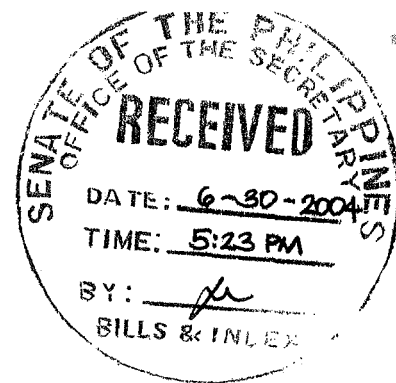


THIRTEENTH CONGRESS OF THE REPUBLIC)
OF THE PHILIPPINES)
First Regular Session)



S E N A T E

S. No. 424

Introduced by Senator S. R. Osmeña III

EXPLANATORY NOTE

This bill seeks the reorganization of the National Telecommunications Commission (NTC) so that it can be more responsive to the needs of the public and the industry which it oversees.

Under the proposed provision of this bill,

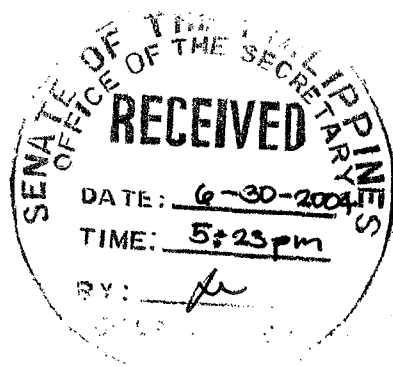
- a) The NTC shall be a collegial body of five members, with a chairman and four associate commissioners, appointed for a term of three years. The increase in membership and reduction in the tenure of the commissioners, as well as stricter qualification requirements for members will upgrade the quality of leadership and policy-making within the commission;
- b) The expanded powers and functions of the Commission shall include the issuance of Certificates of Authority for the operation of various types of public utilities engaged in the telecommunications business; the monitoring of the activities of telecommunications public utilities; and adjudicatory powers to settle disputes and controversies involving violations of its rules and regulations and other related laws.
- c) There will be greater transparency in the exercise of the NTC's power to suspend, cancel or revoke permits or authorizations. In the determination of rates and charges, public hearings will be required.

The NTC needs a restructuring to enable it to provide good governance over telecommunications industry which has benefitted from remarkably rapid technological advances.

In view of the foregoing, early passage of this bill is earnestly requested.

S. Osmeña III
SERGIO OSMEÑA III
Senator

THIRTEENTH CONGRESS OF THE REPUBLIC)
OF THE PHILIPPINES)
First Regular Session)



S E N A T E

S. No. 424

Introduced by Senator S. R. Osmeña III

AN ACT
REORGANIZING THE NATIONAL TELECOMMUNICATIONS COMMISSION,
DEFINING ITS POWERS AND FUNCTIONS AND FOR OTHER PURPOSES

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

1
2 **SECTION 1. - Short Title** - This Act shall be known as the "**National
Telecommunications Commission Reorganization Act of 2004.**"

3 **Sec 2. Declaration of Policy.** - It is hereby declared the policy of the Date to
4 develop and maintain viable, efficient, reliable, universal and affordable communications
5 systems as an effective instrument for economic growth and development. It is
6 committed to encourage the participation of the private sector in the development the
7 telecommunications, broadcasting and other communications services industry. It
8 warrants the formulation of policies designed to create a viable, fair, competitive and
9 responsive economic environment.

10 **Sec. 3. Reorganization.** - In accordance with the provisions of this Act, the
11 National Telecommunications Commission, an attached agency of the Department of
12 Transportation and Communications, hereinafter referred to as the Commission, is
13 hereby reorganized with its structure, powers and functions modified.

14 **Sec. 4. The Commissioners.** - The Commission shall be reorganized into a
15 collegial body of five (5) members, composed of a Chairman and four (4) Associate
16 Commissioners, who shall be appointed by the President of the Philippines each

1 member serving for a term of three (3) years: *Provided*, That the term of the first
2 appointed Chairman shall be three (3) years and the first appointed Associate
3 Commissioners two (2) and one (1) year, respectively: *Provided further*, That no
4 member shall be reappointed for more than one (1) term.

