


THIRTEENTH CONGRESS OF THE REPUBLIC
OF THE PHILIPPINES
Third Regular Session

6 SEP -5 14:21

SENATE

RECEIVED BY: 

COMMITTEE REPORT NO. 95

Submitted by the Committee on Public Services on 05 SEP 2006

Re : House Bill No. 4220

Recommending its approval with amendments.

Sponsor: Senator Arroyo

MR. PRESIDENT:

The Committee on Public Services, to which was referred House Bill No. 4220, introduced by Representatives Nograles, Zubiri and Susano, entitled:

**“AN ACT
GRANTING THE FREE AIR BROADCASTING NETWORK CORP. A
FRANCHISE TO CONSTRUCT, INSTALL, ESTABLISH, OPERATE AND
MAINTAIN RADIO AND TELEVISION BROADCASTING STATIONS
NATIONWIDE”**

has considered the same and has the honor to report it back to the Senate with the recommendation that it be approved with the following amendments:

1. On page 4, before Section 9 (Self-Regulation by and Undertaking of the Grantee), insert a new section to read as follows:

“SEC. ____. TAX PROVISIONS. – THE GRANTEE, ITS SUCCESSORS OR ASSIGNS, SHALL BE SUBJECT TO THE PAYMENT OF ALL TAXES, DUTIES, FEES OR CHARGES AND OTHER IMPOSITIONS UNDER THE NATIONAL INTERNAL REVENUE CODE (NIRC) OF 1997, AS AMENDED, AND OTHER APPLICABLE LAWS: *PROVIDED*, THAT NOTHING HEREIN SHALL BE CONSTRUED AS REPEALING ANY SPECIFIC TAX EXEMPTIONS, INCENTIVES OR PRIVILEGES GRANTED UNDER ANY RELEVANT LAW: *PROVIDED, FURTHER*, THAT ALL RIGHTS, PRIVILEGES, BENEFITS AND EXEMPTIONS ACCORDED TO EXISTING AND FUTURE BROADCASTING STATION FRANCHISES

SHALL LIKEWISE BE EXTENDED TO THE GRANTEE.”

“THE GRANTEE SHALL FILE THE RETURN WITH THE CITY OR MUNICIPALITY WHERE ITS PRINCIPAL PLACE OF BUSINESS IS LOCATED AND PAY THE TAXES DUE THEREON TO THE COMMISSIONER OF INTERNAL REVENUE OR HIS DULY AUTHORIZED REPRESENTATIVE IN ACCORDANCE WITH THE NIRC AND THE RETURN SHALL BE SUBJECT TO AUDIT BY THE BUREAU OF INTERNAL REVENUE.”

2. On page 5, before Sec. 10 (Warranty in Favor of National and Local Governments), insert a new section to read as follows:

“SEC. _____. *OBLIGATION OF THE GRANTEE.* – ANY PERSON AGGRIEVED BY ANY REMARK, REPORT, STATEMENT, COMMENTARY OR THE LIKE BY BROADCASTERS USING THE SAME FACILITIES OF THE GRANTEE SHALL HAVE THE RIGHT TO REPLY IN THE SAME PROGRAM OR ANY OTHER PROGRAM THE AGGRIEVED PARTY MAY CHOOSE.”

3. On page 6, between lines 5 and 8, delete the phrase “time it has achieved the status of a national broadcasting network. A “national broadcasting network” is hereby defined as one that operates three or more radio and/or television stations”, and in lieu thereof insert the following:

“COMMENCEMENT OF ITS OPERATIONS. THE PUBLIC OFFERING SHALL COMPLY WITH THE RULES AND REGULATIONS OF THE SECURITIES AND EXCHANGE COMMISSION.”

