

ASSOCIATED COMMUNICATIONS & WIRELESS SERVICES – UNITED BROADCASTING NETWORKS, PETITIONER, VS. NATIONAL TELECOMMUNICATIONS COMMISSION, RESPONDENT.

G.R. No. 144109. February 17, 2003

Ponente: PUNO, J.

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PUNO, J.:

For many years now, there has been a “pervading confusion in the state of affairs of the broadcast industry brought about by conflicting laws, decrees, executive orders and other pronouncements promulgated during the Martial Law regime.”[1] The question that has taken a long life is whether the operation of a radio or television station requires a congressional franchise. The Court shall now lay to rest the issue.

This is a petition for review on certiorari of the Court of Appeals’ January 31, 2000 decision and February 21, 2000 resolution affirming the January 13, 1999 decision of the National Telecommunications Commission (NTC for brevity).

First, the facts.

On November 11, 1931, Act No. 3846, entitled “An Act Providing for the Regulation of Radio Stations and Radio Communications in the Philippines and for Other Purposes,” was enacted. Sec. 1 of the law reads, viz:

“Sec. 1. No person, firm, company, association, or corporation shall construct, install, establish, or operate a radio transmitting station, or a radio receiving station used for commercial purposes, or a radio broadcasting station, without having first obtained a franchise therefor from the Congress of the Philippines...”

Pursuant to the above provision, Congress enacted in 1965 R.A. No. 4551, entitled “An Act Granting Marcos J. Villaverde, Jr. and Winfred E. Villaverde a Franchise to Construct, Install, Maintain and Operate Public Radiotelephone and Radiotelegraph Coastal Stations, and Public Fixed and Public Based and Land Mobile Stations within the Philippines for the Reception and Transmission of Radiotelephone and Radiotelegraph for Domestic Communications and Provincial Telephone Systems in Certain Provinces.” It gave the grantees a 50-year franchise.[2] In 1969, the franchise was transferred to petitioner Associated Communications & Wireless Services – United Broadcasting Network, Inc. (ACWS for brevity) through Congress’ Concurrent Resolution No. 58.[3] Petitioner ACWS then engaged in the installation and operation of several radio stations around the country.

In 1974, P.D. No. 576-A, “Regulating the Ownership and Operation of Radio and Television Stations and for other Purposes” was issued, with the following pertinent provisions on franchise of radio and television broadcasting systems:

“Sec. 1. No radio station or television channel may obtain a franchise unless it has sufficient capital on the basis of equity for its operation for at least one year, including purchase of equipment.

x x x x x x x x

Sec. 6. All franchises, grants, licenses, permits, certificates or other forms of authority to operate radio or television broadcasting systems shall terminate on December 31, 1981. Thereafter, irrespective of any franchise, grant, license, permit, certificate or other forms of authority to operate granted by any office, agency or person, no radio or television station shall be authorized to operate without the authority of the Board of Communications and the Secretary of Public Works and Communications or their successors who have the right and authority to assign to qualified parties frequencies, channels or other means of identifying broadcasting system; Provided, however, that any conflict over, or disagreement with a decision of the aforementioned authorities may be appealed finally to the Office of the President within fifteen days from the date the decision is received by the party in interest.”

A few years later or in 1979, E.O. No. 546[4] was issued. It integrated the Board of Communications and the Telecommunications Control Bureau under the Integrated Reorganization Plan of 1972 into the NTC. Among the powers vested in the NTC under Sec. 15 of E.O. No. 546 are the following:

“a. Issue Certificate of Public Convenience for the operation of communication utilities and services, radio communications systems, wire or wireless telephone or telegraph system, radio and television broadcasting system and other similar public utilities;

x x x x x x x x

c. Grant permits for the use of radio frequencies for wireless telephone and telegraph systems and radio communication systems including amateur radio stations and radio and television broadcasting systems; . . .”

Upon termination of petitioner’s franchise on December 31, 1981 pursuant to P.D. No. 576-A, it continued operating its radio stations under permits granted by the NTC.

As these presidential issuances relating to the radio and television broadcasting industry brought about confusion as to whether the NTC could issue permits to radio and television broadcast stations without legislative franchise, the NTC sought the opinion of the Department of Justice (DOJ) on the matter. On June 20, 1991, the DOJ rendered Opinion No. 98, Series of 1991, viz:

“We believe that under P.D. No. 576-A dated November 11, 1974 and prior to the issuance of E.O. No. 546 dated July 23, 1979, the NTC, then Board of Communications, had no authority to issue permits or authorizations to operate radio and television broadcasting systems without a franchise first being obtained pursuant to Section 1 of Act No. 3846, as amended. A close reading of the provisions of Sections 1 and 6 of P.D. No. 576-A, supra, does not reveal any indication of a legislative intent to do away with the franchising requirement under Section 1 of Act No. 3846. In fact, a mere reading of Section 1 would readily indicate that a franchise was necessary for the operation of radio and television broadcasting systems as it expressly provided that no such franchise may be obtained unless the radio station or television channel has ‘sufficient capital on the basis of equity for its operation for at least one year, including purchase of equipment.’

It is believed that the termination of all franchises granted for the operation of radio and television broadcasting systems effective December 31, 1981 and the vesting of the power to authorize the operation of any radio or television station upon the Board of Communications and the Secretary of Public Works and Communications and their successors under Section 6 of P.D. No. 576-A does not necessarily imply the abrogation of the requirement of obtaining a franchise under Section 1 of Act No. 3846, as amended, in the absence of a clear provision in P.D. No. 576-A providing to this effect.

It should be noted that under Act No. 3846, as amended, a person, firm or entity desiring to operate a radio broadcasting station must obtain the following: (a) a franchise from Congress (Sec. 1); (b) a permit to construct or install a station from the Secretary of Commerce and Industry (Sec. 2); and (c) a license to operate the

station also from the Secretary of Commerce and Industry (id.). The franchise is the privilege granted by the State through its legislative body and is subject to regulation by the State itself by virtue of its police power through its administrative agencies (RCPI vs. NTC, 150 SCRA 450). The permit and license are the administrative authorizations issued by the administrative agency in the exercise of regulation. It is clear that what was transferred to the Board of Communications and the Secretary of Commerce and Industry under Section 6 of P.D. No. 576-A was merely the regulatory powers vested solely in the Secretary of Commerce and Industry under Section 2 of Act No. 3846, as amended. The franchising authority was retained by the then incumbent President as repository of legislative power under Martial Law, as is clearly indicated in the first WHEREAS clause of P.D. No. 576-A to wit:

‘WHEREAS, the President of the Philippines is empowered under the Constitution to review and approve franchises for public utilities.’

