

(AS AMENDED BY THE SENATE)

CONGRESS OF THE PHILIPPINES
EIGHTEENTH CONGRESS
Second Regular Session

HOUSE OF REPRESENTATIVES

H. No. 7488

BY REPRESENTATIVES ROMUALDEZ (F.M.), DUTERTE, GARCIA (V.), UNGAB, ALVAREZ (F.) AND REVILLA, PER
COMMITTEE REPORT NO. 433

AN ACT

**GRANTING THE CITY GOVERNMENT OF DAVAO A FRANCHISE TO CONSTRUCT, INSTALL,
OPERATE, AND MAINTAIN RADIO BROADCASTING STATIONS IN DAVAO CITY**

*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 City Government of Davao, hereunder referred to as the grantee, its successor or assignees, a franchise to construct, install, operate, and maintain for commercial purposes and in the public interest, radio broadcasting stations in Davao City where frequencies or channels are still available for radio broadcasting, through microwave, satellite or whatever means, including the use of any new technology in radio systems, with the corresponding technological auxiliaries and facilities, special broadcast and other program and distribution services and relay stations.

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 privilege to use its assigned wavelengths or frequencies and the quality of transmission or reception thereon as should maximize rendition of the grantee's services and/or availability thereof.

SEC. 3. *Prior Approval of the National Telecommunications Commission.* – The grantee shall secure from the National Telecommunications Commission (NTC) the appropriate permits and licenses for the construction and operation of its stations or facilities and shall not use any frequency in the radio/television spectrum without authorization from

the NTC. The NTC, however, shall not unreasonably withhold or delay the grant of any such authority.

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. Responsibility to the Public. – ~~[The grantee shall strictly comply with the provisions of the Constitution, statutes, rules and regulations, including labor laws and standards.]~~ The grantee shall reach the pertinent populations or portions thereof on important public issues and relay important public announcements and warnings concerning public emergencies and calamities, as necessity, urgency or law may require; provide, at all times sound and balanced programming; promote public participation; assist in the functions of public information and education; conform to the ethics of honest enterprise; promote audience sensibility and empowerment including closed captioning; and not use its stations or facilities for the broadcasting of obscene or indecent language, speech, act or scene, the dissemination of deliberately false information or willful misrepresentation, to the detriment of public interest, or to incite, encourage, or assist in subversive or treasonable acts.

SEC. 5. Right of the 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 that 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 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, upon due compensation to the grantee, for the use of said stations or facilities during the period when these shall be so operated.

SEC. 6. 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 that the grantee fails to comply with any of the following conditions:

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

SEC. 7. 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. [7] 8. Self-regulation by and Undertaking of Grantee. – The grantee shall not require any previous censorship of any speech, play, act or scene, or other matter to be broadcast from its stations, but if any such speech, play, act or scene, or other matter should constitute a violation of the law or infringement of a private right, the grantee shall be free from any liability, civil or criminal, for such speech, play, act or scene, or other matter: *Provided*, That the grantee, during any broadcast, shall cut off the airing of speech, play, act or scene, or other matter being broadcast if the tendency thereof is to propose or incite treason, rebellion or sedition; or the language used therein or the theme thereof is indecent or immoral: *Provided, further*, That willful failure to do so shall constitute a valid cause for the cancellation of this franchise.

The grantee shall guarantee that news and events are reported accurately and truthfully, and that all parties involved in such news or events are allowed equal time and opportunity for information-sharing.

The grantee shall ensure that all its programs, talents, and the languages used by its talents are geared towards the promotion of positive Filipino values.

The grantee shall allow all candidates, particularly those seeking national elective positions, equal opportunity to present programs of government to the electorate, subject to the implementing guidelines, rules and regulations issued by the Commission on Elections.

Willful failure to comply with the self-regulation by and undertaking of the grantee as provided for in this Section shall constitute a valid cause for the cancellation of this franchise.

SEC. [8] 9. 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, demands, or actions arising out of accidents causing injury to persons or damage to properties, during the construction or operation of the stations of the grantee.

SEC. [9] 10. 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 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 EMPLOYEES, JOB ORDER AND CASUAL EMPLOYEES, AND INDEPENDENT CONTRACTORS COMBINED, EXCEED FORTY PERCENT (40%) OF ITS TOTAL WORKFORCE: Provided[~~further~~] FURTHERMORE*, That the grantee shall follow the applicable labor standards and allowance entitlement under existing labor laws, rules and regulations and similar issuances: *Provided, finally*, That the grantee shall follow applicable Civil Service rules and regulations and other similar issuances.

SEC. [10] 11. 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.

SEC. [11] 12. 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 roll-out, development, operation or expansion; audited financial statements; and certification of the NTC on the status of its permits and operations.

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

SEC. [12] 13. Fine. – Failure of the grantee to submit the requisite annual report to Congress shall be penalized by a fine of five hundred pesos (P500.00) per working day of noncompliance. The fine shall be collected by the NTC from the delinquent franchise grantee separate from the reportorial penalties imposed by the NTC and the same shall be remitted to the Bureau of the Treasury.

SEC. [13] 14. Equality Clause. – Any advantage, favor, privilege, exemption, or immunity granted under existing franchises, or which may hereafter be granted for radio and television broadcasting, 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 broadcasting franchises concerning territorial coverage, the term, or the type of service authorized by the franchise.

SEC. [14] 15. *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 privileges herein provided for.

SEC. [15] 16. *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. [16] 17. *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. [17] 18. *Effectivity.* – This Act shall take effect fifteen (15) days after its publication in the *Official Gazette* or in a newspaper of general circulation.

Approved