

Republic of the Philippines
HOUSE OF REPRESENTATIVES
Quezon City

FIFTEENTH CONGRESS

Second Regular Session

House Bill No. 5918



Introduced by **HON. JOSE MA. F. ZUBIRI III**

EXPLANATORY NOTE

Broadcasting is as vital as our natural resources. It serves as one of the mediums of communication where information is relayed and received by the people on matters concerning important public issues, health, among others. The Philippines, by opening its doors to new broadcasting services will promote the upliftment, improvement and expansion on how the public is reached.

As embodied in Section 24, Article II of the 1987 Constitution, the State recognizes the vital role of communication and information in nation building. Explicitly, the State recognizes the establishment of communication and information facilities.

Indeed, for an archipelagic country with a widely dispersed population and an uneven level of development, broadcasting services provide a unifying, uplifting and democratizing force.

audioWAV MEDIA, INC. intends to do its share in improving the way and in expanding on how the public is reached. The company will avail of state-of-the-art and appropriate technologies that will allow the most effective and efficient delivery of its services to as many of our countrymen, especially in the countryside.

In view of the foregoing, approval of this bill is earnestly requested.

Jose F. Zubiri III

JOSE MA. F. ZUBIRI III
Representative
3rd District, Bukidnon

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AN ACT
GRANTING THE audioWAV MEDIA, INC. A FRANCHISE TO CONSTRUCT,
INSTALL, ESTABLISH, OPERATE AND MAINTAIN RADIO AND TELEVISION
BROADCASTING STATIONS IN THE PHILIPPINES

Be it enacted by the Senate and the House of Representatives of the Philippines in Congress assembled:

SECTION 1. *Nature and Scope of Franchise.* - Subject to the provisions of the Constitution and applicable laws, rules and regulations, there is hereby granted to **audioWAV MEDIA, INC.**, hereunder referred to as the grantee, its successors or assigns, a franchise to construct, install, establish, operate and maintain for commercial purposes and in the public interest, radio and/or television broadcasting stations in the Philippines, where frequencies and/or channels are still available for radio and/or television broadcasting, through microwave, satellite or whatever means, including the use of any new technologies in television and radio systems, with the corresponding technological auxiliaries and facilities, special broadcast and other program and distribution services and relay stations.

SECTION 2. *Manner of Operation of Stations of Facilities.* - The stations or facilities of the grantee shall be constructed and operated in a manner as will at most result only in the minimum interference on the wavelengths or frequencies of existing stations or other stations which may be established by law, without in any way diminishing its own right to use its selected wavelengths or frequencies and the quality of transmission or reception thereon as should maximize rendition of the grantees services and/or the availability thereof.

SECTION 3. *Prior Approval of the National Telecommunications Commission.* – The grantee shall secure from the National Telecommunications Commission (NTC), the appropriate permits and licenses for the construction and operation of its stations and facilities and shall not use any frequency in the radio/television spectrum without having been authorized by the Commission. The Commission, however, shall not unreasonably withhold or delay the grant of any such authority.

SECTION 4. *Responsibility to the Public.* - The grantee shall provide adequate public service time to enable the government, through the said broadcasting stations or facilities, to reach the population on important public issues; provide at all times sound and balanced programming; assist in the functions of public information and education; conform to the ethics of honest enterprise; and not use its stations and facilities for the broadcasting of obscene and indecent language, speech, act or scene; or for the dissemination of deliberately false information or willful misrepresentation, to the detriment of the public interest, or to incite, encourage or assist in subversive or treasonable acts.

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

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

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

- (a) Commence operation within one (1) year from the approval of its operating permit by the National Telecommunications Commission;
- (b) Operate continuously for two (2) years; and
- (c) Commence operations within three (3) years from the effectivity of this Act.

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

SECTION 8. *Bond.* - The grantee shall file a bond issued in favor of the National Telecommunications Commission, which shall determine the amount, to guarantee the compliance with and fulfillment of the conditions under which this franchise is granted. If, after three (3) years from the date of the approval of its permit by the Commission, the grantee shall have fulfilled the same, the bond shall be cancelled by the Commission. Otherwise, the bond shall be forfeited in favor of the government and the franchise *ipso facto* revoked.

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

SECTION 10. *Warranty in Favor of the National and Local Governments.* – The grantee shall hold the national, provincial, city and municipal governments of the Philippines harmless from all claims, accounts, demands or actions

SECTION 11. *Nontransferability of Franchise.* – The grantee shall not lease, transfer, grant the usufruct of, sell nor assign this franchise or the rights and privileges acquired thereunder to any person, firm, company, corporation or other commercial or legal entity, nor merge with any other corporation or entity, nor shall the controlling interest of the grantee be transferred, whether as a whole or in parts and whether simultaneously or contemporaneously, to any such person, firm, company, corporation or entity without the prior approval of the Congress of the Philippines. *Provided, That the foregoing limitation shall not apply to:*

- a. Any transfer or issuance of shares to any investor pursuant to or in connection with any increase in the grantee's authorized capital stock which shall result in the dilution of the stockholdings of the grantee's then existing stockholders;
- b. Any transfer or sale of shares of stock to an investor or investors;
- c. Any sale, transfer or assignment by the stockholders of the grantee in favor of a holding company whose stockholders are identical to the stockholders of the grantee;
- d. Any combination thereof where such transfer, sale or issuance is effected in order to enable the grantee to raise the necessary capital or financing for the provision of any services authorized by this Act and/or carry out any of the purposes for which the grantee has been incorporated or organized.

Any person or entity to which the franchise is sold, transferred or assigned, shall be subject to the same conditions, terms, restrictions and limitation of this Act.

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

SECTION 13. *Equality Clause.* - Any advantage, favor, privilege, exemption, or immunity granted under existing franchise, or which may hereafter be granted for radio and/or television broadcasting, 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.

SECTION 14. *General Broadcast Policy Law.* - The grantee shall comply with and subject to the provisions of a general broadcast policy law, which Congress may hereafter enact.

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

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

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

SECTION 18. *Effectivity Clause.* – This Act shall take effect fifteen (15) days from the date of its publication, upon the initiative of the grantee, in at least two (2) newspapers of general circulation in the Philippines.

Approved,