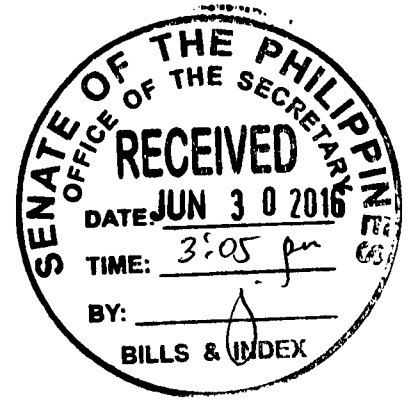


SEVENTEENTH CONGRESS OF THE)
REPUBLIC OF THE PHILIPPINES)
First Regular Session)

SENATE

S. No. 68



Introduced by Senator Ralph G. Recto

AN ACT
EXPANDING THE COVERAGE AND STRENGTHENING THE POWERS OF THE NATIONAL TELECOMMUNICATIONS COMMISSION (NTC) AMENDING FOR THE PURPOSE REPUBLIC ACT NO. 7925 OTHERWISE KNOWN AS THE PUBLIC TELECOMMUNICATIONS ACT OF THE PHILIPPINES

Explanatory Note

Telecommunications has undeniably become one of the drivers of economic growth and cultural development in any society. The Philippines has been tagged as one of the fastest growing mobile markets and online population in Asia, with a unique mobile subscriber growth averaging 6% from 2011 to 2015 and Internet access growth of 500% for the same period, the fastest rate in Southeast Asia.¹ It is also known as the “texting capital of the world” and the “social media capital of the world” at various times over the last few years. Indeed, the Philippines has an advanced mobile and Internet market when compared to other developing countries.

Telecommunications in the country has undergone several phases of development since the telegraphy and the automatic telephone systems were first introduced in the Philippines in the early 1900s. Back then, telecommunications services were governed by an office under the Bureau of Posts. During the pre-liberalization period of telecommunications, the regulatory bodies have been constantly reorganized and transferred to different government agencies. Finally, in 1979, the National Telecommunications Commission (NTC) was created by virtue of Executive Order No. 546 as an attached agency of the then Ministry of Transportation and Communications (MOTC).

The National Telecommunications Commission (NTC) is the agency that exercises jurisdiction over the supervision, adjudication and control over all telecommunications services. Meanwhile, the law which provides the comprehensive guideline in regulating the Philippine telecommunications industry and improving the delivery of public telecommunications services, is contained in Republic Act No. 7925 or the Public Telecommunications Policy Act of the Philippines which was passed on February 20, 1995 and is principally administered by the NTC.

Also, R.A. No. 7925 strengthened the quasi-judicial functions of the NTC as the main regulator and clearly delineated its role from that of the Department of Transportation and Communications (DOTC). However, the law was passed at a time when only 1,164 municipalities have telephone access, there were still 700,000 remaining applications for telephone lines nationwide, PLDT had only less than 2 million telephones in service, there were only a measly 493,862 cellular mobile phone subscribers; and pagers and trunk repeaters were still being used.²

The Philippine telecom landscape has already significantly changed more than twenty years into the passage of R.A. No. 7925. Today, there are almost 6 million telephone lines installed, over 130 million cellular mobile phone subscribers, 47 million active internet users; and smartphones, laptops, tablets, wearable technical device, among others, are now being used for communication and information sharing.

¹ Country overview: Philippines Growth through innovation 2014. GSMA intelligence. <https://www.gsmaintelligence.com/research/?file=141201-philippines.pdf&download>. Accessed on June 29, 2016.

² *The Philippine Telecommunications Industry* by Ruperto Alonzo and Wilberto San Pedro, PIDS Development Research News, 1996. <http://dirp4.pids.gov.ph/ris/dm/pidsdm96-4.pdf>. Accessed on June 29, 2016

In response to the changing needs of the telecommunications sector, especially to more advance technologies such as complex networks, and the Internet, this bill³ expands NTC's power and coverage in regulating the industry. It details the Commission's mandate of ensuring quality, safety, reliability, security, compatibility and inter-operability of telecommunications facilities and services, and protects consumer welfare by fostering an open, transparent and level-playing field in communications and media.

Among the specific amendments included is a new section on Quality of Service (QoS) to serve as the common reference of acceptable levels of quality for the regulator, service providers, and the consumers. It provides the basis for conducting and publishing the results of periodic QoS tests, but delegates the responsibility of redefining the standards and acceptable levels to the NTC via policy issuances, to be updated as necessary.

In this bill, the NTC is mandated to review and approve the interconnection of telecommunications and internet service providers, such as, but not limited to Internet Protocol (IP) peering, sharing of infrastructure and access facilities. It ensures the promotion and support to various modalities of interconnecting telecommunications and the Internet.

