



HOUSE OF REPRESENTATIVES

H. No. 7615

By REPRESENTATIVES ROMUALDO, MACEDA AND ALVAREZ (F.), PER COMMITTEE REPORT No. 473

**AN ACT
GRANTING INSTANT DATA, INC., A FRANCHISE TO CONSTRUCT, INSTALL,
ESTABLISH, OPERATE AND MAINTAIN TELECOMMUNICATIONS SYSTEMS
THROUGHOUT 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 Franchise.* - Subject to the provisions of the
2 Constitution and applicable laws, rules and regulations, there is hereby granted to
3 INSTANT DATA, INC., hereunder referred as the grantee, its successor or
4 assignees, a franchise to construct, install, establish, operate, and maintain for
5 commercial purposes and in the public interest, throughout the Philippines and
6 between the Philippines and other countries and territories, wired and/or wireless
7 telecommunications systems including, mobile, cellular, fixed line, paging, trunked
8 radio, fiber optics, multi-channel multipoint distribution system (MMDS), local multi-
9 point distribution system (LMDS), satellite transmit and receive systems, switches,
10 and value added services such as transmission of voice, data, images, facsimile,
11 control signs, audio and video, and all other telecommunications systems
12 technologies as are present available or will be made available through technological
13 advances or innovations in the future; or construct, acquire, lease, and operate or
14 manage transmitting and receiving stations, landing stations of submarine cables,
15 lines, systems, or other cables as it may consider necessary and convenient to
16 efficiently carry out the purpose of this franchise.

1 **SEC. 2. *Manner of Operation of Stations or Facilities.*** – The stations or
2 facilities of the grantee shall be constructed and operated in a manner as will, at
3 most, result only in the minimum interference on the wavelengths or frequencies of
4 existing stations or other stations which may be established by law, without in any
5 way diminishing its own right to use its assigned wavelengths or frequencies and the
6 quality of transmission or reception thereon as should maximize rendition of the
7 grantee’s services or the availability thereof.

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

19
20 In case of any violation of the provisions of this franchise, the NTC shall have
21 the authority to revoke or suspend, after due process, the permits or licenses it
22 issued pursuant to the franchise. The NTC may recommend to the Congress of the
23 Philippines (Congress) the revocation of the franchise for any violation of the
24 provisions of this franchise.

25 **SEC. 4. *Excavation and Restoration Works.*** – For the purpose of erecting and
26 maintaining poles or other supports for said wires or other conductors for the
27 purpose of laying and maintaining underground wires, cables, or other conductors, it
28 shall be lawful for the grantee, its successors or assignees, with the prior approval of
29 the Department of Public Works and Highways (DPWH) or the local government unit
30 (LGU) concerned, as may be appropriate, to make excavations or lay conduits in any
31 of the public places, roads, highways, streets, lanes, alleys, avenues, sidewalks, or
32 bridges of the province, cities, or municipalities: *Provided, however,* That a public
33 place, road, highway, street, lane, alley, avenue, sidewalk, or bridge disturbed,

1 altered or changed by reason of erection of poles or other supports or the
2 underground laying of wires, other conductors or conduits, shall be repaired and
3 replaced in workmanlike manner by the grantee, its successors or assignees, in
4 accordance with the standards set by DPWH or the LGU concerned. Should the
5 grantee, its successors or assignees, after the ten (10)-day notice from the said
6 authority, fail, refuse, or neglect to repair or replace any part of public place, road,
7 highway, street, lane, alley, avenue, sidewalk, or bridge altered, changed or
8 disturbed by the said grantee, its successors or assignees, then the DPWH or the
9 LGU concerned shall have the right to have the same repaired and placed in good
10 order and condition, and charge the grantee, its successors or assignees at double
11 the amount of the costs and expenses for such repair or replacement.

12
13 **SEC. 5. Responsibility to the Public.** - The grantee shall conform to the ethics
14 of honest enterprise and not use its stations or facilities for obscene or indecent
15 transmission, or for dissemination of deliberately false information, or willful
16 misrepresentation, or assist in subversive or treasonable acts.

