Republic of the Philippines
**HOUSE OF REPRESENTATIVES**
Quezon City

**EIGHTEENTH CONGRESS**
Second Regular Session

HOUSE OF REPRESENTATIVES
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**COMMITTEE REPORT NO. 843**

MAR 1 0 2021

Submitted by the Committee on Legislative Franchises on _____.

Re: House Bill No. 8970

Recommending its approval in substitution of House Bill No. 8509

Sponsors: Representatives Franz E. Alvarez and Johnny Ty Pimentel

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Mr. Speaker:

The Committee on Legislative Franchises to which was referred House Bill No. 8509, authored by Rep. Johnny Ty Pimentel entitled:

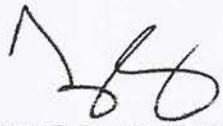
> "AN ACT RENEWING FOR ANOTHER TWENTY-FIVE (25) YEARS THE FRANCHISE GRANTED TO MERIDIAN TELEKOMS, INC., UNDER REPUBLIC ACT NO. 8337, ENTITLED "AN ACT GRANTING THE MERIDIAN TELEKOMS, INC. A FRANCHISE TO CONSTRUCT, MAINTIAN, LEASE AND OPERATE WIRE AND/OR WIRELESS TELECOMMUNICATIONS SYSTEMS THROUGHOUT THE PHILIPPINES""

has considered the same and recommends that the attached House Bill No. 8970 entitled:

> "AN ACT RENEWING FOR ANOTHER TWENTY-FIVE (25) YEARS THE FRANCHISE GRANTED TO MERIDIAN TELEKOMS, INC., PRESENTLY KNOWN AS SMART BROADBAND, INC., UNDER REPUBLIC ACT NO. 8337, ENTITLED "AN ACT GRANTING THE MERIDIAN TELEKOMS, INC., A FRANCHISE TO CONSTRUCT, INSTALL, ESTABLISH, MAINTAIN, LEASE AND OPERATE WIRE AND/OR WIRELESS TELECOMMUNICATIONS SYSTEMS THROUGHOUT THE PHILIPPINES""

be approved in substitution of House Bill No. 8509 with Reps. Johnny Ty Pimentel, Franz E. Alvarez, and Edward Vera Perez Maceda as authors thereof.

Respectfully submitted:



**FRANZ E. ALVAREZ**
Chairperson
Committee on Legislative
Franchises

**THE HONORABLE SPEAKER**
**HOUSE OF REPRESENTATIVES**
**QUEZON CITY**

Republic of the Philippines
**HOUSE OF REPRESENTATIVES**
Quezon City

**EIGHTEENTH CONGRESS**
Second Regular Session

HOUSE BILL NO. 8970
(In substitution of House Bill No. 8509)

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Introduced by **REPRESENTATIVES JOHNNY TY PIMENTEL, FRANZ E. ALVAREZ, and EDWARD VERA PEREZ MACEDA**

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**AN ACT**
**RENEWING FOR ANOTHER TWENTY-FIVE (25) YEARS THE FRANCHISE GRANTED TO MERIDIAN TELEKOMS, INC., PRESENTLY KNOWN AS SMART BROADBAND, INC., UNDER REPUBLIC ACT NO. 8337, ENTITLED "AN ACT GRANTING THE MERIDIAN TELEKOMS, INC., A FRANCHISE TO CONSTRUCT, INSTALL, ESTABLISH, MAINTAIN, LEASE AND OPERATE WIRE AND/OR WIRELESS TELECOMMUNICATIONS SYSTEMS THROUGHOUT 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, the franchise granted to MERIDIAN TELEKOMS, INC., presently known as SMART BROADBAND, INC., under Republic Act No. 8337, hereunder referred as the grantee, its successor or assignees, to construct, install, establish, maintain, lease and operate, for commercial purposes and in the public interest, throughout the Philippines and between the Philippines and other countries and territories, wired or wireless telecommunications systems including 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, and value added services such as transmission of voice, data, images, facsimile, control signs, audio and video, information services, and all other telecommunications systems technologies as are present available or will be made available through technological advances or innovations in the future; or 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 of this franchise, is hereby renewed for another twenty-five (25) years.