Individual logical segments of a telecommunications network or market are thereby explicitly defined in this bill which includes international connectivity providers, international gateway facilities of cable landing stations, network access or backbone network providers, telecommunications or Internet exchanges, and last-mile service providers.

Some telecommunication segments do not directly provide services to consumers, such as the international gateway facilities, mobile cellular towers, and fiber optic cable providers, whose clients are the telcos and the Internet Service Providers (ISPs). As such, they can be established and operated by entities that do not necessarily require legislative franchises or be considered a public utility. To further lower barriers to entry in these segments, this bill provides that the power to award a franchise can be transferred from Congress to the NTC in such cases.

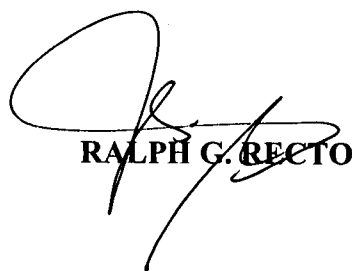
In 1995, RA 7925 has classified the Internet as a Value-Added Service (VAS) or an enhanced service beyond those ordinarily provided by carriers when it was still an emerging and expensive technology. By virtue of the nature of VAS, the NTC has no jurisdiction over the regulation of prices and standards it can set to the providers. But at present, internet and broadband services are now sold independently of the provider's main services and thus, should be reclassified.

Instead of using VAS as a catch-all definition of services that are not mentioned in the law, VAS is now defined in this bill as "services that are over and above the core service of a telecommunications segment, that are not core services of other telecommunications segments." Hence, data services and networks should be separated from the core service of telecommunications entities. With the reclassification of the Internet out of the VAS, the NTC can now have a wider latitude in setting minimum standards and parameters for pricing just like the other basic telecommunication services.

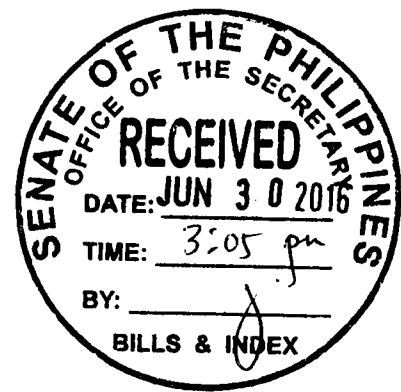
Expanding the coverage and strengthening the powers of the NTC is a requisite move in addressing the difficulties in improving the quality of telecommunication services in the country. This aligns with the goals of the newly-created Department of Information and Communications Technology (DICT) to boost the much needed growth of ICT in the country to be able to respond to the global trend towards a digital economy.

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

/ejev


RALPH G. RECTO

³ This bill was initially filed by Sen. Miriam Defensor-Santiago in the 15th Congress as part of Senate Bill No. 3327 or the Magna Carta for Philippine Internet Freedom, and refiled in the 16th Congress as Senate Bill No. 53.



SENATE
S. No. 68

Introduced by Senator Ralph G. Recto

AN ACT
EXPANDING THE COVERAGE AND STRENGTHENING THE POWERS OF THE NATIONAL TELECOMMUNICATIONS COMMISSION (NTC) AMENDING FOR THE PURPOSE REPUBLIC ACT NO. 7925 OTHERWISE KNOWN AS THE PUBLIC TELECOMMUNICATIONS ACT OF THE PHILIPPINES

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

1 **SECTION 1.** *Amendments to Republic Act No. 7925 or the Public Telecommunications*
2 *Policy Act of the Philippines – Jurisdiction over the provision and regulation of Internet and*
3 *information and communications technology services shall be vested with the National*
4 *Telecommunications Commission, in accordance with the succeeding provisions.*

5 **SEC. 2.** Article I, Section 3, subparagraph (h) of Republic Act No. 7925 or the Public
6 Telecommunications Policy Act of the Philippines is hereby amended to read as follows:

7 “x x x
8 “h) *Value-added service provider (VAS)* – an entity which relying on the
9 transmission, switching and local distribution facilities of the local exchange and inter-
10 exchange operators, and overseas carriers, offers [enhanced services beyond those
11 ordinarily provided for by such carriers] **SERVICES THAT ARE OVER AND ABOVE**
12 **THE CORE SERVICE OF A TELECOMMUNICATIONS SEGMENT, AND ARE NOT**
13 **CORE SERVICES OF OTHER TELECOMMUNICATIONS SEGMENTS.**

14 “x x x.”