17
18 The grantee shall operate and maintain all its stations, lines, cables, systems,
19 and equipment for the transmission and reception of messages, signals, and pulses
20 in a satisfactory manner at all times, and as far as economical and practicable,
21 modify, improve, or change such stations, lines, cables, systems, and equipment to
22 keep abreast with the advances in science and technology.

23
24 The grantee shall improve and extend its services in areas not yet served, and
25 in hazard-and typhoon-prone areas that shall be determined by the National Disaster
26 Risk Reduction and Management Council, or its legal successor, in coordination with
27 the NTC.

28
29 The grantee shall also improve and upgrade its equipment, facilities and
30 services, in order to ensure effective compliance with the objectives of Republic Act
31 No. 10639, or the "Free Mobile Disaster Alerts Act".

32 **SEC. 6. Rates for Services.** - The charges and rates for telecommunications
33 services of the grantee, except the rates and charges on those that may hereafter be
34 declared or considered as nonregulated services, whether flat rates or measured

1 rates or variation thereof, shall be subject to the approval of the NTC or its legal
2 successor. The rates charged by the grantee shall be unbundled, separable and
3 distinct among the services offered and shall be determined in such a manner that
4 regulated services do not subsidize the unregulated ones.

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

8
9 A special right is hereby reserved to the President of the Philippines, in times
10 of war, rebellion, public peril, calamity, emergency, disaster or disturbance of peace
11 and order, to temporarily take over and operate the stations, transmitters, facilities, or
12 equipment of the grantee, or to temporarily suspend the operation of any station,
13 transmitter, facility, or equipment in the interest of public safety, security, and public
14 welfare, or to authorize the temporary use and operation thereof by any agency of
15 the government, upon due compensation to the grantee for the use of said stations,
16 transmitters, facilities, or equipment during the period when these shall be so
17 operated.

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

- 22 (a) commence operations within three (3) years from the approval of its operating
23 permit by the NTC;
24 (b) commence operations within five (5) years from the effectivity of this Act; and
25 (c) operate continuously for two (2) years.

26
27 **SEC. 9. *Bond.*** – The grantee shall file a bond with the NTC, in the amount that
28 the NTC shall determine, to guarantee compliance with and fulfillment of the
29 conditions under which this franchise is granted. If, after three (3) years from the date
30 of approval of its permit by the NTC, the grantee shall have fulfilled the same, the
31 bond shall be released by the NTC. Otherwise, the bond shall be forfeited in favor of
32 the government and the franchise *ipso facto* revoked.

33

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

8
9 **SEC. 11. *Mobile Number Portability.*** – The grantee shall provide mobile
10 number portability (MNP) and its implementing mechanism, and shall interconnect,
11 directly or indirectly, with the infrastructure, facilities, systems, or equipment of other
12 telecommunications franchise grantees. It shall not install network features,
13 functions, or capabilities that will impede the implementation of a nationwide MNP
14 system. The NTC shall issue rules and regulations for this purpose, the effectivity of
15 which shall commence upon applicability with other telecommunications franchise
16 grantees.

17
18 **SEC. 12. *Warranty in Favor of the National and Local Governments.*** – The
19 grantee shall hold the national, provincial, city, and municipal governments of the
20 Philippines free from all claims, liabilities, accounts, demands, or actions arising out
21 of accidents causing injury to persons or damage to properties, during the
22 construction or operation of the stations, transmitters, facilities, or equipment of the
23 grantee.

24
25 **SEC. 13. *Sale, Lease, Transfer, Grant of Usufruct, or Assignment of***
26 ***Franchise.*** – The grantee shall not sell, lease, transfer, grant the usufruct of, nor
27 assign this franchise or the rights and privileges acquired thereunder to any person,
28 firm, company, corporation or other commercial or legal entity, nor merge with any
29 other corporation or entity, nor the controlling interest of the grantee be transferred,
30 simultaneously or contemporaneously, to any person, firm, company, corporation, or
31 entity without the prior approval of Congress.

