Republic of the Philippines
House of Representatives
Quezon City

Eighteenth Congress
Third Regular Session

HOUSE BILL NO. 10128

Introduced by the Honorable Ann K. Hofer

EXPLANATORY NOTE

The Westwind Broadcasting Corporation was granted a franchise to construct, install, establish, operate and maintain radio and television stations in the Visayas and Mindanao by virtue of Republic Act (RA) No. 8687. Said law, which took effect on 25 June 1998, provides for the rights, privileges, and authority of the grantee to operate for a period of 25 years—or until 25 June 2023.

Section 4 of RA No. 8687 provides that the Westwind Broadcasting Corporation shall provide adequate public service time to enable the government to reach the population on important public issues; provide at all times sound and balanced programming; and assist in the functions of public information and education, among others. The Westwind Broadcasting Corporation, through its Magik 103 FM Station, has remained faithful to this provision for more than two decades now.

Magik 103 FM Station of Westwind Broadcasting Corporation is not only a source of news and information in the Zamboanga Peninsula but is also actively helping the community realize its goals and aspirations in a lot of ways. The station covered and monitored the plebiscite for the creation of Zamboanga Sibugay Province, which was made effective on February 24, 2001. It was also instrumental in disseminating crucial information to public prior to the actual conduct of the plebiscite.

Through the years of its operation, Magik 103 FM has lent itself to the service of the people of the Zamboanga Peninsula. It has partnered with the Department of Labor and Employment, the Department of Social Welfare and Development and other government agencies with their respective programs for the public. It has partnered with the Department of Agriculture for its “School on Air Program”—a platform where the local farmers within the reach of its frequency are able to improve their farming methods and technologies through information shared on air. The station likewise partnered with the Department of Health through the “Wastong Nutrisyon Alamin, Gawin at Palaganapin” Program. Moreover, the station is actively supporting the Armed Forces of the Philippines’ program to maintain peace and order through its “End Local Communist Armed Conflict Information Dissemination” program.
Given the significant contribution of the Westwind Broadcasting Corporation to the public, this bill thus seeks to renew its franchise for another 25 years.

In view of the foregoing, the immediate approval of this measure is earnestly sought.

ANN K. HOFER
Second District, Zamboanga Sibugay
AN ACT
RENEWING FOR ANOTHER TWENTY-FIVE (25) YEARS THE FRANCHISE
GRANTED TO THE WESTWIND BROADCASTING CORPORATION UNDER
REPUBLIC ACT NO. 8687, ENTITLED “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 1987
Constitution and applicable laws, rules and regulations, the franchise granted to the Westwind
Broadcasting Corporation hereunder referred to as the grantee, its successors or assigns, under
Republic Act No. 8687, 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, is hereby renewed for another
twenty-five (25) years.

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 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/or the 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 and facilities
and shall not use any frequency in radio/television spectrum without authorization from the
NTC. The NTC, however, shall not unreasonably withhold or delay the grant of any such
authority.
The grantee shall not dispose or lease its facilities except to entities with radio or television broadcasting franchise: *Provided*, That the grantee shall inform and secure written authorization and 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.

**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.

Public service time referred herein shall be equivalent to a maximum 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 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 franchise holders.

**SEC. 5. Right of Government.** – 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.

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.

**SEC. 6. Term of Franchise.** – This franchise shall be for a period of twenty-five (25) years from the effectivity of this Act, unless sooner revoked or cancelled. This franchise shall be deemed *ipso facto* revoked in the event the grantee fails to 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 five (5) years before its expiration, reckoned from fifteen (15) days after the publication of the franchise in the *Official Gazette* or in a newspaper of general circulation.

**SEC. 8. Self-regulation by and Undertaking of the 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: *Provided*, That the grantee, during any broadcast, shall cut off from the air the speech, play, act or scene, of other matter being broadcast 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. 9. Warranty in Favor of National and Local Governments. – The grantee shall hold the national, provincial and municipal governments of the Philippines free from all claims, liabilities, demands or actions arising out of accidents, causing injury to persons or damages to properties, during the construction or operation of the stations of the grantee.

SEC. 10. Commitment to Provide and Promote the Creation of Employment Opportunities. – The grantee shall create employment opportunities and shall allow on-the-job trainings in their franchise operation: Provided, That priority shall be accorded to the residents of the place where their principal office is location: Provided, further, That the grantee shall follow the applicable labor standards and allowance entitlement under existing labor laws, rules and regulations and similar issuances: Provided, finally, That 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.

SEC. 11. 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 as a whole or in parts and whether 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.

SEC. 12. Dispersal of Ownership. – In accordance with constitutional provision to encourage public participation in public utilities, the grantee shall offer at least thirty percent (30%) or a higher percentage that may be 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. Noncompliance therewith shall render the franchise ipso facto revoked.

SEC. 13. Reportorial Requirement. – 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 during the term of its franchise.

The annual report shall include an update on the roll-out, development, operation and/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. 14. **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 National Treasury.

SEC. 15. **Equality Clause.** – Any advantage, favor, privilege, exemption, or immunity granted under existing franchises, or which may hereafter be granted for radio and/or 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 this franchise.

SEC. 16. **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. 17. **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. 18. **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.

SEC. 19. **Effectivity.** – This Act shall take effect fifteen (15) days after its publication in the *Official Gazette* or in a newspaper of general circulation.

Approved,