15 **SEC. 3.** Article III, Section 5 of Republic Act No. 7925 or the Public Telecommunications
16 Policy Act of the Philippines is hereby amended to read as follows:

17 “**SEC. 5. Responsibilities of the National Telecommunications Commission.** – The
18 National Telecommunications Commission (Commission) shall be the principal
19 administrator of this Act and as such shall take the necessary measures to implement the
20 policies and objectives set forth in this Act. Accordingly, in addition to its existing
21 functions, the Commission shall be responsible for the following:

22 “a) Adopt an administrative process which would facilitate the entry of qualified
23 service providers and adopt a pricing policy which would generate sufficient returns to

1 encourage them to provide basic telecommunications, **NETWORK, AND INTERNET**
2 services in unserved and underserved areas;

3 "b) Ensure quality, safety, reliability, security, compatibility and interoperability of
4 telecommunications, **NETWORK, AND INTERNET** services in conformity with
5 standards and specifications set by international radio, telecommunications, **NETWORK,**
6 **AND INTERNET** organizations to which the Philippines is a signatory;

7 "c) Mandate a fair and reasonable interconnection of facilities of authorized public
8 network operators and other providers of telecommunications, **NETWORK, AND**
9 **INTERNET** services through appropriate modalities of interconnection and at a
10 reasonable and fair level of charges, which make provision for the cross subsidy to
11 unprofitable local exchange service areas so as to promote telephone, **MOBILE PHONE,**
12 **NETWORK, AND BROADBAND** density, and provide the most extensive access to
13 basic telecommunications, **NETWORK, AND INTERNET** services available at
14 affordable rates to the public;

15 "d) Foster fair and efficient market conduct through, but not limited to, the
16 protection of telecommunications entities from unfair trade practices of other carriers;

17 "e) Promote consumers welfare by facilitating access to telecommunications,
18 **NETWORK, AND INTERNET** services whose infrastructure and network must be
19 geared towards the needs of individual and business users, **AND BY DEVELOPING**
20 **AND IMPLEMENTING STANDARDS, PLANS, POLICIES, PROGRAMS,**
21 **MEASURES, AND MECHANISMS, INCLUDING ARBITRATION, QUASI-**
22 **JUDICIAL, AND PROSECUTORIAL MECHANISMS, TO PROTECT THE**
23 **WELFARE OF CONSUMERS AND USERS OF TELECOMMUNICATIONS,**
24 **NETWORK, AND INTERNET SERVICES;**

25 "x x x."

26 **SEC. 4.** Article III, Section 6 of Republic Act No. 7925 or the Public Telecommunications
27 Policy Act of the Philippines is hereby amended to read as follows:

28 "SEC.6. *Responsibilities of and Limitations to Department Powers.* - The
29 Department of [Transportation and Communications (DOTC)] **INFORMATION AND**
30 **COMMUNICATIONS TECHNOLOGY (DICT)** shall not exercise any power which
31 will tend to influence or effect a review or a modification of the Commission's quasi-
32 judicial functions.

33 "x x x

34 "a) x x x

35 "b) x x x

36 "c) the representation and promotion of Philippine interests in international bodies,
37 and the negotiation of the nation's rights and obligations in international

1 [telecommunications] INFORMATION TECHNOLOGY, COMMUNICATIONS,
2 NETWORK, AND INTERNET matters; and

3 "d) the operation of a national consultative forum to facilitate interaction amongst
4 the [telecommunications industries] INFORMATION, COMMUNICATIONS,
5 NETWORK, AND INTERNET INDUSTRIES, user groups, academic and research
6 institutions in the airing and resolution of important issues in the field of [communications]
7 TELECOMMUNICATIONS AND THE INTERNET."

8 SEC. 5. A new Section 9 shall be inserted between Sections 8 and 9 of the same Act which
9 shall read as follows:

10 SEC. 9. *LOCAL INTERNET SERVICE PROVIDER.* – A LOCAL INTERNET
11 SERVICE PROVIDER SHALL:

12 (A) PROVIDE UNIVERSAL INTERNET CONNECTION SERVICE TO
13 ALL SUBSCRIBERS WHO APPLIED FOR SUCH SERVICE, WITHIN A
14 REASONABLE PERIOD AND AT SUCH STANDARDS AS MAY BE
15 PRESCRIBED BY THE COMMISSION AND AT SUCH PROFIT MARGIN AS TO
16 SUFFICIENTLY PROVIDE A FAIR RETURN ON INVESTMENTS;

17 (B) BE PROTECTED FROM UNCOMPENSATED BYPASS OR
18 OVERLAPPING OPERATIONS OF OTHER TELECOMMUNICATIONS
19 ENTITIES IN NEED OF PHYSICAL LINKS OR CONNECTIONS TO ITS
20 CUSTOMERS IN THE AREA EXCEPT WHEN IT IS UNABLE TO PROVIDE,
21 WITHIN A REASONABLE PERIOD AND AT THE DESIRED STANDARD, THE
22 INTERCONNECTION ARRANGEMENTS REQUIRED BY SUCH ENTITIES;

