

(AS AMENDED BY THE SENATE)

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HOUSE OF REPRESENTATIVES

H. No. 8556

BY REPRESENTATIVES GARBIN, ALVAREZ (F.), MACEDA, DY (F.), BARBERS, ACOSTA, ESCUDERO, NOGRALES (J.J.), DY (F.M.C.), BORDADO, VIOLAGO, HOFER, TAN (A.S.), ALBANO, GULLAS, SAVELLANO, SIAO, CRISOLOGO, REVILLA, VALERIANO, HERNANDEZ, UNABIA, ROMUALDO AND MALAPITAN, PER COMMITTEE REPORT NO. 724

AN ACT

RENEWING FOR ANOTHER TWENTY-FIVE (25) YEARS THE FRANCHISE GRANTED TO BAYCOMMS BROADCASTING CORPORATION UNDER REPUBLIC ACT NO. 8718, ENTITLED "AN ACT GRANTING THE BAYCOMMS BROADCASTING CORPORATION, A FRANCHISE TO CONSTRUCT, INSTALL, ESTABLISH, OPERATE AND MAINTAIN RADIO AND TELEVISION STATIONS IN 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, the franchise granted to
3 Baycomms Broadcasting Corporation, hereunder referred to as the grantee, its successor
4 or assignees, under Republic Act No. 8718, to construct, install, establish, operate, and
5 maintain for commercial purposes and in the public interest, radio and television
6 broadcasting stations, including digital and pay television system, through microwave,
7 satellite or whatever means, as well as the use of any new technology in television and
8 radio systems, with the corresponding technological auxiliaries and facilities, special
9 broadcast and other program and distribution services and relay stations in the
10 Philippines is hereby renewed for another twenty-five (25) years.
11

12 **SEC. 2. *Manner of Operation of Stations or Facilities.*** – The stations or facilities
13 of the grantee shall be constructed and operated in a manner as will, at most, result only
14 in the minimum interference on the wavelengths or frequencies of existing stations or
15 other stations which may be established by law, without in any way diminishing its own
16 privilege to use its assigned wavelengths or frequencies and the quality of transmission

1 or reception thereon as should maximize rendition of the grantee's services and availability
2 thereof.
3

4 **SEC. 3. Prior Approval of the National Telecommunications Commission.**

5 – The grantee shall secure from the National Telecommunications Commission (NTC)
6 the appropriate permits and licenses for the construction and operation of its stations or
7 facilities and shall not use any frequency in the radio/television spectrum without
8 authorization from the NTC. The NTC, however, shall not unreasonably withhold or delay
9 the grant of any such authority.

10
11 In case of any violation of the provisions of this franchise, the NTC shall have the
12 authority to revoke or suspend, after due process, the permits or licenses it issued
13 pursuant to the franchise. The NTC may recommend to Congress of the Philippines the
14 revocation of the franchise for any violation of the provisions of this franchise.
15

16 **SEC. 4. Responsibility to the Public.**–The grantee shall provide, free of charge,
17 adequate public service time which is reasonable and sufficient to enable the
18 government, through the broadcasting stations or facilities of the grantee, to reach the
19 pertinent populations or portions thereof, on important public issues and relay important
20 public announcements and warnings concerning public emergencies and calamities, as
21 necessity, urgency or law may require; provide at all times sound and balanced
22 programming; promote public participation; assist in the functions of public information
23 and education; conform to the ethics of honest enterprise; promote audience sensibility
24 and empowerment including closed captioning; and not use its stations or facilities for the
25 broadcasting of obscene or indecent language, speech, act or scene, the dissemination
26 of deliberately false information or willful misrepresentation, to the detriment of public
27 interest , or to incite, encourage, or assist in subversive or treasonable acts.
28

29 Public service time referred herein shall be equivalent to a maximum aggregate of
30 ten percent (10%) of paid commercials or advertisements which shall be allocated based
31 on need to the Executive and Legislative branches, the Judiciary, Constitutional
32 Commissions, and international humanitarian organizations duly recognized by statutes:
33 *Provided*, That the NTC shall increase the public service time in case of extreme
34 emergency or calamity. The NTC shall issue rules and regulations for this purpose, the
35 effectivity of which shall commence upon applicability with other similarly situated
36 broadcast network franchise holders.
37

