

NINETEENTH CONGRESS OF THE
REPUBLIC OF THE PHILIPPINES
First Regular Session

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Senate
Office of the Secretary

23 MAY -9 A 8 :46

SENATE
S. No. 2146

RECEIVED BY: _____

Introduced by Senator Jinggoy Ejercito Estrada

AN ACT
PROMOTING OPEN ACCESS IN DATA TRANSMISSION AND PROVIDING
ADDITIONAL POWERS TO THE NATIONAL TELECOMMUNICATIONS
COMMISSION

EXPLANATORY NOTE

According to the 2022 Digital Quality of Life Index of Surfshark, a cybersecurity company, the Philippines ranked 98th out of 117 countries surveyed in terms of internet affordability and 45th in terms of internet quality. Meanwhile, Data Reportal's Digital 2023: Global Review Report shows that there were 85.16 million internet users in the Philippines at the start of 2023, with internet penetration at 73.1 percent.

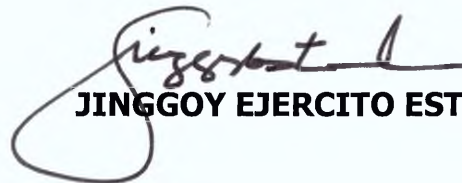
Despite the high internet penetration, Filipinos have to contend with high internet costs with poor quality due to a weak regulatory environment and a market with few players in the telecommunications industry. Meanwhile, those in rural areas have very limited, if no access at all, to the internet.

The bill seeks to establish a policy that will encourage the entry of more data transmission industry players, the development of the digital infrastructure, and the strengthening of the National Telecommunications Commission. It is the objective of this bill to close the digital divide by addressing the digital infrastructure gap through the simplification of market entry process and promotion of infrastructure sharing.

This will ensure the provision of a wider coverage, cheaper, better, and more reliable internet services for Filipinos.

Furthermore, a better broadband access is critical in sustainable economic development and job generation through the creation of conditions for a modern and competitive economy, allowing new job and income opportunities including jobs in the virtual and emerging app economy¹. A 2016 World Bank report on the relationship between Broadband and Economic Growth concluded that a 10-percentage point increase in fixed broadband penetration would increase GDP growth by 1.38% in developing countries.

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



JINGGOY EJERCITO ESTRADA

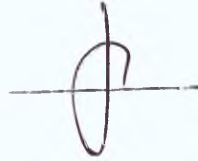
¹ Gelvanovska, N., Rogy, M., Rossotto, C. M. (2014). Broadband Networks in the Middle East and North Africa: Accelerating High-Speed Internet Access. Washington, D.C., USA: The World Bank.

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

CHAPTER I
INTRODUCTORY PROVISIONS

- 1 Section 1. *Short Title.* – This Act shall be known as the “*Open Access in Data*
2 *Transmission Act*”.
- 3 Sec. 2. *Declaration of Policy.* – It is the policy of the State to narrow the digital
4 divide in the country by encouraging the development of data transmission
5 infrastructure and removing any barrier to competition in data transmission services.
6 Moreover, the State shall implement measures to require data transmission service
7 providers to adhere to telecommunications standards suitable to the needs and
8 aspirations of the nation and ensure that internet users enjoy the best quality of data
9 transmission service. The State shall:
- 10 a. Promote the construction and development of reliable, affordable, open,
11 and accessible data networks that transmit information at speed and quality
12 comparable to the best in the world;

- 1 b. Create an entrepreneurial ecosystem where persons who wish to engage in
2 the data transmission industry can compete openly and freely in the spirit
3 of fair competition and permission-less innovation;
- 4 c. Encourage investments in the digital infrastructure development in the
5 country;
- 6 d. Adopt and ensure open access in the regulation of the data transmission
7 industry;
- 8 e. Protect the public interest as it is affected by its ability to access data
9 networks;
- 10 f. Establish a strong and independent regulatory body and system to ensure
11 and enhance fair competition in the data transmission industry;
- 12 g. Protect and promote the internet as an open platform enabling consumer
13 choice, freedom of expression, end user control, competition, and the
14 freedom to innovate without permission, and thereby encouraging the
15 development of advanced telecommunications capabilities and the removal
16 of barriers to infrastructure investment;
- 17 h. Encourage infrastructure sharing and co-location to promote network
18 investment, eliminate the uneconomic duplication of infrastructure facilities,
19 and strengthen competition; and
- 20 i. Ensure efficient and transparent management of the radio frequency
21 spectrum, especially those utilized in the delivery of data transmission
22 services.

