


**NINETEENTH CONGRESS OF THE]
REPUBLIC OF THE PHILIPPINES]
First Regular Session]**

'22 JUL 12 P12 :01

**SENATE
S.B. No. 386**

RECEIVED BY: 

Introduced by SEN. WIN GATCHALIAN

**AN ACT
REQUIRING ALL PUBLIC TELECOMMUNICATIONS ENTITIES AND
INTERNET SERVICE PROVIDERS TO INCREASE SERVICE COVERAGE AND
DELIVER A MINIMUM STANDARD FOR INTERNET CONNECTION SPEED**

EXPLANATORY NOTE

In the recent Ookla Speedtest Global Index Report, the fixed broadband speed of the Philippines improved to 50.26 Mbps in December 2021, signifying an 8.22% month-to-month and a 9-notch improvement in the global ranking for fixed broadband.¹ This represents an improvement of 535.40% since the previous administration began in 2016. But there is still much work to be done. While internet speed is important, internet quality and coverage should also be prioritized.

For a long time, weak digital infrastructure in the country has been hampering the effective use of digital technologies in delivering public services to everyone. Not all Filipinos or Filipino businesses are fortunate to have access to digital technologies or possess the digital skills to reap the benefits of digitalization. Digital infrastructure is limited in remote and rural areas, and where they are available, the internet services are relatively expensive and of poor quality. This has led to a digital divide between those with and without access to reliable internet, which contributes to unequal access to services that are delivered via the internet.

¹ <https://technology.inquirer.net/114321/phs-fixed-broadband-mobile-data-speed-accelerates-in-december-2021-ookla>

The current state of Internet in the country calls for urgent and substantial improvements for the digital economy to play a key role in the economic recovery. The broadband (high-speed) internet penetration level of the Philippines is “below the expected level of countries with comparable per capita income”. For instance, 70 percent of Filipinos are active mobile broadband subscribers, compared to the ASEAN regional average of 88 percent; 4G/LTE mobile broadband network coverage is at 72 percent of the population versus the regional average of 82 percent; 4 percent of Filipinos are subscribed to fixed broadband, compared to the regional average of 10 percent.² Moreover, Opensignal found that in January 2022 many Filipinos still experience poor data services, even with 4G and 5G,³ and experience slower speeds than advertised.⁴ Poor performance on other important measures of Internet service quality, such as upload speeds, latency, jitter, and packet loss, which affect transmission of data also contribute to poor adoption of digital applications such as digital banking, telehealth, and ecommerce.⁵

To ensure that the internet services that consumers receive is within an acceptable range of the advertised speeds, service reliability, and other measures of internet quality, it is essential that we institutionalize a mechanism for a comprehensive and regular measure of internet quality of service in the Philippines.

Thus, this bill sets minimum standards for broadband quality of service to discourage the common practice of telecommunication companies and internet service providers from advertising internet speeds, service reliability and other measures that mislead the consumer. It enforces compliance to performance standards and penalize service providers who consistently fail to deliver the acceptable level of broadband quality of service. Ultimately, it seeks to promote the rights and welfare of broadband end-users.

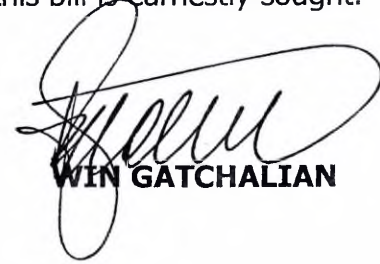
² Philippines: Digital Economy Report 2020 by World Bank

³ Fenwick, S. (2022, April 5). Understanding mobile experience explains why users in the Philippines switch mobile operators. Opensignal. <https://www.opensignal.com/2022/04/05/understanding-mobile-experience-explains-why-users-in-the-philippines-switch-mobile-operators>

⁴ Camus, M. (2021, September 9) Dito defends Internet speed results after other tests show slowdown. <https://business.inquirer.net/330380/dito-defends-Internet-speed-results-after-other-tests-show-slowdown>

⁵ Better Internet PH. (2021, September 15). Why Download Speed is Not Everything. <https://medium.com/@betterInternetph/why-download-speed-is-not-everything-e2e4f8f36665>

In view of the foregoing, immediate passage of this bill is earnestly sought.