38 Pursuant to Republic Act No. 8370, otherwise known as the “Children’s Television
39 Act of 1997”, the grantee shall allot a minimum of fifteen percent (15%) of the daily total
40 air time of each broadcasting network or station to child-friendly shows within its regular
41 programming.
42

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

1 A special right is hereby reserved to the President of the Philippines, in times of
2 war, rebellion, public peril, calamity, emergency, disaster, or disturbance of peace and
3 order, to temporarily take over and operate the stations or facilities of the grantee; to
4 temporarily suspend the operation of any station or facility in the interest of public safety,
5 security and public welfare; or to authorize the temporary use and operation thereof by any
6 agency of the government, upon due compensation to the grantee, for the use of the
7 stations or facilities during the period when these shall be so operated.

8
9 **SEC. 6. Term of Franchise.** – This franchise shall be in effect for a period of
10 twenty-five (25) years from the effectivity of this Act, unless sooner revoked or cancelled.
11 This franchise shall be deemed *ipso facto* revoked in the event the grantee fails to operate
12 continuously for two (2) years.

13 ~~[SEC. 7. Renewal or Extension of Franchise. — The grantee shall apply for the~~
14 ~~renewal or extension of its franchise three (3) years before its expiration which shall be~~
15 ~~reckoned from fifteen (15) days after the publication of the franchise in the *Official*~~
16 ~~*Gazette* or in a newspaper of general circulation, whichever is earlier.]~~

17
18 **SEC. [8] 7. Self-regulation by and Undertaking of Grantee.** – The grantee shall
19 not require any previous censorship of any speech, play, act or scene, or other matter to
20 be broadcast from its stations, but if any such speech, play, act or scene, or other matter
21 should constitute a violation of the law or infringement of a private right, the grantee shall
22 be free from any liability, civil or criminal, for such speech, play, act or scene, or other
23 matter: *Provided*, That the grantee, during any broadcast, shall cut off the airing of
24 speech, play, act or scene, or other matter being broadcast if the tendency thereof is to
25 propose or incite treason, rebellion or sedition; or the language used therein or the theme
26 thereof is indecent or immoral: *Provided, further*, That willful failure to do so shall
27 constitute a valid cause for the cancellation of this franchise.
28

29 **SEC. [9] 8. Warranty in Favor of the National and Local Governments.** – The
30 grantee shall hold the national, provincial, city, and municipal governments of the
31 Philippines free from all claims, liabilities, demands, or actions arising out of accidents
32 causing injury to persons or damage to properties, during the construction or operation of
33 the stations of the grantee.
34

35 **SEC. [10] 9. Commitment to Provide and Promote the Creation of Employment**
36 **Opportunities.** – The grantee shall create employment opportunities and accept on-the-
37 job trainees in its franchise operations: *Provided*, That priority shall be accorded to the
38 residents of the place where the principal office of the grantee is located: [~~*Provided,*~~
39 ~~*further*, That the grantee shall ensure that at least sixty percent (60%) of its employees~~
40 ~~are regular employees and in no case shall the percentage of contractual employees, job~~
41 ~~orders, casuals, and independent contractors combined, exceed forty percent (40%) of~~
42 ~~its total workforce:] *Provided*, [~~*finally*~~] **FURTHER**, That the grantee shall comply with the~~

1 applicable labor standards and allowance entitlement under existing labor laws, rules and
2 regulations, and similar issuances.

