

[REPUBLIC ACT NO. 8687, June 25, 1998]

AN ACT GRANTING THE WESTWIND BROADCASTING CORPORATION A FRANCHISE TO CONSTRUCT, INSTALL, ESTABLISH, OPERATE AND MAINTAIN RADIO AND TELEVISION STATIONS IN THE VISAYAS AND MINDANAO

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, there is hereby granted to the Westwind Broadcasting Corporation, hereunder referred to as the grantee, its successors or assigns, a franchise to construct, install, establish, operate and maintain for commercial purposes and in the public interest, radio and/or television broadcasting stations in the Visayas and Mindanao where frequencies and/or channels are still available for radio and/or television broadcasting, with the corresponding technological auxiliaries or 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 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 services and/or the availability thereof.

SEC. 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 and facilities and shall not use any frequency in the radio/television spectrum without having been authorized by the Commission. The Commission, however, shall not unreasonably withhold or delay the grant of any such authority.

SEC. 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 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.

SEC. 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, 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.

The radio spectrum is a finite resource that is a 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.

SEC. 6. *Term of Franchise.* - This franchise shall be for a term 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 comply with any of the following conditions:

- a. Commence operations within one (1) year from the approval of its permit by the National Telecommunications Commission;
- b. Operate continuously for two (2) years; and
- c. Commence operations within three (3) years from the effectivity of this Act.

SEC. 7. *Acceptance and Compliance.* - Acceptance of this franchise shall be given in writing within sixty (60) days from the effectivity of this Act. Upon giving such acceptance, the grantee shall exercise the privileges granted under this Act. Non-acceptance shall render the franchise void.

SEC. 8. *Bond.* - The grantee shall file a bond issued in favor of the National Telecommunications Commission, which shall determine the amount, to guarantee the compliance with and fulfillment of the conditions under which this franchise is granted. If after three (3) years from the date of the approval of its permit by the Commission, the grantee shall have fulfilled the same, the bond shall be canceled by the Commission. Otherwise the bond shall be forfeited in favor of the government and the franchise *ipso facto* revoked.

SEC. 9. *Tax Provisions.* - The grantee, its successors or assigns, 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 are now or hereafter may be required by law to pay. In addition thereto, the grantee, its successors or assigns shall pay the value-added tax under Republic Act No. 7716 as amended, on all gross receipts of its radio/television business transacted under this franchise: *Provided*, That the grantee, its successors or assigns, shall continue to be liable for income taxes payable under Title 11 of the National Internal Revenue Code pursuant to Section 2 of Executive Order No. 72, unless the latter enactment is amended or repealed, in which case the amendment or repeal shall be applicable thereto.

The grantee shall file the return with, and pay the taxes due thereon to the Commissioner of Internal Revenue or his duly authorized representatives in accordance with the National Internal Revenue Code and the return shall be subject to audit by the Bureau of Internal Revenue.