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LAWNUM: RA07294

DATE : 03/27/92

TITLE : AN ACT GRANTING SMART INFORMATION TECHNOLOGIES, INC. (SMART)

A

FRANCHISE TO ESTABLISH, INSTALL, MAINTAIN, LEASE AND OPERATE  
INTEGRATED  
TELECOMMUNICATIONS/ COMPUTER/ELECTRONIC SERVICES, AND STATIONS  
THROUGHOUT  
THE PHILIPPINES FOR PUBLIC DOMESTIC AND INTERNATIONAL  
TELECOMMUNICATIONS,  
AND FOR OTHER PURPOSES

TEXT :

H. No. 33499

Republic of the Philippines  
Congress of the Philippines  
Metro Manila

Fifth Regular Session

Begun and held in Metro Manila, on Monday, the twenty-second  
day of July, nineteen hundred and ninety-one.

[REPUBLIC ACT No. 07294]

AN ACT GRANTING SMART INFORMATION  
TECHNOLOGIES, INC. (SMART) A FRANCHISE TO  
ESTABLISH, INSTALL, MAINTAIN, LEASE AND  
OPERATE INTEGRATED TELECOMMUNICATIONS/  
COMPUTER/ELECTRONIC SERVICES, AND STATIONS  
THROUGHOUT THE PHILIPPINES FOR PUBLIC  
DOMESTIC AND INTERNATIONAL  
TELECOMMUNICATIONS, AND FOR OTHER PURPOSES

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 the Smart Information  
Technologies, Inc., hereunder referred to as the grantee, its  
successors or assigns a franchise to establish, install,  
maintain, lease and operate integrated  
telecommunications/computer/ electronic services, and fixed  
and mobile stations throughout the Philippines for public  
domestic and international telecommunications and to install  
corresponding transmitting and receiving stations at such  
places in the Philippines as it may consider necessary and

convenient.

SEC. 2. Manner of Operation of Stations or Facilities. - The stations 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 the existing stations or other stations which may be established in accordance with law of other telecommunications services grantees, 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. Prior Approval of the National Telecommunications Commission. - The grantee shall secure from the National Telecommunications Commission the appropriate permits, licenses and certificates for its stations and shall not use any frequency in the radio spectrum without having been authorized by the Commission.

SEC. 4. Responsibility to the Public. - The grantee shall conform to the ethics of honest enterprise and shall not use its stations for obscene or indecent transmissions, or for the dissemination of deliberately false information or willful misrepresentation, or assist in subversive or treasonable acts.

SEC. 5. Rates for Services. - The subscription charges and rates for services that the grantee shall offer to the public shall be subject to the approval of the National Telecommunications Commission or its legal successors.

SEC. 6. Right of Government. - The President of the Philippines, in times of war, rebellion, public peril, calamity, emergency, disaster or disturbance of peace and order, may take over and operate the stations, transmitter systems, facilities and equipment of the grantee, temporarily suspend the operation of any station in the interest of public safety, security and public welfare, or 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, transmitter systems, facilities and equipment during the period when they shall be so operated.

SEC. 7. Term of Franchise. - This franchise shall be for a term of twenty-five (25) years from the date of approval of this Act, unless sooner revoked or cancelled. In the event the grantee fails to operate continuously for two (2) years, this franchise shall be deemed ipso facto revoked.

SEC. 8. Acceptance and Compliance. - Acceptance of this franchise shall be given in writing within sixty (60) days after approval of this Act. The grantee shall operate

telecommunications systems for which this franchise is granted within two (2) years from the date of its acceptance in writing of this franchise. Refusal or failure to accept the franchise or to operate within the prescribed period shall render the franchise void.

SEC. 9. Tax Provisions. - The grantee, its successors or assigns shall be liable to pay the same taxes on their real estate, buildings and personal property, exclusive of this franchise, as other persons or corporations which are now or hereafter may be required by law to pay. In addition thereto, the grantee, its successors or assigns shall pay a franchise tax equivalent to three percent (3%) of all gross receipts of the business transacted under this franchise by the grantee, its successors or assigns and the said percentage shall be in lieu of all taxes on this franchise or earnings thereof: Provided, That the grantee, its successors or assigns 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. 10. Warranty in Favor of National and Local Governments. - The grantee shall hold the national, provincial and municipal governments of the Philippines harmless 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, systems, facilities and equipment of the grantee.

SEC. 11. Sale, Lease, Transfer, Usufruct, etc. - The grantee shall not lease, transfer, grant the usufruct of, sell or assign the franchise herein granted or the rights and privileges acquired thereunder to any person, firm, company, corporation or entity, nor merge with any corporation or entity without the prior approval of the Congress of the Philippines. Neither shall the controlling interest in the grantee be transferred, whether as a whole or in part and whether simultaneously or contemporaneously, to any such person, firm, company, corporation or entity without the prior approval of the Congress of the Philippines. Any person or entity to which the franchise herein granted is validly sold, transferred or assigned shall be subject to the same conditions, terms, restrictions and limitations of this Act.

SEC. 12. General Telecommunications Policy Law. - The grantee shall comply with and be subject to the provisions of

a general telecommunications policy law that may hereafter be enacted.

SEC. 13. Listing of Shares. - The grantee shall list, subject to the requirements of the Securities and Exchange Commission and the stock exchange concerned, and make a public offering through the stock exchange of the shares representing at least thirty per centum (30%) of its authorized capital stock in any securities exchange in the Philippines within two (2) years from the effectivity of this Act.

SEC. 14. Separability Clause. - If any of the sections or provisions of this Act is held invalid, all the other provisions not affected thereby shall remain valid.

SEC. 15. Repealability and Non-exclusivity Clauses. - The franchise herein granted 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 privileges herein provided for.

SEC. 16. Reportorial Requirement. - The grantee shall submit an annual report to the Congress of the Philippines on its compliance with the terms and conditions of the franchise and on its operations within sixty (60) days from the end of every year.

SEC. 17. 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 in the Philippines.

Approved,

MITRA  
House  
NEPTALI A. GONZALES  
President of the Senate

RAMON V.  
Speaker of the  
House of Representatives

This Act which originated in the House of Representatives was finally passed by the House of Representatives and the Senate on January 28, 1992 and January 23, 1992, respectively.

SABIO  
General  
ANACLETO D. BADOY, JR.  
Secretary of the Senate

CAMILO L.  
Secretary  
House of Representatives

Approved: March 27, 1992

CORAZON C. AQUINO  
President of the Philippines

Lapsed into law on March 27, 1992 without the President's  
signature  
in accordance with Art. VI, Sec. 27(1) of the Constitution.