23 *Sec. 3. Definition of Terms. – As used in this Act:*

- 24 a. *Basic telephone service* refers to the local exchange telephone service for
25 residences and business establishments provided via the circuit switched
26 telephone network;
- 27 b. *Cellular Mobile Telephone Service (CMTS)* refers to the wide area mobile
28 radio telephone system with its own switch, base stations and transmission
29 facilities capable of providing high-capacity mobile telecommunications by
30 utilizing radio frequencies;
- 31 c. *Content* refers to, among others, texts, images, audios, videos, and
32 animations that are carried over the broadband/internet network;

- 1 d. *Core or Backbone Network* refers to the main line, including international
2 connection, that ties networks, delivers routes to exchange information
3 among various subnetworks, connects regional distribution networks and,
4 in some instances, provides connectivity to other peer networks;
- 5 e. *Data transmission* refers to the process of sending digital or digitized analog
6 signal over a communication medium to one or more computing networks,
7 communication, or electronic devices. It enables the transfer and
8 communication of devices in a point-to-point, point-to-multipoint and
9 multipoint-to-multipoint environments. The term data transmission includes
10 the provision of Voice over Internet Protocol (VoIP) services but does not
11 include the provision of basic telephone services;
- 12 f. *Data transmission industry participant* refers to any person, firm,
13 partnership or corporation, government or private, engaged in the provision
14 of data transmission services to the public. This includes public
15 telecommunications entities (PTEs) that offer data transmission services as
16 defined under Republic Act (RA) No.7925, otherwise known as the "Public
17 Telecommunications Policy Act of the Philippines";
- 18 g. *International gateway or landing* refers to a segment of data transmission
19 that consists of any facility that provides an interface to send and receive
20 data traffic between one country's domestic network facilities and those in
21 another country;
- 22 h. *Last mile* refers to the segment of data transmission network that connects
23 end users;
- 24 i. *Middle mile* refers to the segment of data transmission network that links
25 the last mile network to the core or backbone network;
- 26 j. *Open access* refers to the system of allowing the use of data transmission
27 or distribution systems and associated facilities subject to fair, reasonable,
28 and non-discriminatory terms in a transparent market;
- 29 k. *Paid prioritization* refers to the management of a data transmission network
30 to directly or indirectly favor some traffic over other traffic, through the use
31 of techniques such as traffic shaping, prioritization, resource reservation,
32 zero-rating, or other forms of preferential traffic management, either in

1 exchange for consideration (monetary or otherwise) from a third party, or
2 to benefit an affiliated entity;

3 l. *Voice over Internet Protocol (VoIP) service* refers to the provision of voice
4 communication using Internet Protocol (IP) technology; and

5 m. *Passive infrastructure* collectively refers to telecommunication towers,
6 poles, cable entrances, ducts, utility corridors, and any other non-electronic
7 infrastructure and facilities, either existing or to be deployed in the future,
8 that may be used to support data transmission.

9 **CHAPTER II**

10 **ORGANIZATION AND OPERATION OF THE DATA TRANSMISSION**

11 **INDUSTRY**

12 Sec. 4. *Scope.* – This Act applies to all persons who participate in the data
13 transmission industry. Any person or entity whose business deals substantially with
14 the transmission of data, including VoIP service provider, internet service providers
15 (ISPs), and data center service providers, shall be governed by the provisions of this
16 Act. PTEs that are principally engaged in the provision of basic telephone services,
17 such as an international carrier, interexchange carrier, local exchange operator, and
18 mobile radio services provider, as defined in Republic Act No. 7925, and which also
19 provide data transmission services, shall likewise be subject to the provisions of this
20 Act with respect to the data transmission services they provide and the interconnection
21 to their networks that they extend to data transmission industry participants.

