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REPUBLIC OF THE PHILIPPINES)
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SENATE

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COMMITTEE REPORT NO. 91

Submitted by the Committee on Public Services on MAY 17 2017

RE : H.B. No. 5064

Recommending its approval with amendments

Sponsor : Senator Grace Poe

MR. PRESIDENT:

The Senate Committee on Public Services to which was referred **H.B. No. 5064**, introduced by Representatives Hernandez and Alvarez (F.), entitled:

**“AN ACT
RENEWING FOR ANOTHER TWENTY-FIVE (25) YEARS
THE FRANCHISE GRANTED TO SUBIC BROADCASTING
CORPORATION UNDER REPUBLIC ACT NO. 7511,
ENTITLED “AN ACT GRANTING THE SUBIC
BROADCASTING CORPORATION A FRANCHISE TO
CONSTRUCT, INSTALL, OPERATE AND MAINTAIN
RADIO AND TELEVISION BROADCASTING STATIONS
IN THE PHILIPPINES AND FOR OTHER PURPOSES”**

has considered the same and has the honor to report it back to the Senate with the recommendation that the attached **H.B. No. 5064** be approved with the following amendments, *to wit*:

1. On page 1 line 8, after the word “satellite” and before the word “or”, insert the word “**TERRESTRIAL**”;
2. On the same page, line 9, delete the word “technological”;
3. On page 2 lines 16 to 23, delete the lines:

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

“The grantee shall not dispose or lease its facilities except to entities with radio or television franchise: *Provided*, That the grantee shall inform and secure written authorization to proceed from the NTC, and report the transaction to the NTC within sixty (60) days after its completion: *Provided, further*, That the NTC shall determine the corresponding sanction for any violation of this provision”;

4. On page 2 line 24, after the word “provide” and before the word “adequate”, insert the phrase “, **FREE OF CHARGE**,”;
5. Still on page 2 line 25, after the word “time” and before the word “to”, insert the phrase “**WHICH IS REASONABLE AND SUFFICIENT**”;
6. On page 2 line 26, after the word “facilities” and before the comma “,”, insert the phrase “**OF THE GRANTEE**”;
7. Still on page 2 line 26, delete the word “population” and replace it with the phrase “**PERTINENT POPULATION/S OR PORTIONS THEREOF**”;
8. On page 2 line 27, after the word “issues” and before the comma “,”, insert the phrase “**AND RELAY IMPORTANT PUBLIC ANNOUNCEMENTS AND WARNINGS AS NECESSITY, URGENCY OR LAW MAY REQUIRE**”;
9. On page 2 line 28, delete the phrase “such as in community programming”;
10. On page 2 line 29, after the word “enterprise” and the semi-colon “;”, insert the phrase “**PROMOTE AUDIENCE SENSIBILITY**”;

AND EMPOWERMENT THROUGH, BUT NOT LIMITED TO CLOSED CAPTIONING”;

11. On page 3 line 5, after the word “acts.”, insert a new paragraph to read as follows:

“PUBLIC SERVICE TIME REFERRED HEREIN SHALL BE EQUIVALENT TO TEN (10%) PERCENT OF THE PAID COMMERCIALS OR ADVERTISEMENTS WHICH SHALL BE ALLOCATED BASED ON NEED TO THE EXECUTIVE, LEGISLATIVE, JUDICIARY, CONSTITUTIONAL COMMISSIONS AND INTERNATIONAL HUMANITARIAN ORGANIZATIONS DULY RECOGNIZED BY STATUTES; PROVIDED, THAT THE NTC SHALL INCREASE THE PUBLIC SERVICE TIME IN CASE OF EMERGENCY OR CALAMITY. THE NTC SHALL ISSUE RULES AND REGULATIONS FOR THIS PURPOSE, THE EFFECTIVITY OF WHICH SHALL COMMENCE UPON APPLICABILITY WITH OTHER SIMILARLY SITUATED BROADCAST NETWORK FRANCHISE HOLDERS.”;

