ("Omninet") to install, operate and maintain telecommunications systems, lines, circuits and stations in the Philippines.

Omninet's legislative franchise emanates from Republic Act 7298, entitled "AN ACT GRANTING OMNINET PHILIPPINES, INC. A FRANCHISE TO ESTABLISH, INSTALL, MAINTAIN, LEASE AND OPERATE WIRE AND/OR WIRELESS TELECOMMUNICATIONS SYSTEMS, LINES, CIRCUITS AND STATIONS WITHIN AND WITHOUT THE PHILIPPINES, AND FOR OTHER PURPOSES" which was enacted into law on 26 March 1992.

Omninet operates a public mobile radio system industry, having successfully developed and set up a nationwide radio system and microwave network, including the establishment of interconnection agreements with public switched telephone networks, which provided part of the backbone for the existing telecommunications and information infrastructure in our country.

The 2016 National Elections will go down in Philippine history as the year when mobile communications and social media in particular, and information technology in general, became game changers in the exercise of our right of suffrage and catalysts to the growth of our vibrant democracy. The times demand continuous improvement and enhancement of our communications and information systems, and concomitant to this is the assurance that capable and trusted industry partners are capacitated and licensed to provide the support needed by the government in this endeavor. Omninet will be a strong partner of the Philippine government in the provision and accessibility of these vital communication and information services.

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


FERDINAND L. HERNANDEZ



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AN ACT RENEWING FOR ANOTHER TWENTY-FIVE (25) YEARS THE FRANCHISE GRANTED TO OMNINET PHILIPPINES, INC. UNDER REPUBLIC ACT NO. 7298, ENTITLED "AN ACT TO ESTABLISH, INSTALL, MAINTAIN, LEASE AND OPERATE WIRE AND/OR WIRELESS TELECOMMUNICATIONS SYSTEMS, LINES, CIRCUITS AND STATIONS WITHIN AND WITHOUT THE PHILIPPINES, AND FOR OTHER PURPOSES"

Be it enacted by the Senate and House of Representatives of the Philippine Congress assembled:

Section 1. *Nature and Scope of Franchise.* - Subject to the provisions of the 1987 Constitution and applicable laws, rules and regulations, the franchise granted under Republic Act 7298 to Omninet Philippines, Inc., hereunder referred to as the grantee, its successors or assignees, to establish, install, maintain, lease and operate, for commercial purposes and in the public interest wire and/or wireless telecommunication systems, lines, circuits and stations, fiber optics, microwave and other facilities that are appropriate to the provision of up-to-date telecommunication facilities within and without the Philippines, for public communications including, but not limited to, two-way radio communications systems, paging, mobile/cellular services, packet switched system, satellite transmit and receive systems, switches, pay television and/or program services by wire or wireless means, internet, and other telecommunication systems and their value-added services is hereby renewed for another twenty-five (25) years from the effectivity of this Act.

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. *Authority of the National Telecommunications Commission.* - The grantee shall secure from the National Telecommunications Commission (NTC) a Certificate of Public Convenience and Necessity, or the appropriate permits and licenses for the construction, installation, and operation of its telecommunications systems or facilities. In issuing the certificate, the NTC shall have the power to impose such conditions relative to the construction,

operation, maintenance, or service level of the telecommunications system. The NTC shall have the authority to regulate the construction and operation of its telecommunications systems. The grantee shall not use any frequency in the radio spectrum without authorization from the NTC. Such certificate shall state the areas covered and the date the grantee shall commence the service. The NTC, however, shall not unreasonably withhold or delay the grant of such authority, permits or licenses.

Section 4. *Excavation and Restoration Works.* - 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 lawful for the grantee, its successors or assignees, with the prior approval of the Department of Public Works and Highways (DPWH) or the local government unit (LGU) concerned, as may be appropriate, to make excavations or lay conduits in any of the public places, roads, highways, streets, lanes, alleys, avenues, sidewalks, or bridges of the province, cities, and/or municipalities: Provided, however, That a public place, road, highway, 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 workmanlike manner by said grantee, its successors or assignees, in accordance with the standards set by DPWH or 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 public place, road, highway, street, lane, alley, avenue, sidewalk, or bridge altered, changed or disturbed by the 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 at double expense to be charged against the grantee, its successors or assignees.