32
33 Congress shall be informed of any sale, lease, transfer, grant of usufruct, or
34 assignment of franchise or the rights and privileges acquired thereunder, or of the
35 merger or transfer of the controlling interest of the grantee, within sixty (60) days

1 after the completion of the said transaction. Failure to report to Congress such
2 change of ownership shall render the franchise *ipso facto* revoked. Any person or
3 entity to which this franchise is sold, transferred, or assigned shall be subject to the
4 same conditions, terms, restrictions, and limitations of this Act.

5
6 SEC. 14. *Dispersal of Ownership.* - In accordance with the constitutional
7 provision to encourage public participation in public utilities, the grantee shall offer to
8 Filipino citizens at least thirty percent (30%) of its common stocks, or a higher
9 percentage that may hereafter be provided by law, in any securities exchange in the
10 Philippines within five (5) years from the effectivity of this Act: *Provided*, That in
11 cases where the public offer of shares is not applicable, other methods of
12 encouraging public participation by citizens and corporations operating public utilities
13 must be implemented. Noncompliance therewith shall render the franchise *ipso facto*
14 revoked.

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

26
27 The employment opportunities or jobs created shall be reflected in the
28 General Information Sheet (GIS) to be submitted to the Securities and Exchange
29 Commission (SEC) annually. In addition, the grantee shall include in its annual report
30 to Congress the number of its regularized employees and secure a compliance and
31 clearance certificate from the Department of Labor and Employment and its relevant
32 attached agencies.

33
34 SEC. 16. *Reportorial Requirement.* - The grantee shall submit an annual
35 report on its compliance with the terms and conditions of the franchise and on its

1 operations to Congress, through the Committee on Legislative Franchises of the
2 House of Representatives and the Committee on Public Services of the Senate, on
3 or before April 30 of every year during the term of its franchise.

4
5 The annual report shall include an update on the roll-out, development,
6 operation and/or expansion of business; audited financial statements; latest GIS
7 officially submitted to the SEC, if applicable; certification of the NTC on the status of
8 its permits and operations; and an update on the dispersal of ownership undertaking,
9 if applicable.

10
11 The reportorial compliance certificate issued by Congress shall be required
12 before any application for permit or certificate is accepted by the NTC.

13
14 **SEC. 17. *Fine.*** – The failure of the grantee to submit the requisite annual
15 report to Congress shall be penalized with a fine in the amount of One million pesos
16 (P1,000,000.00) per working day of noncompliance, the effectivity of which shall
17 commence upon applicability with other telecommunications franchise grantees:
18 *Provided*, That in the interim, the grantee shall be liable to pay the fine of Five
19 hundred pesos (P500.00) per working day of noncompliance. The fine shall be
20 collected by the NTC from the delinquent franchise grantee separate from the
21 reportorial penalties imposed by the NTC, and the same shall be remitted to the
22 Bureau of the Treasury.

23
24 **SEC. 18. *Equality Clause.*** – Any advantage, favor, privilege, exemption, or
25 immunity granted under existing franchises, or which may hereafter be granted for
26 telecommunications, upon prior review and approval of Congress, shall become part
27 of this franchise and shall be accorded immediately and unconditionally to the herein
28 grantee: *Provided*, That the foregoing shall neither apply to nor affect the provisions
29 of telecommunications franchises concerning territorial coverage, the term, or the
30 type of service authorized by the franchise.

31
32 **SEC. 19. *Repealability and Nonexclusivity Clause.*** – This franchise shall be
33 subject to amendment, alteration, or repeal by Congress when the public interest so
34 requires and shall not be interpreted as an exclusive grant of the privilege herein
35 provided for.

1
2 **SEC. 20. *Separability Clause.*** – If any of the sections or provisions of this Act
3 is held invalid, all other provisions not affected thereby shall remain valid.

4
5 **SEC. 21. *Repealing Clause.*** – All laws, decrees, orders, resolutions,
6 instructions, rules and regulations, and other issuances or parts thereof which are
7 inconsistent with the provisions of this Act are hereby repealed, amended, or
8 modified accordingly.

9
10 **SEC. 22. *Effectivity.***– This Act shall take effect fifteen (15) days after its
11 publication in the *Official Gazette* or in a newspaper of general circulation.

12
13 **Approved,**