Hence, the entire Section 4 shall now read as:

“SEC. 4. Responsibility to the Public. – The grantee shall provide free of charge, adequate public service time which is reasonable and sufficient to enable the government, through the broadcasting stations or facilities of the grantee, to reach the pertinent population/s or portions thereof on important public issues and relay important public announcements and warnings 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 through, but not limited to, closed captioning; and not use its stations or facilities for the broadcasting of obscene or indecent language, speech, act, or scene; or for the dissemination of deliberately false information or willful misinterpretation, to the detriment of the public interest, or to incite, encourage or assist in subversive or treasonable acts.

“Public service time referred herein shall be equivalent to ten (10%) percent of the paid commercials or advertisements which shall be allocated based on need to the executive, legislative, judiciary, constitutional commissions and international humanitarian organizations duly recognized by statutes: *Provided*, that the NTC shall increase the public service time in case of emergency or calamity. The NTC shall issue rules and regulations for this purpose, the effectivity of which shall commence upon applicability with other similarly situated broadcast network franchise holders.”;

12. On page 3 line 6, insert a new section to read as follows:

“COMPLIANCE WITH LABOR STANDARDS. – THE GRANTEE, ITS SUCCESSORS OR ASSIGNEES SHALL COMPLY WITH THE APPLICABLE LABOR STANDARDS UNDER EXISTING LABOR LAWS, RULES AND REGULATIONS AND SUCH OTHER ISSUANCE AS MAY BE PROMULGATED BY THE DEPARTMENT OF LABOR AND EMPLOYMENT, TAKING INTO CONSIDERATION THE NATURE AND PECULIARITIES OF THE BROADCAST INDUSTRY.”;

13. On page 3 line 19, delete the word “approval” and replace it with “EFFECTIVITY”;

14. On page 3 line 28, insert a new section to read as follows:

“TAX PROVISIONS – THE GRANTEE, ITS SUCCESSORS OR ASSIGNS SHALL CONTINUE TO BE SUBJECT TO ALL APPLICABLE TAXES, DUTIES, FEES OR CHARGES AND OTHER IMPOSITIONS UNDER REPUBLIC ACT NO. 8424, OTHERWISE KNOWN AS ‘THE NATIONAL INTERNAL REVENUE CODE OF 1997’, AS AMENDED, REPUBLIC ACT NO. 7160, OTHERWISE KNOWN AS THE ‘LOCAL GOVERNMENT CODE OF 1991’, AS AMENDED, AND OTHER APPLICABLE LAWS.”;

15. On page 4 , delete lines 26 to 29;

16. On page 5, delete line 1;
17. On the same page, line 2, delete the phrase, “franchise *ipso facto* revoked: *Provided, finally,*”
18. On page 5, delete lines 26 to 28;
19. On page 6, delete lines 1 and 2;
20. On page 6 line 3, delete the phrase “Except for taxes and customs duties,” and capitalize “a” of the word “any”.
21. Renumber all sections accordingly.

Respectfully submitted:


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Vice Chairperson


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Majority Leader

RALPH G. RECTO
Senate President Pro Tempore

The Honorable Senate President
AQUILINO “KOKO” PIMENTEL III



HOUSE OF REPRESENTATIVES

H. No. 5064

BY REPRESENTATIVES HERNANDEZ AND ALVAREZ (F.), PER COMMITTEE
REPORT NO. 117

AN ACT RENEWING FOR ANOTHER TWENTY-FIVE (25) YEARS
THE FRANCHISE GRANTED TO SUBIC BROADCASTING
CORPORATION UNDER REPUBLIC ACT NO. 7511, ENTITLED
"AN ACT GRANTING THE SUBIC BROADCASTING
CORPORATION A FRANCHISE TO CONSTRUCT, INSTALL,
OPERATE AND MAINTAIN RADIO AND TELEVISION
BROADCASTING STATIONS IN THE PHILIPPINES AND
FOR OTHER PURPOSES"