Of course, under the Constitution, said power (the power to review and approve franchises), belongs to the lawmaking body (Sec. 5, Art. XIV, 1973 Constitution; Sec. 11, Art. XII, 1987 Constitution).

The corollary question to be resolved is: Has E.O. No 546 (which is a law issued pursuant to P.D. No. 1416, as amended by P.D. No. 1771, granting the then President continuing authority to reorganize the administrative structure of the national government) modified the franchising and licensing arrangement for radio and television broadcasting systems under P.D. No. 576-A?

We believe so.

E.O. No. 546 integrated the Board of Communications and the Telecommunications Bureau into a single entity known as the NTC (See Sec. 14), and vested the new body with broad powers, among them, the power to issue Certificates of Public Convenience for the operation of communications utilities, including radio and televisions broadcasting systems and the power to grant permits for the use of radio frequencies (Sec. 14[a] and [c], supra). Additionally, NTC was vested with broad rule making authority ‘to encourage a larger and more effective use of communications, radio and television broadcasting facilities, and to maintain effective competition among private entities in these activities whenever the Commission finds it reasonably feasible’ (Sec. 15[f]).

In the recent case of *Albano vs. Reyes* (175 SCRA 264), the Supreme Court held that ‘franchises issued by Congress are not required before each and every public utility may operate.’ Administrative agencies may be empowered by law ‘to grant licenses for or to authorize the operation of certain public utilities.’ The Supreme Court stated that the provision in the Constitution (Art. XII, Sec. 11) ‘that the issuance of a franchise, certificate or other form of authorization for the operation of a public utility shall be subject to amendment, alteration or repeal by Congress, does not necessarily imply . . . that only Congress has the power to grant such authorization. Our statute books are replete with laws granting specified agencies in the Executive Branch the power to issue such authorization for certain classes of public utilities.’

We believe that E.O. No. 546 is one law which authorizes an administrative agency, the NTC, to issue authorizations for the operation of radio and television broadcasting systems without need of a prior franchise issued by Congress.

Based on all the foregoing, we hold the view that NTC is empowered under E.O. No. 546 to issue authorization and permits to operate radio and television broadcasting system.”[5]

However, on May 3, 1994, the NTC, the Committee on Legislative Franchises of Congress, and the Kapisanan ng mga Brodkaster sa Pilipinas of which petitioner is a member of good standing, entered into a Memorandum of Understanding (MOU) that requires a congressional franchise to operate radio and television stations. The MOU states, viz:

“WHEREAS, under the provisions of Section 1 of Act No. 3846 (Radio Laws of the Philippines, as amended), only radio and television broadcast stations with legislative franchise are authorized to operate.

WHEREAS, Executive Order No. 546, which created the National Telecommunications Commission (NTC) and abolished the Board of Communications (BOC) and the Telecommunications Control Bureau (TCB), and integrated the functions and prerogative of the latter two agencies into the National Telecommunications Commission (NTC);

WHEREAS, the National Telecommunications Commission (NTC) is authorized to issue certificate of public convenience for the operation of radio and television broadcast stations;

WHEREAS, there is a pervading confusion in the state of affairs of the broadcast industry brought about by conflicting laws, decrees, executive orders and other pronouncements promulgated during the Martial Law regime, the parties in their common desire to rationalize the broadcast industry, promote the interest of public welfare, avoid a vacuum in the delivery of broadcast services, and foremost to better serve the ends of press freedom, the parties hereto have agreed as follows:

“The NTC shall continue to issue and grant permits or authorizations to operate radio and television broadcast stations within their mandate under Section 15 of Executive Order No. 546, provided that such temporary permits or authorization to operate shall be valid for two (2) years within which the permittee shall be required to file an application for legislative franchise with Congress not later than December 31, 1994; provided finally, that if the permittee of the temporary permit or authorization to operate fails to secure the legislative franchise with Congress within this period, the NTC shall not extend or renew its permit or authorization to operate any further.”[6]

Prior to the December 31, 1994 deadline set by the MOU, petitioner filed with Congress an application for a franchise on December 20, 1994. Pending its approval, the NTC issued to petitioner a temporary permit dated July 7, 1995 to operate a television station via Channel 25 of the UHF Band from June 29, 1995 to June 28, 1997.[7] In 1996, the NTC authorized petitioner to increase the power output of Channel 25 from 1.0 kilowatt to 25 kilowatts after finding it financially and technically capable;[8] it also granted petitioner a permit to purchase radio transmitters/transceivers for use in its television Channel 25 broadcasting.[9] Shortly before the expiration of its temporary permit, petitioner applied for its renewal on May 14, 1997.[10]

On October 28, 1997, the House Committee on Legislative Franchises of Congress replied to an inquiry of the NTC’s Broadcast Division Chief regarding the franchise application of ACWS filed on December 20, 1994. The Committee certified that petitioner’s franchise application was not deliberated on by the 9th Congress because petitioner failed to submit the required supporting documents. In the next Congress, petitioner did not re-file its application.[11]

The following month or on November 17, 1997, the NTC’s Broadcast Service Department wrote to petitioner ordering it to submit a new congressional franchise for the operation of its seven radio stations and informing it that pending compliance, its application for temporary permits to operate these radio stations would be held in abeyance.[12] Petitioner failed to comply with the franchise requirement; it claims that it did not receive the November 17, 1997 letter.

Despite the absence of a congressional franchise, the NTC notified petitioner on January 19, 1998 that its May 14, 1997 application for renewal of its temporary permit to operate television Channel 25 was approved and would be released upon payment of the prescribed fee of P3,600.00.[13] After paying said amount,[14] however, the NTC refused to release to petitioner its renewed permit. Instead, the NTC commenced against petitioner Administrative Case No. 98-009 based on the November 17, 1997 letter. On February 26, 1998, the NTC issued an Order directing petitioner to show cause why its assigned frequency, television Channel 25, should not be recalled for

lack of the required congressional franchise. Petitioner was also directed to cease and desist from operating Channel 25 unless subsequently authorized by the NTC.[15]

In compliance with the February 26, 1998 Order, petitioner filed its Answer on March 17, 1998.[16] In a hearing on April 22, 1998, petitioner presented evidence and asked for continuance of the presentation to May 20, 1998.[17] On May 4, 1998, however, petitioner filed before the Court of Appeals a Petition for Mandamus, Prohibition, and Damages to compel the NTC to release its temporary permit to operate Channel 25 which was approved in January 1998. The appellate court denied the petition on September 30, 1998.

