

Republic of the Philippines
HOUSE OF REPRESENTATIVES
Quezon City, Metro Manila

Eighteenth Congress
Second Regular Session

HOUSE BILL NO. 8800



Introduced by **Representative Eleandro Jesus F. Madrona**

EXPLANATORY NOTE

Broadcasting is an important and essential infrastructure just like any public utility, i.e. telecommunications, water, electricity, transportation, and the like, that addresses the basic needs of peoples, institutions, and communities. Its pervasiveness and efficiency have a direct bearing on the level of well-being and development for many sectors of society. Studies on information and communication technology have shown a direct correlation between accessibility to broadcasting and total and inclusive development. Indeed, broadcasting not only enhances information dissemination but completes the crucial cycle of communication very much needed by our countrymen given the fact that the Philippines is an archipelago.

Considering some recent events, the clamor for a Philippine broadcasting industry that provides efficient, dependable, and affordable communication and information services is very clear. Institutions and individual end-users have expressed their collective desire and demand for the industry to keep in complimentary stride with them and make significant contributions to nation building. Statistics would show that industry demand drivers have been growing steadily while there is a lag on the supply side.

Within the aforementioned context, ALLBroadcast Corporation seeks to do its share to improve the broadcasting industry's capacity to promote the common good and serve the general public. With its financial and technical resources, the company seeks to establish radio, television and satellite broadcasting stations, including cable and digital television systems by using existing and new technologies in radio, television and satellite systems.

This bill seeks to grant ALLBroadcast Corporation a franchise to construct, install, establish, operate, and maintain broadcasting

systems in the Philippines for commercial purposes and, most importantly, in the public interest.

In view of the foregoing, approval of this measure is most respectfully sought.



REP. ELEANDRO JESUS F. MADRONA

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EIGHTEENTH CONGRESS
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AN ACT
GRANTING ALLBROADCAST CORPORATION A FRANCHISE TO
CONSTRUCT, INSTALL, ESTABLISH, OPERATE, AND MAINTAIN RADIO,
TELEVISION AND SATELLITE BROADCASTING STATIONS IN THE
PHILIPPINES

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

Sec. 1. Nature and Scope of Franchise. – Subject to the provisions of the Constitution and applicable laws, rules and regulations, there is hereby granted to ALLBroadcast Corporation, hereunder referred to as the grantee, its successor or assignees, a franchise to construct, install, operate, and maintain, for commercial purposes and in the public interest, radio, television and satellite broadcasting stations in the Philippines including cable and digital television systems, through microwave, satellite, or broadcasting through any other means, as well as the use of any new technology in television, radio and satellite 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 where frequencies and channels are still available for radio and television broadcasting, or other stations which may be established by law, without in any way diminishing its own privilege 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 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 or facilities and shall not use any frequency in the radio, television or satellite spectrum

without authorization from the NTC. The NTC, however, shall not unreasonably withhold or delay the grant of any of such authority.

The grantee shall not dispose or lease its facilities except to entities with a radio or television broadcasting franchise: Provided, That the grantee shall inform and secure 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 of the Philippines the revocation of the franchise for any violation of the provisions of this franchise.

Sec. 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 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 through, but not limited to, closed captioning; and not use its stations or 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.

Public service time referred herein shall be equivalent to a minimum 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 No. 8370, otherwise known as the "Children's Television Act of 1997", the grantee shall allot a minimum of fifteen percent (15%) of the daily total air time of each broadcasting network to child-friendly shows within its regular programming.

Sec. 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 that 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 said stations or facilities during the period when these shall be so operated.

Sec. 6. Term of Franchise. – This franchise shall be in effect for a period of twenty-five (25) years from the date of the effectivity of this Act, unless sooner cancelled. This franchise shall be deemed ipso facto revoked in the event that the grantee fails to comply with any of the following conditions:

- (a) commence operations within three (3) years from the approval of its operating permit by the NTC;
- (b) commence operations within five (5) years from the effectivity of this Act; and
- (c) operate continuously for two (2) years.