*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
2 provisions of the Philippine Constitution and applicable laws, rules and
3 regulations, the franchise granted to Subic Broadcasting Corporation,
4 hereunder referred to as the grantee, its successors or assignees under Republic
5 Act No. 7511, to construct, install, establish, operate and maintain for
6 commercial purposes and in the public interest, radio and/or television
7 broadcasting stations, including digital television system, through microwave,
8 satellite or whatever means, as well as the use of any new technology in
9 television and radio systems, with the corresponding technological auxiliaries
10 and facilities, special broadcast and other program and distribution services

1 and relay stations in the Philippines, is hereby renewed for another
2 twenty-five (25) years from the effectivity of this Act.

3 SEC. 2. *Manner of Operation of Stations or Facilities.* – The stations
4 or facilities of the grantee shall be constructed and operated in a manner as
5 will, at most, result only in the minimum interference on the wavelengths or
6 frequencies of existing stations or other stations which may be established by
7 law, without in any way diminishing its own privilege to use its assigned
8 wavelengths or frequencies and the quality of transmission or reception
9 thereon as should maximize rendition of the grantee's services and/or
10 availability thereof.

11 SEC. 3. *Prior Approval of the National Telecommunications*
12 *Commission.* – The grantee shall secure from the National
13 Telecommunications Commission (NTC) the appropriate permits and licenses
14 for the construction and operation of its stations and facilities and shall not use
15 any frequency in the radio/television spectrum without authorization from the
16 NTC. The NTC, however, shall not unreasonably withhold or delay the grant
17 of any such authority.

18 The grantee shall not dispose or lease its facilities except to entities with
19 radio or television franchise: *Provided,* That the grantee shall inform and
20 secure written authorization to proceed from the NTC, and report the
21 transaction to the NTC within sixty (60) days after its completion: *Provided,*
22 *further,* That the NTC shall determine the corresponding sanction for any
23 violation of this provision.

24 SEC. 4. *Responsibility to the Public.* – The grantee shall provide
25 adequate public service time to enable the government, through the said
26 broadcasting stations or facilities, to reach the population on important public
27 issues; provide at all times sound and balanced programming; promote public
28 participation such as in community programming; assist in the functions of
29 public information and education; conform to the ethics of honest enterprise;

1 and not use its stations or facilities for the broadcasting of obscene and
 2 indecent language, speech, act or scene; or for the dissemination of
 3 deliberately false information or willful misrepresentation to the detriment of
 4 the public interest; or to incite, encourage, or assist in subversive or
 5 treasonable acts.

6 SEC. 5. *Right of Government.* - The radio spectrum is a finite
 7 resource that is part of the national patrimony and the use thereof is a privilege
 8 conferred upon the grantee by the State and may be withdrawn any time after
 9 due process.

10 A special right is hereby reserved to the President of the Philippines, in
 11 times of war, rebellion, public peril, calamity, emergency, disaster, or
 12 disturbance of peace and order: to temporarily take over and operate the
 13 stations or facilities of the grantee; to temporarily suspend the operation of any
 14 station or facility in the interest of public safety, security and public welfare;
 15 or to authorize the temporary use and operation thereof by any agency of the
 16 government, upon due compensation to the grantee, for the use of the stations
 17 or facilities during the period when these shall be so operated.

18 SEC. 6. *Term of Franchise.* - This franchise shall be in effect for a
 19 period of twenty-five (25) years from the approval of this Act, unless sooner
 20 revoked or cancelled. This franchise shall be deemed *ipso facto* revoked in the
 21 event the grantee fails to operate continuously for two (2) years.

22 SEC. 7. *Acceptance and Compliance.* - Acceptance of this new
 23 franchise shall be given in writing to the Congress of the Philippines, through
 24 the Committee on Legislative Franchises of the House of Representatives and
 25 the Committee on Public Services of the Senate, within sixty (60) days from
 26 the effectivity of this Act. Upon giving such acceptance, the grantee shall
 27 exercise the privileges granted under this Act. Nonacceptance shall render the
 28 franchise void.