4. On the same page, before Sec. 13 (General Broadcast Policy Law), insert a new section to read as follows:

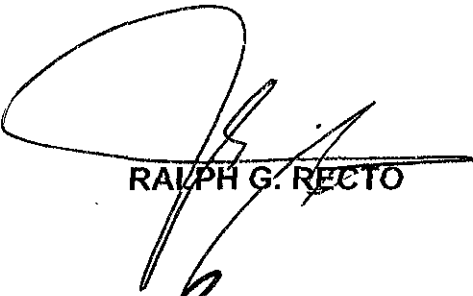
“SEC. _____. *EQUALITY CLAUSE.* – EXCEPT FOR TAXES, ANY ADVANTAGE, FAVOR, PRIVILEGE, EXEMPTION OR IMMUNITY GRANTED UNDER EXISTING FRANCHISES, OR MAY HEREAFTER BE GRANTED, SHALL *IPSO FACTO* BECOME PART OF THIS FRANCHISE AND SHALL BE ACCORDED IMMEDIATELY AND UNCONDITIONALLY TO THE HEREIN GRANTEE: *PROVIDED, HOWEVER,* THAT THE FOREGOING SHALL NEITHER APPLY TO NOR AFFECT PROVISIONS OF BROADCASTING FRANCHISES CONCERNING TERRITORY COVERED BY THE FRANCHISE, THE LIFE SPAN OF THE FRANCHISE, OR THE TYPE OF SERVICE AUTHORIZED BY THE FRANCHISE.”

5. Renumber the sections accordingly.

Respectfully submitted:


JOKER P. ARROYO
Chairman


Members:

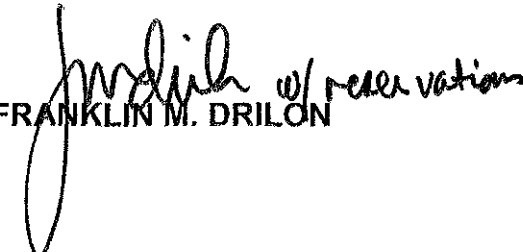

RALPH G. RECTO


MAR ROXAS


RICHARD J. GORDON


"COMPANERA" **PIA CAYETANO**


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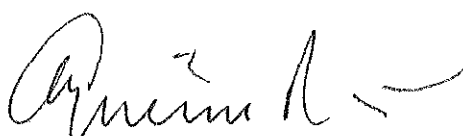
Ex-Officio Members:



JUAN M. FLAVIER
Pro-Tempore



FRANCIS N. PANGILINAN
Majority Leader



AQUILINO Q. PIMENTEL JR
Minority Leader

Hon. MANNY VILLAR
President
Senate of the Philippines
Pasay City

HOUSE OF REPRESENTATIVES

H. No. 4220

BY REPRESENTATIVES NOGRALES, ZUREKI AND SUSANO

AN ACT GRANTING THE FREE AIR BROADCASTING NETWORK
CORP A FRANCHISE TO CONSTRUCT, INSTALL, ESTABLISH,
OPERATE AND MAINTAIN RADIO AND TELEVISION
BROADCASTING STATIONS NATIONWIDE.

*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 Free Air Broadcasting Network Corp., hereunder referred
4 to as the grantee, its successors or assigns, a franchise to construct, install,
5 establish, operate and maintain for commercial purposes and in the public
6 interest, radio and/or television broadcasting stations in the Philippines, where
7 frequencies and/or channels are still available for radio and/or television
8 broadcasting, through microwave, satellite or whatever means, including the
9 use of any new technologies in television and radio systems, with the

1. Corresponding technological auxiliaries and facilities, special broadcast and
2. other program and distribution services and relay stations

3. SEC. 2. *Manner of Operation of Stations or Facilities.* - The stations
4. or facilities of the grantees shall be constructed and operated in a manner as
5. will, at most, result only in the minimum interference in 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 right to use its selected
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 having been authorized
16. by the Commission. The Commission, however, shall not unreasonably
17. withhold or delay the grant of any such authority.

18. SEC. 4. *Responsibility to the Public.* - The grantee shall provide
19. adequate public service time to enable the government, through the said
20. broadcasting stations or facilities, to reach the population on important public
21. issues; provide at all times sound and balanced programming, assist in the

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

7. SEC. 5. *Right of Government* -- A special right is hereby reserved to
8. the President of the Philippines, in times of war, rebellion, public peril,
9. calamity, emergency, disaster or disturbance of peace and order, to
10. temporarily take over and operate the stations or facilities of the grantee, to
11. temporarily suspend the operation of any station or facility in the interest of
12. public safety, security and public welfare, or to authorize the temporary use
13. said operation thereof by any agency of the government, upon due
14. compensation to the grantee, for the use of said stations or facilities during the
15. period when they shall be so operated.

16. The radio spectrum is a finite resource that is part of the national
17. patrimony and the use thereof is a privilege conferred upon the grantee by the
18. State and may be withdrawn anytime after due process.

