



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

Nineteenth Congress

Second Regular Session
House Bill No. **10415**



Introduced by:

HON. MARISSA "DEL MAR" MAGSINO
OFW PARTY LIST

EXPLANATORY NOTE

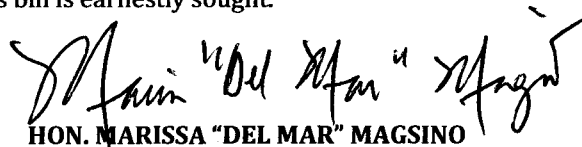
The Constitution recognizes the vital role of the private sector in the development and growth of the nation's economy, which includes the establishment of needed utilities and infrastructure such as a telecommunication company.

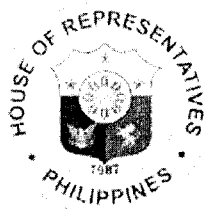
As the telecommunication sector continues to be the epicenter for growth of the economy, advances in information telecommunications technology in the country and in the global landscape have been exponential over the past decades, and will continue to grow more in the future. But despite the growth in innovation technology, the Philippines continues to lag behind its neighboring countries like South Korea, Singapore, Hong Kong, among others, in terms of internet speed. This is reported to be a contributing factor to the slow growth of the country's economy.

The Philippines has one of the lowest internet speeds, though the giant networks and the National Telecommunications Commission claim otherwise as they keep on saying it is improving. Given the effect of the COVID-19 pandemic in accelerating online transactions, online services, even online entertainment, the glaring fact that the country's bandwidth and IT services trail behind the escalating demand continues to perturb investors and possible investors alike, as they seek to have higher bandwidth for their data-dependent transactions. Bandwidth is the amount of data that can be transferred from one point to another within a network in a specific amount of time, measured in bits per second (mbps). The higher the mbps, the more data it can carry.

It is in this context that KONEK TELECOMMUNICATIONS INC. a new telecommunications company, seeks a grant of congressional franchise to contribute to the delivery of bandwidth and IT services, such as providing internet service or sale of bandwidth to interested parties, and offer other telecommunications services. It aims to assist the government in strengthening a modern society and a competitive economy in a fast-evolving world.

Hence, the immediate approval of this bill is earnestly sought.


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**AN ACT GRANTING KONEK TELECOMMUNICATIONS INC., A FRANCHISE TO CONSTRUCT,
INSTALL, ESTABLISH, MAINTAIN, AND OPERATE TELECOMMUNICATIONS SYSTEMS IN
THE PHILIPPINES**

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

SECTION 1. *Nature and Scope of Franchise.* – Subject to the provisions of the Constitution and applicable laws, rules and regulations, there is hereby granted to KONEK TELECOMMUNICATIONS INC., herein referred to as the grantee, its successor or assignee, a franchise to construct, install, establish, lease, operate, and maintain for commercial purposes and in the public interest, throughout the Philippines and between the Philippines and other countries and territories, wired and /or wireless telecommunications systems including international and Local Exchange Carrier (LEC), international and domestic gateway facility, international and domestic submarine cable landing stations, mobile, cellular, fixed line, trunked radio, fiber optics, multi-channel multipoint distribution system (MMDS) local multi-point distribution system (LMDS) satellite transmit and receive systems, switches, electronic telecommunications or electronic communications services in or outside the Philippines and also in outer space, and value added services such as but not limited to, transmission of voice, data, facsimile, control signs, audio and video, information services bureau and all other telecommunications, telecommunications systems and /or technologies as are at present available or will be made available through technological advances or innovations in the future; or right to construct, establish, install, maintain, acquire, lease, purchase and operate or manage the corresponding transmitting and receiving stations, satellites, lines, networks, international gateways, local exchanges, systems, cables, device, or platforms that may be discovered, invented, found, produced or manufactured as it may consider convenient or essential to efficiently carry out the purpose of this franchise.

In this Act, the term "telecommunications" shall include "electronic communications". In addition, the following terms shall have the meanings set forth herein:

“Electronic communications network” shall mean: (a) a transmission system for conveyance, by use of electrical, magnetic or electro-magnetic energy, of signals of any description; and (b) any of the following as are used, by the person providing the system and in association with it, for conveyance of the signals: (1) apparatus comprised in the system; (2) apparatus used for the switching and routing of the signals; and (3) software and stored data.

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

SEC. 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 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. 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/facilities. The grantee shall not use any frequency in the radio spectrum without authorization from the NTC. The NTC, however, shall not unreasonably withhold or delay the grant of such authority, permits or licenses.

SEC. 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 successor or assignee, 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, highways, streets, lanes, alleys, avenues, sidewalks or bridges of said province, cities and/or municipalities: Provided, however, That a public place, 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 the 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 replaced in good order and condition at double expense to be charged against the grantee, its successors or assignees.

