

Republic of the Philippines
HOUSE OF REPRESENTATIVES
Quezon City

Sixteenth Congress
Third Regular Session

HOUSE BILL NO. **6313**



Introduced by **Representative NEPTALI M. GONZALES II**

EXPLANATORY NOTE

This Bill seeks to grant MAKINIG NETWORK, INC. a franchise to construct, install, establish, operate and maintain radio and television broadcasting stations throughout the Philippines.

In shaping the country's future, broadcast media plays an important role. It helps mold an informed and educated Filipino society by promoting public participation and encouraging public opinion on important matters concerning the country.

Investors should be encouraged to invest in the radio and television broadcasting business to assist the government in disseminating information on issues and matters of public concern. The MAKINIG NETWORK, INC. is a private corporation interested in the telecommunications business for domestic audiences and other related business. It desires to operate radio and television stations throughout the Philippines with its central base of operations located at Ortigas Center, San Antonio, Pasig City.

The more radio and television utilities there are in the field to enhance competition, the more information will be made available, thus giving the public more information and entertainment to be delivered to them.

This is the reason why MAKINIG NETWORK INC. seeks to offer itself as one of the service providers in the radio and television broadcasting industry. This bill seeks to grant the company the franchise required for it to be able to operate and offer its services and therefore open the way for more opportunities for access to radio and television services through the fostering of healthy competition.

In the light of the foregoing, approval of this measure is earnestly sought.


NEPTALI M. GONZALES II

Republic of the Philippines
HOUSE OF REPRESENTATIVES
Quezon City

SIXTEENTH CONGRESS
Third Regular Session

HOUSE BILL NO. **6313**

Introduced by **REP. NEPTALI M. GONZALES II**

AN ACT
GRANTING THE MAKINIG NETWORK, INC. A FRANCHISE TO CONSTRUCT,
INSTALL, ESTABLISH, OPERATE AND MAINTAIN RADIO AND TELEVISION
BROADCASTING STATIONS THROUGHOUT 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 Makinig Network, Inc., hereunder referred to as the grantee, its successors or assignees, a franchise to construct, install, establish, operate and maintain for commercial purposes and in the public interest, radio and/or television broadcasting stations throughout the Philippines, with its central base of operations located at Ortigas Center, San Antonio, Pasig City where frequencies and/or channels are still available for radio and/or television broadcasting, including digital television system, through microwave, satellite or whatever means, including the use of 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 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 existing stations or other stations which may be established by law, without in any way diminishing its own right to use its assigned wavelengths or frequencies and the quality of transmission or reception thereon as should maximize rendition of the grantee's services and/or the availability thereof.

SEC. 3. *Prior Approval of the National Telecommunications Commission (NTC).* – The grantee shall secure from the 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. *Bond.* - The grantee shall file a bond with the NTC, in the amount that the NTC shall determine, to guarantee 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.

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 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 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 of the grantee.

SEC. 11. *Sale, Lease, Transfer, Grant of Usufruct, or Assignment of Franchise.* - The grantee shall not sell, lease, transfer, grant the usufruct of, 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

transfer the controlling interest of the grantee, whether as a whole or in part, 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 sale, lease, transfer, grant of usufruct, or assignment of franchise or the rights or privileges acquired thereunder, or the merger or transfer of the controlling interest of the grantee, 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 cent (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 every year during the term of its franchise. The reportorial compliance certificate issued by Congress shall be required before any application for permit or certificate is accepted by the NTC.

SEC. 15. *Penalty Clause* – Failure of the grantee to submit the requisite annual report to Congress shall be penalized by a fine of five hundred pesos (P500.00) per working day of noncompliance. The fine shall be collected by the NTC from the delinquent

franchise grantee separate from the reportorial penalties imposed by the NTC.

SEC. 16. *Equality Clause.* - Any advantage, favor, privilege, exemption, or immunity granted under existing franchises, 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*, That the foregoing shall neither apply to nor affect the 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.

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 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.

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

Approved,