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 assigned wavelengths or frequencies and the quality of transmission or reception thereon as should maximize rendition of the grantee's services 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 or facilities. In issuing the certificate, the NTC shall have the power to regulate and impose such conditions relative to the construction, operation, maintenance, or service level of the telecommunications systems or facilities. Such certificate shall state the areas covered and the date the grantee shall commence the service. 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, permit, or license.

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

SEC. 4. *Excavation and Restoration Works.* – For the purposes of erecting and maintaining poles or other supports for wires or other conductors and for laying and maintaining of 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, 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 the 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 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, and charge the grantee, its successors or assignees at double the amount of the costs and expenses for such repair or replacement.

SEC. 5. *Responsibility to the Public.* - The grantee shall conform to the ethics of honest enterprise and not use its stations or 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 Republic Act 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 variations 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 such a manner that regulated services do not subsidize the unregulated ones.

SEC. 7. *Right of Government.* – 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.

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 the stations, transmitters, facilities, or equipment during the period when these shall be so operated.

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

SEC. 9. *Renewal or Extension of Franchise.* – The grantee shall apply for the renewal or extension of its franchise three (3) years before its expiration which shall be reckoned from fifteen (15) days after the publication of the franchise in the *Official Gazette* or in a newspaper of general circulation.

SEC. 10. *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 of the NTC.

SEC. 11. *Mobile Number Portability.* – The grantee shall provide mobile number portability (MNP) and its implementing mechanism, including the required infrastructure and processes, 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.

SEC. 12. *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 to persons or damage to properties, during the construction or operation of the stations, transmitters, facilities, or equipment of the grantee.

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, nor merge with any other corporation or entity, nor shall the controlling interest of the grantee be transferred, simultaneously or contemporaneously, to any person, firm, company, corporation, or entity without the prior approval of Congress. The grantee shall inform Congress, through the Office of the Speaker of the House of Representatives and the Office of the Senate President, 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 the 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 the same conditions, terms, restrictions, and limitations of this Act.

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%) 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. 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 its franchise operations: *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 ensure that at least sixty percent (60%) of its employees are regular employees and in no case shall the percentage of contractual, job order, or casual employees, 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.

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 trainees and workers whose employment status are made regular, and append the appropriate certificate from the Department of Labor and Employment attesting that it has complied with the employment requirement under this Section.

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 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 its franchise.

The annual report shall include an update on the commencement of activities, development, operation, and 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 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.* – Failure of the grantee to submit the requisite annual report to Congress shall be penalized with a fine in the amount of One million pesos (P1,000,000.00) for each 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 to the NTC. The fine shall be collected separately from the reportorial penalties imposed by the NTC, and it shall be remitted to the Bureau of the Treasury.

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, however,* That the foregoing shall neither apply to nor affect the 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.

SEC. 19. *Repealability and Nonexclusivity Clause.* – This franchise shall be subject to amendment, alteration, or repeal by Congress 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,

# FACT SHEET

House Bill No. 8970
In substitution of House Bill No. 8509
(As approved on _____)

AN ACT RENEWING FOR ANOTHER TWENTY-FIVE (25) YEARS THE FRANCHISE GRANTED TO MERIDIAN TELEKOMS, INC., PRESENTLY KNOWN AS SMART BROADBAND, INC., UNDER REPUBLIC ACT NO. 8337, ENTITLED "AN ACT GRANTING THE MERIDIAN TELEKOMS, INC., A FRANCHISE TO CONSTRUCT, INSTALL, ESTABLISH, MAINTAIN, LEASE AND OPERATE WIRE AND/OR WIRELESS TELECOMMUNICATIONS SYSTEMS THROUGHOUT THE PHILIPPINES""

*Introduced by:* ***HON. JOHNNY TY PIMENTEL***

*Committee Referral*: ***LEGISLATIVE FRANCHISES***
*Committee Chairperson*: ***HON. FRANZ E. ALVAREZ***

**OBJECTIVE**:

- To allow SMART BROADBAND, INC. to operate efficient and effective telecommunications services nationwide.

