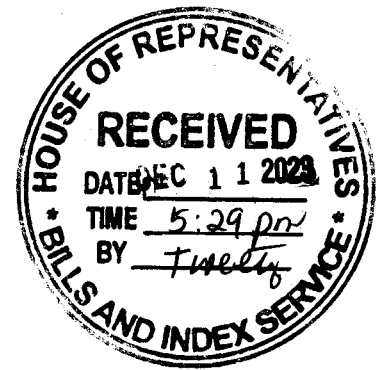


Republic of the Philippines
HOUSE OF REPRESENTATIVES
Batasan Hills, Quezon City

NINETEENTH CONGRESS
Second Regular Session

HOUSE BILL NO. 9710



Introduced by Representative Ramon Rodrigo L. Gutierrez

EXPLANATORY NOTE

The grant of franchise is a special privilege that constitutes a right and a duty to be performed by the grantee. The grantee must not perform its activities arbitrarily and whimsically but must abide by the limits set by its franchise and strictly adhere to its terms and conditions. A corporation as a creature of the State is presumed to exist for the common good. Hence, the special privileges and franchises it receives are subject to the laws of the State and the limitations of its charter. There is therefore a reserved right of the State to inquire how these privileges had been employed, and whether they have been abused.¹ This right of the State is vested in Congress in the exercise of its oversight function.

It is Congress that prescribes the conditions on which the grant of the franchise may be made. Thus, the manner of granting the franchise, to whom it may be granted, the mode of conducting the business, the charter and the quality of the service to be rendered, and the duty of the grantee to the public in exercising the franchise, are almost always defined in clear and unequivocal language.²

Further, not only does Congress has power to grant a legislative franchise. *Article XII, Section 11 of the Constitution expressly states that "Neither shall any such franchise or right be granted except under the condition that it shall be subject to amendment, alteration, or repeal by the Congress when the common good so requires".* Thus, the grant of a franchise will always be a privilege and not a right, as it is imbued with public interest.

The Committee on Legislative Franchises was able to identify numerous transgressions and abuses on the part of franchise grantee – Swara Sug Media Corporation (SSMC) which operates under the business name Sonshine Media Network International (SMNI). In the conduct of its hearings to deliberate on the issues raised by Honorable David Jay-Jay Suarez in his Privilege Speech delivered on November 28, 2023 on the alleged fake news peddling of SMNI, as well as, House Resolution No. 230 and House Resolution No. 1428 on the alleged fake news peddling and baseless red-tagging of individuals, groups, and organizations by SMNI and grave threats against Rep. France Castro, the following facts were established:

¹ Jaworski vs. PAGCOR, G.R. No. 144463, January 14, 2004.

² Byung vs. PAGCOR, G.R. No. 163553, December 11, 2009.

Swara Sug Media Corporation was granted its original franchise under Republic Act 8122 on July 16, 1995. In 2019, Republic Act 11422 was enacted renewing the same.

In the course of its operation, however, Swara Sug committed multiple grave infractions in violation of its franchise grant.

First, Swara Sug violated Sec. 10 of its grant. Section 10 of RA 11422 provides:

“SEC. 10. 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, 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 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.

During December 5, 2023 hearing, it was established, and admitted by SMNI that there were changes in the corporate structure of the Grantee and that no such prior approval was given by Congress. In this case, the majority owner of Grantee-Swara Sug, The Executive Pastor of the Kingdom of Jesus Christ, the Name Above Every Name, Inc., effected several changes that affected its ownership. In 2006, it transitioned from being a non-stock, non-profit corporation to a corporation sole under Pastor Apollo Quiboloy. However, in 2023, The Executive Pastor changed hands anew, as Apollo Quiboloy was replaced by one Bro. Marlon Acobo in the corporation sole.

The terms in its franchise grant are clear - the grantee shall seek prior approval of Congress for any transfer, usufruct, or assignment of its franchise or the rights and privileges acquired thereunder to any person. Even clearer stated in the grant that failure to report to Congress such change of ownership shall render the franchise *ipso facto* revoked.

Further, the mandatory requirements in Section 10 on the necessity for Congressional approval and Section 11 on the dispersal of ownership requirement in RA 11422 are distinct and separate from the annual report required to be submitted by the grantee under Section 12 of the same Act. The mere inclusion of any change in ownership in the annual report is not the compliance contemplated by the aforementioned sections, considering that the grantee is operating a business that requires 100% Filipino ownership, and any change therein requires scrutiny and acquiescence by Congress to protect public interest.

Second, Swara Sug or SMNI also violated Section. 11 of its grant. Sec. 11 states that:

"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%) of its outstanding stock, or a higher percentage thereof that may hereafter be provided by law, in any securities exchange in the Philippines: 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. Noncompliance therewith shall render the franchise *ipso facto* revoked".