22 Sec. 5. *Registration and Certification.* – All segments of the data transmission
23 network shall be competitive and open. Notwithstanding the provisions of this Act or
24 any other law, the following registration and certification shall apply to data
25 transmission:

26 a. All data transmission industry participants shall be required to register with
27 the National Telecommunications Commission (NTC). The NTC shall
28 promulgate an expeditious administrative process for registration and shall,
29 in coordination with the Department of Information and Communications
30 Technology (DICT), for policy and standard-setting in the Information and
31 Communications Technology (ICT) sector, and Philippine Competition
32 Commission (PCC) for the promotion of market competition, develop a set

1 of criteria for qualifying data transmission industry participants that will
2 encourage the widest possible participation of as many industry players as
3 possible who will offer data transmission services in all segments of the
4 network and to end users in different parts of the country. The qualification
5 requirements for data transmission industry participants shall also take
6 national security concerns into consideration, particularly for facilities that
7 interface directly with another country's domestic network;

- 8 b. Those who will operate an international cable landing station shall secure a
9 legislative franchise. Those who will operate a nationwide backbone
10 network shall secure a permit from the NTC and submit its proposed route
11 or rollout plan, as well as the manner of construction of the backbone
12 network, subject to the approval of the NTC.

13 All other industry participants shall not be required to secure a legislative
14 franchise or a certificate of public convenience and necessity (CPCN) but
15 must meet the criteria set by the NTC and the DICT in registering as industry
16 participants in order to construct, operate, lease or own networks or
17 facilities except if it owns and operates an international cable landing
18 station: *Provided*, That an owner or operator of a cable landing station, not
19 considered a public utility, shall no longer be required to secure a CPCN. All
20 industry participants intending to be spectrum holders shall need to secure
21 a permit from the NTC and shall be allocated such spectrum in accordance
22 with the provisions under Section 7 of this Act;

- 23 c. Data transmission industry participants shall likewise be required to comply
24 with national and global best practices and standards on cybersecurity and
25 shall be subject to a network audit by the Cybersecurity Bureau of the DICT.
26 Data transmission industry participants shall, after three (3) years of
27 operation, be required to secure a cybersecurity certification from a third-
28 party organization based on the prevailing International Organization for
29 Standardization (ISO) standards on information security management; and
30 d. Provisional authorities (PA), certificate of public convenience and necessity
31 (CPCN), or certificates of registration issued by the NTC prior to the
32 effectivity of this Act shall be deemed valid without necessity of revalidation

1 or reissuance until the date of expiration as stated in such certificates or
2 other documents, and until the expiration of such certificates shall be
3 deemed compliant with the qualification requirements for data transmission
4 industry participants under this Section and other regulations issued
5 pursuant hereto.

6 **CHAPTER III**

7 **REGULATION OF THE DATA TRANSMISSION INDUSTRY**

8 *Sec. 6. Open Access Approach to Regulation of the Data Transmission Industry.*

9 – The NTC shall ensure that the data transmission sector remains open and accessible
10 to all qualified participants. Specifically, it shall:

- 11 a. Implement an efficient and expeditious administrative process in the
12 authorization and registration of data transmission sector participants;
- 13 b. Adopt a technology-neutral framework that allows data transmission
14 industry participants to use any available technology to provide service;
- 15 c. Promote fair and open competition in accordance with the principles and
16 policies under the Philippine Competition Act and its implementing rules in
17 all segments of the data transmission network, allowing a wide variety of
18 physical networks and applications to interact in an open architecture;
- 19 d. Mandate transparency in pricing and the publication of pricing information
20 to ensure fair trading within and between each data transmission segment
21 so as to allow clear, comparative information on market prices and services;
- 22 e. Mandate interconnection so that data transmission industry participants can
23 connect to each other at the various segments and interfaces, such that
24 entities of any size may freely enter and exit the market, and dominance by
25 any single player or group of players is avoided;
- 26 f. Promulgate policies that will encourage distributed local solutions rather
27 than centralized ones, encouraging services that are closer to the user;
- 28 g. Publish the list of registered data transmission industry participants at least
29 once a year;
- 30 h. Promulgate, together with the PCC, rules defining and regulating entities
31 with substantial market power;

- 1 i. Publish a Spectrum Management Framework to be developed together with
- 2 DICT and PCC; and
- 3 j. Collect the necessary Supervision and Regulation Fee (SRF) and Spectrum
- 4 User Fee (SUF), and other relevant fees as provided by law.

