

Republic of the Philippines
HOUSE OF REPRESENTATIVES
Quezon City

SIXTEENTH CONGRESS
Second Regular Congress

HOUSE BILL NO. **7287**



Introduced by Honorable Juliet Marie D. Ferrer

EXPLANATORY NOTE

Section 24, Article II of the 1987 Constitution provides that "*the State recognizes the vital role of communication and information in nation-building.*" The media services as a conduit that ensures the flow of information in the country. It therefore plays a crucial role in the development and growth of our country.

Ultimate Entertainment Inc., is an existing operator of FM broadcast stations in the Philippines, pursuant to Republic Act No. 8102, "*An Act Granting the Ultimate Entertainment, Inc. a Franchise to Construct, Install, Maintain and Operate Radio Broadcasting Stations Within the Philippines*," which took effect on July 7, 1995. It operates DXUR-FM, on 97.1 MHz with a power of 5 Kw in Davao City; DYUR-FM, on 105.1 Mhz with a power of 10 Kw in Cebu City; and DXUE-FM on 103. 5 Mhz with a power of 5 Kw in Zamboanga City.

Ultimate Entertainment Inc., has the capacity to continue its contribution to nation building by the broadcast of relevant, updated, social information and concerns affecting our country; as it also aims to promote all Filipino music and all Filipino artists.

The incorporators of Ultimate Entertainment Inc., are of the mindset that social development is reached effectively by and through broadcasting as its medium. In this age of advancement in technology and communications, national issues and development can be transmitted to a wider range of coverage and at a very fast pace by digital data.

The grant of the renewal of this congressional franchise subject of this application is earnestly sought so that applicant can continue the operation and maintenance of its radio broadcast stations in the Philippines.


JULIET MARIE D. FERRER

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HOUSE OF REPRESENTATIVES
Quezon City, Metro Manila

Sixteenth Congress
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House Bill No. _____

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AN ACT RENEWING THE FRANCHISE GRANTED TO ULTIMATE ENTERTAINMENT, INC., UNDER REPUBLIC ACT NO. 8102, ENTITLED "A FRANCHISE TO CONSTRUCT, INSTALL, OPERATE AND MAINTAIN FOR COMMERCIAL PURPOSES AND IN THE PUBLIC INTEREST RADIO BROADCASTING STATIONS WITHIN THE PHILIPPINES AND FOR OTHER PURPOSES", FOR ANOTHER TWENTYFIVE (25) YEARS FROM THE EFFECTIVITY OF THIS ACT.

Be it enacted by the Senate and House of Representative 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 the Ultimate Entertainment, Inc., its successors or assigns, and hereunder referred to as the grantee, a franchise to construct, install, operate and maintain for commercial purposes and in the public interest, radio broadcasting stations within the Philippines with the corresponding technological auxiliaries or facilities, special broadcast and other program and distribution services and relay stations and to install radio communication facilities for the grantee's private use in its broadcast services is hereby renewed for another twenty-five (25) years from the effectivity of this Act.

SECTION. 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 other existing stations or 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 as should maximize rendition of the grantee's services and/or the availability thereof.

SECTION 3. *Prior Approval of the National Telecommunications Commission.* - The grantee shall secure from the National Telecommunications Commission the appropriate permits and licenses for its stations and shall not use any frequency in the radio 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 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, temporarily suspend the operation of any station or facility in the interest of public safety, security and public welfare, or authorize the temporary use and operation thereof by any agency of the government, upon due compensation to the grantee, for the use of its 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 in effect for a period of twenty-five (25) years from effectivity of this Act, unless sooner revoked or cancelled. This franchise shall be deemed *ipso facto* revoked in the event the grantee fails to operate continuously for two (2) years.

SECTION 7. *Acceptance and Compliance.* - Acceptance of this new 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. Nonacceptance shall render the franchise void.

SEC. 8. *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. 9. *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. 10. *Sale, Lease, Transfer, Grant or Usufruct, or Assignment of Franchise* - The grantee shall not lease, transfer, grant the usufruct of, sell or 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 of, 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 all the same conditions, terms, restrictions and limitations of this Act.

SEC. 11. *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 percent (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 operation. *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. Non acceptance therewith shall render the franchise *ipso facto* revoked.

SEC. 12. *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. 13. *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 Representative 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 14. *Penalty Clause*- Failure of the grantee to submit the requisite annual report to Congress will be penalized by a fine in the amount of Five Hundred Pesos (P500.00) per working day of non compliance. The fine will be collected by the NTC from the delinquent franchise grantee separate from the reportorial penalties imposed by the NTC.

SEC. 15. *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 such franchise, the life span of the franchise or the type of service authorized by the franchise.

SEC 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.

SEC 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.

SEC 18. *Effectivity Clause*. - This Act shall take effect fifteen (15) days after its publication in the Official Gazette or in a newspaper of general circulation.

Approved.