



Republic of the Philippines
House of Representatives
Quezon City

EIGHTEENTH CONGRESS

Third Regular Session

House Bill No. 9896

Introduced by Representative Jose Enrique S. Garcia III

EXPLANATORY NOTE

The Aspire Media Technologies and Ventures, Inc. is a corporation duly organized and existing under the laws of the Republic of the Philippines. It aims to engage in the business of providing Information and Technology Services and operate as a Value Added Service Provider (VASP); to provide enhanced services which improve upon the quality and/or functionality of services beyond those ordinarily offered and provided for by local exchange and inter-exchange operators and overseas carriers through circuit switched networks; to contract for and engage in consultancy, installation, programming, systems integration, project management systems development and implementation, network and facilities management, application hosting, web-based electronic forms hosting, electronic commerce training, and other services in connection with or related to the use of Information Technology Services; to engage in the development, production, sale, lease, distribution, licensing, installation, and maintenance of software, applications and peripheral and services to both domestic and export markets; to establish, maintain, and sell subscription to a value-added network; to act as an Internet Service Provider (ISP); to market, sell and distribute satellite transmission services and to offer hosting and dial-up leased line access to clients and to engage in and perform such other acts that are necessary to implement the conduct of the business.

The current state of the telecommunications industry in the country where a virtual duopoly prevails while the quality of service remains unsatisfactory despite efforts to fast track the entry of a third provider, necessitates the opening of the industry to other players which can offer viable alternatives to encourage competition in the delivery of better-quality service. This is consistent with the State's recognition of the indispensable role of the private sector and the vital role of communication and information in nation-building. It is likewise in harmony the responsibility of the State to encourage private enterprise and provide incentives to needed investments.



Along the foregoing premises, this bill seeks to grant Aspire Media Technologies and Ventures, Inc. a franchise to construct, install, establish, operate, and maintain for commercial purposes and in the public interest, throughout the Province of Bataan, the Province of Zambales, and the City of Olongapo, and between the aforementioned territories with other provinces in the Philippines and other countries and jurisdictions, wired and/or wireless telecommunications systems including mobile, cellular, fixed line, paging, trunked radio, fiber optics, multi-channel multipoint distribution system (MMDS), local multi-point distribution system (LMDS), satellite transmit and receive systems, switches, and value added services such as transmission of voice, data, images, facsimile, control signs, audio and video, and all other telecommunication systems technologies as are present available or will be made available through technological advances or innovations in the future. The franchise shall likewise allow the applicant to construct, acquire, lease, and operate or manage transmitting and receiving stations, landing stations of submarine cables, lines, systems, or other cables as it may consider necessary and convenient to efficiently carry out the purpose for which the franchise is applied for.

The grant of the franchise applied for will enable the applicant to support in the government's effort to modernize the telecommunications industry, elevate the level and quality of service and provide a desirable alternative to the public at affordable rates.

Support for this bill is earnestly requested from my colleagues.


REP. JOSE ENRIQUE S. GARCIA III
Second District, Bataan



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AN ACT
GRANTING ASPIRE MEDIA TECHNOLOGIES AND VENTURES,
INC., A FRANCHISE TO CONSTRUCT, INSTALL, ESTABLISH,
OPERATE AND MAINTAIN TELECOMMUNICATIONS SYSTEMS IN
THE PROVINCE OF BATAAN, THE PROVINCE OF ZAMBALES,
AND THE CITY OF OLONGAPO

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
2 the Constitution and applicable laws, rules and regulations, the franchise granted to
3 ASPIRE MEDIA TECHNOLOGIES AND VENTURES, INC., hereunder referred to
4 as the grantee, its successor or assignees, a franchise to construct, install,
5 establish, operate, and maintain for commercial purposes and in the public interest,
6 throughout the Province of Bataan, the Province of Zambales, and the City of
7 Olongapo and between the aforementioned territories with the other provinces
8 throughout the Philippines and other countries and jurisdictions, wired and/or
9 wireless telecommunications systems including international and domestic
10 submarine cable landing stations, mobile, cellular, fixed line, paging, trunked radio,
11 fiber optics, multi-channel multipoint distribution system (MMDS), local multi-point
12 distribution system (LMDS), satellite transmit and receive systems, switches,
13 electronic telecommunications or electronic communications services in or outside

1 the Province of Bataan, the Province of Zambales, and the City of Olongapo and
2 value added services such as transmission of voice, data, images, facsimile, control
3 signs, audio and video, and all other telecommunication systems technologies as
4 are present available or will be made available through technological advances or
5 innovations in the future; or construct, acquire, lease, and operate or manage
6 transmitting and receiving stations, landing stations of submarine cables, lines,
7 systems, or other cables as it may consider necessary and convenient to efficiently
8 carry out the purpose of this franchise.

