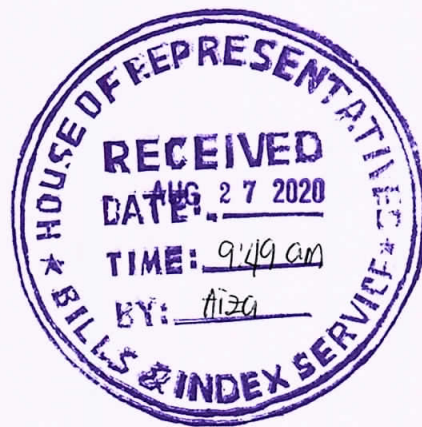




Republic of the Philippines
HOUSE OF REPRESENTATIVES
Quezon City

EIGHTEENTH CONGRESS
Second Regular Session

House Bill No. **7527**



Introduced by **REPRESENTATIVES FERDINAND L. HERNANDEZ**
AND JERICHO JONAS B. NOGRALES

EXPLANATORY NOTE

This bill seeks to renew the legislative franchise granted to Baycomms Broadcasting Corporation ("Baycomms") to install, operate and maintain radio and television broadcasting stations in the Philippines.

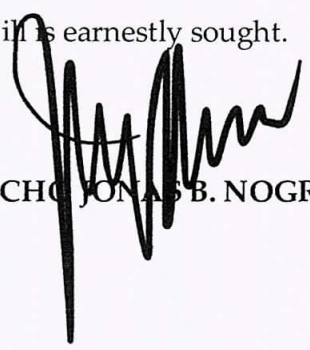
Baycomms' legislative franchise emanates from Republic Act 8718, entitled "AN ACT GRANTING THE BAYCOMMS BROADCASTING CORPORATION A FRANCHISE TO CONSTRUCT, INSTALL, ESTABLISH, OPERATE AND MAINTAIN RADIO AND TELEVISION STATIONS IN THE PHILIPPINES," which was approved on 16 July 1998.

Since the grant of its legislative franchise, Baycomms has established various AM and FM radio stations in the various cities and municipalities in the Philippines, and one TV station in General Santos City, providing quality news, commentary, entertainment and public affairs programs to its listeners and viewers.

Notwithstanding the innovations in information technology, radio and television broadcasting remain crucial in disseminating information to the public. Indeed, radio and television reach more people than any other platform especially in the remote areas of the country. The instant availability and accessibility of information brought about by these media help in the day-to-day life of every Filipino. As such, radio and television broadcasting plays a vital role in economic development and nation-building. The renewal of Baycomms' legislative franchise will ensure continuity in the public service that it provides to its listeners and viewers especially in the provinces.

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


FERDINAND L. HERNANDEZ


JERICHO JONAS B. NOGRALES



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House Bill No. 7527

Introduced by **REPRESENTATIVES FERDINAND L. HERNANDEZ**
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AN ACT RENEWING FOR ANOTHER TWENTY-FIVE (25) YEARS THE FRANCHISE GRANTED TO BAYCOMMS BROADCASTING CORPORATION UNDER REPUBLIC ACT NO. 8718, ENTITLED "AN ACT GRANTING THE BAYCOMMS BROADCASTING CORPORATION, A FRANCHISE TO CONSTRUCT, INSTALL, ESTABLISH, OPERATE AND MAINTAIN RADIO AND TELEVISION STATIONS IN THE PHILIPPINES."

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

Section 1. *Nature and Scope of Franchise.* - Subject to the provisions of the 1987 Constitution and applicable laws, rules and regulations, the franchise granted under Republic Act 8718 to Baycomms Broadcasting Corporation, hereunder referred to as the grantee, its successors or assignees, under Republic Act No. 8718 to construct, install, operate and maintain, for commercial purposes and in the public interest radio and/or television broadcasting stations, including digital and pay television system, through microwave, satellite or whatever means, as well as the use of any new technology in television and radio systems, with the corresponding technological auxiliaries and facilities, special broadcast and other program and distribution services and relay stations in the Philippines 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 existing stations or other stations which may be established by law, without in any way diminishing its own privilege 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.

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 or 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 such authority.

The grantee shall not dispose or lease its facilities except to entities with radio or television broadcasting franchise: *Provided*, that the grantee shall secure and obtain written authorization to proceed from the NTC, and report the transaction to the NTC within sixty (60) days after its completion: *Provided, further*, that the NTC shall determine the corresponding sanction for any violation of this provision.