5 *Sec. 7. Spectrum Allocation, Recall, and Reallocation.* – The NTC shall maximize
6 the allocation and assignment of finite radio spectrum resources used in the
7 transmission of data by ensuring that the spectrum is made available for the use of all
8 registered data transmission industry participants. To this end:

9 a. The procedure for radio spectrum assignment, joint use and recall shall be
10 made transparent to the public. All applications, including letter requests,
11 spectrum assignment, joint use, recall, and reallocation shall be posted in
12 the NTC website and in a conspicuous place in the offices of the NTC for at
13 least three (3) consecutive months. The notice shall specifically indicate the
14 names of the applicants for spectrum assignment, joint use and recall,
15 including where the NTC itself is the proponent of any such action, the
16 affected spectrum, and the applicant's or NTC's reasons for the proposed
17 spectrum assignment, joint use and recall. The NTC shall not assign, recall
18 or allow co-use or joint use of any radio frequency band or bands without
19 conducting at least one (1) public hearing and allowing public comment for
20 a period of fifteen (15) days from the date of the public hearing, prior to
21 approval and/or disapproval of the same. This shall apply to all spectrum,
22 whether used for data transmission or not;

23 b. All radio spectrums, radio frequency assignments, recalls, and joint use
24 decisions of the NTC shall be published on the NTC website and in a
25 conspicuous place in the offices of the NTC for at least three (3) consecutive
26 months. The recall of frequency for purposes of free public use shall be
27 given priority.

28 The immediately preceding paragraphs (a) and (b) herein shall not apply to
29 applications for frequency assignments for fixed point-to-point radio links,
30 Wi-Fi, and satellite networks;

31 c. The NTC shall avoid the concentration of spectrum resources in the hands
32 of a few players and shall not assign or allow joint use of radio spectrum in

1 a manner that establishes, promotes, or perpetuates the dominance of
2 PTEs. Any entity who believes that any one or more of the NTC's decisions
3 for the assignment of radio spectrum, whether past or present, which will
4 promote the dominance of any entity and hinder competition, may file a
5 complaint before the PCC to determine the dominance of a data
6 transmission industry participant and deal with anti-competitive conduct in
7 accordance with its mandate under Republic Act No.10667, otherwise
8 known as the "Philippine Competition Act";

9 d. The NTC shall promptly act on applications of data transmission industry
10 participants for permits to import equipment. Any application for a permit
11 to import equipment that is not acted on by the NTC within seven (7) days
12 shall be deemed approved;

13 e. If the NTC finds, on its own initiative or upon complaint, that any right,
14 license or radio spectrum assignment to any data transmission industry
15 participant or PTE is not being used, or is not being maximized by the user
16 thereof, or that the grantee has violated the provisions of this Act, it may,
17 *motu proprio* or upon petition by any, subject to due process, recall the
18 radio spectrum assignment of the data transmission industry participant or
19 PTE. The NTC shall, where required and appropriate, work with the data
20 transmission industry participant or PTE concerned to take appropriate
21 measures to minimize the impact of such recall on active users of services
22 utilizing the recalled spectrum. The foregoing notwithstanding, no
23 frequency shall be recalled within eighteen (18) months of the awarding of
24 a provisional authority, license or registration; and

25 f. The NTC shall ensure that the allocation, reallocation, assignment,
26 reassignment, reclassification, joint use or co-use, and recall of spectrum
27 does not result in the concentration of spectrum resources which promote,
28 establish, or perpetuate the significant market power of PTEs or of only a
29 limited number of participants. In instances where the resulting assignment
30 of spectrum for mobile and point-to-multipoint networks will give an
31 assignee or entities it controls, jointly or singly, or under common control,
32 either by virtue of that request or in combination with other previous

1 requests by that party or its affiliates, fifteen percent (15%) or above of
2 assignable spectrum in the same band, the party requesting for an
3 assignment of spectrum or a joint use of spectrum shall be required to serve
4 notice to the PCC and secure a no-objection notice from the PCC. The PCC
5 shall issue a no-objection notice within thirty (30) working days upon its
6 receipt of pertinent information necessary for the review and issuance of
7 the notice: *Provided*, That the PCC may once extend such period for an
8 additional fifteen (15) working days upon their notification of the NTC and
9 the concerned party or parties to a spectrum allocation, reallocation,
10 assignment, reassignment, reclassification, joint use or co-use, and recall.

