

Republic of the Philippines
HOUSE OF REPRESENTATIVES
Quezon City

SIXTEENTH CONGRESS
First Regular Session

HOUSE BILL NO. 4639



Introduced by **HONORABLE EDCEL "GREX" B. LAGMAN**

EXPLANATORY NOTE

The Filipinas Broadcasting Network, Inc. (FBNI) was incorporated and registered with the Securities and Exchange Commission (SEC) on April 5, 1960 for the purpose of engaging in commercial radio programming and broadcasting on a nationwide coverage.

Barely two (2) months after its incorporation and registration with SEC, FBNI was granted a legislative franchise to establish radio stations for domestic telecommunications, broadcasting and telecasting by virtue of Republic Act No. 2290 on June 19, 1960 for a period of fifty (50) years. Twelve (12) years after its operation, the late President Ferdinand Marcos placed the entire Philippines under Martial Law in 1972, which led to the suppression of civil and political rights of the Filipino people, including infringement of constitutional rights to freedom of expression and of the press.

During those dark years in our country's political history, FBNI played a critical role in the nation's quest for freedom as it performed a watchdog function and has often taken an adversarial stand against the government amidst imminent threat of closure and incarceration of its owners and broadcasters. After experiencing the best and the worst climates in the broadcasting industry, it has proven it can withstand the test of time under any circumstance, FBNI's franchise was extended by Congress in 1995 for a period of twenty five (25) years by virtue of Republic Act No. 8168. However, the legislative franchise of this broadcasting company is about to expire in a few years time and there is an urgent need to seek a legislative fiat for its continued operation.

This bill therefore seeks to grant a franchise to FBNI to enable it to continue its tradition of excellence and an enduring legacy of disseminating timely, accurate and truthful information to the Filipino people.

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

A handwritten signature in black ink, appearing to read "Edcel B. Lagman".

HON. EDCEL "GREX" B. LAGMAN

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AN ACT
GRANTING THE FILIPINAS BROADCASTING NETWORK, INCORPORATED A
FRANCHISE TO CONSTRUCT, INSTALL, ESTABLISH, OPERATE AND MAINTAIN
RADIO AND TELEVISION BROADCASTING STATIONS IN THE PHILIPPINES

*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 Filipinas Broadcasting Network, Incorporated (FBNI) 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, including digital television system, Internet Protocol (IP) -related services and IP-value-added services, 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.

SEC. 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 grantee's services and/or availability thereof.

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

SEC. 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.

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, 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 operations within one (1) year from the approval of its operating permit by the NTC;
- (b) Commence operations within three (3) years from the effectivity of this Act; and
- (c) Operate continuously for 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. 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 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 stations franchises shall likewise be extended to the grantee. The grantee shall file the return with the city or province where its facility is located, and pay the taxes due thereon to the Commissioner of Internal Revenue or his duly authorized representatives in accordance with the National Internal Revenue Code and the return shall be subject to audit by the Bureau of Internal Revenue.

SEC. 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; or the language used therein or the theme thereof is indecent or immoral: *Provided, further*, that and willful failure to do so shall constitute a valid cause for the cancellation of this franchise.

SEC. 10. Warranty in Favor of 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 arising out of accidents or injuries, whether to property or to persons, caused by the construction or operation of the stations of the grantee.

SEC. 11. Sale, Lease, Transfer, Usufruct, or Assignment of Franchise. - The grantee shall not lease, transfer, grant the usufruct of, sell nor assign this franchise or the rights and privilege 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 Congress shall be informed of any lease, transfer, granting the usufruct of, sale or assignment of franchise or the rights or privileges acquired within sixty (60) days after the completion of said transaction: *Provided, further*, That failure to report to Congress such change of ownership shall render the franchise *ipso facto* revoked: *Provided, finally*, That any person or entity to which this franchise is sold, transferred or assigned, shall be subject to the same conditions, terms, restrictions and limitations of this Act.

SEC. 12. Dispersal of Ownership. - In accordance with the constitutional provision to encourage public participation in public utilities, the grantee shall offer to Filipino citizens at least *thirty per centum* (30%) 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: *Provided*, That in cases where public offer of shares is not applicable, establishment of cooperatives and other methods of encouraging public participation by citizens and

corporations operating public utilities must be implemented. Noncompliance therewith shall render the franchise *ipso facto* revoked.

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

SEC. 14. 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. 15. Penalty Clause – Any grantee who fails to submit the Annual Report to Congress will be fined Five Hundred Pesos (P500.00) per working day of non-compliance. Said fine will be collected by the NTC from said delinquent franchise grantee separate from the reportorial penalties imposed by 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 Congress shall be required before any application for permit or certificate is accepted by NTC.

SEC. 16. 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, 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 broadcasting franchises concerning territory covered by the franchise, the life span of the franchise or the type of service authorized by the franchise: *Provided, further,* That the foregoing shall not apply to sale, lease, transfer or grant of usufruct of legislative franchise with prior congressional approval.

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

SEC. 18. Repealability and Non-exclusivity 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.

SEC. 19. Publication. This Act shall be published, through the initiative of the Grantee, fifteen (15) days after this Act is signed by the President of the Philippines or has lapsed into law.

SEC. 20. Effectivity. – This Act shall take effect fifteen (15) days from its publication in the Official Gazette or in any newspaper of general circulation in the Philippines.

Approved,