In case of any violation of the provisions of this franchise, the NTC shall have the authority to revoke or suspend, after due process, the permits or licenses it issued pursuant to the franchise. The NTC may recommend to Congress the revocation of the franchise for any violation of this provision.

Section 4. Responsibility to the Public. - The grantee shall provide free of charge, adequate public service time which is reasonable and sufficient to enable the government, through the broadcasting stations or facilities of the grantee, to reach the pertinent populations or portions thereof on important public issues and relay important public announcements and warnings concerning public emergencies and calamities, as necessity, urgency or law may require; provide at all times sound and balanced programming; promote public participation; assist in the functions of public information and education; conform to the ethics of honest enterprise; promote audience sensibility and empowerment including closed captioning; and not use its stations or facilities for the broadcasting of obscene or indecent language, speech, act or scene, 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.

Public service time referred herein shall be equivalent to a maximum aggregate of ten percent (10%) of the paid commercials or advertisements which shall be allocated based on need to the Executive and Legislative branches, the Judiciary, Constitutional Commissions, and international humanitarian organizations duly recognized by statutes: *Provided*, That the NTC shall increase the public service time in case of emergency or calamity. The NTC shall issue rules and regulations for this purpose, the effectivity of which shall commence upon applicability with other similarly situated broadcast network franchise holders.

Pursuant to Republic Act 8370, otherwise known as "Children's Television Act of 1997", the grantee shall allot a minimum of fifteen percent (15%) of the daily total airtime of each broadcasting network to child-friendly shows within its regular programming.

Section 5. Right of the Government. - 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 any time after due process.

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 the stations during the period when these shall be so operated.

Section 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 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. 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, but if any such speech, play, act or scene, or other matter should constitute a violation of the law or infringement of a private right, the grantee shall be free from any liability, civil or criminal for such speech, play, act or scene, or other matter; *Provided*, That the grantee, during any broadcast, shall cut off the airing of 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 revocation or cancellation of this franchise.

Section 8. 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, liabilities, demands or actions arising out of accidents causing injury to persons or damage to properties during the construction or operation of the stations of the grantee.

Section 9. Commitment to Provide and Promote the Creation of Employment Opportunities. - The grantee shall create employment opportunities as well as accept on-the-job trainees in the franchise operation: *Provided*, That priority shall be accorded to the residents of the place where the principal office of the grantee is located: *Provided further*, That the grantee shall comply with the applicable labor standards and allowance entitlement under existing labor laws, rules and regulations and similar issuances: *Provided finally*, That the employment opportunities or jobs created shall be reflected in the General Information Sheet (GIS) to be submitted to the Securities and Exchange Commission (SEC) annually.

Section 10. Sale, Lease, Transfer, 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 the controlling interest of the grantee be transferred simultaneously or contemporaneously, to any person, firm, company, corporation or entity without the prior approval of the Congress of the Philippines. Congress shall be informed of any sale, lease, transfer, grant of usufruct or assignment of franchise or the rights and privileges acquired thereunder, or of the merger or transfer of the controlling interest of the grantee, within sixty (60) days after the completion of said transaction. Failure to report to Congress such change of ownership shall render the franchise *ipso facto* revoked. 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.

Section 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%) of its common stocks or a higher percentage that may hereafter be provided by law, in any securities exchange in the Philippines within five (5) years from the effectivity of this Act: *Provided*, That in cases where public offer of shares is not applicable, other methods of encouraging public participation by citizens and corporations operating public utilities must be implemented. Non-compliance therewith shall render the franchise *ipso facto* revoked.

Section 12. Reportorial Requirement. - The grantee shall submit an annual report on its compliance with the terms and conditions of the franchise and on its operations 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 or before April 30 of every year during the term of the franchise.

The Annual Report shall include an update on the roll-out, development and operation and/or expansion of business; audited financial statements; latest GIS officially submitted to the SEC, if applicable; certification of the NTC on the status of its permits and operation; and an update on the dispersal of ownership and undertaking, if applicable.

The reportorial compliance certificate issued by Congress shall be required before any application for permit or certificate is accepted by the NTC.

Section 13. Fine – 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 and the same shall be remitted to the Bureau of the Treasury.

Section 14. 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 provisions of broadcasting franchises concerning territorial coverage, the term, or the type of service authorized by the franchise.

Section 15. 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.

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

Section 17. Repealing Clauses. – All laws, decrees, orders, resolutions, instructions, rules and regulations, and other issuance or parts thereof which are inconsistent with the provisions of this Act are hereby repealed, amended or modified accordingly.

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

Approved.