

HOUSE OF REPRESENTATIVES

H. No. 8860

BY REPRESENTATIVES ZUBIRI, ACOSTA-ALBA, ALVAREZ (F.), MACEDA, VIOLAGO, NOGRALES (J.J.), GUYA, DY (F.M.C.), GARCIA (P.J.), FORTUNO, RIVERA, ARENAS, QUIMBO, BORDADO, ROMUALDO, GULLAS, UNABIA, MARQUEZ, ROBES, BAUTISTA, VARGAS ALFONSO, FERRER (L.), CASTELO, TEJADA, ALMARIO AND TAN (A.S.), PER COMMITTEE REPORT NO. 790

AN ACT

GRANTING HIGHLAND BROADCASTING NETWORK CORP. A FRANCHISE TO CONSTRUCT, INSTALL, ESTABLISH, OPERATE, AND MAINTAIN RADIO AND TELEVISION BROADCASTING STATIONS IN MINDANAO

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
2 the Constitution and applicable laws, rules and regulations, there is hereby granted to
3 Highland Broadcasting Network Corp., hereunder referred to as the grantee, its
4 successor or assignees, a franchise to construct, install, operate, and maintain for
5 commercial purposes and in the public interest, radio and television broadcasting
6 stations in Mindanao, where frequencies and channels are still available for radio and
7 television broadcasting, including digital television system, through microwave,
8 satellite or whatever means, as well as the use of any new technology in television
9 and radio systems, with the corresponding technological auxiliaries and facilities,
10 special broadcast and other program and distribution services and relay stations.

11
12 **SEC. 2. Manner of Operation of Stations or Facilities.** – The stations or
13 facilities of the grantee shall be constructed and operated in a manner as will, at most,
14 result only in the minimum interference on the wavelengths or frequencies of existing
15 stations or other stations which may be established by law, without in any way
16 diminishing its own privilege to use its assigned wavelengths or frequencies and the
17 quality of transmission or reception thereon as should maximize rendition of the
18 grantee's services and availability thereof.

19
20 **SEC. 3. Prior Approval of the National Telecommunications Commission.** –
21 The grantee shall secure from the National Telecommunications Commission (NTC)
22 the appropriate permits and licenses for the construction and operation of its stations
23 or facilities and shall not use any frequency in the radio or television spectrum without

1 authorization from the NTC. The NTC, however, shall not unreasonably withhold or
2 delay the grant of any such authority.
3

4 In case of any violation of the provisions of this franchise, the NTC shall have
5 the authority to revoke or suspend, after due process, the permits or licenses it issued
6 pursuant to the franchise. The NTC may recommend to the Congress of the
7 Philippines the revocation of this franchise for any violation of the provisions of this
8 franchise.
9

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

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

33 Pursuant to Republic Act No. 8370, otherwise known as the "Children's
34 Television Act of 1997", the grantee shall allot a minimum of fifteen percent (15%) of
35 the daily total air time of each broadcasting network or station to child-friendly shows
36 within its regular programming.
37

38 **SEC. 5. Right of the Government.** — The radio spectrum is a finite resource
39 that is part of the national patrimony, and the use thereof is a privilege conferred upon
40 the grantee by the State that may be withdrawn any time after due process.
41

42 A special right is hereby reserved to the President of the Philippines, in times
43 of war, rebellion, public peril, calamity, emergency, disaster, or disturbance of peace
44 and order, to temporarily take over and operate the stations or facilities of the grantee;
45 to temporarily suspend the operation of any station or facility in the interest of public
46 safety, security, and public welfare; or to authorize the temporary use and operation
47 thereof by any agency of the government, upon due compensation to the grantee, for
48 the use of said stations or facilities during the period when these shall be so operated.
49

50 **SEC. 6. Term of Franchise.** —This franchise shall be in effect for a period of
51 twenty-five (25) years from the effectivity of this Act, unless sooner revoked or
52 cancelled. This franchise shall be deemed *ipso facto* revoked in the event the grantee
53 fails to comply with the following conditions:

- 1 (a) commencement of operations within three (3) years from the approval of
2 its operating permit by the NTC;
3 (b) commencement of operations within five (5) years from the effectivity of
4 this Act; and
5 (c) continuous operation for two (2) years.
6

7 **SEC. 7. *Renewal or Extension of Franchise.*** – The grantee shall apply for the
8 renewal or extension of its franchise three (3) years before its expiration which shall
9 be reckoned from fifteen (15) days after the publication of the franchise in the *Official*
10 *Gazette* or in a newspaper of general circulation.
11

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

23 **SEC. 9. *Warranty in Favor of the National and Local Governments.*** – The
24 grantee shall hold the national, provincial, city, and municipal governments of the
25 Philippines free from all claims, liabilities, demands, or actions arising out of accidents
26 causing injury to persons or damage to properties, during the construction or operation
27 of the stations of the grantee.
28

