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Republic of the Philippines
Congress of the Philippines
Metro Manila

Third Regular Session

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[REPUBLIC ACT NO. 7925]

AN ACT TO PROMOTE AND GOVERN THE DEVELOPMENT OF PHILIPPINE TELECOMMUNICATIONS AND THE DELIVERY OF PUBLIC TELECOMMUNICATIONS SERVICES

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

ARTICLE I. GENERAL PROVISIONS

SECTION 1. *Short Title* - This Act shall be known as the "Public Telecommunications Policy Act of the Philippines."

SEC. 2. *Scope and Application* - This Act shall apply to all public telecommunications entities in the Philippines.

SEC. 3. *Definitions and Interpretations* - For purposes of this Act, the following terms shall be used:

a) *Telecommunications* - any process which enables a telecommunications entity to relay and receive voice, data, electronic messages, written or printed matter, fixed or moving pictures, words, music or visible or audible signals or any control signals of any design and for any purpose by wire, radio or other electromagnetic, spectral, optical or technological means.

b) *Public telecommunications entity* - any person, firm, partnership or corporation, government or private, engaged in the provision of telecommunications services to the public for compensation.

c) *Broadcasting* - an undertaking the object of which is to transmit over-the-air commercial radio or television messages for reception of a broad audience in a geographic area.

d) *Franchise* - a privilege conferred upon a telecommunications entity by Congress, authorizing that entity to engage in a certain type of telecommunications service.

e) *Local exchange operator* - an entity providing transmission and switching of telecommunications services, primarily but not limited to voice-to-voice service, in a geographic area anywhere in the Philippines.

f) *Inter-exchange carrier* - an entity, sometimes referred to as carrier's carrier or national backbone network operator, authorized to install, own and operate facilities which connect local exchanges within the Philippines and to engage in the business of inter-exchange national long distance services.

g) *International carrier* - an entity primarily engaged in the business of providing transmission and switching of any telecommunications service between the Philippines and any other point of the world to which it has an existing correspondent or prospective interconnection agreements.

h) *Value-added service provider (VAS)* - an entity which relying on the transmission, switching and local distribution facilities of the local exchange and inter-exchange operators, and overseas carriers, offers enhanced services beyond those ordinarily provided for by such carriers.

i) *Public toll calling station* - a non-exclusive facility at which the public may, by the payment of appropriate fees, place as well as receive telephone calls and/or telegrams or other messages.

j) *Mobile radio telephone system* - a wide area mobile, radio telephone system with its own switch, base stations and transmission facilities capable of providing high capacity mobile telecommunications by utilizing radio frequencies.

k) *Interconnection* - the linkage, by wire, radio, satellite or other means, of two or more existing telecommunications carriers or operators with one another for the purpose of allowing or enabling the subscribers of one carrier or operator to access or reach the subscribers of the other carriers or operators.

ARTICLE II. POLICY AND OBJECTIVES

SEC. 4. *Declaration of National Policy* - Telecommunications is essential to the economic development, integrity and security of the Philippines, and as such shall be developed and administered as to safeguard, enrich and strengthen the economic, cultural, social and political fabric of the Philippines. The growth and development of telecommunications services shall be pursued in accordance with the following policies:

a) A fundamental objective of government is to develop and maintain a viable, efficient, reliable and universal telecommunication infrastructure using the best available and affordable technologies, as a vital tool to nation building and development;

b) The expansion of the telecommunications network shall give priority to improving and extending basic services to areas not yet served. For this purpose, government shall promote a fair, efficient and responsive market to stimulate growth and development of the telecommunications facilities and services, with emphasis on the accessibility by persons to basic services in unserved and underserved areas of affordable rates;

c) The radio frequency spectrum is a scarce public resource that shall be administered in the public interest and in accordance with international agreements and conventions to which the Philippines is a party and granted to the best qualified. The government shall allocate the spectrum to service providers who will use it efficiently and effectively to meet public demand for telecommunications service and may avail of new and cost effective technologies in the use of methods for its utilization;