Meantime, on August 17, 1998, the NTC issued Memorandum Circular No. 14-10-98 which reads, viz:

“SUBJECT: Guidelines in the Renewal/Extension of Temporary Permit of Radio/TV Broadcast operators who failed to secure a legislative franchise conformably with the Memorandum of Understanding (MOU) dated May 3, 1994, entered into by and between the National Telecommunications and the Committee on Legislative Franchises, House of Representatives, and the Kapisanan ng mga Brodkaster sa Pilipinas (KBP).

In compliance with the MOU and in order to clear the ambiguity surrounding the operation of broadcast operators who were not able to have their legislative franchise approved during the last congress, the following guidelines are hereby issued:

- Existing broadcast operators who were not able to secure a legislative franchise up to this date are given up to December 31, 1999 within which to have their application for a legislative franchise bill approved by Congress. The franchise bill must be filed immediately but not later than November 30th of this year to give both Houses time to deliberate upon and recommend approval/disapproval thereof.
- Broadcast operators affected by this circular must file their respective applications for renewal/extension of their Temporary Permits in the prescribed form together with the certification from the Committee on Legislative Franchises, House of Representatives that a franchise bill has indeed been filed prior to 30 November 1998.
- In the event the permittee will not be able to have its franchise bill approved within the prescribed period, the NTC will no longer renew/extend its Temporary Permit and the Commission shall initiate the recall of its assigned frequency provided that due process of law is observed.
- Henceforth, no application/petition for Certificate of Public Convenience (CPC) to establish, maintain and operate a broadcast station in the broadcast service shall be accepted for filing without showing that the applicant has an approved Legislative Franchise.

This Memorandum Circular shall be published in one (1) newspaper of general circulation in the Philippines and shall take effect thirty (30) days from its publication.

August 17, 1998, Quezon City, Philippines.”[18]

The Memorandum Circular was published in the Philippine Star on October 15, 1998.

Well within the November 30, 1998 deadline under the Memorandum Circular, House Bill No. 3216, entitled “An Act Granting the ACWS-United Broadcasting Network, Inc. a Franchise to Construct, Install, Operate and Maintain Radio and Television Broadcasting Stations within the Philippines, and for other Purposes,” was filed with the Legislative Calendar Section, Bills and Index Division on September 2, 1998.[19]

On January 13, 1999, the NTC rendered a decision on Administrative Case No. 98-009 against petitioner, the dispositive portion of which reads:

“WHEREFORE, for lack of a legal personality to justify the issuance of any permit or license to the

respondent (ACWS), the respondent not having a valid legislative franchise, the Commission hereby renders judgment as follows:

1)

Channel 25 assigned to herein respondent ACWS is hereby RECALLED;

2)

Respondent's application for renewal of its temporary permit to operate Channel 25 is hereby DENIED; and

3)

Respondent is hereby ordered to CEASE and DESIST from further operating Channel 25.”[20]

Petitioner sought recourse at the Court of Appeals which affirmed the NTC decision.

Hence, this petition for review on certiorari on the following grounds:

“I.

THE COURT OF APPEALS ERRED IN UPHOLDING THE RULING OF THE NTC THAT A CONGRESSIONAL FRANCHISE IS A CONDITION SINE QUA NON IN THE OPERATION OF A RADIO AND TELEVISION BROADCASTING SYSTEM.

II.

THE COURT OF APPEALS ERRED IN NOT CONSIDERING OPINION 98 SERIES OF 1991 DATED JUNE 20, 1991 OF THE SECRETARY OF JUSTICE HOLDING THAT THE NTC MAY ISSUE AUTHORIZATION FOR THE OPERATION OF RADIO AND TELEVISION BROADCASTING SYSTEMS, WITHOUT THE NEED OF A PRIOR FRANCHISE ISSUED BY CONGRESS, AS BINDING ON THE NTC WHO REQUESTED FOR SAID OPINION AND IS NOT MERELY ADVISORY, AS IT IS PREDICATED ON A DECISION OF THIS HONORABLE COURT.

III.

THE COURT OF APPEALS ERRED IN CONSIDERING ACT NO. 3846 AS REQUIRING A FRANCHISE FROM CONGRESS FOR THE LAWFUL OPERATION OF RADIO OR TELEVISION BROADCASTING STATIONS WHEN CLEARLY ITS PROVISIONS COVER ONLY RADIO BUT IT DOES NOT INCLUDE TELEVISION STATIONS.

IV.

THE COURT OF APPEALS ERRED IN UPHOLDING THE RECALL OF THE FREQUENCY CHANNEL 25 PREVIOUSLY ASSIGNED TO THE PETITIONER AND/OR THE CANCELLATION OF ITS PERMIT TO OPERATE WHICH IS UNREASONABLE, UNFAIR, OPPRESSIVE, WHIMSICAL AND CONFISCATORY WHEN IT PREVIOUSLY ISSUED THE SAID PERMIT WITHOUT REQUIRING A LEGISLATIVE FRANCHISE.

V.

THE COURT OF APPEALS ERRED IN NOT HOLDING THAT NTC CASE NO. 98-009 HAD BEEN RENDERED MOOT AND ACADEMIC WITH THE ADOPTION AND PROMULGATION BY THE NTC OF MEMORANDUM CIRCULAR NO. 14-10-98 DATED AUGUST 17, 1998 AS PETITIONER FILED

THE APPLICATION FOR LEGISLATIVE FRANCHISE PURSUANT THERETO.”[21]

The petition is devoid of merit.

We shall discuss together the first three assigned errors as they are interrelated.

Petitioner stresses that Act. No. 3846 covers only the operation of radio and not television stations as Section 1 of the said law does not mention television stations in its coverage, viz:

“Sec. 1. No person, firm, company, association or corporation shall construct, install, establish, or operate a radio transmitting station, or a radio receiving station used for commercial purposes, or a radio broadcasting station, without having first obtained a franchise therefor from the Congress of the Philippines...”