11 **Sec. 8. *Setting Performance Standards.*** – The NTC shall:

- 12 a. Mandate that, within one (1) year from the effectivity of this Act, all last
13 mile providers shall provide a minimum download speed of five (5) megabits
14 per second or as mandated by the National Broadband Plan, whichever is
15 higher, for mobile broadband and for fixed wireless/broadband access;
- 16 b. Prescribe performance standards after public consultation and hearings
17 within six (6) months from the effectivity of this Act;
- 18 c. Regularly upgrade performance standards imposed on the data
19 transmission industry to ensure that performance standards shall, at a
20 minimum, be at par with service levels established in regional data network
21 performance indices and aligned with international best practices. Such
22 standards shall take into account speed, packet loss, jitter, and latency;
- 23 d. Regularly review performance standards at least once a year and publish
24 new performance standards at least thirty (30) days before they take effect.
25 The publication of the results of the performance measurements shall be
26 done in an open data format and made accessible to the general public;
- 27 e. Any person, or the NTC itself, may, *motu proprio*, file a petition to penalize
28 any data transmission industry participant for failure to deliver service
29 according to the NTC’s published performance standard and to require
30 rectification of such noncompliance; and
- 31 f. Measure the performance of the data industry participants quarterly and
32 publish the results of its assessment on its website.

1 *Sec. 9. Arms-length Transactions and Transparency.* – The NTC shall:

2 a. Publish and make available in print and online formats all aspects of
3 spectrum use information, including the National Radio Frequency Allocation
4 Table (NRFAT), indicating therein the purpose or use to which each
5 frequency band is allocated and for frequency bands allocated for public
6 use, the persons and/or entities to whom each frequency is assigned. The
7 NRFAT and updated radio spectrum use information shall be made available
8 on the NTC’s website and to any person who requests the same, upon
9 written request; and

10 b. Promulgate rules requiring all data transmission industry participants to file
11 an annual report and include therein a fair and accurate statement
12 regarding their market prices and their services. The annual report shall
13 include all costs and charges relevant to the data transmission network
14 segment where the participants operate. The rates shall be made available
15 online, in print, and in any other viable venue to the public. Any person can
16 file a complaint pertaining to these rates within thirty (30) days of posting.
17 Each player at each segment shall submit a copy of their rates to the NTC
18 and the PCC. The rates shall be published, including a historical record, in a
19 consolidated manner. The data transmission industry participants shall keep
20 a publicly accessible archive of their rates.

21 *Sec. 10. Fair Competition.* – The PCC and the NTC shall ensure that the
22 principles and policies enshrined under the Philippine Competition Act are strictly
23 adhered to in the data transmission industry. The PCC and the NTC shall ensure that
24 all industry players observe fair, reasonable, and nondiscriminatory treatment in all
25 their dealings, and that barriers to entry are eliminated to make the industry highly
26 competitive. To this end, within thirty (30) days from the effectivity of this Act, the
27 PCC and the NTC shall enter into an agreement to foster and develop interagency
28 cooperation mechanisms, including information-sharing tools, that will guide them in
29 the performance of their respective mandates, and in the promotion of fair competition
30 in the data transmission industry.

31 *Sec. 11. Technological Neutrality.* – The NTC shall ensure that the provisions of
32 this law apply, *mutatis mutandis*, to future technologies in data transmission.