d) Rates and tariff charges shall be fair, just and reasonable and for this purpose, the regulatory body shall develop tariff structures based on socioeconomic factors and on financial, technical and commercial criteria as measures to ensure a fair rate of return as a tool to ensure economic and social development;

e) Public telecommunications services shall be provided by private enterprises. The private sector shall be the engine of rapid and efficient growth in the telecommunications industry;

f) A healthy competitive environment shall be fostered, one in which telecommunications carriers are free to make business decisions and to interact with one another in providing telecommunications services, with the end in view of encouraging their financial viability while maintaining affordable rates;

g) A fair and reasonable interconnection of facilities of authorized public network operators and other providers of telecommunications services is necessary in order to achieve a viable, efficient, reliable and universal telecommunications services;

h) The government shall give all the assistance and encouragement to Philippine international carriers in order to establish interconnection with other countries so as to provide access to international communications highways on a competitive basis;

i) For efficiency, practicability, and convenience, but with due regard to the observance of due process at all times, regulation of telecommunications entities shall rely principally on an administrative process that is stable, transparent and fair, giving due emphasis to technical, legal, economic and financial considerations;

j) No single franchise shall authorize an entity to engage in both telecommunications and broadcasting, either through the airwaves or by cable;

k) Ownership of public telecommunications entities to as wide a number of people as possible, preferably to its customers, in order to encourage efficiency and public accountability and to tap personal savings shall be encouraged;

l) The development of a domestic telecommunications manufacturing industry to meet the needs of the Philippines and to take advantage of export opportunities shall be promoted without preventing, deterring or hampering the goal of full universal service; and

m) Human resources skills and capabilities must be harnessed and improved to sustain the growth and the development of telecommunications under a fast changing telecommunications environment.

ARTICLE III. ADMINISTRATION

SEC. 5. *Responsibilities of the National Telecommunications Commission.* - The National Telecommunications Commission (Commission) shall be the principal administrator of this Act and as such shall take the necessary measures to implement the policies and objectives set forth in this Act. Accordingly, in addition to its existing functions, the Commission shall be responsible for the following:

a) Adopt an administrative process which would facilitate the entry of qualified service providers and adopt a pricing policy which would generate sufficient returns to encourage them to provide basic telecommunications services in unserved and underserved areas;

b) Ensure quality, safety, reliability, security, compatibility and inter-operability of telecommunications facilities and services in conformity with standards and specifications set by international radio and telecommunications organizations to which the Philippines is a signatory;

c) Mandate a fair and reasonable interconnection of facilities of authorized public network operators and other providers of telecommunications services through appropriate modalities of interconnection and at a reasonable and fair level of charges which make provision for the cross subsidy to unprofitable local exchange service areas so as to promote telephone density and provide the most extensive access to basic telecommunications services available at affordable rates to the public;

d) Foster fair and efficient market conduct through, but not limited to, the protection of telecommunications entities from unfair trade practices of other carriers;

e) Promote consumers welfare by facilitating access to telecommunications services whose infrastructure and network must be geared towards the needs of individual and business users;

f) Protect consumers against misuse of telecommunications entity's monopoly or quasi-monopolistic powers by but not limited to the investigation of complaints and exacting compliance with service standards from such entity; and

g) In the exercise of its regulatory powers, continue to impose such fees and charges as may be necessary to cover reasonable costs and expenses for the regulation and supervision of the operations of telecommunications entities.

SEC. 6. *Responsibilities of and Limitations to Department Powers.* - The Department of Transportation and Communications (Department) shall not exercise any power which will

tend to influence or effect a review or a modification of the Commission's quasi-judicial functions.

In coordination with the Commission, however, the Department shall, in accordance with the policies enunciated in this Act, be responsible for:

a) the development and maintenance of a long-term strategic national development plan for telecommunications to serve as a guide to the industry and potential investors as well as to the Commission;

b) the coordination of research and development activities in government with the work of other institutions in the field of telecommunications;

c) the representation and promotion of Philippine interests in international bodies, and the negotiation of the nation's rights and obligations in international telecommunications matters; and

d) the operation of a national consultative forum to facilitate interaction amongst the telecommunications industries, user groups, academic and research institutions in the airing and resolution of important issues in the field of communications.