SEC. 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 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 R.A. No. 10639 or the "Free Mobile Disaster Alerts Act".

SEC. 6. *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 nonregulated services, whether flat rates or measured rates or variation thereof, shall be subject to the approval of the NTC or its legal successor.

SEC. 7. *Right of 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, 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 they shall be so operated.

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

- (a) Commence operations within three (3) years from the approval of its operating permits by the NTC
- (b) Commence operations within five (5) years from the effectivity of this Act; and
- (c) Operate continuously for two consecutive (2) years.

SEC. 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 such terms and conditions mutually agreed upon by the parties concerned and the same shall be subject to the review and modification of the NTC.

SEC. 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.

SEC. 11. *Acceptance and Compliance.*— Acceptance of this franchise shall be given in Writing 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, within sixty (60) days from the effectivity of this Act. Upon giving the acceptance, the grantee shall exercise the privileges granted under this Act. Refusal or failure to accept the franchise within the prescribed period shall render the franchise void."

SEC. 12. *Tax Provisions; Exemptions.* - The grantee, its successors or assignees, shall be liable to pay the same taxes on their personal properties not directly, actually and exclusively used in the telecommunications operations, exclusive of this franchise, as other persons or corporations which are now or hereafter may be required by law to pay, except real estate or realty tax, buildings and other edifices or structures, radio telecommunications and electronic communications equipment, machinery and spare parts needed in connection with the business of the grantee which shall be exempt from customs duties, tariffs and other taxes, as well as those declared exempt in this Section. In addition thereto, the grantee, its successors or assignees, shall pay a value-added tax equivalent to ten percent (10%) only on all gross receipts of the business transacted under this franchise by the grantee, its successors or assignees, in the Philippines, in lieu of any and all taxes of any kind, nature or description levied, established or collected by an authority whatsoever including, but not limited to, barangay, city, municipal, provincial or national, from which the grantee is hereby expressly exempted effective from the date of the effectivity of this Act: Provided, That the grantee, its successors or assignees, shall continue to be liable for income taxes payable under Title II of the National Internal Revenue Code pursuant to Section 2 of Executive Order No. 72 unless the latter enactment is amended or repealed, in which case the amendment or repeal shall be applicable thereto.

The grantee shall file the return with and pay the tax due thereon to the Commissioner of Internal Revenue or his duly authorized representative in accordance with the National Internal Revenue Code and the return shall be subject to audit by the Bureau of Internal Revenue.

SEC. 13. *Sale, Lease, Transfer, Grant of 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 other commercial or legal entity, or merge with any other corporation or entity, or shall transfer the controlling interest of the grantee simultaneously or contemporaneously, to any such person, firm, company, corporation or entity without the prior approval of the Congress of the Philippines. except when the person or entity to which this franchise is sold, transferred or assigned is a subsidiary or affiliate of the grantee and that at least sixty percent (60%) of the outstanding capital stock entitled to vote of such subsidiary or affiliate is owned and held by Filipino citizens: Provided, That Congress shall be informed of any sale, lease, transfer, grant of usufruct, or assignment of franchise or the rights or privileges acquired thereunder, or of the merger, or transfer of controlling interest of the grantee, within sixty (60) days after the completion of 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 person or entity to which this franchise is sold, transferred or assigned, shall be subject to the same conditions, terms, restrictions and limitations of this Act.

A subsidiary or affiliate of the grantee refers to a person that, upon the effectivity of this Act, directly or indirectly, through one (1) or more intermediary corporations, owns more than thirty percent (30%) of the outstanding capital stock of the grantee.

SEC. 14. ***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 establishment of cooperatives operating public utilities must be implemented. Noncompliance therewith shall render the franchise ipso facto revoked.

SEC. 15. ***Commitment to Provide and Promote the Creation of Employment Opportunities.*** – The grantee shall create employment opportunities and accept on-the-job trainees in the franchise operations: Provided, That priority shall be accorded to the residents of the place where their principal office is located: Provided, further, That the grantee shall ensure that at least sixty percent (60%) of its employees are regular employees and in no case shall the percentage of contractual employees, job orders, casuals, and independent contractors combined, exceed forty percent (40) of its total workforce: Provided, finally, That the grantee shall comply with the applicable labor standards and allowance entitlement under existing labor laws, rules and regulations, and similar issuances.

SEC. 16. ***Reportorial Requirement.*** – 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.

SEC. 17. ***Penalty Clause.*** – Failure of the grantee to submit the requisite annual report to Congress shall be penalized with a fine of five hundred pesos (P500,00) per working day of noncompliance. The fine shall be collected by the NTC from said 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 hereinafter 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 the provisions of telecommunications franchises concerning territory covered, the term, or the type of service authorized, by the franchise.

SEC. 19. ***Repealability and Nonexclusivity 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 privilege herein provided for.

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

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

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

Approved,