29 **SEC. 10. *Commitment to Provide and Promote the Creation of***
30 ***Employment Opportunities.*** – The grantee shall create employment opportunities
31 and accept on-the-job trainees in the franchise operations: *Provided*, That priority shall
32 be accorded to the residents of the place where the principal office of the grantee is
33 located: *Provided further*, That the grantee shall ensure that at least sixty percent
34 (60%) of its employees are regular employees and in no case shall the percentage of
35 contractual, job order, or casual employees, talents, and independent contractors
36 combined, exceed forty percent (40%) of its total workforce: *Provided, finally*, That the
37 grantee shall comply with the applicable labor standards and allowance entitlement
38 under existing labor laws, rules and regulations, and similar issuances.
39

40 The employment opportunities or jobs created shall be reflected in the General
41 Information Sheet (GIS) to be submitted to the Securities and Exchange Commission
42 (SEC) annually. In addition, the grantee shall include in its annual report to Congress
43 the number of trainees, job order workers, casual employees, and contract of service
44 workers whose employment status are made regular, and append the appropriate
45 certificate from the Department of Labor and Employment attesting that it has complied
46 with the employment requirement under this Section.
47

48 **SEC. 11. *Sale, Lease, Transfer, Grant of Usufruct, or Assignment of***
49 ***Franchise.*** – The grantee shall not sell, lease, transfer, grant the usufruct of, nor
50 assign this franchise or the rights and privileges acquired thereunder to any person,
51 firm, company, corporation, or other commercial or legal entity, nor merge with any

1 other corporation or entity, nor shall the controlling interest of the grantee be
2 transferred, simultaneously or contemporaneously, to any person, firm, company,
3 corporation, or entity without the prior approval of Congress. The grantee shall inform
4 Congress of any sale, lease, transfer, grant of usufruct, or assignment of franchise or
5 the rights and privileges acquired thereunder, or of the merger or transfer of the
6 controlling interest of the grantee, within sixty (60) days after the completion of the said
7 transaction. Failure to report to Congress such change of ownership shall render the
8 franchise *ipso facto* revoked. Any person or entity to which this franchise is sold,
9 transferred, or assigned shall be subject to the same conditions, terms, restrictions,
10 and limitations of this Act.

11
12 **SEC. 12. Dispersal of Ownership.** – In accordance with the
13 constitutional provision to encourage public participation in public utilities, the grantee
14 shall offer to Filipino citizens at least thirty percent (30%) of its common stocks, or a
15 higher percentage that may hereafter be provided by law, in any securities exchange
16 in the Philippines within five (5) years from the effectivity of this Act: *Provided*, That in
17 cases where public offer of shares is not applicable, other methods of encouraging
18 public participation by citizens and corporations operating public utilities must be
19 implemented. Noncompliance therewith shall render the franchise *ipso facto* revoked.
20

21 **SEC. 13. Reportorial Requirement.**– The grantee shall submit an annual
22 report on its compliance with the terms and conditions of the franchise and on its
23 operations to the Congress of the Philippines, through the Committee on Legislative
24 Franchises of the House of Representatives and the Committee on Public Services of
25 the Senate, on or before April 30 of every year during the term of its franchise.
26

27 The annual report shall include an update on the roll-out, development,
28 operation or expansion of business; audited financial statements; latest GIS officially
29 submitted to the SEC, if applicable; certification of the NTC on the status of its permits
30 and operations; and an update on the dispersal of ownership undertaking, if applicable.
31

32 The reportorial compliance certificate issued by Congress shall be required
33 before any application for permit or certificate is accepted by the NTC.
34

35 **SEC. 14. Fine.**–Failure of the grantee to submit the requisite annual report to
36 Congress shall be penalized by a fine of Five hundred pesos (P500.00) per working
37 day of noncompliance. The fine shall be collected by the NTC from the delinquent
38 franchise grantee separate from the reportorial penalties imposed by the NTC and the
39 same shall be remitted to the Bureau of the Treasury.
40

41 **SEC. 15. Equality Clause.**– Any advantage, favor, privilege, exemption, or
42 immunity granted under existing franchises, or which may hereafter be granted for
43 radio and television broadcasting, upon prior review and approval of Congress, shall
44 become part of this franchise and shall be accorded immediately and unconditionally
45 to the herein grantee: *Provided*, That the foregoing shall neither apply to nor affect the
46 provisions of broadcasting franchises concerning territorial coverage, the term, or the
47 type of service authorized by the franchise.
48

49 **SEC. 16. Repealability and Nonexclusivity Clause.** – This franchise shall be
50 subject to amendment, alteration, or repeal by Congress when the public interest so
51 requires and shall not be interpreted as an exclusive grant of the privileges herein
52 provided for.

1
2 **SEC. 17. Separability Clause.**— If any of the sections or provisions of this Act
3 is held invalid, all other provisions not affected thereby shall remain valid.
4

5 **SEC. 18. Repealing Clause.** — All laws, decrees, orders, resolutions,
6 instructions, rules and regulations, and other issuances or parts thereof which are
7 inconsistent with the provisions of this Act are hereby repealed, amended, or modified
8 accordingly.
9

10 **SEC. 19. Effectivity.**— This Act shall take effect fifteen (15) days after its
11 publication in the *Official Gazette* or in a newspaper of general circulation.
12

13 Approved,