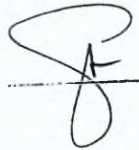


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*Be it enacted by the Senate and the House of Representatives of the Philippines in
Congress assembled:*

1 SECTION 1. *Short Title.* — This Act shall be known as the "Better Internet Act".

2

3 SEC. 2. *Declaration of Policy.* — The State recognizes the importance of
4 technological advancements in nation building, economic development, and promoting
5 people's well-being and as such, it endeavors to ensure the provision of strategic,
6 reliable, cost-efficient, and citizen-centric information and communication technology
7 (ICT) infrastructure, systems, and resources to guarantee that the population has
8 access to quality, reliable, and affordable ICT services.

9 In line with this, the State shall ensure that all Public Telecommunications
10 Entities (PTEs) and Internet Service Providers (ISPs) will continuously upgrade their
11 facilities and improve their services to be responsive to the growing demand for quality
12 Internet access services.

1 SEC. 3. *Definition of Terms.* — As used in this Act, the following terms are
2 defined as follows:

3 a) *Bandwidth* shall refer to the data transfer rate or the amount of data that
4 can be carried from one point to another in a given time period expressed in bits per
5 second or multiples of it;

6 b) *Broadband* shall refer to high-speed Internet service that is always on and
7 faster than traditional dial-up access transmitted through various wired or wireless
8 data transmission technologies such as, but not limited to, digital subscriber line (DSL),
9 cable modem, fiber optic cable, fixed wireless, satellite, cellular mobile, TV white
10 space, and other evolving and emerging technologies as may be developed in the
11 future;

12 c) *Cellular towers* shall refer to passive telecommunication tower infrastructure,
13 including, but not limited to, three-legged or four-legged structure, poles, mast, or
14 similar infrastructure used to support mobile cellular network facilities;

15 d) *Compliance period* shall refer to the first two (2) years from the effectivity
16 of this Act within which all ISPs and PTEs are required to comply with the minimum
17 broadband download speeds set forth in this Act;

18 e) *Greenfield Service Area* refers to a barangay where an ISP is completely
19 absent or that has internet connection but does not reach an average minimum
20 broadband speed of two (2) megabits per second (MBPS) or as prescribed by the
21 DICT, whichever is higher;

22 f) *Internet Service Providers or ISPs* shall refer to an entity, with or without a
23 Congressional franchise, registered as a value-added service (VAS) provider from the
24 National Telecommunications Commission (NTC) and authorized to build, install,
25 operate, and maintain an internet network in order to offer Internet access services
26 to the public for compensation;

27 g) *Jitter* shall refer to the variation of end-to-end delay from one packet to the
28 next within the same packet stream, connection, or flow;

29 h) *Latency* shall refer to the time it takes for a packet of data to get from a
30 source to destination;

1 i) *Packet* shall refer to the unit of data that is routed between an origin or
2 source and a destination on the Internet or any other packet-switched network;

3 j) *Packet Loss* shall refer to the number of packets that does not reach the
4 destination;

5 k) *Service reliability or Uptime* refers to the delivery of a certain percentage of
6 advertised speed to a subscriber over a given time;

7 l) *Public Telecommunications Entity or PTEs* shall refer to any person, firm,
8 partnership or corporation, government or private, engaged in the provision of
9 telecommunications services to the public for compensation;

10 m) *National ICT Household Plan* refers to the plan for the improvement of ICT
11 access and use, including broadband access, by households and individuals developed
12 by the Department of Information Communications Technology (DICT) on the basis
13 of information gathered from the National ICT Household Survey;

14 n) *Threshold Speed* refers to minimum upload and download speeds that an
15 ISP or PTE must provide to their end user as entry-level broadband service;

16 o) *Unserved Area* refers to a specific population or land area of a
17 city/municipality where broadband access service is not available, as identified by the
18 National ICT Household Plan;

19 p) *Underserved Area* refers to a specific population or land area of a
20 city/municipality where broadband access service is covered and available, but below
21 the threshold speed. The underserved areas shall be identified by the National ICT
22 Household Plan while the threshold speed shall be determined by this Act and,
23 subsequently, by the NTC.