9 **SEC. 2. *Manner of Operation of Stations or Facilities.*** – The stations or
10 facilities of the grantee shall be constructed and operated in a manner as will, at
11 most, result only in the minimum interference on the wavelengths or frequencies of
12 existing stations or other stations which may be established by law, without in any
13 way diminishing its own privilege to use its assigned wavelengths or frequencies
14 and the quality of transmission or reception thereon as should maximize rendition
15 of the grantee's services and/or the availability thereof.

16 **SEC. 3. *Authority of the National Telecommunications Commission.*** – The
17 grantee shall secure from the National Telecommunications Commission (NTC) a
18 Certificate of Public Convenience and Necessity or the appropriate permits and
19 licenses for the construction, installation and operation of its telecommunications
20 systems or facilities. In issuing the certificate, the NTC shall have the power to
21 regulate and impose such conditions relative to the construction, operation,
22 maintenance, or service level of the telecommunications systems or facilities. Such
23 certificate shall state the areas covered and the date the grantee shall commence
24 the service. The grantee shall not use any frequency in the radio spectrum without
25 authorization from the NTC. The NTC, however, shall not unreasonably withhold or
26 delay the grant of any such authority, permit or license.

27 In case of any violation of the provisions of this franchise, the NTC shall have
28 the authority to revoke, suspend, after due process, the permits or licenses it issued
29 pursuant to the franchise. The NTC may recommend to the Congress of the
30 Philippines (Congress) the revocation of the franchise for any violation of the
31 provisions of this franchise.

1 **SEC. 4. *Excavation and Restoration Works.*** – For the purpose of erecting
2 and maintaining poles or other supports for said wires or other conductors for the
3 purpose of laying and maintaining underground wires, cables, or other conductors,
4 it shall be lawful for the grantee, its successors or assignees, with the prior approval
5 of the Department of Public Works and Highways (DPWH) or the local government
6 unit (LGU) concerned, as may be appropriate, to make excavations of lay conduits
7 in any of the public places, roads, highways, streets, lanes, alleys, avenues,
8 sidewalks, or bridges of the province, cities, or municipalities: *Provided, however,*
9 That a public place, road, highway, street, lane, alley, avenue, sidewalk, or bridge
10 disturbed, altered or changed by reason of erection of poles or other supports or the
11 underground laying of wires, other conductors or conduits, shall be repaired and
12 replaced in workmanlike manner by the grantee, its successors or assignees, in
13 accordance with the standards set by the DPWH or the LGU concerned. Should the
14 grantee, its successors or assignees, after the ten (10)-day notice from the said
15 authority, fail, refuse, or neglect to repair or replace any part of public place, road,
16 highway, street, lane, alley, avenue, sidewalk, or bridge altered, changed or
17 disturbed by the said grantee, its successors or assignees, then the DPWH or the
18 LGU concerned shall have the right to have the same repaired and placed in good
19 order and condition, and charge the grantee, its successors or assignees at double
20 the amount of the costs and expenses for such repair or replacement.

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

25 The grantee shall operate and maintain all its stations, lines, cables, systems,
26 and equipment for the transmission and reception of messages, signals, and pulses,
27 in a satisfactory manner at all times, and as far as economical and practicable,
28 modify, improve, or change such stations, lines, cables, systems, and equipment to
29 keep abreast with the advances in science and technology.

30 The grantee shall improve and extend its services in areas not yet served,
31 and in hazard-and typhoon-prone areas that shall be determined by the National

1 Disaster Risk Reduction and Management Council, or its legal successor, in
2 coordination with the NTC.

3 The grantee shall also improve and upgrade its equipment, facilities and
4 services, in order to ensure effective compliance with the objective of Republic Act
5 No. 10639, or the “Free Mobile Disaster Alerts Act”.

6 **SEC. 6. *Rates for Services.*** – The charges and rates for telecommunications
7 services of the grantee, except the rates and charges on those that may hereafter
8 be declared or considered as nonregulated services, whether flat rates or measured
9 rates or variation thereof, shall be subject to the approval of the NTC or its legal
10 successor. The rates charged by the grantee shall be unbundled, separable and
11 distinct among the services offered and shall be determined in such a manner that
12 regulated services do not subsidize the unregulated ones.

13 **SEC. 7. *Right of Government.*** - The radio spectrum is a finite resource that
14 is part of the national patrimony, and the use thereof is a privilege conferred upon the
15 grantee by the State that may be withdrawn any time after due process.

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

25 **SEC. 8. *Term of Franchise.*** – This franchise shall be in effect for a period of
26 twenty-five (25) years from the effectivity of the Act, unless sooner cancelled. This
27 franchise shall be deemed *ipso facto* revoked in the event the grantee fails to comply
28 with any of the following conditions:

29 (a) Commence operations within three (3) years from the approval of its
30 operating permit by the NTC;

(b) Commence operations within five (5) years from the effectivity of this Act; and

(c) Operate continuously for two (2) years.