Even after twenty-nine (29) years of operation, they still failed to comply with the thirty percent (30%) requirement on dispersal of ownership.

Neither can Swara Sug claim compliance with the dispersal of ownership requirement through Jesus Christ Workers Members Cooperative's 0.19% stake in Swara Sug, since the establishment of a cooperative as a mode of complying is not provided in its grant. Similar to Section 10, noncompliance with Section 11 of RA 11422 shall also render the franchise *ipso facto* revoked.

Third, Swara Sug or SMNI has failed to deliver truthful and balanced reporting to its audience. As evidenced by various cases filed against it in the Kapisanan ng mga Brodkaster ng Pilipinas, National Telecommunications Commission, Movie and Television Review and Classification Board, and the Philippine Courts, Swara Sug or SMNI has engaged in red-tagging and fake news peddling, labeling members of the House, the former Vice President of the Philippines, and private persons as members of the New People's Army. The Grantee corporation also attempted to create discord between the Upper and the Lower House by insinuating that unnamed and unverified Senate sources have claimed that Congress has spent Php 1.8 billion in travel expenses in 2023 without any basis or proof. In fact, this baseless allegation was subsequently disproved by no less than the head of the Finance Department of the House of Representatives. Clearly, all these acts of SMNI run contrary to its mandate provided under Sec. 4 of its franchise grant. Section 4 states:

"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 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; 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."

Finally, Swara Sug violated Section 12 of its grant. Section 12 of RA 11422 states that:

"SEC. 12. *Reportorial Requirement.*— During the term of its franchise, 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.

The annual-report shall include an update on the roll-out, development, operation, or expansion of business; audited financial statements; latest General Information Sheet officially submitted to 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 an application for permit, certificate, or any equivalent thereof, is accepted by the NTC.

In a hearing conducted on 11 December 2023, it was bared and admitted to by Swara Sug's legal counsel that the versions of the notarized annual reports submitted to the Committee are different from those submitted to the Securities and Exchange Commission.

Moreover, the Committee on Legislative Franchises approved the committee report adopting House Resolution No. 1499 urging the National Telecommunications Commission to suspend the operation of Swara Sug or SMNI for violating the terms and conditions of its franchise. The Committee finds that these acts of the grantee corporation should not be countenanced. Having exposed Swara Sug's multiple franchise violations, it is incumbent upon the House of Representatives, therefore, to exercise its mandate provided for under Article XII Section 11 of the Constitution, by repealing RA 11422 in the interest of justice and the common good.

Knowing further that misinformation and misrepresentation can have serious implications, most especially in shaping public opinion, and thus create potential social and political divide, the operation of Swara Sug or SMNI is considered a threat to national security and stability as it continues to use its platform to disseminate unverified and untruthful statements, the swift passage of this measure is earnestly sought.


RAMON RODRIGO L. GUTIERREZ
1-RIDER Party-List

Republic of the Philippines
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HOUSE BILL NO. 9710

Introduced by Representative Ramon Rodrigo L. Gutierrez

AN ACT

REVOKING THE LEGISLATIVE FRANCHISE GRANTED TO SWARA SUG MEDIA CORPORATION, OPERATING UNDER THE BUSINESS NAME SONSHINE MEDIA NETWORK INTERNATIONAL, REPEALING FOR THE PURPOSE REPUBLIC ACT NO. 11422, ENTITLED "AN ACT RENEWING FOR ANOTHER TWENTY-FIVE (25) YEARS THE FRANCHISE GRANTED TO SWARA SUG MEDIA CORPORATION UNDER REPUBLIC ACT NO. 8122, ENTITLED "AN ACT GRANTING THE SWARA SUG MEDIA CORPORATION OF THE PHILIPPINES A FRANCHISE TO CONSTRUCT, INSTALL, OPERATE AND MAINTAIN FOR COMMERCIAL PURPOSES RADIO AND TELEVISION BROADCASTING STATIONS IN THE PHILIPPINES AND FOR OTHER PURPOSES"

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

1 **SECTION 1.** The legislative franchise granted to Swara Sug Media
2 Corporation, operating under the business name Sonshine Media Network
3 International, under Republic Act No. 11422, entitled "*An Act Renewing For*
4 *Another Twenty-Five (25) Years The Franchise Granted To Swara Sug Media*
5 *Corporation Under Republic Act No. 8122, Entitled "An Act Granting The Swara*
6 *Sug Media Corporation Of The Philippines A Franchise To Construct, Install,*
7 *Operate And Maintain For Commercial Purposes Radio And Television*
8 *Broadcasting Stations In The Philippines And For Other Purposes*", is hereby
9 revoked.

10 **SEC. 2.** Republic Act No. 11422 is hereby repealed.

11 **SEC. 3.** This Act shall take effect fifteen (15) days after its publication
12 in the *Official Gazette* or in a newspaper of general circulation.

Approved,