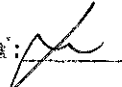


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SENATE

Senate Bill No. 2670

PREPARED BY: 

Introduced by Senator Edgardo J. Angara

EXPLANATORY NOTE


The national government and its component units continue to invest in Information and Communications Technology (ICT) solutions, to increase its efficiency and make its services more accessible to citizens. Across its many ICT efforts, the government must procure solutions in a transparent, non-discriminatory and merit-based manner based on solutions that best serve the requirements of the government.

There is a debate as to whether or not the government should adopt a preference that will ultimately direct procurement of ICT solutions that conform to a particular mode of production or licensing model. Some government entities, lacking clear guidelines from the national government, have in fact announced their particular preference.

Procurement policies which establish preferences based on particular types of software, technology standards, business models, or licensing models are harmful because: 1) they impose product uniformity and vendor lock-in; 2) discourage research and development (R&D); and 3) limit genuine user choice and prevent stakeholders from obtaining the ICT solutions most suitable to their requirements. In today's fast-changing ICT landscape, providing technology choice and maintaining a heterogeneous eco-system of ICT solutions based on merits and needs remain the most prudent approach to maintain competitiveness.

In addition, by establishing arbitrary standards that lack rational fit between the capabilities of ICT solutions on one hand, and the requirements of government on the other, preferential procurement policies are invidiously discriminatory and may be *per se* illegal.

This proposed measure therefore seeks to adopt a neutral policy in the government's selection and procurement of ICT solutions. Rather than adopting an arbitrary preference based on philosophical or political considerations, ICT solutions must be procured based on product quality, taking into consideration the government's current and future needs. Moreover, this bill reflects the principles endorsed by APEC economies, including the Philippines, under the APEC Technology Choice Pathfinder and the APEC Digital Prosperity Checklist.

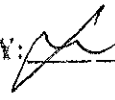

EDGARDO J. ANGARA
Senator



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SENATE

Senate Bill No. 2670

RECEIVED BY: 

Introduced by Senator Edgardo J. Angara

AN ACT
REQUIRING TECHNOLOGICAL CHOICE IN THE GOVERNMENT'S
PROCUREMENT OF INFORMATION AND COMMUNICATION TECHNOLOGY
STANDARDS AND SOLUTIONS

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

SECTION 1. Short Title. – This Act shall be known as the “**Information and Communications Technology Choice Act of 2011**”.

SECTION 2. Declaration of Policy. – Recognizing the importance of technology in national development and progress, do hereby declare a policy of the state to:

2.1 recognize the indispensable role of the private sector, encourage private enterprise, and provide incentives to needed investments in accordance to Article II Section 20 of the Constitution;

2.2 regulate the transfer and promote the choice of technology *from all sources* for the national benefit and encourage the widest participation of private groups, local governments and community-based organizations in the generation and utilization of technology, in accordance to Article XIV, Section 12 of the Constitution;

2.3 protect and secure intellectual property in accordance to Article XIV, Section 13 of the Constitution;

2.4 procure, use, and promote Information and Communications Technology (ICT) solutions in a transparent, non-discriminatory and merit-based manner based on solutions that best serve the requirements of the government.

SECTION 3. Technological Choice in Procurement. - Notwithstanding any provision of law to the contrary, all procurement of the national government, its departments, bureaus, offices and agencies, including state universities and colleges, government-owned and/or -controlled corporations (GOCCs), government financial institutions (GFIs) and local government units (LGUs), shall be based on the quality of the ICT solution, which shall be based on reasonable, objective, criteria, including but not limited to:

- (a) Conformance to requirements or specification;
- (b) Scalability;
- (c) Reliability and fault-tolerance;
- (d) Extensibility;

- (e) Maintainability;
- (f) Ease of use;
- (g) Security;
- (h) Extent and quality of support and documentation;
- (i) Overall cost of procuring the ICT solution and its administration over the life of the solution; and
- (j) Availability of warranties and indemnities for intellectual property claims.

No preference or disadvantage shall be given to any specific ICT solution based on its origin, method of production, business or licensing model.

Furthermore, the government shall promote technology choice policies and regulations that will allow flexibility in the choice of technologies in order to ensure competition, maximize benefits for governments, businesses and consumers.

SECTION 4. *Implementation.* – Within eighteen (18) months after this Act takes effect, the Government Procurement Policy Board (GPPB), shall, jointly with the Commission on Information and Communications Technology (CICT) and the Commission on Audit (COA), submit the implementing rules and regulations for this Act.

SECTION 6. *Repealing Clause.* – All other laws, presidential decrees, executive orders and rules and regulations, or parts thereof, inconsistent with the provisions of this Act are hereby repealed, modified, or amended accordingly.

SECTION 7. *Separability Clause.* – If any section or provision of this Article is held unconstitutional or invalid, the validity of other sections herein shall not be affected hereby.

SECTION 8. *Effectivity.* – This Act shall take effect fifteen (15) days after its publication in the Official Gazette or in at least two (2) newspapers of general circulation.

Approved.