SEC. 9. Bond. - The grantee shall file a bond with the NTC, in the amount that the NTC shall determine, to guarantee compliance with and fulfillment of the conditions under which this franchise is granted. If, after (3) years from the date of approval of its permit by the NTC, the grantee shall have fulfilled the same, the bond shall be released by the NTC. Otherwise, the bond shall be forfeited in favor of the government and the franchise *ipso facto* revoked.

SEC. 10. Right of Interconnection. – The grantee is hereby authorized to connect of 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 of the NTC.

SEC. 11. 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.

SEC. 12. Warranty in Favor of National and Local Governments. - The grantee shall hold the national, provincial, city and municipal governments of the Philippines free from all claims, accounts, demands, or actions arising out of accidents or injuries, whether to property or to persons, caused by the construction or operation of the stations of the grantee.

SEC. 13. Sale, Lease, Transfer, Grant of Usufruct, or Assignment of Franchise. - The grantee shall not lease, transfer, grant the usufruct of, sell nor

1 assign this franchise or the rights and privileges acquired thereunder to any person,
2 firm, company, corporation or other commercial or legal entity, nor merge with any
3 other corporation or entity, nor shall transfer the controlling interest of the grantee,
4 whether as a whole or in parts, and whether simultaneously or contemporaneously,
5 to any person, firm, company, corporation or entity without the prior approval of the
6 Congress of the Philippines.

7 Congress shall be informed of any sale, lease, transfer, grant of usufruct of,
8 or assignment of franchise or the rights or privileges acquired thereunder, or the
9 merger or transfer of the controlling interest of the grantee, within sixty (60) days
10 after the completion of said transaction. Failure to report to Congress such change
11 of ownership shall render the franchise *ipso facto* revoked. Any person or entity to
12 which this franchise is sold, transferred or assigned, shall be subject to the same
13 conditions, terms, restrictions, and limitations of this Act.

14 **SEC. 14. Dispersal of Ownership.** - In accordance with the constitutional
15 provision to encourage public participation in public utilities, the grantee shall offer
16 to Filipino citizens at least thirty per cent (30%) or a higher percentage that may
17 hereafter be provided by law of its outstanding capital stock in any securities
18 exchange in the Philippines within five (5) years from the commencement of its
19 operations: *Provided*, That in cases where public offer of shares is not applicable
20 or in lieu thereof, establishment of or ownership by cooperative/s and other methods
21 of encouraging public participation by citizens and corporations operating public
22 utilities must be implemented. Noncompliance therewith shall render the franchise
23 *ipso facto* revoked.

24 **SEC. 15. Commitment to Provide and Promote the Creation of Employment**
25 *Opportunities.* – The grantee shall create employment opportunities and accept on-
26 the-job trainees in the franchise operations: *Provided*, That priority shall be accorded
27 to the residents of the place where the principal office of the grantee is located:
28 *Provided* further, That the grantee shall ensure that at least sixty percent (60%) of
29 its employees are regular employees, and in no case shall the percentage of
30 contractual employees, job order and casual employees, and independent
31 contractors combined, exceed forty percent (40%) of its total workforce: *Provided*,
32 finally, That the grantee shall comply with the applicable labor standards and

allowance entitlement under existing labor laws, rules and regulations, and similar issuances.

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. In addition, the grantee shall include in its annual report to Congress the number of its regularized employees and secure a compliance and clearance certificate from the Department of Labor and Employment and its relevant attached agencies.

SEC. 16. 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 Congress, 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 its franchise.

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

SEC. 17. Fine – The failure of the grantee to submit the requisite annual report to Congress will be penalized with a fine in the amount of Five hundred pesos (P500.00) per working day of noncompliance, the effectivity of which shall commence upon applicability with other telecommunications franchise grantees. The fine will be collected by the NTC from the delinquent franchise grantee separate from the reportorial penalties imposed by the NTC.

SEC. 18. Equality Clause. - Any advantage, favor, privilege, exemption, or immunity granted under existing franchises, or which may hereafter be granted for telecommunications, 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 the provisions

1 of broadcasting franchises concerning territory covered by the franchise, the life
2 span of the franchise or the type of service authorized by the franchise.

3 **SEC. 19. *Repealability and Nonexclusivity Clause.*** – This franchise shall be
4 subject to amendment, alteration, or repeal by the Congress of the Philippines when
5 the public interest so requires and shall not be interpreted as an exclusive grant of
6 the privileges herein provided for.

7 **SEC. 20. *Separability Clause.*** – If any of the sections or provisions of this Act
8 is held invalid, all other provisions not affected thereby shall remain valid.

9 **SEC. 21. *Repealing Clause.*** – All laws, decrees, orders, resolutions,
10 instructions, rules and regulations, and other issuances or parts thereof which are
11 inconsistent with the provisions of this Act are hereby repealed, amended, or
12 modified accordingly.

13 **SEC. 22. *Effectivity.*** – This Act shall take effect fifteen (15) days after its
14 publication in the *Official Gazette* or in a newspaper of general circulation.

Approved,