ARTICLE IV. TELECOMMUNICATIONS ENTITIES

SEC. 7. *Categories of Telecommunications Entities.* - A telecommunications entity shall be authorized to operate in one or more of the telecommunications categories mentioned in this Act provided each category is covered by its franchise.

SEC. 8. *Local Exchange Operator.* - A local exchange operator shall:

a) provide universal basic telephone service to all subscribers who applied for such service, within a reasonable period and at such standards as may be prescribed by the Commission and at such tariff as to sufficiently give it a fair return on its investments.

b) be protected from uncompensated bypass or overlapping operations of other telecommunications entities in need of physical links or connections to its customers in the area except when it is unable to provide, within a reasonable period of time and at desired standard, the interconnection arrangements required by such entities.

c) have the first option to provide pay telephone services or public calling stations in the area covered by its network.

d) be entitled to a fair and equitable revenue sharing arrangement with the inter-exchange carrier or such other carriers connected to its basic network.

SEC. 9. *Inter-Exchange Carrier.* - The number of entities allowed to provide inter-exchange national long distance services may be limited, but as a matter of policy, where it is economically viable, at least two (2) carriers, shall be authorized: Provided, however, That a local exchange carrier shall not be restricted from operating its own inter-exchange

carrier service if its viability is dependent thereto. Such inter-exchange carrier shall have the following obligations:

a) It shall interconnect with other networks in the same category and with local exchange carriers or other telecommunications entities, upon application and within a reasonable time period, and under fair and reasonable level of charges, in order that domestic and international long distance services are made possible; and

b) It shall have the right to establish and operate its own tandem switching facilities to which international calls or overseas carriers have to course their messages or signals.

SEC. 10. *International Carrier.* - Only entities which will provide local exchange services and can demonstrably show technical and financial capability to install and operate an international gateway facility shall be allowed to operate as an international carrier.

The entity so allowed shall be required to produce a firm correspondent or interconnection relationships with major overseas telecommunications authorities or carriers within one (1) year from the grant of the authority.

The international carrier shall also comply with its obligation to provide the local exchange service in unserved or underserved areas within three (3) years from the grant of the authority as required by existing regulations: Provided, however, That said carriers shall be deemed to have complied with the said obligation in the event it allows an affiliate thereof to assume such obligation and who complies therewith.

Failure to comply with the above obligations shall be a cause to cancel its authority or permit to operate as an international carrier.

SEC. 11. *Value-added Service Provider.* - Provided that it does not put its own network, a VAS provider need not secure a franchise. A VAS provider shall be allowed to competitively offer its services and/or expertise, and lease or rent telecommunications equipment and facilities necessary to provide such specialized services, in the domestic and/or international market in accordance with network compatibility.

Telecommunications entities may provide VAS, subject to the additional requirements that:

a) prior approval of the Commission is secured to ensure that such VAS offerings are not cross-subsidized from the proceeds of their utility operations;

b) other providers of VAS are not discriminated against in rates nor denied equitable access to their facilities; and

c) separate books of accounts are maintained for the VAS.

SEC. 12. *Mobile Radio Services.* - In a local telephone exchange area, more than one duly enfranchised provider of mobile radio services, distinct and separate from the local

exchange carrier, may be allowed to operate. However, such entities shall secure prior authority from the Commission and, in addition, comply with the conditions imposed on VAS and with the norms on radio frequency spectrum utilization.

The operator of a mobile radio telephone system shall comply with its obligations to provide local exchange service in unserved and underserved areas in accordance with existing regulations. Failure to comply with this obligation within three (3) years from the grant of the authority shall be a cause to cancel its authority or permit to operate a mobile radio telephone system.