1 Sec. 12. *Infrastructure Sharing and Co-location.* – The DICT and the NTC shall
2 promulgate policies, rules, and regulations to ensure that passive infrastructure,
3 whether existing or built in the future, necessary or capable of supporting data
4 transmission networks or services are:

- 5 a. made mandatory for open access and made available for co-location and
6 co-use by the owner of network facilities, equipment, and infrastructure on
7 an open, fair, and nondiscriminatory basis to any access seeker’s network
8 facilities, in any segment, subject to the technical feasibility of the access
9 seeker’s request and the network facility and infrastructure owner’s
10 standard published offer terms, conditions, and rates: *Provided,* That the
11 provision of access to government-owned and -operated facilities and
12 support infrastructure to access seekers for the purpose of offering data
13 transmission services shall be mandatory, unless special circumstances,
14 such as but not limited to national security concerns, exist;
- 15 b. built not only in the city centers, but most especially in the remote,
16 unserved, and underserved areas in order to extend data transmission
17 services by both the existing and new players throughout the country;
- 18 c. as far as possible, deployed together with roadworks, pipe-laying, and other
19 infrastructure development by both government and private entities; and
- 20 d. proliferated in the most cost-efficient and timely manner through various
21 means, including, encouraging the operation of independent entities that
22 build and operate towers, dark fiber, and utility corridors, among other
23 passive infrastructure that help facilitate data transmission network
24 deployment.

25 The DICT shall coordinate and issue a policy with other relevant government
26 agencies upon consultation with stakeholders to implement this provision. For
27 purposes of data transmission, the NTC shall, in case of a dispute arising from an
28 infrastructure sharing agreement: (1) mediate between a data transmission industry
29 participant and an infrastructure owner, and (2) serve as the primary enforcer of this
30 provision.

31 The DICT and the NTC shall promulgate policies, rules, and regulations to
32 ensure that buildings, condominiums, villages, towns, and subdivisions are all built

1 with facilities, such as cable entrances, ducts, and risers, that allow nondiscriminatory
2 access to multiple data transmission industry players for them to provide service. They
3 shall also promulgate policies, rules, and guidelines that will ensure a level-playing
4 field and price nondiscrimination among data transmission industry participants and
5 network facility and infrastructure owners.

6 The DICT and the NTC, in coordination with relevant government agencies,
7 shall also ensure the disaster resiliency and ease of recovery and restoration of passive
8 infrastructure, such as towers, poles, and utility corridors, from the effects of disasters
9 by strictly enforcing compliance with internationally accepted engineering standards
10 and best practices, and relevant engineering codes and codes of practice.

11 The DICT and the NTC shall maintain an updated database of data transmission
12 infrastructure, including passive infrastructure used to support data transmission. The
13 database, to be updated annually, shall include the exact location, ownership,
14 technical specifications, and other relevant information about the facility.

15 **CHAPTER IV**

16 **PROHIBITED ACTS**

17 *Sec. 13. Prohibited Acts.* – The following acts are prohibited:

18 a. Refusal to Plug and Play. – Any data transmission industry participant,
19 insofar as such person is so engaged, shall not refuse access to
20 infrastructure to any other data transmission industry participant, except for
21 failure to pay open market fees for the access to the service.

22 Data transmission industry participants shall not impede the end user's right
23 to access and distribute information and content, use and provide
24 applications and services and use terminal equipment of their choice,
25 regardless of the end user's or provider's location or the location, origin or
26 destination of the information, content, application or service via their data
27 transmission service.

28 Agreements between data transmission providers of data services and end
29 users on commercial and technical conditions and the characteristics of data
30 access services such as price, data volume or speed, and any commercial
31 practices conducted by providers of internet access services shall not limit
32 the exercise of the rights of end users laid down in the preceding paragraph;

1 b. Paid Prioritization. – A data transmission industry participant shall not
2 engage in paid prioritization for monetary or other consideration except
3 when allowed by the NTC after such participant demonstrates that the
4 practice will provide significant public interest benefit and will not
5 disadvantage content and applications that are not prioritized or harm the
6 open nature of the internet;

7 c. Throttling. – A data transmission industry participant shall treat all traffic
8 equally when providing data access services without discrimination,
9 restriction or interference, regardless of the sender and receiver, the
10 content accessed or distributed, the applications or services used or
11 provided, or the terminal equipment used.