Petitioner observes that quite understandably, television stations were not included in Act No. 3846 because the law was enacted in 1931 when there was yet no television station in the Philippines. Following the rule in statutory construction that what is not included in the law is deemed excluded, petitioner avers that television stations are not covered by Act No. 3846. Petitioner notes that in fact, the NTC previously issued to it a temporary permit dated July 7, 1995 to operate Channel 25 from June 29, 1995 to June 28, 1997 without requiring a congressional franchise. Likewise, in 1996, the NTC issued to it a permit to increase its television operating power and to purchase a radio transmitter/transceiver for use in its television broadcasting, again without requiring a congressional franchise. Petitioner thus argues that, contrary to the January 19, 1999 decision of the NTC, its application for renewal of its temporary permit to operate television Channel 25 does not require a congressional franchise.

In upholding the NTC decision, the Court of Appeals held that a congressional franchise is required for the operation of radio and television broadcasting stations as this requirement under Act No. 3846 was not expressly repealed by P.D. No. 576-A nor E.O. No. 546. Citing *Berces, Sr. v. Guingona*, [22] it ruled that without an express repeal, a subsequent law cannot be construed as repealing a prior law unless there is an irreconcilable inconsistency and repugnancy in the language of the new and old laws, which petitioner was not able to show. [23]

The appellate court correctly ruled that a congressional franchise is necessary for petitioner to operate television Channel 25. Even assuming that Act No. 3846 applies only to radio stations and not to television stations as petitioner adamantly insists, the subsequent P.D. No. 576-A clearly shows in Section 1 that a franchise is required to operate radio as well as television stations, viz:

“Sec. 1. No radio station or television channel may obtain a franchise unless it has sufficient capital on the basis of equity for its operation for at least one year, including purchase of equipment.” (emphasis supplied)

As pointed out in DOJ Opinion No. 98, there is nothing in P.D. No. 576-A that reveals any intention to do away with the requirement of a franchise for the operation of radio and television stations. Section 6 of P.D. No. 576-A merely identifies the regulatory agencies from whom authorizations, in addition to the required congressional franchise, must be secured after December 31, 1981, viz:

“Sec. 6. All franchises, grants, licenses, permits, certificates or other forms of authority to operate radio or television broadcasting systems shall terminate on December 31, 1981. Thereafter, irrespective of any franchise, grant, license, permit, certificate or other forms of authority to operate granted by any office, agency or person, no radio or television station shall be authorized to operate without the authority of the Board of Communications and the Secretary of Public Works and Communications or their successors who have the right and authority to assign to qualified parties frequencies, channels or other means of identifying broadcasting system . . .” (emphasis supplied)

To understand why it was necessary to identify these agencies, we turn a heedful eye on the laws regarding

authorizations for the operation of radio and television stations that preceded P.D. No. 576-A.

Act No. 3846 of 1931 provides, viz:

“Sec. 1. No person, firm, company, association, or corporation shall construct, install, establish, or operate a radio transmitting station, or a radio receiving station used for commercial purposes, or a radio broadcasting station, without having first obtained a franchise therefor from the Congress of the Philippines:

x x x x x x x x

Sec. 1-A. No person, firm, company, association or corporation shall possess or own transmitters or transceivers (combination transmitter-receiver), without registering the same with the Secretary of Public Works and Communications . . . and no person, firm, company, association or corporation shall construct or manufacture, or purchase radio transmitters or transceivers without a permit issued by the Secretary of Public Works and Communications.

x x x x x x x x

Sec. 3. The Secretary of Public Works and Communications is hereby empowered to regulate the construction or manufacture, possession, control, sale and transfer of radio transmitters or transceivers (combination transmitter-receiver) and the establishment, use, the operation of all radio stations and of all forms of radio communications and transmissions within the Philippines. In addition to the above, he shall have the following specific powers and duties:

x x x x x x x x

(c) He shall assign call letter and assign frequencies for each station licensed by him and for each station established by virtue of a franchise granted by the Congress of the Philippines and specify the stations to which each of such frequencies may be used; . . .”

Shortly after the declaration of Martial Law, then President Marcos issued P.D. No. 1 dated September 24, 1972, through which the Integrated Reorganization Plan for the executive branch was adopted. Under the Plan, the Public Service Commission was abolished and its functions transferred to special regulatory boards, among which was the Board of Communications with the following functions:

“5a. Issue Certificates of Public Convenience for the operation of communications utilities and services, radio communications systems . . ., radio and television broadcasting systems and other similar public utilities;

x x x x x x x x

c. Grant permits for the use of radio frequencies for . . . radio and television broadcasting systems including amateur radio stations.”

With the creation of the Board of Communications under the Plan, it was no longer sufficient to secure authorization from the Secretary of Public Works and Communications as provided in Act No. 3846. The Board’s authorization was also necessary. Thus, P.D. No. 576-A provides in Section 6 that radio and television station operators must secure authorization from both the Secretary of Public Works and Communications and the Board of Communications.

Dispensing with the requirement of a congressional franchise is not in line with the declared purposes of P.D. No. 576-A, viz:

“WHEREAS, it has been observed that some public utilities, especially radio and television stations, have a tendency toward monopoly in ownership and operation to such an extent that a region or section of the country may be covered by any number of such broadcast stations, all or most of which are owned, operated or

managed by one person or corporation;

x x x x x x x x

WHEREAS, on account of the limited number of frequencies available for broadcasting in the Philippines, it is necessary to regulate the ownership and operation of radio and television stations and provide measures that would enhance quality and viability in broadcasting and help serve the public interests; . . .”

A textual interpretation of Section 6 of P.D. No. 576-A yields the same interpretation that after December 31, 1981, a franchise is still necessary to operate radio and television stations. Were it the intention of the law to do away with the requirement of a franchise after said date, then the phrase “(t)hereafter, irrespective of any franchise, grant, license, permit, certificate or other forms of authority to operate granted by any office, agency or person (emphasis supplied)” would not have been necessary because the first sentence of Section 6 already states that “(a)ll franchises, grants, licenses, permits, certificates or other forms of authority to operate radio or television broadcasting systems shall terminate on December 31, 1981.” It is therefore already understood that these forms of authority have no more force and effect after December 31, 1981. If the intention were to do away with the franchise requirement, Section 6 would have simply laid down after the first sentence the requirements to operate radio and television stations after December 31, 1981, i.e., “no radio or television station shall be authorized to operate without the authority of the Board of Communications and the Secretary of Public Works and Communications.” Instead, however, the phrase “irrespective of any franchise,...” was inserted to emphasize that a franchise or any other form of authorization from any office, agency or person does not suffice to operate radio and television stations because the authorizations of both the Board of Communications and the Secretary of Public Works and Communications are required as well. This interpretation adheres to the rule in statutory construction that words in a statute should not be construed as surplusage if a reasonable construction which will give them some force and meaning is possible.[24]

Contrary to the opinion of the Secretary of Justice in DOJ Opinion No. 98, Series of 1991, the appellate court was correct in ruling that E.O. No. 546 which came after P.D. No. 576-A did not dispense with the requirement of a congressional franchise. It merely abolished the Board of Communications and the Telecommunications Control Bureau under the Reorganization Plan and transferred their functions to the NTC,[25] including the power to issue Certificates of Public Convenience (CPC) and grant permits for the use of frequencies, viz:

“Sec. 15. a. Issue Certificate of Public Convenience for the operation of communication utilities and services, radio communications systems, wire or wireless telephone or telegraph system, radio and television broadcasting system and other similar public utilities;

x x x x x x x x

c. Grant permits for the use of radio frequencies for wireless telephone and telegraph systems and radio communication systems including amateur radio stations and radio and television broadcasting systems; . . .”