19. SEC. 6. *Term of Franchise*. -- This franchise shall be for a term of
20. twenty-five (25) years from the date of effectivity of this Act, unless sooner

1 revoked or cancelled. This franchise shall be deemed *ipso facto* revoked in
2 the event the grantee fails to comply with any of the following conditions:

3 (a) Commence operations within one year from the approval of its
4 operating permit by the NTC;

5 (b) Operate continuously for two years; and

6 (c) Commence operations within three years from the effectivity of this
7 Act.

8 SEC. 7. *Acceptance and Compliance* -- Acceptance of this franchise
9 shall be given in writing within sixty (60) days from the effectivity of this Act.
10 Upon giving such acceptance, the grantee shall exercise the privileges granted
11 under this Act. Nonacceptance shall render the franchise void.

12 SEC. 8. *Bond* -- The grantee shall file a bond issued in favor of the
13 NTC, which shall determine the amount, to guarantee the compliance with and
14 fulfillment of the conditions under which this franchise is granted. If after
15 three years from the date of the approval of its permit by the Commission, the
16 grantee shall have fulfilled the same, the bond shall be cancelled by the
17 Commission. Otherwise, the bond shall be forfeited in favor of the
18 government and the franchise *ipso facto* revoked.

19 SEC. 9. *Self-regulation by and Undertaking of the Grantee* -- The
20 grantee shall not require any previous censorship of any speech, play, act or
21 scene, or other matter to be broadcast from its stations. *Provided*, That the

1 grantee, during any broadcast, shall cut off from the air the speech, play, act or
2 scene, or other matter being broadcast if the tendency thereof is to propose
3 and/or incite treason, rebellion or sedition; or the language used therein or the
4 theme thereof is indecent or immoral; and willful failure to do so shall
5 constitute a valid cause for the cancellation of this franchise.

6 SEC. 10 *Warranty in Favor of National and Local Governments* -

7 The grantee shall hold the national, provincial, city and municipal
8 governments of the Philippines harmless from all claims, accounts, demands
9 or actions arising out of accidents or injuries, whether to property or to
10 persons, caused by the construction or operation of the stations of the grantee.

11 SEC. 11 *Sale, Lease, Transfer Usufruct Etc.* - The grantee shall not

12 lease, transfer, grant the usufruct of, sell nor assign the franchise or the rights
13 and privileges acquired thereunder to any person, firm, company, corporation
14 or other commercial or legal entity, nor merge with any other corporation or
15 entity; nor shall the controlling interest of the grantee be transferred, whether
16 as a whole or in parts and whether simultaneously or contemporaneously, to
17 any such person, firm, company, corporation or entity without the prior
18 approval of the Congress of the Philippines. Any person or entity to which
19 this franchise is sold, transferred or assigned, shall be subject to the same
20 conditions, terms, restrictions and limitations of this Act.

1. SEC. 12. *Dispersal of Ownership* -- In accordance with the
2. constitutional provision to encourage public participation in public utilities,
3. the grantee shall offer at least thirty percentum (30%) of its outstanding capital
4. stock or a higher percentage that may hereafter be provided by law in any
5. securities exchange in the Philippines within five years from the time it has
6. achieved the status of a national broadcasting network. A "national
7. broadcasting network" is hereby defined as one that operates three or more
8. radio and/or television stations. Noncompliance therewith shall render the
9. franchise *ipso facto* revoked.

10. SEC. 13. *General Broadcast Policy Law* -- The grantee shall comply
11. with and be subject to the provisions of a general broadcast policy law, which
12. Congress may hereafter enact.

13. SEC. 14. *Reportorial Requirement* -- The grantee shall submit an
14. annual report to the Congress of the Philippines on its compliance with the
15. terms and conditions of the franchise and on its operations within sixty (60)
16. days from the end of every year.

17. SEC. 15. *Separability Clause* -- If any of the sections or provisions of
18. this Act is held invalid, all other provisions not affected thereby shall remain
19. valid.

20. SEC. 16. *Repealing and Nonexclusivity Clause* -- This franchise shall
21. be subject to amendment, alteration or repeal by the Congress of the

1. Philippines when the public interest so requires and shall not be interpreted as
2. an exclusive grant of the privileges herein provided for.

3. SEC. 17. *Effectivity Clause.* -- This Act shall take effect fifteen (15)
4. days from the date of its publication, upon the initiative of two names, in at
5. least two (2) newspapers of general circulation in the Philippines.

Approved,