**KEY PROVISIONS**:

- Renews SMART BROADBAND, INC.'s franchise to construct, install, establish, maintain, lease and operate telecommunications system for twenty-five (25) years;

- Requires the grantee to apply for the renewal or extension of its franchise three (3) years before its expiration;

- Prohibits the grantee to lease, transfer, sell, grant the usufruct, or assign the franchise, rights or privileges or its controlling interest without the prior approval of Congress;

- Mandates the grantee to secure the appropriate permits and licenses for the construction, installation, and operation of its telecommunications systems or facilities from the NTC;

- Mandates the grantee to provide mobile number portability (MNP) and its implementing mechanism, and shall ensure interconnection with the infrastructure of other telecommunications franchise grantees;

- Allows the grantee to make excavations or lay conduits for the purpose of erecting and maintaining poles, with the obligation to repair and replace in workmanlike manner any public place, road, highway, street, lane, alley, avenue, sidewalk, or bridge that has been disturbed, altered or changed by reason of erection of poles or other supports or the underground laying of wires;

- Mandates the grantee to conform to the ethics of honest enterprise, operate its facilities in a satisfactory manner at all times, and to extend its services in compliance with Republic Act No. 10639 or the "Free Mobile Disaster Alerts Act";

- Gives the President of the Philippines the right 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 in times of war, rebellion, public peril, calamity, emergency, disaster or disturbance of peace and order;

- Provides that the national and local governments shall not be held liable for any damage to properties or injury to persons caused by accidents during construction or operation of the stations;

- Requires the grantee to offer to Filipino citizens at least thirty per cent (30%) of its outstanding stock in any security exchange in the Philippines or through other methods of encouraging public participation by citizens and corporations operating public utilities as allowed by law;

- Requires the grantee to create employment opportunities and allow on-the-job trainings in their franchise operation for residents of the place where any of its offices is located subject to applicable labor standards and allowance entitlement under existing labor laws, rules and regulations and similar issuances;

- Mandates the grantee to ensure that at least sixty percent (60%) of its employees are regular employees and in no case shall the percentage of contractual, job order, casual employees, talents and independent contractors combined, exceed forty percent (40%) of its total workforce; and to report to Congress the number of its trainees and workers whose employment status are made regular and append a certificate from the Department of Labor and its relevant attached agencies;

- Requires the grantee to submit an annual report to Congress on its compliance with the terms and conditions of the franchise and its operation on or before April 30 of every year;

- Imposes a fine in the amount of One million pesos (P1,000,000.00) per working day of noncompliance with the reportorial requirement of Congress, the effectivity of which shall commence upon applicability with other telecommunications franchise grantees, and 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 and

- Provides an equality clause which aims to grant existing and potential franchise grantees equal privilege/s.

**RELATED LAWS:**

- Republic Act No. 8337 – "AN ACT GRANTING THE MERIDIAN TELEKOMS, INC. A FRANCHISE TO CONSTRUCT, MAINTIAN, LEASE AND OPERATE WIRE AND/OR WIRELESS TELECOMMUNICATIONS SYSTEMS THROUGHOUT THE PHILIPPINES"

- Republic Act No. 7925 – "AN ACT TO PROMOTE AND GOVERN THE DEVELOPMENT OF PHILIPPINE TELECOMMUNICATIONS AND THE DELIVERY OF PUBLIC TELECOMMUNICATIONS SERVICES"

- Republic Act No. 10639 - "Free Mobile Disaster Alerts Act"

- Republic Act 11202 – "Mobile Number Portability Act"

- Sec. 18, Article II and Sec. 3, Article XIII of the 1987 Constitution - Protection to labor and collective bargaining.

- Article 280 of the Labor Code - Provision for regular and casual employment.