5 The Commissioners shall serve in a hold-over capacity until their successors are
6 duly appointed. All vacancies, except through the expiration of a term, shall be filled for
7 the unexpired term only. In no case shall any Commissioner be designated or
8 appointed in a temporary or acting capacity.

9 The Commissioners shall be members of the bar or licensed engineers of
10 unquestioned integrity, proven competence, and recognized as experts in the field of
11 telecommunications, broadcasting, and other communications services. Upon
12 assumption of office, the Commissioners shall divest themselves of any affiliation with
13 or interest in any public utility, company or entity falling under the jurisdiction of the
14 Commission.

15 The Commissioners shall enjoy the rank, salary and privileges of a Department
16 Undersecretary.

17 **Sec. 5. Powers and Functions.** - The Commission shall exercise the following
18 powers and functions:

19 a) To issue different classes of Certificates of Authority for the operation
20 of varied types of telecommunications, broadcasting and other communications
21 utilities and services conformable with the Constitution, the issued legislative
22 franchises and other applicable laws;

23 b) To establish and prescribe rules, regulations, standards, specifications
24 in all cases related to the issued legislative franchises or Certificates of Authority
25 and administer and enforce the same.

26 c) To grant permits and licenses for the use of radio frequencies;

27 d) To establish, prescribe and regulate areas of operation of particular
28 operators of telecommunications and broadcast stations;

1 e) To determine and prescribe charges or rates after conducting public
2 hearings, pertinent to the operation of such public utility facilities and services,
3 except in cases where charges or rates are established by international bodies or
4 associations of which the Philippines is participating member or by bodies
5 recognized by the Philippines as the proper arbiter of such charges or rates;

6 f) To monitor all telecommunications, broadcast and other
7 communications service activities and investigate illegal or inappropriate
8 utilization of radio stations, equipments and/or frequencies, and to exercise the
9 necessary police powers for the enforcement thereof, including deputation of
10 such police, military or civilian entities or agencies for the purpose.

11 g) To suspend, cancel and/or revoke any certificate, permits or licenses
12 or any authorization, upon notice and hearing called for the purpose for any
13 violations of the provisions of an order of the Commission and other applicable
14 laws; Provided, That the Commission may suspend immediately permits/licenses
15 and/or certificates as national security, public safety, public welfare and public
16 interest may require; Provided, however, That a hearing shall immediately be
17 called within five (5) days from said suspension.

18 h) To require any public service or utility to produce before the
19 Commission any and all records, data, statistics, and documents deemed proper
20 or necessary in the exercise of its powers and functions, and to cite in contempt,
21 direct or indirect, any person who fails or refuses to comply with any lawful order
22 of the Commission.

23 i) To assign radio frequencies based from the national frequency
24 allocation as recommended in those frequency bands allocated by the
25 International Telecommunications Union to the specific services and to
26 coordinate its uses at the national and international level of coordination;

27 j) To conduct qualifying examinations for radio operators and
28 technicians and to issue the appropriate certificate to successful examinees;

1 k) To coordinate and cooperate with government agencies and other
2 entities concerned with any aspect involving communications with a view to
3 continuously improve the communications service in the country.

4 l) To perform such other functions not inconsistent herewith as may be
5 necessary to achieve the purpose of this Act or as maybe prescribed by law.

6 **Sec. 6. Administrative Adjudication.** - The Commission shall exercise original
7 and exclusive jurisdiction to hear and decide cases and controversies involving
8 violations of the provisions of the rules and regulations it promulgated under this Act
9 and under other laws it administer. This shall likewise include provisions of the
10 Constitution, legislative franchises and laws relating to the ownership, establishment,
11 operation and maintenance of public utilities engaged in business of
12 telecommunications, broadcasting, and other communications services.

