



Republic of the Philippines
House of Representatives
Quezon City

Carlos Isagani T. Zarate
Representative, Bayan Muna Party-list
Deputy Minority Leader

20 July 2020

REP. FRANZ E. ALVAREZ
Chair
House Committee on Legislative Franchises

Through: **Ms. Portia P. Silang**
Committee Secretary

Dear Chair Alvarez:

Greetings!

This has reference to the Committee's letter dated 10 July 2020 but emailed to us on 14 July 2020, informing the undersigned, as co-authors of **House Bill No. 6052**, entitled "AN ACT RENEWING THE FRANCHISE GRANTED TO ABS-CBN CORPORATION (FORMERLY ABS-CBN BROADCASTING CORPORATION) UNDER REPUBLIC ACT NO. 7966 OR "AN ACT GRANTING THE ABS-CBN BROADCASTING CORPORATION A FRANCHISE TO CONSTRUCT, INSTALL, ESTABLISH, OPERATE AND MAINTAIN TELEVISION AND RADIO BROADCASTING STATIONS IN THE PHILIPPINES, AND FOR OTHER PURPOSES" FOR TWENTY-FIVE (25) YEARS FROM THE EFFECTIVITY OF THIS ACT" and **House Resolution No. 639** entitled, "RESOLUTION URGING THE COMMITTEE ON LEGISLATIVE FRANCHISES TO REPORT OUT WITHOUT FURTHER DELAY FOR PLENARY ACTION A CONSOLIDATED VERSION OF EIGHT (8) PENDING BILLS PROPOSING FOR THE RENEWAL FOR ANOTHER TWENTY-FIVE (25) YEARS OF THE LEGISLATIVE FRANCHISE OF ABS-CBN CORPORATION", that majority of the members of the Committee voted for the denial of the application for franchise of ABS-CBN Corporation.

The same letter also confirmed that the Committee adopted and approved the Committee Resolution, as per recommendation of the Technical Working Group (TWG), to deny the franchise application of ABS-CBN, the reasons of which are contained in the adopted TWG Report.



In this regard, may we, therefore, respectfully move and pray for the Committee on Legislative Franchise to submit the said Committee TWG Report and the adopted Committee Resolution to the plenary for ratification of its decision.

We submit that the decision of the majority of the members of the Committee on Legislative Franchise to deny ABS-CBN a new franchise, despite the absence of compelling reasons as affirmed by the invited resource persons coming from the different regulatory and other agencies during the course of the historical and unprecedented 12 marathon hearings, requires the approval of the entire House of Representatives.

Undeniably, majority of the 305 members of the House of Representatives are being deprived of the opportunity to deliberate and even vote on the said issue, in representation of their constituents who were badly affected by the Committee decision.

Section 44 of the House Rules states that "(T)he Committee to which the bill or joint resolution is referred shall be principally responsible for submitting an report to the House." The Plenary, thus, has all the right to ask its Committees to report on their actions on the measures referred to them.

While under Sec. 49, a bill that is unfavorably acted "shall be laid on the table,"¹ nowhere in the Rules does it say that a bill is "killed" if it is laid on the table. The word "kill" is not found in the Rules. In fact, according to the Roberts Rules of Procedure "laid on the table" is not the end of the process but rather a temporary suspension of consideration

"Lay on the table: Lays a pending question aside temporarily when something more urgent has arisen. Under Robert's Rules, the subsidiary motion to lay on the table refers to temporarily setting aside a pending motion (or a series of pending motions) to take care of something else xxx"

While some members of the Committee may interpret the laying on the table as "killing" a bill or a resolution and therefore nothing needs to be done, the Rules do not provide so. In fact, those who voted to approve the Committee Report in the form of a Technical Working Group report cannot cite a Rule that prohibits the Plenary from taking cognizance of the Committee decision.

The Committee on Legislative Franchises may no longer tackle the franchise bills because they have been laid on the table precisely because it is now up to the Plenary to decide on the issue.

In fact, we have to point out, that even in instances that the entire House of Representatives constitutes itself as a "Committee of the Whole", Section 141 of the House Rules provide that when the entire Plenary as a Committee of the Whole "*has disposed of bills, resolutions and other measures before it*" the Chairperson of the Committee of the Whole shall "be instructed to report the action of the committee to the House". Matters reported "shall then be presented before the House for action as though reported by any other committee".

¹. **Table** (parliamentary procedure) ... In the United States, to "**table**" usually means to postpone or suspend consideration of a pending **motion**. In the rest of the English-speaking world, to "**table**" means to begin consideration (or reconsideration) of a proposal. **he motion** must specify that the **motion** will be considered at a meeting when a majority of the members are present and when the members choose to remove it from the table. "I move to **table** the **motion** until a future meeting" To remove from the **table** requires another **motion**.

Thus, if the Committee of the Whole composed of the entire House is required to report to the Plenary of the House, the more reason that a smaller committee like the Franchise Committee must report “bills resolutions and other measures” it has disposed—whether approved or disapproved.