24
25 **SEC. 4. *Increase in service coverage.*** — The NTC shall require all ISPs and PTEs
26 to extend and expand the service coverage of wired and wireless broadband service
27 in all unserved and underserved areas in the Philippines within two (2) years from the
28 effectivity of this Act (the "Compliance Period"), according to the schedule and
29 strategy to be set forth by the DICT in the National ICT Household Plan.

1 The DICT shall develop the National ICT Household Plan, identify therein
2 unserved and underserved areas in the Philippines and devise a plan of action to
3 ensure Internet services shall be made available at the household level. The DICT
4 shall make such information and plans public within sixty (60) days from the effectivity
5 of this Act: *Provided, That* subject to regulatory requirements, ISPs shall be allowed
6 to own, establish, and operate wired and wireless networks, utilizing any available
7 technology, in order to meet their obligations under this Act. ISPs shall be allowed
8 access to unlicensed radio spectrum necessary to enable them to utilize wireless
9 technologies to provide Internet service: *Provided, Further, That* ISPs shall not build
10 international carrier, inter-exchange carrier, local exchange carrier, and mobile radio
11 telephone networks reserved for PTEs, as provided for in Republic Act No. 7925,
12 otherwise known as the Public Telecommunications Policy Act of the Philippines.
13

14 SEC. 5. *Delivery of Advertised Speeds.* — Within one (1) year from the
15 effectivity of this Act, the NTC is hereby mandated to require all PTEs and ISPs to only
16 advertise and offer internet service download speeds that they can consistently
17 provide and work towards providing an average internet connection speed above
18 global average. PTEs and ISPs shall deliver at least eighty (80%) percent of advertised
19 broadband speed to their subscribers at eighty (80) percent service reliability or at
20 least eighty (80) percent of the time: *Provided, That* the entry-level broadband
21 connection speed offered by ISPs or PTEs to subscribers shall not be lower than the
22 following:

23 a) Twenty (20) Megabits per second (Mbps) for wired broadband and ten (10)
24 Mbps for wireless broadband in metropolitan cities;

25 b) Ten (10) Mbps for wired broadband and five (5) Mbps for wireless broadband
26 services in all other cities; and

27 c) Five (5) Mbps for wired broadband and two (2) Mbps for wireless broadband
28 services in rural areas.

29 PTEs and ISPs shall have two (2) years from the effectivity of this Act to ensure
30 that they provide, as a minimum, the above threshold speeds to their end users;

1 *Provided*, That PTEs and ISPs that will expand coverage and offer internet services in
2 "Greenfield Service Areas" or previously unserved and underserved areas, as identified
3 by the DICT, shall not be subjected to the minimum download speed for the next five
4 (5) years.

5 The NTC shall conduct a regular review of technological advancements in the
6 field of communications and data transmission to determine the necessity of adjusting
7 the minimum speed standards set in this Act: *Provided*, That internet speed and
8 service reliability of internet connections delivered by service providers shall be
9 measured based on the methodology prescribed by the NTC.

10 After the end of the compliance period, it shall be considered a violation of this
11 Act, subject to the penalties provided in Sec. 15 of this Act, to offer paid Internet
12 service below the threshold speed. For the avoidance of doubt, there shall be no
13 minimum speed required for free Internet service: *Provided, however*, that service
14 provided under the Free Internet Access in Public Places Act or RA 10929 shall meet
15 the minimum speeds prescribed therein or in the relevant rules of the DICT for free
16 Internet service programs.