SEC. 13. *Radio Paging Services.* - Duly enfranchised radio paging services involving either voice or data messages, shall be allowed to compete freely in rates, number of operators, or variety of operating modalities, subject only to the norms on radio frequency spectrum utilization.

ARTICLE V. OTHER SERVICES AND FACILITIES

SEC. 14. *Customer Premises Equipment.* - Telecommunications subscribers shall be allowed to use within their premises terminal equipment, such as telephone, PABX, facsimile, data, record, message and other special-purpose or multi-function telecommunication terminal equipment intended for such connection: Provided, That the equipment is type-approved by the Commission.

SEC. 15. *Radio Frequency Spectrum.* - The radio frequency spectrum allocation and assignment shall be subject to periodic review. The use thereof shall be subject to reasonable spectrum user fees. Where demand for specific frequencies exceed availability, the Commission shall hold open tenders for the same and ensure wider access to this limited resource.

ARTICLE VI. FRANCHISE, RATES AND REVENUE DETERMINATION

SEC. 16. *Franchise.* - No person shall commence or conduct the business of being a public telecommunications entity without first obtaining a franchise.

The Commission, in granting a Certificate of Public Convenience and Necessity (CPCN), may impose such conditions as to duration and termination of the privilege, concession, or standard or technical aspects of the equipment, rates, or service, not contrary to the terms of the franchise. In no case, however, shall the CPCN be shorter than five (5) years, nor longer than the life of the franchise. A CPCN expiring at the same time as the franchise shall be deemed to have been renewed for the same term if the franchise itself is also renewed or extended.

Expansion and financing of network and services, utilizing equipment compatible with or homologous to existing or previously approved plant and facilities, in order to service additional demand in the same areas where the previously approved network and services have been installed, shall not require any approval by the Commission.

The upgrading of existing plant and network facilities including the financing thereof, for the purpose of retiring or replacing obsolete or outmoded equipment with state of the art equipment and technology in order to improve the quality or grade of service being rendered to the public within the same areas covered by the existing plant and facilities previously approved, shall likewise not require the approval of the Commission.

The Commission, however, shall not grant a subsequent CPCN for another segment of service or extend the area service coverage of an entity which has failed to satisfactorily comply with its commitments to the Commission to provide a particular service in the original area coverage under an earlier authorization.

SEC. 17. *Rates and Tariffs.* - The Commission shall establish rates and tariffs which are fair and reasonable and which provide for the economic viability of telecommunications entities and a fair return on their investments considering the prevailing cost of capital in the domestic and international markets.

The Commission shall exempt any specific telecommunications service from its rate or tariff regulations if the service has sufficient competition to ensure fair and reasonable rates or tariffs. The Commission shall, however, retain its residual powers to regulate rates or tariffs when ruinous competition results or when a monopoly or a cartel or combination in restraint of free competition exists and the rates or tariffs are distorted or unable to function freely and the public is adversely affected. In such cases, the Commission shall either establish a floor or ceiling on the rates or tariffs.

SEC. 18. *Access Charge/Revenue Sharing.* - The access charge/revenue sharing arrangements between all interconnecting carriers shall be negotiated between the parties and the agreement between the parties shall be submitted to the Commission. In the event the parties fail to agree thereon within a reasonable period of time, the dispute shall be submitted to the Commission for resolution.

In adopting or approving an access charge formula or revenue sharing agreement between two or more carriers, particularly, but not limited to a local exchange, interconnecting with a mobile radio, inter-exchange long distance carrier, or international carrier, the Commission shall ensure equity, reciprocity and fairness among the parties concerned. In so approving the rates for interconnection between the telecommunications carriers, the Commission shall take into consideration the costs of the facilities needed to complete the interconnection, the need to provide the cross-subsidy to local exchange carriers to enable them to fulfill the primary national objective of increasing telephone density in the country and assure a rate of return on the total local exchange network investment that is at parity with those earned by other segments of the telecommunications industry: Provided, That international carriers and mobile radio operators which are mandated to provide local exchange services, shall not be exempt from the requirement to provide the cross-subsidy, when they interconnect with the local exchanges of other carriers.