E.O. No. 546 defines the regulatory and technical aspect of the legal process preparatory to the full exercise of the privilege to operate radio and television stations, which is different from the grant of a franchise from Congress, viz:

“The statutory functions of NTC may then be given effect as Congress’ prerogative to grant franchises under Act No. 3846 is upheld for they are distinct forms of authority. The former covers matters dealing mostly with the technical side of radio or television broadcasting, while the latter involves the exercise by the legislature of an exclusive power resulting in a franchise or a grant under authority of government, conferring a special right to do an act or series of acts of public concern (37 C.J.S., secs. 1, 14, pp. 144, 157).

In fine, there being no clear showing that the laws here involved cannot stand together, the presumption is

against inconsistency or repugnance, hence, against implied repeal of the earlier law by the later statute (Agujetas v. Court of Appeals, 261 SCRA 17, 1996).”[26]

As we held in *Radio Communication of the Philippines, Inc. v. National Telecommunications Commission*,[27] a franchise is distinguished from a CPC in that the former is a grant or privilege from the sovereign power, while the latter is a form of regulation through the administrative agencies, viz:

“A franchise started out as a “royal privilege or (a) branch of the King’s prerogative, subsisting in the hands of a subject.” This definition was given by Finch, adopted by Blackstone, and accepted by every authority since (State v. Twin Village Water Co., 98 Me 214, 56 A 763 [1903]). Today, a franchise, being merely a privilege emanating from the sovereign power of the state and owing its existence to a grant, is subject to regulation by the state itself by virtue of its police power through its administrative agencies.”[28]

Even prior to E.O. No. 546, the NTC’s precursor, i.e., the Board of Communications, already had the function of issuing CPC under the Integrated Reorganization Plan. The CPC was required by the Board at the same time that P.D. No. 576-A required a franchise to operate radio and television stations. The function of the NTC to issue CPC under E.O. No. 546 is thus nothing new and exists alongside the requirement of a congressional franchise under P.D. No. 576-A. There is no conflict between E.O. No. 546 and P.D. No. 576-A; Section 15 of the former does not dispense with the franchise requirement in the latter. We adhere to the cardinal rule in statutory construction that statutes in *pare materia*, although in apparent conflict, or containing apparent inconsistencies, should, as far as reasonably possible, be construed in harmony with each other, so as to give force and effect to each.[29] The ruling of this Court in *Crusaders Broadcasting System, Inc. v. National Telecommunications Commission*,[30] buttresses the interpretation that the requirement of a congressional franchise for the operation of radio and television stations exists alongside the requirement of a CPC. In that case, we held that under E.O. No. 546, the regulation of radio communications is a function assigned to and performed by the NTC and at the same time recognized the requirement of a congressional franchise for the operation of a radio station under Act No. 3846. We did not interpret E.O. No. 546 to have repealed the congressional franchise requirement under Act No. 3846 as these two laws are not inconsistent and can both be given effect. Likewise, in *Radio Communication of the Philippines, Inc. v. National Telecommunications Commission*,[31] we recognized the necessity of both a congressional franchise under Act No. 3846 and a CPC under E.O. No. 546 to operate a radio communications system.

In buttressing its position that a congressional franchise is not required to operate its television station, petitioner banks on DOJ Opinion No. 98, Series of 1991 which states that under E.O. No. 546, the NTC may issue a permit or authorization for the operation of radio and television broadcasting systems without a prior franchise issued by Congress. Petitioner argues that the opinion is binding and conclusive upon the NTC as the NTC itself requested the advisory from the Secretary of Justice who is the legal adviser of government. Petitioner claims that it was precisely because of the above DOJ Opinion No. 98 that the NTC did not previously require a congressional franchise in all of its applications for permits with the NTC.

Petitioner, however, cannot rely on DOJ Opinion No. 98 as this opinion is merely persuasive and not necessarily controlling.[32] As shown above, the opinion is erroneous insofar as it holds that E.O. No. 546 dispenses with the requirement of a congressional franchise to operate radio and television stations. The case of *Albano v. Reyes*[33] cited in the DOJ opinion, which allegedly makes it binding upon the NTC, does not lend support to petitioner’s cause. In that case, we held, viz:

“Franchises issued by Congress are not required before each and every public utility may operate. Thus, the law has granted certain administrative agencies the power to grant licenses for or to authorize the operation of certain public utilities. (See E.O. Nos. 172 and 202)

That the Constitution provides in Art. XII, Sec. 11 that the issuance of a franchise, certificate or other form of authorization for the operation of a public utility shall be subject to amendment, alteration or repeal by Congress does not necessarily imply, as petitioner posits, that only Congress has the power to grant such authorization. Our statute books are replete with laws granting specified agencies in the Executive Branch the power to issue such authorization for certain classes of public utilities. (footnote omitted)”[34]

Our ruling in Albano that a congressional franchise is not required before “each and every public utility may operate” should be viewed in its proper light. Where there is a law such as P.D. No. 576-A which requires a franchise for the operation of radio and television stations, that law must be followed until subsequently repealed. As we have earlier shown, however, there is nothing in the subsequent E.O. No. 546 which evinces an intent to dispense with the franchise requirement. In contradistinction with the case at bar, the law applicable in Albano, i.e., E.O. No. 30, did not require a franchise for the Philippine Ports Authority to take over, manage and operate the Manila International Port Complex and undertake the providing of cargo handling and port related services thereat. Similarly, in *Philippine Airlines, Inc. v. Civil Aeronautics Board, et al.*,^[35] we ruled that a legislative franchise is not necessary for the operation of domestic air transport because “there is nothing in the law nor in the Constitution which indicates that a legislative franchise is an indispensable requirement for an entity to operate as a domestic air transport operator.”^[36] Thus, while it is correct to say that specified agencies in the Executive Branch have the power to issue authorization for certain classes of public utilities, this does not mean that the authorization or CPC issued by the NTC dispenses with the requirement of a franchise as this is clearly required under P.D. No. 576-A.