Additionally, the Committee Report in the form of the TWG Report approved by majority of the Committee contains recommendations that needs the approval of the entire House in Plenary. The Committee recommended that:

1. The House of Representatives, through its relevant committees, xxx vigorously exercise its general Congressional oversight functions in order to timely and immediately address violations or perceived violations of legislative franchises, xxx ;
2. For the relevant Committees of the House, xxx to inquire, in aid of legislation and policy determination, on the practice of issuing Philippine Depositary Receipts for industries required to be wholly owned and managed by Filipinos
3. For the relevant Committees of the House, xxx to inquire, in aid of legislation and policy determination, on the various digital platform offerings of broadcast entities xxx ;
4. For the relevant Committees of the House, xxx to inquire, in aid of legislation and policy determination, to inquire (*sic*) on the current system of giving tax and fiscal incentives to prevent abusive tax avoidance measures xxx ; and
5. For the relevant Committees of the House, xxx to inquire, in aid of legislation and policy determination, on how exactly ABS-CBN was able to recover its properties from the government without recourse to the mandated procedures and in light of recent questions relating to its property in Mother Ignacia, Quezon City

Surely, the entire House cannot be ordered by a mere Committee to investigate, for instance, “in aid of legislation Philippine Depositary Receipts”, or give “tax and fiscal incentives to prevent tax avoidance measures”.

For sure, the Franchise Committee has no power, too, to order “relevant Committees of the House” to investigate “various digital platform offerings of broadcast entities” as they are co-equal in powers.

We, thus submit, that the TWG report and the Committee Resolution, which now stands as the Committee Report, requires the approval of the House before it can be implemented.

The reason why the process needs to be continued is not only because the Committee recommended that a continuing investigation be pursued on “how ABS CBN managed to recover its properties”, but also the whole Committee Report is full of doubts that needs the conclusive resolution of the Plenary.

Verily, if one reads the TWG report, it is full of uncertainties and doubts that it is a wonder how a conclusion was reached when the whole Report was littered with terms like “it appears”, “it seems”, and a plethora of insecure statements such as:

- 1) “There is a **cloud of doubt** on Mr. Lopez citizenship” No congress member will allow a business enterprise to be closed just because there is a “cloud of doubt” as to its legality. Worse, this is unwittingly a fatal admission of the Committee that it has no proof that Mr. Lopez is not a Filipino citizen.

- 2) "The PDRs appear to have been utilized to allow foreign ownership". No congress member will allow that a business enterprise is closed because it "appears" to have been utilized for corruption.
- 3) "ABS CBNs PDRs appear to have allowed foreigners a measure of control which could have violated the 1987 Constitution."
- 4) "It appears that the prescribed process for the return of assets was not followed."
- 5) "It is curious why the arbitration proceedings between the Cory Aquino administration and ABS CBN immediately presupposed ABS CBN ownership over its properties purportedly sequestered during martial law". Curiosity is not a basis for the approval or disapproval of a bill.
- 6) "ABS CBN TV Plus is akin to Cable TV".
- 7) "There is reason to believe that ABS CBN controls AMCARA". A reason to believe is not evidence of a crime otherwise public officials can be arrested because there is "reason to believe" they were corrupt.
- 8) "ABS-CBN labor practices are less than exemplary". Many congress members will not allow their businesses to be closed just because their "labor practices are less than exemplary" because there is no law that requires it. Otherwise, many companies, including media outfits, will not be given franchise or permits.
- 9) BIR Clearance does not mean absence of fraud. Yes, but it does not mean also that fraud was committed.

Even if the TWG report is the most unsure and insecure document ever approved by a Committee, the fact is it was approved by many Committee members. The next step, therefore, is to resolve this insecurities and doubts through a Plenary debate and approval.

Yet, the more important reason for the need for Plenary approval of the Franchise Committee decision, however, is the fact that Congress should represent the people and no committee can disenfranchise members of Congress of their function as such.

The House of Representatives and every Member thereof are accountable to the people at all times. Under Section 7 of the House Rules, each member of Congress has the duty to *"articulate faithfully the demands and interests of their constituencies as well as those of other sectors that are affected by proposed legislative measures or by conditions, issues and concerns requiring legislative action"*.

Many are expressing their opposition to the Committee decision. If the SWS survey is to be followed, a total of 76% of the people wants to grant ABS CBN its franchise. Some committee members may question the public antagonism to the Committee decision, and it is best therefore, that such issue be resolved in the Plenary where members of the House can decide, whether they want to heed the voice of the people or not.

Again, we reiterate that It is the duty, and in fact the right, of every member of the House to voice the opinion of their constituents through a plenary vote.

Trusting for your usual prompt consideration and action on this matter. We remain....

Very Respectfully Yours,



REP. CARLÒS ISAGANI T. ZARATE
Bayan Muna Partylist



REP. FERDINAND R. GAITE
Bayan Muna Partylist



REP. EUFEMIA C. CULLAMAT
Bayan Muna Partylist



REP. FRANCE L. CASTRO
ACT Teachers Partylist



REP. ARLENE D. BROSAS
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REP. SARAH JANE I. ELAGO
Kabataan Partylist