

REPUBLIC ACT NO. 8611

AN ACT GRANTING THE DIGITAL ENTERTAINMENT CORPORATION A FRANCHISE TO ESTABLISH, CONSTRUCT, INSTALL, OPERATE AND MAINTAIN FOR COMMERCIAL PURPOSES A DIRECT TRANSMITTING SATELLITE SYSTEM IN THE PHILIPPINES

*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 Digital Entertainment Corporation, hereunder referred to as the grantee, its successors or assigns, a franchise to establish, construct, install, operate and maintain for commercial purposes and in the public interest, cable/community antennae television (CATV) systems and/or direct to user satellite systems throughout the Philippines, and between the Philippines and other countries and territories, through the reception of audio, visual and other signals from any broadcast station, program provider or any other source within and outside the Philippines, and the distribution or transmission of the same to homes, offices, condominiums, multiple dwelling units, subdivisions, hotels, restaurants, and other residential, commercial and industrial structures and other public and private conveyances within and outside the Philippines, by means of microwave or other electromagnetic waves, optics, satellite, or any kind of energy, force, variations, or impulses, radiated through space or transmitted through any other medium as may be allowed by law; to originate, store, distribute, transmit, re-transmit and receive through said systems, news and documentaries, entertainment, cultural, informational, and educational radio and television programs, both live and recorded; to construct, establish, install, operate, manage, lease, maintain and purchase transmitting, receiving and switching stations, both for local and international services, lines, fiber optics, microwave facilities,

cables, satellite transmit and receive systems, control signals, audio and video systems, information service bureau, computer and interactive computer systems, pay TV and pay per view television, video on demand and public information on demand service, multi-disc read only memory network delivery, packet and frame relay and electronic mail services, and other value added services and all other related technologies as are at present available, or to be made available through technological advances or innovations in the future, as is or are convenient to or essential to efficiently carry out the purposes of this franchise.

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, hereinafter referred to as the Commission, the appropriate permits and licenses for the construction and operation of its stations, transmitters or facilities and shall not use any frequency in the radio and 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. *Ingress and Egress.* – For the purpose of erecting and maintaining poles or other supports for said wires or other conductors for the purpose of laying and maintaining underground wires, cables or other conductors, it shall be lawful for the grantee, its successors or assigns, with the prior approval of the Department of Public Works and Highways, to make excavations or lay conduits in any of the public places, highways, streets, lanes, alleys, avenues, sidewalks or bridges of said provinces, cities and/or municipalities: *Provided, however,* That any public place, highway, street, lane, alley, avenue, sidewalk or bridge disturbed,

altered or changed by reason of the erection of poles or other supports or the underground laying of wires, other conductors or conduits, shall be repaired and replaced in a workmanlike manner by said grantee, its successors or assigns, in accordance with the standards set by the Department of Public Works and Highways. Should the grantee, its successors or assigns, after the ten days' notice from the said authority, fail, refuse or neglect to repair or replace any part of a public place, road, highway, street, lane, alley, avenue, sidewalk or bridge altered, changed or disturbed by said grantee, its successors or assigns, then the Department of Public Works and Highways shall have the right to have the same repaired and placed in good order and condition at double the expense to be charged against the grantee, its successors or assigns.

SEC. 5. *Responsibility to the Public.* – The grantee shall provide adequate public service time to enable the government, through its stations, to reach the population on important public issues; provide at all times sound and balanced programming; promote public participation such as in community programming; assist in the functions of public information and education; conform to the ethics of honest enterprise; and not use its stations for the transmission 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. 6. *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, transmitters or facilities of the grantee, to temporarily suspend the operation of any station, transmitter 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, transmitters 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. 7. *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 canceled. 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 operating permit or provisional authority 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. 8. *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. Nonacceptance shall render the franchise void.

SEC. 9. *Bond.* – If the grantee is not yet operational, 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 five (5) 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. 10. *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 or a franchise tax of three percent (3%) *per annum* or at such percentage as may be prescribed by law, on all gross receipts of its telecommunications business transacted under this franchise, whichever is higher: *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 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.

SEC. 11. *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 or transmitted from its stations: *Provided*, That the grantee, during any broadcast or transmission shall cut off from the air or transmission the speech, play, act or scene, or other matter being broadcast or transmitted 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. 12. *Warranty in Favor of National and Local Governments.* – The grantee shall hold the national, provincial, city 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, transmitters, facilities and equipment of the grantee.

SEC. 13. *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 merge with any corporation or entity, nor shall the controlling interest in the grantee be transferred, whether as a whole or in parts and whether simultaneously or contemporaneously, to any such person, firm, company, corporation or entity without the prior approval of the Congress of the Philippines, except when such person, firm, company, corporation or entity has a valid and existing legislative franchise for telecommunications or it is in pursuance of the provisions of Section 16 of this Act. 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. 14. *Dispersal of Ownership.* – In accordance with the constitutional provisions to encourage public participation in the public utilities, the grantee shall offer at least thirty *per centum* (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 ten (10) years from the commencement of its operations or from the effectivity of this Act, whichever is later. Noncompliance therewith shall render the franchise *ipso facto* revoked.

SEC. 15. *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. 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. *Reportorial Requirement.* – The grantee shall submit an annual report to the Congress of the Philippines on its compliance with the terms and conditions of its franchise and on its operations within sixty (60) days from the end of every year.

SEC. 18. *Effectivity Clause.* – This Act shall take effect fifteen (15) days from the date of its publication in at least two (2) newspapers of general circulation in the Philippines.

Lapsed into law on March 27, 1998 without the President's signature, pursuant to Sec. 27(1), Article VI of the Constitution.