Petitioner contends that the NTC erroneously denied its application for renewal of its temporary permit to operate Channel 25 and recalled its Channel 25 frequency based on the May 3, 1994 MOU that requires a congressional franchise for the operation of television broadcast stations. The MOU is not an act of Congress and thus cannot amend Act No. 3846 which requires a congressional franchise for the operation of radio stations alone, and not television stations.

We find no merit in petitioner’s contention. As we have shown, even assuming that Act No. 3846 requires only radio stations to secure a congressional franchise for its operation, P.D. No. 576-A was subsequently issued in 1974, which clearly requires a franchise for both radio and television stations. Thus, the 1994 MOU did not amend any law, but merely clarified the existing law that requires a franchise.

That the legislative intent is to continue requiring a franchise for the operation of radio and television broadcasting stations is clear from the franchises granted by Congress after the effectivity of E.O. No. 546 in 1979 for the operation of radio and television stations. Among these are: (1) R.A. No. 9131 dated April 24, 2001, entitled “An Act Granting the Iddes Broadcast Group, Inc., a Franchise to Construct, Install, Establish, Operate and Maintain Radio and Television Broadcasting Stations in the Philippines;” (2) R.A. No. 9148 dated July 31, 2001, entitled “An Act Granting the Hypersonic Broadcasting Center, Inc., a Franchise to Construct, Install, Establish, Operate and Maintain Radio Broadcasting Stations in the Philippines;” and (3) R.A. No. 7678 dated February 17, 1994, entitled “An Act Granting the Digital Telecommunication Philippines, Incorporated, a Franchise to Install, Operate and Maintain Telecommunications Systems Throughout the Philippines.” All three franchises require the grantees to secure a CPCN/license/permit to construct and operate their stations/systems. Likewise, the Tax Reform Act of 1997 provides in Section 119 for tax on franchise of radio and/or television broadcasting companies, viz:

“Sec. 119. Tax on Franchises. – Any provision of general or special law to the contrary notwithstanding, there shall be levied, assessed and collected in respect to all franchises on radio and/or television broadcasting companies whose annual gross receipts of the preceding year does not exceed Ten million pesos (P10,000,000), subject to Section 236 of this Code, a tax of three percent (3%) and on electric, gas and water

utilities, a tax of two percent (2%) on the gross receipts derived from the business covered by the law granting the franchise. . . “ (emphasis supplied)

Undeniably, petitioner is aware that a congressional franchise is necessary to operate its television station Channel 25 as shown by its actuations. Shortly before the December 31, 1994 deadline set in the MOU, petitioner filed an application for a franchise with Congress. It was not, however, acted upon in the 9th Congress for petitioner's failure to submit the necessary supporting documents; petitioner failed to re-file the application in the following Congress. Petitioner also filed an application for a franchise with Congress on September 2, 1998, before the November 30, 1998 deadline under Memorandum Circular No. 14-10-98.[37]

We now come to the fourth assigned error. Petitioner avers that the Court of Appeals erred in upholding the recall of frequency Channel 25 previously assigned to it and the cancellation of its permit to operate which was already approved in January 1998. It claims that these acts of the NTC were unreasonable, unfair, oppressive, whimsical and confiscatory considering that the NTC previously issued petitioner a temporary permit without requiring a congressional franchise.

On February 26, 1998, the NTC issued a show cause order to petitioner with the following decretal portion:

“IN VIEW THEREOF, respondents are hereby directed to show cause in writing within ten (10) days from receipt of this order why their assigned frequency, more specifically Channel 25 in the UHF Band, should not be recalled for lack of the necessary Congressional Franchise as required by Section 1, Act No. 3846, as amended.

Moreover, respondent is hereby directed to cease and desist from operating DWQH-TV, unless subsequently authorized by the Commission.”[38]

The order was supposedly based on a letter of the NTC dated November 17, 1997 informing petitioner that its application for renewal of temporary permits of its seven radio stations were being held in abeyance pending submission of its new congressional franchise. Petitioner was directed to submit the franchise within thirty days from expiration of its temporary permits to be renewed and informed that its failure to do so might constitute denial of its application.

Petitioner is correct that the November 17, 1997 letter referred only to its radio stations and not to its television Channel 25. Thus, it could not serve as basis for the February 26, 1998 show cause order which referred solely to its television Channel 25. Besides, petitioner claims that it did not receive the letter. Be that as it may, the NTC's February 26, 1998 order for petitioner to cease and desist from operating Channel 25 was not unreasonable, unfair, oppressive, whimsical and confiscatory. The 1994 MOU states in unmistakable terms that petitioner's temporary permit to operate Channel 25 would be valid for only two years, i.e., from June 29, 1995 to June 28, 1997. During these two years, petitioner was supposed to have secured a congressional franchise, otherwise “the NTC shall not extend or renew its permit or authorization to operate any further.”[39] Apparently, petitioner did not submit a congressional franchise to the NTC in applying for renewal of this temporary permit on May 14, 1997. The NTC's approval of petitioner's application to renew its temporary permit in January 1998 was thus erroneous because under the 1994 MOU, the NTC could not renew petitioner's temporary permit to operate Channel 25 without a congressional franchise. In the absence of a renewed temporary permit, the NTC was correct in ordering petitioner to cease and desist from operating Channel 25, regardless of whether or not petitioner received the November 17, 1997 letter. The NTC's erroneous approval of petitioner's application in January 1998 did not estop the NTC from ordering petitioner on February 26, 1998 to cease and desist from operating Channel 25 for failure to comply with the franchise requirement as estoppel does not work against the government.[40]

Likewise, the NTC's denial of petitioner's application for renewal of its temporary permit to operate Channel 25 and recall of its Channel 25 frequency in its January 13, 1999 decision were not unreasonable, unfair, oppressive, whimsical and confiscatory so as to offend petitioner's right to due process. In *Crusaders Broadcasting System, Inc. v. National Telecommunications Commission*,^[41] the Court ruled that although a particular ground for suspending operations of the broadcasting company was not reflected in the show cause order, the NTC could nevertheless raise said ground if any basis therefore was gleaned during the administrative proceedings. In the instant case, the lack of congressional franchise as ground for denial of petitioner's application for renewal of temporary permit and recall of its Channel 25 frequency was raised not only during the administrative proceedings against it, but was even stated in the February 26, 1998 show cause order, viz:

"IN VIEW THEREOF, respondents are hereby directed to show cause in writing within ten (10) days from receipt of this order why their assigned frequency, more specifically Channel 25 in the UHF Band, should not be recalled for lack of the necessary Congressional Franchise as required by Section 1, Act No. 3846, as amended.