12 It shall be prohibited for a data transmission industry participant to hinder
13 or slow down services or applications or access to specific sites in the
14 internet except where (1) access to such sites, services or applications are
15 prohibited by law; (2) it is necessary to preserve the integrity and security
16 of the network and service of the provider or the equipment of the end user:
17 *Provided,* That if the breach of integrity or security is caused by the
18 equipment of the end user, the provider has to notify the end user first and
19 give the former sufficient time to rectify the situation; and (3) it is necessary
20 to block the transmission of unwanted communications such as spam and
21 child pornographic materials upon the complaint of the end user or the data
22 transmission industry participant;

23 d. Refusal to Give Information. – It shall be prohibited for any data
24 transmission industry participant, including PTEs with regard to its network
25 and facilities, to refuse or fail to make available to suppliers of data
26 transmission services, on a timely basis, the technical information about its
27 essential facilities or network facilities and commercially relevant
28 information that are necessary for the efficient provision of their services;
29 and,

30 e. Anti-competitive Cross-subsidization. – The NTC shall require separate
31 books of accounts between different data transmission segments to allow
32 identification of costs and revenues for each segment. Any violation of this

1 provision shall give rise to a presumption of anti-competitive cross-
2 subsidization, which shall then be referred to the PCC for proper
3 determination and action, in accordance with the provisions of Republic Act
4 No. 10667. Nothing herein shall prevent interconnecting networks from
5 charging the appropriate cost-based compensation for the use of
6 interconnection facilities.

7 **Sec. 14. Administrative Penalties.** – The NTC shall require data transmission
8 industry participants and PTEs providing data transmission services to comply with
9 prescribed performance standards and shall impose penalties for failure to comply
10 with such performance standards.

11 a. Any data transmission industry participant who fails to comply with the
12 minimum service standards set by the NTC shall be imposed a minimum
13 penalty of a fine of not less than One hundred thousand pesos
14 (P100,000.00) but not more than Five million pesos (P5,000,000.00) per
15 day for every day during which such default or violation continues, until the
16 participant fully complies: *Provided*, That if the data transmission industry
17 participant has a gross annual income not exceeding Ten million pesos
18 (P10,000,000.00), the penalty that may be imposed shall be equivalent to
19 one percent (1%) to two percent (2%) of its gross annual income. The NTC
20 is hereby authorized and empowered to impose such fine, after due notice
21 and hearing.

22 b. An entity who fails to substantially comply with the NTC's performance
23 standards for three (3) consecutive years shall, subject to due process, be
24 removed from the registry of registered data transmission industry
25 participants and shall be prohibited from rendering data transmission
26 services.

27 c. Any data transmission industry participant who engages in the prohibited
28 acts under Section 13 of this Act or fails to comply with the performance
29 standards set by the NTC shall suffer a minimum penalty of a fine of not
30 less than Three hundred thousand pesos (P300,000.00) but not more than
31 Five million pesos (P5,000,000.00) for every day that the violation continues

1 until the participant fully complies: *Provided*, That if the data transmission
2 industry participant has a gross annual income not exceeding Ten million
3 pesos (P10,000,000.00), the penalty that may be imposed shall be
4 equivalent to one percent (1%) to two percent (2%) of its gross annual
5 income. In cases of anti-competitive cross-subsidization, the imposable
6 penalties are those provided under Republic Act No. 10667.

7 d. A data transmission industry participant violating any provision of this Act
8 shall forfeit all certificates, licenses, authorizations, rights, and awards
9 issued to it in relation to its participation in the data transmission industry.

10 e. Any other violations not specifically penalized under the relevant provisions
11 of this Act shall be penalized by a fine of not less than Fifty thousand pesos
12 (P50,000.00) and not more than Two million pesos (P2,000,000.00).

13 Sec. 15. *Adjustment for Inflation*. – The fines imposed under this Act shall be
14 adjusted by the NTC, year-on-year, considering the prevailing cost of money based on
15 the current consumer price index, and subject to publication of such adjustments.

