

SEVENTEENTH CONGRESS OF THE)
REPUBLIC OF THE PHILIPPINES)
Third Regular Session)



'18 AUG -8 A8 56

SENATE

COMMITTEE REPORT NO. 420

RECEIVED

Submitted by the Committee on Public Services on AUG - 8 2018.

Re: House Bill no. 5665

Recommending the approval of HBN 5665 with amendments.

Sponsors: Senator Grace Poe

MR. PRESIDENT:

The Committee on Public Services to which was referred House Bill No. 5665 introduced by Representatives Almonte, Acosta, Alvarez (F), and Canama, entitled:

**"AN ACT
GRANTING THE MALINDANG BROADCASTING NETWORK
CORPORATION A FRANCHISE TO CONSTRUCT, INSTALL, ESTABLISH,
OPERATE AND MAINTAIN RADIO AND TELEVISION BROADCASTING
STATIONS IN MINDANAO."**

has considered the same and has the honor to report it back to the Senate with the recommendation that the attached H.B. No. 5665 be approved with the following amendments:

1. On page 2, line 22, after the word provide, insert the words "**FREE OF CHARGE,**";

2. On the same page, line 23, after the word "time", insert the phrase "**WHICH IS REASONABLE AND SUFFICIENT**"; also on the same line, delete the words "the said" and in lieu thereof, insert "**ITS**";
3. On the same page, line 24 after the word "facilities" insert the words "**OF THE GRANTEE**"; delete the word "inform" and in lieu thereof insert the word "**REACH**"; after the article "the", insert the word "**PERTINENT**"; pluralize the word "**POPULATION**" and insert the phrase "**OR PORTIONS THEREOF**" after it;
4. On the same page, line 25, after the word "issues", insert the phrase "**AND RELAY IMPORTANT PUBLIC ANNOUNCEMENTS AND WARNINGS CONCERNING PUBLIC EMERGENCIES AND CALAMITIES, AS NECESSITY, URGENCY OR LAW MAY REQUIRE**"; after the word "programming" and semi colon (;) insert the phrase "**PROMOTE PUBLIC PARTICIPATION**";
5. On the same page, line 26, delete the phrase "performance of the";
6. On the same page, line 27 after the word "enterprise" and semi colon (;), insert the phrase "**PROMOTE AUDIENCE SENSIBILITY AND EMPOWERMENT INCLUDING CLOSED CAPTIONING**";
7. On page 3, after line 2, insert a new paragraph which shall read as follows:

PUBLIC SERVICE TIME REFERRED HEREIN SHALL BE EQUIVALENT TO A MAXIMUM AGGREGATE OF TEN (10%) PERCENT OF 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 EXTREME 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.;

8. On page 4, after line 16, insert new provisions which shall read as follows:

"SEC. 10. COMMITMENT TO PROVIDE AND PROMOTE THE CREATION OF EMPLOYMENT OPPORTUNITIES. – THE GRANTEE SHALL CREATE EMPLOYMENT OPPORTUNITIES AND SHALL ALLOW ON-THE-JOB TRAININGS IN THEIR FRANCHISE OPERATION. PROVIDED, THAT PRIORITY SHALL BE ACCORDED TO THE RESIDENTS WHERE THEIR PRINCIPAL OFFICE IS LOCATED. PROVIDED, FURTHER, 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 EMPLOYMENT OPPORTUNITIES OR JOBS CREATED SHALL BE REFLECTED IN THE GENERAL INFORMATION SHEET (GIS) TO BE SUBMITTED TO SECURITIES AND EXCHANGE COMMISSION ANNUALLY.";

"SEC. 11. TAX PROVISIONS. – THE GRANTEE, ITS SUCCESSORS OR ASSIGNEES, 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."

9. On page 5, delete lines 1 to 5; and on line 6 delete the words "franchise *ipso facto* revoked: Provided finally, That";
10. On page 6, line 4, after the title of the Section, delete the phrase "Except for taxes and customs duties,"; and
11. Renumber the sections accordingly.

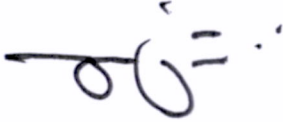
RESPECTFULLY SUBMITTED



GRACE POE

Chairperson

Committee on Public Services



JOSEPH VICTOR G. EJERCITO

Vice-Chairperson

Committee on Public Services




FRANCIS "Chiz" G. ESCUDERO


Vice-Chairperson

Committee on Public Services

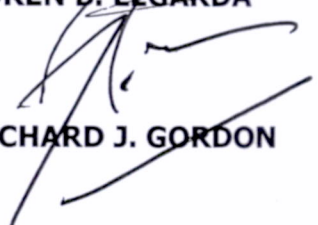
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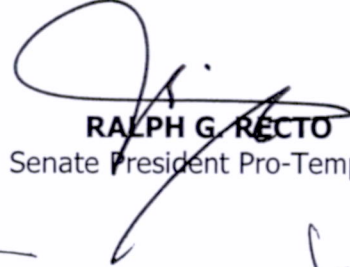
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Majority Floor Leader



