

Republic of the Philippines
HOUSE OF REPRESENTATIVES
Quezon City

NINETEENTH CONGRESS
First Regular Session

HOUSE BILL NO. 7910



Introduced by HON. JOSE S. AQUINO II

EXPLANATORY NOTE

As enshrined in the Constitution, the State recognizes the vital role of communication and information in nation-building and the indispensable role of the private sector in building the same.

This bill seeks the renewal of the legislative franchise granted to Northern Mindanao Broadcasting System, Inc. (NMBS) for another 25 years.

Republic Act No. 8157 granted the NMBS a franchise to construct, install, maintain and operate radio and television broadcasting stations in Mindanao.

Northern Mindanao Broadcasting System Inc. is a broadcasting network that operates TV (DXNS TV7) and FM Radio Station (102.3 DXNS FM). The company started its TV Channel 7 broadcast in the late 1990's as a relay station of GMA 7. At the turn of the new millennium, DXNS FM radio station started broadcasting in Butuan City that was made possible by a partnership with Quest Broadcasting. The network's output in news and public affairs has resulted in its conferment of the KBP Golden Dove Awards.

Telecommunications plays an increasingly vital role in enabling the participation and development of people in communities and nations disadvantaged by geography. Northern Mindanao Broadcasting System, Inc. aims to achieve this as this would significantly contribute to the modernization and economic development of the country.

As such, the passage of this bill is earnestly sought.

JOSE S. AQUINO II

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AN ACT
RENEWING FOR ANOTHER TWENTY-FIVE (25) YEARS THE FRANCHISE
GRANTED TO NORTHERN MINDANAO BROADCASTING SYSTEM, INC.
UNDER REPUBLIC ACT NO. 8157 ENTITLED "AN ACT GRANTING THE
NORTHERN MINDANAO BROADCASTING SYSTEM, INC., A FRANCHISE TO
CONSTRUCT, INSTALL, OPERATE AND MAINTAIN FOR COMMERCIAL
PURPOSES RADIO AND TELEVISION BROADCASTING STATIONS IN THE
ISLAND OF MINDANAO, AND FOR OTHER PURPOSES"

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 Constitution and applicable laws, rules and regulations, the franchise granted under Republic Act 8157 to Northern Mindanao Broadcasting System, Inc., its successors or assigns to construct, install, operate and maintain for commercial purposes and in the public interest radio and television broadcasting stations, including digital television system, through microwave, satellite or whatever means, or the use of any new technologies in television and radio systems, with the corresponding auxiliaries and 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 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 service and/ or 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 the construction and operation of its stations or facilities and shall not use any frequency in the radio or television spectrum without having been authorized by the Commission. The NTC, however, shall not unreasonably withhold or delay the grant of any such authority.

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.

SECTION 4. *Responsibility to the Public.* -The grantee shall provide free of charge 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; promote public participation, assist in the functions of public information and education; conform to the ethics of honest enterprise; and not use its stations for the broadcasting of obscene and indecent language, speech, act or scene, or for the dissemination of deliberately false information or willful misrepresentation, or 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 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 extreme 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 or station to child-friendly shows within its regular programming.

Pursuant to RA 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 or station to child-friendly shows within its regular programming.

SECTION 5. *Right of 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 time of war, Rebellion, public peril, calamity, emergency, disaster or serious 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.

SECTION 6. *Term of Franchise.* – Unless sooner revoked or cancelled, this franchise shall be in effect for a period of twenty-five (25) years from the effectivity of this Act. The 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, 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.

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, accounts, demands or actions arising out of accidents or injuries, whether to property or persons, caused by 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 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 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.

SECTION 10. *Sale, Lease, Transfer, Grant of Usufruct or Assignment of Franchise.*
– The Grantee shall not sell, lease, transfer, grant the usufruct of, not 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 simultaneously or contemporaneously, to any person firm, company, corporation or entity without prior approval of Congress. The grantee shall inform Congress, through the Office of the Speaker of the House of Representatives and the Office of the Senate President, 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.

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 outstanding capital stock, 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 to the Congress, 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.

The annual report shall include an update on the commencement of activities, development, operation, and 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.

A 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 non-compliance and shall be paid to the NTC. The fine shall be collected separately from the reportorial penalties imposed by the NTC, and it 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 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 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 Congress 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 other provisions not affected thereby shall remain valid.

SECTION 17. *Repealing Clause.*- all laws, decrees, orders, resolutions, instructions, rules and regulations, and other issuances or parts thereof which are inconsistent with the provisions of this Act are hereby repealed, amended, or modified accordingly.

SECTION 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,