

Republic of the Philippines
HOUSE OF REPRESENTATIVES
Quezon City

Sixteenth Congress
First Regular Session

HOUSE BILL NO. 3340



Introduced by Honorable Antonio F. Lagdameo, Jr.

EXPLANATORY NOTE

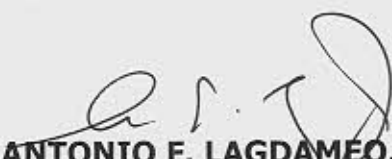
This bill seeks to renew the franchise granted to Kalayaan Broadcasting System, Incorporated (KBSI).

Republic Act No. 7303, as amended, granted the KBSI a franchise to construct, install, operate and maintain radio broadcasting and television stations in the island of Mindanao. Under the law, KBSI was given a period of twenty five years to operate which started on March 26, 1992 and will expire on March 26, 2017.

KBSI is not only operating commercially but it is also involved in public service. The station has been giving free air time to all government agencies to air updates and information regarding matters in their departments. At any time during its live broadcast, it allows people from all walks of life the opportunity to air vital information and concerns, and it also contributes to the coffers of the government in the form of taxes and fees paid to the NTC.

As enunciated in the 1987 Constitution which provides that "*The State recognizes the vital role of communication and information in nation building,*" communication indeed plays a very essential role in the development and growth of our country. The renewal of the franchise is needed for its continuing operation to fully assist the government in disseminating information to the people, and to enrich and improve the information technology system in the country.

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


ANTONIO F. LAGDAMEO, JR.

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AN ACT
RENEWING THE FRANCHISE GRANTED TO THE KALAYAAN
BROADCASTING SYSTEM, INCORPORATED, TO CONSTRUCT, INSTALL,
MAINTAIN AND OPERATE RADIO BROADCASTING AND TELEVISION
STATIONS IN THE ISLAND OF MINDANAO

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

SECTION 1. ***Nature and Scope of Franchise.*** – Subject to the provisions of the 1987 Philippine Constitution and applicable laws, rules and regulations, there is hereby granted to Kalayaan Broadcasting System, Incorporated, hereunder referred to as the grantee, its successors or assigns, a franchise to construct, install, maintain and operate for commercial purposes and in the public interest, throughout the Philippines and between the Philippines and other countries and territories, wire or wireless telecommunications systems including, but not limited to, mobile, cellular, paging, fiber optics, multi-channel multi-point distribution system (MMDS), local multi-point distribution system (LMDS), satellite transmit and receive systems, switches and their value-added services such as, but not limited to, transmission of voice, data, facsimile, control signs, audio and video, information services bureau and all other telecommunications systems technologies as are at present available or will be made available through technological advances or innovations in the future; or construct, acquire, lease and operate or manage transmitting and receiving stations, lines, cables or systems as are convenient or essential to efficiently carry out the purpose of this franchise.

SEC. 2. ***Manner of Operation of Stations or 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 the 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 grantee's services or the availability thereof.

SEC. 3. ***Authority of the National Telecommunications Commission (NTC).*** – The grantee shall secure from the NTC, hereinafter referred to as the Commission, a certificate of public convenience and necessity or the appropriate permits and licenses for the construction, installation and operation of its telecommunications systems or facilities. In issuing the certificate, the Commission shall have the power to impose such conditions relative to the construction, operation, maintenance or service level of the telecommunications systems. The Commission shall have the authority to regulate the construction and operation of its telecommunications systems. The grantee shall not use any frequency in the radio spectrum without having been authorized by the Commission. Such certificate shall state the areas covered and date the grantee shall commence the service. The Commission, however, shall not unreasonably withhold or delay the grant of any such authority, permits or licenses.

SEC. 4. ***Responsibility to the Public.*** – The grantee shall provide reasonable public service time to enable the government, through the said broadcasting stations, to reach the population on important public issues; provide at all times sound and balanced programming; promote public participation such as in community 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.

SEC. 5. ***Right of Government.*** – A special right is hereby reserved 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.

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

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

SEC. 8. ***Bond.*** – The grantee shall file a bond with the NTC in the amount that it shall determine 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 conditions, the bond shall be cancelled by the Commission. Otherwise, the bond shall be forfeited in favor of the government and the franchise shall be deemed *ipso facto* revoked.

SEC. 9. ***Right of Interconnection.*** – The grantee is hereby authorized to connect or demand connection of its telecommunications systems to other telecommunications systems installed, operated and maintained by any other duly

authorized person or entity in the Philippines for the purpose of providing extended and improved telecommunications services to the public, under such terms and conditions mutually agreed upon by the parties concerned and the same shall be subject to the review and modification of the Commission.

SEC. 10. **Gross Receipts.** – The grantee, its successors or assigns, shall keep a separate account of the gross receipts of the business transacted by it and shall furnish the Commission on Audit (COA) and the National Treasury a copy of such account not later than the thirty-first (31st) day of January of each year for the preceding twelve (12) months.

SEC. 11. **Books and Accounts.** – The books and accounts of the grantee, its successors or assigns, shall always be open to inspection of the COA and its duly-authorized representatives. It shall be the duty of the grantee to submit to the COA two (2) copies of the quarterly reports on the gross receipts, the net profits and the general condition of the business.

SEC. 12. **Warranty in Favor of the National and Local Governments.** – The grantee shall hold the national, provincial, city and municipal governments of the Philippines free from all claims, accounts, demands or actions arising out of accidents or injuries, whether to property or to persons, caused by the construction or operation of the stations, transmitters, facilities and equipment of the grantee.

SEC. 13. **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. The condition, terms, restrictions and limitations set by this Act shall be imposed on any person or entity to which this franchise is sold, transferred or assigned.

SEC. 14. ***Dispersal of Ownership.*** – In accordance with the conditional provision to encourage public participation in public utilities, the grantee shall offer to Filipino citizens at least thirty (30) percent or a higher percentage that may hereafter be provided by law of its outstanding capital stock in any securities exchange in the Philippines within five (5) years from the commencement of its operations. Noncompliance therewith shall render the franchise *ipso facto* revoked.

SEC. 15. ***Reportorial Requirement.*** – The grantee shall submit an annual report to the Congress of the Philippines through the Committee on Legislative Franchises of the House of Representatives and the Committee on Public Services of the Senate on its compliance with the terms and conditions of the franchise and on its operations on or before April 30 of the succeeding year.

SEC. 16. ***Penalty Clause.*** – Any grantee who fails to submit the annual report to the Congress of the Philippines shall be fined by Five hundred (P500.00) pesos per working day of noncompliance. The fine shall be collected by the NTC from said delinquent franchise grantee separate from the reportorial penalties imposed by the NTC. The collected funds shall accrue to the monitoring fund of the NTC in line with its supervisory and regulatory functions. The reportorial compliance certificate issued by the Congress of the Philippines shall be required before any application for permit or certificate is accepted by the NTC.

SEC. 17. ***Equality Clause.*** – Any advantage, favor, privilege, exemption, or immunity granted under existing franchise, or which may hereafter be granted, upon prior review and approval of Congress, shall 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 telecommunications franchises concerning territory covered by the franchise, the life span of the franchise or the type of service authorized by the franchise.

SEC. 18. ***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 provided for in this Act.