Moreover, respondent is hereby directed to cease and desist from operating DWQH-TV, unless subsequently authorized by the Commission." ^[42] (emphasis supplied)

In *Eastern Broadcasting Corporation v. Dans, Jr., et al.*,^[43] we held that the requirements of due process in administrative proceedings laid down by this Court in *Ang Tibay v. Court of Industrial Relations*^[44] should be satisfied before a broadcast station may be closed or its operations curtailed. We enumerated these requirements, viz:

"... (1) the right to a hearing which includes the right to present one's case and submit evidence in support thereof; (2) the tribunal must consider the evidence presented; (3) the decision must have something to support itself; (4) the evidence must be substantial. Substantial evidence means such reasonable evidence as a reasonable mind might accept as adequate to support a conclusion; (5) the decision must be based on the evidence presented at the hearing, or at least contained in the record and disclosed to the parties affected; (6) the tribunal or body or any of its judges must act on its own independent consideration of the law and facts of the controversy and not simply accept the views of a subordinate; (7) the board or body should, in all controversial questions, render its decisions in such a manner that the parties to the proceeding can know the various issues involved, and the reasons for the decision rendered."^[45]

Petitioner had the opportunity to present its case and submit evidence on why its assigned frequency Channel 25 should not be recalled and its application for renewal denied. Petitioner filed its Answer to the show cause order on March 17, 1998.^[46] A hearing was held on April 22, 1998 wherein petitioner presented its evidence in compliance with the show cause order. Based on the NTC's findings that petitioner failed to comply with the requirement of a congressional franchise, the NTC denied its application for renewal of its temporary permit to operate Channel 25 and recalled its assigned Channel 25 frequency. The requirements of due process in *Ang Tibay* were satisfied, thus petitioner cannot say that the NTC's actions were unreasonable, unfair, oppressive, whimsical and confiscatory.

Finally, petitioner contends that the Court of Appeals erred in not holding that Administrative Case No. 98-009, the administrative proceeding against it for failure to secure a congressional franchise to operate its television Channel 25, has been rendered moot and academic by the adoption and promulgation of NTC Memorandum Circular No. 14-10-98 dated August 17, 1998 which took effect on November 15, 1998. The Memorandum Circular states, viz:

"In compliance with the MOU and in order to clear the ambiguity surrounding the operation of broadcast operators who were not able to have their legislative franchise approved during the last Congress, the

following guidelines are hereby issued:

- Existing broadcast operators who were not able to secure a legislative franchise up to this date (August 17, 1998) are given up to December 31, 1999 within which to have their application for a legislative franchise bill approved by Congress. The franchise bill must be filed immediately but not later than November 30th of this year . . .”

Petitioner avers that the NTC erroneously held that this Memorandum Circular is not applicable to it because the words of the circular are clear that it covers “existing broadcasting operators” including petitioner. In compliance with the Memorandum Circular, petitioner filed House Bill No. 32 on September 2, 1998, well within the November 30, 1998 deadline. Thus, petitioner argues that the NTC erred in denying its application for renewal of permit to operate Channel 25 and recalling its assigned Channel 25 frequency on January 13, 1999, long before the Memorandum Circular’s December 31, 1999 deadline to secure a congressional franchise. Petitioner posits that the NTC’s premature and arbitrary promulgation of its January 13, 1999 decision “slammed the door for the petitioner to secure its legislative franchise. The pending application for legislative franchise of petitioner was effectively struck out by said NTC decision.”[47]

Whether or not the benefits of the Memorandum Circular extend to petitioner, the fact is, as correctly pointed out by the appellate court, petitioner failed to secure a legislative franchise by December 31, 1999. Consequently, the NTC’s recall of petitioner’s assigned frequency Channel 25 and denial of its application for renewal of its permit to operate the said television channel were proper as the Memorandum Circular provides, viz:

“1.

Existing broadcast operators who are not able to secure a legislative franchise up to this date (August 17, 1998) are given up to December 31, 1999 within which to have their application for a legislative franchise approved by Congress. The franchise bill must be filed immediately but not later than November 30th of this year . . .

x x x x x x x x

3.

In the event the permittee will not be able to have its franchise bill approved within the prescribed period, the NTC will no longer renew/extend its temporary permit and the Commission shall initiate the recall of its assigned frequency provided that due process of law is observed.

4.

Henceforth, no application/petition for Certificate of Public Convenience (CPC) to establish, maintain and operate a broadcast station in the broadcast service shall be accepted for filing without showing that the applicant has an approved legislative franchise.”(emphasis supplied)

Petitioner’s argument is flawed when it states that the January 13, 1999 decision of the NTC “slammed the door” on its application for a congressional franchise as the process of securing a congressional franchise is separate and distinct from the process of applying for renewal of a temporary permit with the NTC. The latter is not a prerequisite to the former. In fact, in the normal course of securing authorizations to operate a television and radio

station, the application for a CPC with the NTC comes after securing a franchise from Congress.[48] The CPC is not a condition for the grant of a congressional franchise.[49]

The Court is not unmindful that there is a trend towards delegating the legislative power to authorize the operation of certain public utilities to administrative agencies and dispensing with the requirement of a congressional franchise as in the Albano case which involved the provision of cargo handling and port related services at the Manila International Port Complex and the PAL case involving the operation of domestic air transport. The rationale for this trend was explained in the PAL case, viz:

“ . . . With the growing complexity of modern life, the multiplication of the subjects of governmental regulation, and the increased difficulty of administering the laws, there is a constantly growing tendency towards the delegation of greater powers by the legislature, and towards the approval of the practice by the courts. (Pangasinan Transportation Co., Inc. vs. The Public Service Commission, G.R. No. 47065, June 26, 1940, 70 Phil 221.) It is generally recognized that a franchise may be derived indirectly from the state through a duly designated agency, and to this extent, the power to grant franchises has frequently been delegated, even to agencies other than those of a legislative nature. (Dyer vs. Tuskaloosa Bridge Co., 2 Port. 296, 27 Am. D. 655; Christian-Todd Tel. Co. vs. Commonwealth, 161 S.W. 543, 156 Ky. 557, 37 C.J.S. 158) In pursuance of this, it has been held that privileges conferred by grant by local authorities as agents for the state constitute as much a legislative franchise as though the grant had been made by an act of the Legislature. (Superior Water, Light and Power Co. vs. City of Superior, 181 N.W. 113, 174 Wis. 257, affirmed 183 N.W. 254, 37 C.J.S. 158.)

