

REPUBLIC ACT NO. 8128

AN ACT GRANTING A FRANCHISE TO THE ORIENTAL MINDORO MANAGEMENT RESOURCES CORPORATION (OMARCO) TO CONSTRUCT, INSTALL, ESTABLISH, OPERATE, MANAGE AND MAINTAIN A NETWORK OF RADIO AND TELEVISION STATIONS ANYWHERE IN THE PHILIPPINES, 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, there is hereby granted to the Oriental Mindoro Management Resources Corporation (OMARCO), hereunder referred to as the grantee, its successors or assigns, a franchise to construct, install, establish, operate, manage and maintain for commercial purposes and in the public interest, radio and/or television broadcasting stations anywhere in the Philippines with the corresponding technological auxiliaries or 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.

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 the other existing stations or 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 its stations 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, 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 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 rebellion, public peril, calamity, emergency, disaster or disturbance of peace and order, to temporarily take over and operate the stations of the grantee, to temporarily suspend the operation of any station 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 during the period when they shall be so operated.

SEC. 6. *Term of Franchise.* – This franchise shall be for a term of twenty-five (25) years from the date of approval of this Act, unless sooner revoked or cancelled. In the event the grantee fails to operate continuously for two (2) years, this franchise shall be deemed *ipso facto* revoked.

SEC. 7. *Acceptance and Compliance.* – This franchise shall become effective upon acceptance in writing by the grantee. Upon giving such acceptance, the grantee shall exercise the privileges granted under this Act. Nonacceptance shall render the franchise void.

SEC. 8. *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 be levied, assessed and collected a value-added tax equivalent to ten percent (10%) of all gross receipts of the radio/television business transacted under this franchise by the grantee, its successors or assigns, and the said percentage shall be in lieu of all taxes on this franchise or earnings thereof: *Provided*, That the grantee, its successors or assigns, shall continue to be liable for income taxes payable under Title II 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 tax 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.

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 and/or telecast from its stations: *Provided*, That the grantee, during any broadcast and/or telecast, shall cut off from the air the speech, play, act or scene, or other matter being broadcast/telecast 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, and 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, and municipal governments of the Philippines harmless from all claims, accounts, demands or actions arising out of accidents or injuries, whether to property or to persons, caused by the construction or operation of the stations of the grantee.

SEC. 11. *Sale, Lease, Transfer, Usufruct, etc.* – The grantee shall not lease, transfer, grant the usufruct of, sell nor assign this franchise or the rights and privileges acquired thereunder to any person, firm, company, corporation or other commercial or legal entity, nor shall the controlling interest of the grantee be transferred to any such private person, firm, company, corporation or entity without the prior approval of the Congress of the Philippines. 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.

SEC. 12. *General Broadcast Policy Law.* – The grantee shall comply with any general broadcast policy law which Congress may hereafter enact.

SEC. 13. *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.

SEC. 14. *Repealability and Nonexclusivity 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.

SEC. 15. *Effectivity Clause.* – This Act shall take effect fifteen (15) days from the date of its publication in at least two (2) newspapers of national circulation in the Philippines.

Lapsed into law on July 16, 1995 without the President's signature, pursuant to Sec. 27(1), Article VI of the Constitution.