Provided, further, That the local exchanges which they will additionally operate shall equally be entitled to the cross-subsidy from other international carriers, mobile radio operators, or inter-exchange carriers interconnecting with them.

SEC. 19. *Uniform System of Accounts.* - The Commission shall require telecommunications entities to set up a uniform system of accounts which shall be one of the bases in establishing rates and tariffs. Where a single entity spans more than one category of telecommunications service, a separate book of accounts shall be maintained for each category or specialized classification.

ARTICLE VII. RIGHTS OF TELECOMMUNICATIONS USERS

SEC. 20. *Rights of End Users.* - The user of telecommunications service shall have the following basic rights:

a) Entitlement of utility service which is non-discriminatory reliable and conforming with minimum standards set by the Commission;

b) Right to be given the first single-line telephone connection or the first party-line connection within two (2) months of application for service, against deposit, or within three (3) months after targeted commencement of service in the barangay concerned per the original schedule of service expansion approved by the Commission, whichever deadline comes later;

c) Regular, timely and accurate billing, courteous and efficient service at utility business offices and by utility company personnel; and

d) Thorough and prompt investigation of, and action upon complaints. The utility shall endeavor to allow complaints to be received over the telephone and shall keep a record of all written or phoned-in complaints.

ARTICLE VIII. TELECOMMUNICATIONS DEVELOPMENT

SEC. 21. *Public Ownership.* - In compliance with the Constitutional mandate to democratize ownership of public utilities, all telecommunications entities with regulated types of services shall make a bonafide public offering through the stock exchanges of at least thirty percent (30%) of its aggregate common stocks within a period of five (5) years from effectivity of this Act or the entity's first start of commercial operations, whichever date is later. The public offering shall comply with the rules and regulations of the Securities and Exchange Commission.

SEC. 22. *Privatization of Existing Facilities.* - The Department shall, within three (3) years from effectivity of this Act, privatize all telecommunications facilities currently owned and/or operated by the government for public use, plus those facilities currently being planned under various bilateral funding arrangements. Unless otherwise authorized by law, privatization of telecommunications facilities as well as construction of telephone infrastructure shall be made through public bidding.

SEC. 23. *Equality of Treatment in the Telecommunications Industry.* - Any advantage, favor, privilege, exemption, or immunity granted under existing franchises, or may hereafter be granted, shall ipso facto become part of previously granted telecommunications franchises and shall be accorded immediately and unconditionally to the grantees of such franchises: Provided, however, That the foregoing shall neither apply to nor affect 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.

ARTICLE IX. FINAL PROVISIONS

SEC. 24. *Transitory Provision.* - All telecommunications services deregulated hereby and which are operating at the effectivity of this Act, may continue to have their rates and tariffs approved by the Commission until the end of the calendar year of the effectivity of this Act.

Existing franchises that are not operating or without pending applications for certificates of public convenience at the time of effectivity of this Act are deemed revoked.

All interconnection agreements previously entered into between telecommunications carriers shall remain in full force and effect but the parties shall, within six (6) months from the effectivity of this Act, review their access charging/revenue sharing formula and submit to the Commission an amendment thereof, if necessary, in order to comply with the guidelines on the access charging/revenue sharing formula contained in Section 18 of this Act.

SEC. 25. *Separability Clause.* - Any portion or provisions of this Act that may be declared unconstitutional or invalid shall not have the effect of nullifying other portions or provisions hereof as long as such remaining portions or provisions can still subsist and be given effect in their entirety.

SEC. 26. *Repealing Clause* - All laws, ordinances, rules, regulations and other issuances of parts thereof, which are inconsistent with this Act are hereby repealed or modified accordingly.

SEC. 27. *Effectivity Clause* - This Act shall take effect fifteen (15) days from the date of its publication in at least two (2) newspapers of general circulation.

Approved: March 1, 1995

(SGD). FIDEL V. RAMOS
President of the Philippines