13 The Commission shall a adopt uniform rule or procedure to achieve a just,
14 expeditious and inexpensive determination and settlement of disputes presented before
15 it.

16 Any case or controversy presented before the Commission shall decided within
17 thirty (30) days after it is submitted for resolution. Only one (1) motion of reconsideration
18 shall be allowed. Any order , ruling or decision shall become final and executory after
19 the lapse of fifteen (15) days from the receipt of by the parties a copy thereof.

20 **Sec. 7. Judicial Review.** - Any order , ruling, award or decision of the
21 Commission may be appealed to the Court of Appeals on questions of law and facts
22 following the procedures for appeals from the Regional Trial Courts to the Court of
23 Appeals as far as practicable and consistent with this Act. If the appeal is only on
24 questions of law, the same shall be brought to the Supreme Court on *certiorari*.

25 **Sec. 8. Administrative Organization.** - The Chairman of the Commission shall
26 be the Chief Executive Officer, directly responsible for the administrative operation and
27 management of the Commission.

28 There shall be Regional Offices to be located in each geographical region of the
29 country to function as regional extension of the Commission in serving the public.

1 These offices shall function as line organizations, interfacing directly with the public in
2 their respective regions. There shall be at least one (1) field office in every region that
3 will handle, the renewal of permits and licenses, handling and hearing of complaints by
4 the public against telecommunications, broadcast and other communication service
5 operators and supervision of field facilities of these telecommunication, broadcast and
6 other communication service operators.

7 The Commission *en banc* shall reform the existing organizational set-up and
8 shall ensure that it will function with maximum operational efficiency, with the staff
9 organization providing specialized advises and services to the Commissioners. To the
10 extent reasonably justified, all existing employees shall be retained, reclassified or
11 retrained and transferred to an appropriate position or function. Otherwise, employees
12 separated from the Commission as a result of the reorganization provided herein shall
13 be entitled to the appropriated separation pay, and other benefits accruing to them
14 under pertinent laws in force at the time of their separation.

15 **Sec. 9. Promulgation of Implementing Rules.** - Within ninety (90) days from
16 the effectivity of this Act, the Commission shall promulgate the rules, regulations,
17 measures, guidelines and other standards with the appropriate sanctions thereof and
18 shall make a biennial review to determine whether such rules and regulations conform
19 to the provisions of this Act or have to be repealed or modified as they are no longer
20 necessary or have to be updated in the public interest as a result of technological
21 advances or meaningful economic competitions between the operators of such
22 services.

23 **Sec. 10. Annual Report.** - The Commission shall submit an annual report to the
24 Congress not later than thirty-first (31st) of March of each year. The report shall
25 include:

26 a) List the specific goals, objectives, and priorities of the Commission which shall
27 be projected over a five (5) year plan;

28 b) Describe in detail the programs which are, or shall be, established to meet or
29 carry out goals, objectives, and priorities and their implementations;

1 c) Provide an evaluation of actions taken during the preceding year with regard
2 to fulfilling the functions of the Commission, including a report on the performance and
3 status of all franchise grantees; and

4 d) Contain recommendations for legislative action required to enable the
5 Commission to meet its objectives.

6 **Sec. 11. Repealing Clause.** - The provisions of Executive Order No. Five
7 Hundred Forty-Six and all other laws, decrees, charters, executive orders,
8 administrative orders, rules and regulations, or parts thereof, inconsistent herewith are
9 hereby repealed and/or modified accordingly.

10 All Provisional Authorities (PAs), permits or licenses issued in favor of
11 telecommunications and broadcast operators without legislative franchises are hereby
12 revoked.

13 **Sec. 12. Separability Clause.** - If any of the sections or provisions of this Act is
14 held invalid, all the other provisions not affected thereby shall remain valid.

15 **Sec. 13. Effectivity Clause.** - This Act shall take effect fifteen (15) days after
16 the completion of its publication in the *Official Gazette* or in at least two (2) newspapers
17 of general circulation.

18 Approved,