The trend of modern legislation is to vest the Public Service Commissioner with the power to regulate and control the operation of public services under reasonable rules and regulations, and as a general rule, courts will not interfere with the exercise of that discretion when it is just and reasonable and founded upon a legal right.”[50]

The criticism against the requirement of a congressional franchise is incisively expressed by a public utilities lawyer, viz:

“As will be noted, a legislative franchise is required to install and operate a radio station before an applicant can apply for a Certificate of Public Convenience to operate a radio station based in any part of the country. Under Act No. 3846 of 1929, Sec. 1, it was provided that no one may install and operate a radio station ‘without having first obtained a franchise therefore from the Congress of the Philippines.’ Since then, this has been strictly followed. And this holds true with respect to application for electric, telephone and many other telecommunications services. Before, even mere application for authority to operate an ice plant must have prior congressional franchise. But this was not strictly followed until ice plant operations were eventually deregulated. Right now, the both houses of the legislature are saddled with House Bill Nos. etc. for the grant of legislative franchise to operate this and that public utility services in various places in the Philippines. We hear during sessions in both houses the time wasted on reports and considerations of these house bills for grant of franchises. The legislature is empowered and has created respective regulatory bodies with requisite expertise to handle franchising and regulation of such types of public utility services, why not just entrust all these functions to them?

What exactly is the reason or rationale for imposing a prior congressional franchise? There seems to be no valid reason for it except to impose added burden and expenses on the part of the applicant. The justification appears to be simply because this was required in the past so it is now. We are reminded of the forceful denunciation of Justice Holmes of a stubborn adherence to an anachronistic rule of law:

‘It is revolting to have no better reason for a rule of law that so it was laid down in the time of Henry IV. It is still more revolting if the grounds upon which it was laid down have vanished long since, and the rule simply persists from blind imitation of the past. (The Path of the Law, Collected Legal Papers [1920] 210, 212 quoted from The Justice Holmes Reader, Julius N. Marke, 1955 ed., p. 278.)’”[51]

The call to dispense with the requisite legislative franchise must, however, be addressed to Congress as the lawmaker of the land for the Court's function is to interpret and not to rewrite the law. As long as the law remains unchanged, the requirement of a franchise to operate a television station must be upheld.

WHEREFORE, the petition is DENIED and the Court of Appeals' January 13, 2000 decision and February 21, 2000 resolution are AFFIRMED. No costs.

SO ORDERED.

Panganiban, Sandoval-Gutierrez, Corona, and Carpio-Morales, JJ., concur.

[1] Memorandum of Understanding among the National Telecommunications Commission, Committee on Legislative Franchises of Congress and the Kapisanan ng mga Brodkaster sa Pilipinas dated May 3, 1994; Rollo, p. 136.

[2] Original Records, Folder 1, p. 13-B.

[3] Id., p. 13-A.

[4] Dated July 23, 1979.

[5] Rollo, pp. 112-114.

[6] Rollo, pp. 135-136.

[7] Original Records, Folder 1, p. 14; Exhibit 3.

[8] Id., pp. 134-139.

[9] Id., p. 140; Exhibit 8.

[10] Id., p. 15.

[11] Id., p. 3.

[12] Id., p. 4.

[13] Id., p. 16; Exhibit 5.

[14] Id., p. 17; Exhibit 6.

[15] Id., pp. 1-2.

[16] Id., pp. 9-13.

[17] Id., pp. 66-67; TSN, April 27, 1998, pp. 35-36.

[18] Id., p. 106; Exhibit 2.

[19] Id., p. 118; Exhibit 3.

[20] Rollo, p. 92.

[21] Id., pp. 18-19.

[22] 241 SCRA 539 (1995).

[23] Court of Appeals Rollo, pp. 118-119; Court of Appeals Decision, pp. 6-7.

[24] Rodriguez, R. Statutory Construction (1999), p. 163, citing 82 C.J.S. Statutes § 343.

[25] Republic of the Philippines v. Express Telecommunications Co., Inc., et al., G.R. No. 147046 and Bayan Telecommunications, Inc. v. Express Telecommunications Co., Inc., G.R. No. 147210, January 15, 2002.

[26] Rollo, p. 39.

[27] 150 SCRA 450 (1987).

[28] Radio Communication of the Philippines, Inc. v. National Telecommunications Commission, supra, p. 457.

[29] Rodriguez, R. supra, p. 250.

[30] 332 SCRA 819 (2000).**[31] 150 SCRA 450 (1987).**

[32] Philippine National Construction Corporation v. Pabion, et al., 320 SCRA 188 (1999); see also Civil Liberties Union v. The Executive Secretary, 194 SCRA 317 (1991).

[33] 175 SCRA 264 (1989).

[34] Id., pp. 271-272.

[35] 270 SCRA 538 (1997).

[36] Philippine Airlines, Inc. v. Civil Aeronautics Board, et al., supra, p. 551.

[37] Rollo, p. 16.

[38] Rollo, p. 49.

[39] MOU dated May 3, 1994.

[40] Manila Lodge No. 761, Benevolent and Protective Order of the Elks, Inc. v. The Honorable Court of Appeals, et al., 73 SCRA 162 (1976).

[41] 332 SCRA 819 (2000).

[42] Rollo, p. 49.

[43] 137 SCRA 628 (1985).

[44] 69 Phil. 635 (1940).

[45] Eastern Broadcasting Corporation v. Dans, Jr., et al., supra, p. 634.

[46] Rollo, pp. 50-54.

[47] Rollo, p. 27; Petition, p. 17.

[48] Subong, R. supra, pp. 846-847; see also Subong, R., CPC and CPCN: Now a Distinction Without a

Difference?, 270 SCRA 557 (1997), pp. 567-577.

[49] Payumo, P.R. Philippine and International Radio Laws and Regulations (1990), pp. 26-28.

[50] Philippine Airlines, Inc. v. Civil Aeronautics Board, et al., supra, pp. 550-551.

[51] Subong, R.E. The Radio and the Temporary Permit to Operate, supra, pp. 859-860.

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