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

The grantee shall operate and maintain all its facilities, 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 facilities, lines, cables, systems and equipment to keep abreast with advances in science and technology.

The grantee shall also improve and extend its services in areas not yet served, and in hazard- and typhoon-prone areas that shall be determined by the National Disaster Risk Reduction and Management Council, or its legal successor, in coordination with the NTC.

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. *Rates for Services.* — The charges and rates for 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 a 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 a manner that regulated services do not subsidize the unregulated ones.

Section 7. *Right of the 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 the stations or facilities during the period when these 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 any time after due process.

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

Section 9. *Right of Interconnection.* The grantee is hereby authorized to connect or demand connection of its telecommunications systems to 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 public, under the terms and conditions mutually agreed upon by the parties concerned. This right shall be subject to the review and modification by the NTC.

Section 10. *Mobile Number Portability.* The grantee shall provide mobile number portability (MNP) and its implementing mechanism, and 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 11. *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, accounts, demands, or actions arising out of accidents causing injury, whether to property or to persons, by the construction or operation of the stations, transmitters, facilities, or equipment of the grantee.

Section 12. *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, partnership, corporation or other commercial or legal entity, nor merge with any other corporation or entity, nor the controlling interest of the grantee be transferred simultaneously or contemporaneously, to any person, firm, company, partnership, corporation or entity without the prior approval of the Congress of the Philippines. 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 the completion of said transaction. Failure to report to Congress such change of ownership shall render the franchise *ipso facto* revoked. Any person or entity to which this franchise is sold, transferred or assigned shall be subject to all the same conditions, terms, restrictions, and limitations of this Act.

Section 13. *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%) of its common 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 effectivity of

this Act: *Provided*, That in cases where public offer of shares is not applicable, other methods of encouraging public participation by citizens and corporations operating public utilities must be implemented. Non-compliance therewith shall render the franchise *ipso facto* revoked.

Section 14. Commitment to Provide and Promote the Creation of Employment Opportunities. – The grantee shall create employment opportunities as well as accept on-the-job trainees in the franchise operation: *Provided*, That priority shall be accorded to the residents of the place where the principal office of the grantee is located: *Provided further*, That the grantee shall comply with 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 15. Reportorial Requirement. – The grantee shall submit an annual report on its compliance with the terms and conditions of the franchise and on its operations 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 or before April 30 of every year during the term of the franchise.

The Annual Report shall include an update on the roll-out, development and operation and/or expansion of business; audited financial statements; latest GIS officially submitted to the SEC, if applicable; certification of the NTC on the status of its permits and operation; and an update on the dispersal of ownership and undertaking, if applicable.

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

Section 16. Fine – Failure of the grantee to submit the requisite annual report to Congress shall be penalized by a fine of One Million Pesos (P1,000,000.00) per working day of noncompliance, the effectivity of which shall commence upon applicability with other telecommunications franchise grantees: *Provided*, That in the interim, the grantee shall be liable to pay the fine of Five Hundred Pesos (P500.00) per working day of noncompliance. 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 Bureau of the Treasury.

Section 17. Equality Clause. – Any advantage, favor, privilege, exemption, or immunity granted under existing franchises, 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 foregoing shall neither apply to nor affect provisions of telecommunications franchises concerning territorial coverage, the term, or the type of service authorized by the franchise.

Section 18. 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.

Section 19. 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 20. Repealing Clauses. – All laws, decrees, orders, resolutions, instructions, rules and regulations, and other issuance or parts thereof which are inconsistent with the provisions of this Act are hereby repealed, amended or modified accordingly.

Section 21. *Effectivity.* - This Act shall take effect fifteen (15) days after its publication in the Official Gazette or in a newspaper of general circulation.

Approved.