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

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

18 SEC. 10. *Sale, Lease, Transfer, Usufruct, or Assignment of Franchise.*
19 – The grantee shall not sell, lease, transfer, grant the usufruct of, nor assign
20 this franchise or the rights and privileges acquired thereunder to any person,
21 firm, company, corporation, or other commercial or legal entity, nor merge
22 with any other corporation or entity, nor the controlling interest of the grantee
23 be transferred, whether as a whole or in parts, and whether simultaneously or
24 contemporaneously, to any such person, firm, company, corporation, or entity
25 without the prior approval of the Congress of the Philippines: *Provided,* That
26 Congress shall be informed of any sale, lease, transfer, grant of usufruct, or
27 assignment of franchise or the rights and privileges acquired thereunder, or of
28 the merger or transfer of the controlling interest of the grantee, within sixty
29 (60) days after the completion of said transaction: *Provided, further,* That

1 failure to report to Congress such change of ownership shall render the
2 franchise *ipso facto* revoked: *Provided, finally*, That any person or entity to
3 which this franchise is sold, transferred or assigned, shall be subject to the
4 same conditions, terms, restrictions, and limitations of this Act.

5 SEC. 11. *Dispersal of Ownership*. – In accordance with the
6 constitutional provision to encourage public participation in public utilities, the
7 grantee shall offer to Filipino citizens at least thirty percent (30%) or a higher
8 percentage that may hereafter be provided by law of its outstanding capital
9 stock in any securities exchange in the Philippines within five (5) years from
10 the commencement of its operations: *Provided*, That in cases where public
11 offer of shares is not applicable, the grantee shall apply other methods of
12 encouraging public participation by citizens and corporations operating
13 public utilities as allowed by law. Noncompliance therewith shall render the
14 franchise *ipso facto* revoked.

15 SEC. 12. *General Broadcast Policy Law*. – The grantee shall comply
16 with and be subject to the provisions of a general broadcast policy law, which
17 Congress may hereafter enact.

18 SEC. 13. *Reportorial Requirement*. – The grantee shall submit an
19 annual report to the Congress of the Philippines, through the Committee on
20 Legislative Franchises of the House of Representatives and the Committee on
21 Public Services of the Senate, on its compliance with the terms and conditions
22 of the franchise and on its operations on or before April 30 of every year
23 during the term of its franchise. The reportorial compliance certificate issued
24 by Congress shall be required before any application for permit or certificate is
25 accepted by the NTC.

26 SEC. 14. *Penalty Clause*. – Failure of the grantee to submit the
27 requisite annual report to Congress shall be penalized by a fine of five hundred
28 pesos (P500.00) per working day of noncompliance. The fine shall be

1 collected by the NTC from the delinquent franchise grantee separate from the
2 reportorial penalties imposed by the NTC.

3 SEC. 15. *Equality Clause.* – Except for taxes and customs duties, any
4 advantage, favor, privilege, exemption, or immunity granted under existing
5 franchises, or which may hereafter be granted for radio and/or television
6 broadcasting, upon prior review and approval of Congress, shall become part
7 of this franchise and shall be accorded immediately and unconditionally to the
8 herein grantee: *Provided,* That the foregoing shall neither apply to nor affect
9 the provisions of broadcasting franchises concerning territorial coverage, the
10 term, or the type of service authorized by the franchise.

11 SEC. 16. *Separability Clause.* – If any of the sections or provisions of
12 this Act is held invalid, all other provisions not affected thereby shall remain
13 valid.

14 SEC. 17. *Repealability and Nonexclusivity Clause.* – This franchise
15 shall be subject to amendment, alteration, or repeal by the Congress of the
16 Philippines when the public interest so requires and shall not be interpreted as
17 an exclusive grant of the privileges herein provided for.

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

Approved,