FRANKLIN M. DRILON

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HON. VICENTE C. SOTTO III

Senate President



HOUSE OF REPRESENTATIVES

H. No. 5665

BY REPRESENTATIVES ALMONTE, ACOSTA, ALVAREZ (F.) AND CANAMA, PER
COMMITTEE REPORT NO. 244

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

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

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

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

22 SEC. 4. *Responsibility to the Public.* – The grantee shall provide
23 adequate public service time to enable the government, through the said
24 broadcasting stations or facilities, to inform the population on important public
25 issues; provide at all times sound and balanced programming; assist in the
26 performance of the functions of public information and education; conform to
27 the ethics of honest enterprise; and to refrain from broadcasting obscene and
28 indecent language, speech, act or scene, or disseminating deliberately false

1 information or willful misrepresentation to the detriment of the public interest;
2 or inciting, encouraging, or assisting in subversive or treasonable acts.

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

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

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

19 (a) Commence operations within one (1) year from the approval of its
20 operating permit by the NTC;

21 (b) Commence operations within three (3) years from the effectivity of
22 this Act; and

23 (c) Operate continuously for two (2) years.

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

1 Nonacceptance of this franchise shall render it void.

2 SEC. 8. *Bond.* – The grantee shall file a bond within the NTC, in the
3 amount that the NTC shall determine, to guarantee compliance with and
4 fulfillment of the conditions under which this franchise is granted. If, after
5 three (3) years from the date of the approval of its permit by the NTC, the
6 grantee shall have fulfilled the same, the bond shall be released by the NTC.
7 Otherwise, the bond shall be forfeited in favor of the government and the
8 franchise *ipso facto* revoked.

9 SEC. 9. *Self-regulation by and Undertaking of the Grantee.* – The
10 grantee shall not require any previous censorship of any speech, play, act or
11 scene, or other matter to be broadcast from its stations: *Provided.* That the
12 grantee, during any broadcast, shall cut off the airing of speech, play, act or
13 scene, or other matter being broadcast if the tendency thereof is to propose
14 and/or incite treason, rebellion or sedition; or the language used therein or the
15 theme thereof is indecent or immoral: *Provided, further,* That willful failure to
16 do so shall constitute a valid cause for the cancellation of this franchise.

17 SEC. 10. *Warranty in Favor of the National and Local Governments.* –
18 The grantee shall hold the national, provincial, city, and municipal
19 governments of the Philippines free from all claims, liabilities, demands, or
20 actions arising out of accidents causing injury to persons or damage to
21 properties, during the construction or operation of the stations of the grantee.

22 SEC. 11. *Sale, Lease, Transfer, Usufruct, or Assignment of Franchise.*
23 The grantee shall not sell, lease, transfer, grant the usufruct of, nor assign
24 this franchise or the rights and privileges acquired thereunder to any person,
25 firm, company, corporation, or other commercial or legal entity, nor merge
26 with any other corporation or entity, nor the controlling interest of the grantee
27 be transferred, whether as a whole or in parts, and whether simultaneously or
28 contemporaneously, to any such person, firm, company, corporation, or entity
29 without the prior approval of the Congress of the Philippines: *Provided,* That

1 Congress shall be informed of any sale, lease, transfer, grant of usufruct, or
2 assignment of franchise or the rights and privileges acquired thereunder, or of
3 the merger or transfer of the controlling interest of the grantee, within sixty
4 (60) days after the completion of the said transaction: *Provided, further*, That
5 failure to report to Congress such change of ownership shall render the
6 franchise *ipso facto* revoked: *Provided, finally*, That any person or entity to
7 which this franchise is sold, transferred or assigned, shall be subject to the
8 same conditions, terms, restrictions, and limitations of this Act.

9 SEC. 12. *Dispersal of Ownership.* -- In accordance with the
10 constitutional provision to encourage public participation in public utilities, the
11 grantee shall offer to Filipino citizens at least thirty percent (30%) or a higher
12 percentage that may hereafter be provided by law of its outstanding capital
13 stock in any securities exchange in the Philippines within five (5) years from
14 the commencement of its operations: *Provided*, That in cases where public
15 offer of shares is not applicable, establishment of cooperatives and other
16 methods of encouraging public participation by citizens and corporations
17 operating public utilities such as stock sharing with employees' organization
18 must be implemented.

19 Noncompliance therewith shall render the franchise *ipso facto* revoked.

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

28 SEC. 14. *Fine.* -- Failure of the grantee to submit the requisite annual
29 report to Congress shall be penalized by a fine in the amount of five hundred

1 pesos (P500.00) per working day of noncompliance. The fine shall be
2 collected separately by the NTC distinct from the penalties it imposes for
3 noncompliance of its own reportorial requirements.

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

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

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

19 SEC. 18. *Repealing Clause.* – All laws, decrees, executive orders,
20 rules and regulations or parts or provisions thereof which are not consistent
21 with this Act are hereby repealed, amended, or modified accordingly.

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

Approved.

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