Sec. 7. Renewal or Extension of Franchise. – The grantee shall apply for the renewal or extension of its franchise three (3) years before its expiration which shall be reckoned from fifteen (15) days after the publication of the franchise in the Official Gazette or in a newspaper of general circulation

Sec. 8. Tax Provisions. – The grantee, its successors or assignees, shall be liable to pay the same taxes on their real estate, buildings and personal property, exclusive of this franchise, as other persons or corporations which are now or thereafter may be required by law to pay, except radio, television, satellite and electronic communications equipment, machinery, and spare parts needed in connection with the business of the grantee which shall be exempt from customs duties, tariffs and other taxes, as well as those declared exempt in this section. In addition thereto, the grantee, its successors, or assignees, shall pay a value-added tax on all gross receipts of the business transacted under this franchise by the grantee, its successors or assignees, in the Philippines in lieu of any and all, taxes of any kind, nature, or description levied, established, or collected by an authority whatsoever including, but not limited to, city, municipal, provincial, or national, from which the grantee is hereby expressly exempted effective from the date of the effectivity of this Act: Provided, That grantee, its successors or assignees, shall continue to be liable for income taxes payable under Title II of the National Internal Revenue Code pursuant

to Section 2 of the Executive Order No. 72, unless the latter enactment is amended or repealed, in which case amendment or repeal shall be applicable thereto.

The grantee shall file the return with and pay the tax thereon to the Commissioner of Internal Revenue or his duly authorized representative 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, 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 speech, play, act or scene, or other matter being broadcast if the tendency thereof is to propose 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, 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.

Sec. 11. Commitment to Provide and Promote the Creation of Employment Opportunities. – The grantee shall create employment opportunities and accept on-the-job trainees in the franchise operations: 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 ensure that at least sixty percent (60%) of its employees are regular employees and in no case shall the percentage of contractual, job order employees, or casual employees, talents, and independent contractors combined, exceed forty percent (40%) of its total workforce: Provided, finally, That the grantee shall comply with the applicable labor standards and allowance entitlement under existing labor laws, rules and regulations, and similar issuances.

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. In addition, the grantee shall include in its annual report to Congress the number of trainees, job order workers, casual employees, and contract of service workers whose employment status are made regular, and append the appropriate certificate from the Department of Labor and Employment attesting that it has complied with the employment requirement under this Section.

Sec. 12. 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 the controlling interest of the grantee be transferred, whether simultaneously or contemporaneously, to any person, firm, company, corporation or entity without the prior approval of Congress. The grantee shall inform Congress 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 the 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 the same conditions, terms, restrictions, and limitations of this Act.

Sec. 13. 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 operations: Provided, That in cases where public offer of shares is not applicable, the grantee shall apply other methods of encouraging public participation by citizens and corporations operating public utilities as allowed by law. Non-compliance therewith shall render the franchise ipso facto revoked.

Sec. 14. 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 its franchise.

The annual report shall include an update on the roll-out, development, operation 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 operations; and an update on the dispersal of ownership 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.

Sec. 15. 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.

Sec. 16. Equality Clause. – Any advantage, favor, privilege, exemption, or immunity granted under existing franchises, or which may hereafter be granted for radio, television and/or satellite 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 territorial coverage, the term, or the type of service authorized by the franchise.

Sec. 17. Repealability and Non-exclusivity Clause. – This franchise shall be subject to amendment, alteration, or repeal by Congress when the public interest so requires and shall not be interpreted as an exclusive grant of the privileges herein provided for.

Sec. 18. 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. 19. Repealing Clause. – All laws, decrees, orders, resolutions, instructions, rules and regulations, and other issuance or parts thereof which are inconsistent with the provision of this Act are hereby repealed, amended, or modified accordingly.

Sec. 20. Effectivity. – This Act shall take effect fifteen (15) days after its publication in the Official Gazette or in a newspaper of general circulation.

Approved,