17
18 **SEC. 6. Measurement and Publication of Broadband Quality of Service (QOS).**

19 — In order to monitor and enforce compliance of PTEs and ISPs, the NTC shall:

20 a) Prescribe, in coordination with DICT, a criteria and methodology for the
21 measurement and publication of broadband quality of service, including parameters
22 such as download speed, upload speed, latency, packet loss, jitter, and service
23 availability, with appropriate benchmarks, after public consultation and hearings within
24 six (6) months from the effectivity of this Act;

25 b) Provide the public a mechanism to run broadband diagnostics in a secure
26 and consumer-friendly format;

27 c) Develop a procedure for collecting and analyzing broadband QOS
28 measurements from various platforms and processing test data in a central database,
29 which shall update and release results every 24 hours, at the least;

1 d) Make publicly available on the NTC website and other media the criteria and
2 methodology for the broadband QOS measurement tool and the list of platforms using
3 the NTC-prescribed broadband measurement mechanism;

4 e) Review, after the two-year compliance period, the compliance of PTEs and
5 ISPs with the minimum download speeds, and prescribe and upgrade on an annual
6 basis, the minimum broadband download speed and QOS standards, on internet
7 industry to ensure that performance standards shall, at a minimum, be at par with
8 service levels established in regional data network performance indices and aligned
9 with international best practices. Such QOS standards shall take into account speed,
10 packet loss, jitter, latency, and service availability: *Provided*, That the NTC shall not
11 decrease the minimum speeds set forth in this Act: *Provided*, Further, That new
12 performance standards shall be published at least thirty (30) days before they take
13 effect.

14 f) Diligently monitor and conduct monthly network audits and/or QOS tests in
15 order to ensure compliance of the PTEs and ISPs with threshold speeds, advertised
16 speeds, and coverage obligations, and publish network audit report on a monthly
17 basis; and,

18 g) Publish the results of all the NTC's network audits, broadband QOS tests,
19 and the results of the consumer broadband QOS tests on their official website and
20 social media accounts on a monthly basis, and furnish a copy of the same to the DICT.
21 Such reports should be in a format that can easily be analyzed by third party data
22 scientists.

23
24 *SEC. 7. Responsibilities of the DICT.* — In addition to responsibilities imposed
25 in other sections of this Act, the DICT shall:

26 a) Maintain and make public a National ICT Assets Index (NICTAI), which shall
27 be updated on an annual basis, in order to provide accurate data on broadband
28 coverage and ICT adoption and utilization in the country;

1 b) Conduct the National ICT Household Survey and publish the National ICT
2 Household Plan every three (3) years, and identify unserved and underserved areas
3 for purposes of this Act;

4 c) Regularly review and update ICT policy guidelines, strategies and plans,
5 including, but not limited to, the National Broadband Plan to ensure that the
6 Philippines' Internet service policy framework is at par with global standards and best
7 practices; and

8 d) Ensure the delivery of Internet services at the household level through a
9 schedule and plan of action that includes, but is not limited to, infrastructure sharing
10 and co-location arrangement;

11
12 SEC. 8. *Responsibilities of the NTC.* — In addition to responsibilities imposed in
13 other sections of this Act, the NTC shall:

14 (a) Ensure that PTEs and ISPs meet the minimum standards regarding
15 connection, reception, just pricing, and billing practices to promote and
16 protect the rights of consumers of Internet services;

17 (b) Determine whether the ICT industry has built out the optimal number of
18 towers and other infrastructure necessary to meet the objectives of this law;

19 (c) Promulgate an efficient and expeditious administrative process for the
20 registration of Internet service providers and shall, in coordination with the
21 DICT, develop a set of criteria for qualifying service providers that will
22 encourage the widest possible participation of as many industry players as
23 possible who will build the necessary network infrastructure and offer
24 Internet services to end users in different parts of the country and will take
25 national security into consideration, particularly for facilities that interface
26 directly with another country's domestic network;

27 (d) Publish a spectrum management policy framework that promotes a
28 transparent, efficient, and equitable approach to distributing spectrum,
29 including clear guidelines for: (i) recalling unutilized spectrum, (ii)
30 reassigning spectrum for more efficient use, and (iii) implementing an open

1 frequency approach to expand Internet access in underserved and unserved
2 areas, to be developed together with the DICT and the Philippine
3 Competition Commission;

4 (e) Provide the public with annual reports on the performance of PTEs and ISPs
5 in terms of increasing Internet coverage and meeting the threshold
6 download speeds;

7 (f) Provide policies and standards of network elements to ensure that PTEs and
8 ISPs will maintain the Quality of Service (QOS) of the Internet connection
9 they provide to their respective area of coverage;

10 (g) Provide for an expeditious mechanism to address consumer complaints on
11 slow Internet speed and false advertising of Internet speeds; and,

12 (h) Establish an efficient monitoring system or framework with regard to the
13 PTEs and ISPs' management of consumer complaints and maintain records
14 of subscribers' complaints.