3
4 The employment opportunities or jobs created shall be reflected in the General
5 Information Sheet (GIS) to be submitted to the Securities and Exchange Commission
6 (SEC) annually. [~~In addition, the grantee shall include in its annual report to Congress the
7 number of its regularized employees and secure a compliance and clearance certificate
8 from the Department of Labor and Employment and its relevant attached agencies.~~]

9
10 **SEC. [14] 10. *Sale, Lease, Transfer, Grant of Usufruct, or Assignment of***
11 ***Franchise.*** – The grantee shall not sell, lease, transfer, grant the usufruct of, nor assign
12 this franchise or the rights and privileges acquired thereunder to any person, firm,
13 company, corporation or other commercial or legal entity, nor merge with any other
14 corporation or entity, nor shall the controlling interest of the grantee be transferred,
15 simultaneously or contemporaneously, to any person, firm, company, corporation, or
16 entity without the prior approval of Congress. The grantee shall inform Congress of any
17 sale, lease, transfer, grant of usufruct, or assignment of franchise or the rights and
18 privileges acquired thereunder, or of the merger or transfer of the controlling interest of
19 the grantee, within sixty (60) days after the completion of the said transaction. Failure to
20 report to Congress such change of ownership shall render the franchise *ipso facto*
21 revoked. Any person or entity to which this franchise is sold, transferred, or assigned shall
22 be subject to the same conditions, terms, restrictions, and limitations of this Act.

23
24 **SEC. [12] 11. *Dispersal of Ownership.*** – In accordance with the constitutional
25 provision to encourage public participation in public utilities, the grantee shall offer to
26 Filipino citizens at least thirty percent (30%) of its [~~common~~] OUTSTANDING CAPITAL
27 stocks, or a higher percentage that may hereafter be provided by law, in any securities
28 exchange in the Philippines within five (5) years from the effectivity of this Act: *Provided,*
29 That in cases where public offer of shares is not applicable, other methods of encouraging
30 public participation by citizens and corporations operating public utilities must be
31 implemented. Noncompliance therewith shall render the franchise *ipso facto* revoked.

32
33 **SEC. [13] 12. *Reportorial Requirement.*** – The grantee shall submit an annual
34 report on its compliance with the terms and conditions of the franchise and on its
35 operations to Congress of the Philippines, through the Committee on Legislative
36 Franchises of the House of Representatives and the Committee on Public Services of the
37 Senate, on or before April 30 of every year during the term of its franchise.

38
39 The annual report shall include an update on the roll-out, development, operation
40 or expansion of business; audited financial statements; latest GIS officially submitted to
41 the SEC, if applicable; certification of the NTC on the status of its permits and operations;
42 and an update on the dispersal of ownership undertaking, if applicable.

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

3
4 **SEC. [14] 13. *Fine.*** – Failure of the grantee to submit the requisite annual report to
5 Congress shall be penalized by a fine of Five hundred pesos (P500.00) per working day
6 of noncompliance. The fine shall be collected by the NTC from the delinquent franchise
7 grantee separate from the reportorial penalties imposed by the NTC and the same shall
8 be remitted to the Bureau of the Treasury.
9

10 **SEC. [15] 14. *Equality Clause.*** – Any advantage, favor, privilege, exemption, or
11 immunity granted under existing franchises, or which may hereafter be granted for radio
12 and television broadcasting, upon prior review and approval of Congress, shall become
13 part of this franchise and shall be accorded immediately and unconditionally to the herein
14 grantee: *Provided*, That the foregoing shall neither apply to nor affect the provisions of
15 broadcasting franchises concerning territorial coverage, the term, or the type of service
16 authorized by the franchise.
17

18 **SEC. [16] 15. *Repealability and Nonexclusivity Clause.*** – This franchise shall
19 be subject to amendment, alteration, or repeal by Congress when the public interest so
20 requires and shall not be interpreted as an exclusive grant of the privileges herein
21 provided for.

22 **SEC. [17] 16. *Separability Clause.*** – If any of the sections or provisions of this
23 Act is held invalid, all other provisions not affected thereby shall remain valid.

24 **SEC. [18] 17. *Repealing Clause.*** – All laws, decrees, orders, resolutions,
25 instructions, rules and regulations, and other issuances or parts thereof which are
26 inconsistent with the provisions of this Act are hereby repealed, amended, or modified
27 accordingly.
28

29 **SEC. [19] 18. *Effectivity.*** – This Act shall take effect fifteen (15) days after its
30 publication in the *Official Gazette* or in a newspaper of general circulation.

Approved,