16 **CHAPTER V**

17 **RIGHTS OF DATA TRANSMISSION SERVICE USERS AND** 18 **RESPONSIBILITIES OF DATA TRANSMISSION SERVICE PROVIDERS**

19 Sec. 16. *Rights of End Users*. – The user of data transmission services shall
20 have the following basic rights:

21 a. To be entitled to data transmission services which is nondiscriminatory,
22 reliable, and conforming with minimum standards set by the NTC;

23 b. To be rendered data transmission services within two (2) months from
24 application for service;

25 c. Regular, timely and accurate billing, courteous and efficient service at
26 business offices and by company personnel;

27 d. Timely correction of errors in billing and the immediate provision of rebates
28 or refunds by the data transmission service provider without the need for
29 demand by the user; and

30 e. Thorough and prompt investigation of, and action upon complaints. The
31 data transmission service provider shall endeavor to allow complaints to be
32 received by any means convenient to the end user, including voice calls,

1 post, short messaging service (SMS), multimedia messages (MMS) and
2 online communication, and shall keep a record of all complaints received
3 and the action taken to address the complaints.

4 Subject to the filing of a formal request to the data service provider, a user
5 may request the immediate termination of service without the imposition of
6 fees or penalties, and with the refund of any fee or charge already paid by
7 the user, should a data service provider not consistently comply with
8 paragraphs (a), (d), and (e) of this Section or any other minimum
9 performance standards set by the NTC.

10 **CHAPTER VI**

11 **FINAL PROVISIONS**

12 *Sec. 17. Expedited Processing.* – In all instances where a participant in the data
13 transmission industry shall require a form, certificate, or request from any government
14 agency or local government unit (LGU), there should be no more than two (2) public
15 officers involved in processing the form, certificate, or request.

16 Processing fees and certifications required for the deployment of any segment
17 of data transmission networks shall be limited to those identified by the DICT. The
18 DICT shall coordinate with the concerned national government agencies and LGUs and
19 conduct the necessary consultations with civil society organizations and other
20 stakeholder groups, for the development of the implementing rules and policies to
21 minimize the administrative burden of permitting and certification processes.

22 *Sec. 18. Implementing Rules and Regulations.* – Within sixty (60) days from
23 the effectivity of this Act, the NTC shall promulgate the necessary rules and regulations
24 for its effective implementation.

25 *Sec. 19. Joint Congressional Oversight Committee on Open Access in Data*
26 *Transmission.* – There shall be created a Joint Congressional Oversight Committee on
27 Open Access in Data Transmission (JCOCOADT), which shall monitor and ensure the
28 effective implementation of this Act. It shall determine weaknesses and loopholes in
29 the law, recommend the necessary remedial legislation or administrative measures
30 and perform such other duties and functions as may be necessary to attain the
31 objectives of this Act.

1 The JCOCOADT shall be composed of five (5) members from the Senate and
2 five (5) members from the House of Representatives, in addition to the Chairperson
3 of the Senate Committee on Science and Technology and the Chairperson of the House
4 of Representatives Committee on Information and Communications Technology:
5 *Provided*, That two (2) members of each chamber's nominees shall come from the
6 ranks of the minority party/bloc.

7 The Chairperson of the Senate Committee on Science and Technology and the
8 Chairperson of the House of Representatives Committee on Information and
9 Communications Technology shall act as co-Chairpersons of the JCOCOADT. The
10 ranking minority members nominated by both the Senate and the House of
11 Representatives shall act as co-Vice Chairpersons. The Secretariat of the JCOCOADT
12 shall come from the existing Secretariat personnel of the Committee on Science and
13 Technology of the Senate and the Committee on Information and Communications
14 Technology of the House of Representatives.

15 The JCOCOADT shall exist for a period not exceeding five (5) years from the
16 effectivity of this Act. Thereafter, its oversight functions shall be exercised by the
17 Senate Committee on Science and Technology and the House of Representatives
18 Committee on Information and Communications Technology, acting separately.

19 *Sec. 20. Separability Clause.* – Should any provision herein be declared
20 unconstitutional, the other provisions not affected shall remain in full force and effect.

21 *Sec. 21. Repealing Clause.* – All laws, decrees, orders, rules and regulations or
22 other issuances or parts inconsistent with the provisions of this Act are hereby
23 repealed, amended, or modified accordingly.

24 *Sec. 22. Effectivity.* – This Act shall take effect fifteen (15) days after its
25 publication in the *Official Gazette* or in at least two (2) national newspapers of general
26 circulation.

Approved,