15
16 *SEC. 9. Reports to Congress.* — The DICT and NTC shall submit a quarterly
17 progress report to Congress of all acts performed pursuant to this Act during the first
18 week after the immediately preceding quarter for the next two (2) years from the
19 effectivity of this Act.

20
21 *SEC. 10. Streamlining Permitting Requirement.* — The DICT and other relevant
22 agencies including, but not limited to, the Department of Interior and Local
23 Government (DILG), Department of Public Works and Highways (DPWH), Department
24 of Human Settlements and Urban Development (DHSUD), Anti-Red tape Authority
25 (ARTA), Civil Aviation Authority of the Philippines (CAAP), Department of Health
26 (DOH), and the Food and Drug Administration (FDA) shall ensure the streamlining of
27 the permitting process for the construction, installation, and operation of
28 telecommunications tower and other infrastructure such as, but not limited to, permits
29 for base stations, cables, poles, and other work elements necessary to offer Internet
30 service.

1 The DICT shall set up a one-stop shop that shall coordinate with other
2 regulatory agencies regarding the permitting requirements and applicable regulatory
3 fees for installing common towers, cables, poles, and other network elements in order
4 to facilitate the attainment of the objectives of this Act.

5 To facilitate the expeditious planning of the country's ICT infrastructure, all
6 PTEs and ISPs are required to submit, within fifteen (15) working days upon the
7 request of the DICT or the NTC, a copy of their most updated and complete broadband
8 network map, enabling the government to draw up incentive plans and opportunities
9 in order to boost internet service and compel the creation of the infrastructure
10 essential for overall economic growth.

11
12 *SEC. 11. Rights of End-Users.* – The user of internet services shall have the
13 following basic rights, in addition to other rights under existing laws:

- 14 a) To be entitled to internet services which is not discriminatory, reliable and
15 conforming with minimum standards set by the NTC;
- 16 b) To be rendered internet services within two (2) months from application for
17 service, in areas where the service is advertised to be available;
- 18 c) Timely correction of errors in billing or in prepaid load and the immediate
19 provision of rebates or refunds by the service provider without the need for
20 demand by the user; and
- 21 d) Subject to the filing of a formal request to the service provider, a user may
22 request the immediate termination of service without the imposition of fees
23 or penalties, and with the refund of any fee or charge already paid by the
24 user, should a service provider not consistently comply with the preceding
25 paragraphs (a), (c), (d), or any minimum performance standards set by the
26 NTC.

27
28 *SEC. 12. Local Government Units (LGUs) as Partners in Broadband*
29 *Infrastructure Development.* — The LGU shall serve as a strategic partner who shall
30 ensure that all LGU-related permits and requirement necessary to expand Internet

1 coverage and improve quality of Internet service shall be acted upon immediately. In
2 order to ensure that all municipalities and barangays have access to Internet facilities,
3 an LGU shall be allowed to build and operate its own broadband network in partnership
4 with PTEs and ISPs.

5
6 *SEC. 13. Infrastructure Sharing and Co-location. —*

7 a) The DICT shall promulgate policies, rules, and regulations, in coordination
8 and/or jointly with the concerned national government agencies,
9 government owned and operated corporations, and local government units,
10 to ensure that infrastructure, whether existing or built in the future,
11 necessary or capable of supporting data transmission networks or services
12 are:

- 13 i. mandatory for open access and made available for co-location and
14 co-use by the owner of network facilities, equipment, and
15 infrastructure on an open, fair, and non- discriminatory basis to any
16 access seeker's network facilities;
- 17 ii. as far as possible, deployed together with roadworks, pipe-laying,
18 and other infrastructure development by both government and
19 private entities; and
- 20 iii. propagated in the most cost-efficient and timely manner through
21 various means, including encouraging the operation of independent
22 entities that build and operate towers, dark fiber, and utility corridors,
23 among other infrastructure that help facilitate broadband network
24 deployment.

25 b) The DICT shall, in coordination with the Philippine Competition
26 Commission and other relevant government agencies, promulgate
27 policies, rules, and regulations to ensure that buildings, condominiums,
28 villages, towns, and subdivisions are all built with facilities, such as cable
29 entrances, ducts, and risers, that allow non-discriminatory and non-

- 1 exclusive access to multiple service providers, in order for PTEs and ISPs
2 to provide Internet service;
- 3 c) In case of a dispute arising from an infrastructure-sharing arrangement,
4 the DICT shall:
- 5 i. Coordinate with the regulator of the infrastructure;
 - 6 ii. Mediate between a PTE or ISP and an infrastructure owner, which
7 may include a PTE, an ISP, or a public service network provider;
8 and/or
 - 9 iii. Serve as the primary enforcer of this provision.
- 10 d) The DICT shall encourage the use of existing infrastructure, such as those
11 of cable TV operators, to fast track the layout of networks, to increase
12 coverage, and to address the problem of unserved and underserved
13 areas;
- 14 e) The regulator of the shared infrastructure shall, in consultation with
15 concerned stakeholders, determine and ensure reasonable rental rates for
16 use of shared infrastructure such as, but not limited to, utility poles, utility
17 corridors and ducts; and
- 18 f) For shared infrastructure arrangements, the DICT shall also look into the
19 following considerations:
- 20 i. Technical feasibility of the request of access seeker to use
21 infrastructure;
 - 22 ii. Incentives to encourage investment in less commercially viable
23 areas;
 - 24 iii. Fair and reasonable rates for shared facilities, depending on the
25 location and market size in a particular area.

26 All policies, rules, and regulations under this Section shall be operationalized
27 within one (1) year from the effectivity of this Act.

28

1 SEC. 14. *Penalties.* — The NTC may, motu proprio or upon complaint of any
2 interested party in the appropriate administrative and/or quasi-judicial process, and in
3 accordance with due process, shall:

4 a) Require any PTE or ISP, who shall not meet the requirements set forth
5 under, or shall not comply with the provisions of this Act, to comply with
6 service standards that have not been met, or provisions of this Act that
7 have been violated;

8 b) Impose upon entities who do not comply with Internet service standards
9 as laid down by Sections 4 and 5 of this Act and as prescribed by the NTC:

10 i. The penalty of a fine of not less than two hundred thousand pesos
11 (Php200,000.00) but not more than two million pesos
12 (Php2,000,000.00) for each count of violation: *Provided*, That if a
13 service provider has a gross annual income not exceeding Ten Million
14 Pesos (Php10,000,000.00), the penalty shall be equivalent to one
15 percent (1%) to two percent (2%) of its gross annual income; and

16 ii. For repeated violations, revoke the PTE's Provisional Authority or
17 Certificate of Public Convenience and Necessity, or cancel the
18 registration of an ISP, whichever applies, including the waiving of any
19 pre-termination fees of affected subscribers and timely disbursement
20 of any remaining from excessive downtime.

21 The foregoing is without prejudice to any other remedies available to the NTC
22 under existing laws.

23
24 SEC. 15. *Implementing Rules and Regulations.* — Within sixty (60) days after
25 the effectivity of this Act, the DICT and the NTC shall issue a Joint Memorandum
26 Circular setting forth the rules and regulations to effectively implement the provisions
27 of this Act.

1 SEC. 16. *Separability Clause.* —If any portion or provision of this Act is declared
2 unconstitutional, the remainder of this Act or any provisions not affected thereby shall
3 remain in force and effect.

4
5 SEC. 17. *Repealing Clause.* — Any law, presidential decree or issuance,
6 executive order, letter of instruction, rule or regulation inconsistent with the provisions
7 of this Act is hereby repealed or modified accordingly.

8
9 SEC. 18. *Effectivity.* — This Act shall take effect fifteen (15) days following its
10 complete publication in a newspaper of general circulation.

Approved,