23 (C) HAVE THE FIRST OPTION TO PROVIDE PUBLIC OR PRIVATE
24 NETWORK ACCESS OR INTERNET ACCESS NODES OR ZONES IN THE
25 AREA COVERED BY ITS NETWORK;

26 (D) BE ENTITLED TO A FAIR AND EQUITABLE REVENUE SHARING
27 ARRANGEMENT WITH THE INTERNET EXCHANGE, INTERNET DATA
28 CENTER, INTERNET GATEWAY FACILITY, OR SUCH OTHER CARRIERS
29 CONNECTED TO ITS BASIC NETWORK:

30 *PROVIDED*, THAT THE SERVICE IT PROVIDES IS SOLELY
31 DEPENDENT ON EXISTING NETWORKS BEING OPERATED AND
32 MAINTAINED BY AT LEAST ONE OTHER TELECOMMUNICATIONS
33 ENTITY: *PROVIDED, FURTHER*, THAT A LOCAL INTERNET SERVICE
34 PROVIDER NEED NOT SECURE A FRANCHISE.

35 A CABLE TV FRANCHISE MAY PROVIDE LOCAL INTERNET
36 CONNECTION, NETWORK, OR DATA TRANSMISSION SERVICES WITHOUT
37 A SEPARATE FRANCHISE: *PROVIDED*, THAT THE OPERATION OF
38 INTERNET CONNECTION, NETWORK, OR DATA TRANSMISSION SERVICE

1 BY THE CABLE TV FRANCHISE SHALL BE GOVERNED BY THIS ACT AND
2 OTHER RELEVANT LAWS.

3 THE PROVISION OF INTERNET CONNECTION, NETWORK, OR DATA
4 TRANSMISSION SERVICES SHALL ALSO BE GOVERNED BY THE PUBLIC
5 SERVICE ACT, AS AMENDED, AND OTHER RELEVANT LAWS GOVERNING
6 UTILITIES.

7 SEC. 6. Section 9 of the same Act is hereby renumbered as Section 10.

8 SEC. 7. A new Section 11 shall be inserted after the renumbered Section 10 of the same
9 Act which shall read as follows:

10 SEC. 11. *INTERNET EXCHANGE*. - THE NUMBER OF ENTITIES
11 AUTHORIZED TO PROVIDE INTERNET EXCHANGE SERVICES SHALL,
12 WHERE IT IS ECONOMICALLY VIABLE, BE AT LEAST TWO (2) INTERNET
13 EXCHANGES: *PROVIDED*, THAT A LOCAL INTERNET SERVICE PROVIDER
14 SHALL NOT BE RESTRICTED FROM OPERATING ITS OWN INTERNET
15 EXCHANGE SERVICE IF ITS VIABILITY IS DEPENDENT THERETO:
16 *PROVIDED, FURTHER*, THAT SUCH INTERNET EXCHANGE SHALL HAVE
17 THE FOLLOWING OBLIGATIONS:

18 (A) IT SHALL INTERCONNECT WITH ALL OTHER INTERNET
19 EXCHANGES IN THE SAME CATEGORY AND WITH ALL LOCAL INTERNET
20 SERVICE PROVIDERS AND OTHER TELECOMMUNICATIONS ENTITIES,
21 UPON APPLICATION AND WITHIN A REASONABLE PERIOD, AND UNDER
22 FAIR AND REASONABLE LEVEL CHARGES, IN ORDER THAT INTERNET
23 AND NETWORK SERVICES ARE MADE AVAILABLE;

24 (B) IT SHALL HAVE THE RIGHT TO ESTABLISH AND OPERATE ITS
25 OWN NETWORK FACILITIES THROUGH WHICH INTERNATIONAL
26 NETWORKS OR INTERNATIONAL GATEWAY FACILITIES SHALL BE ABLE
27 TO COURSE THEIR MESSAGES OR SIGNALS; AND

28 (C) IT SHALL COMPLY WITH INTERNATIONAL AND GENERIC
29 ENGINEERING REQUIREMENTS AND STANDARDS OF OPERATION FOR
30 INTERNET EXCHANGES.

31 SEC. 8. A new Section 12 shall be inserted after the new Section 11 of the same Act which
32 shall read as follows:

33 SEC. 12. *INTERNET DATA CENTER*. - THE NUMBER OF ENTITIES
34 AUTHORIZED TO PROVIDE INTERNET DATA CENTER SERVICES SHALL,
35 WHERE IT IS ECONOMICALLY VIABLE, BE AT LEAST TWO (2) INTERNET
36 DATA CENTERS: *PROVIDED*, THAT A LOCAL INTERNET SERVICE
37 PROVIDER OR CONTENT PROVIDER SHALL NOT BE RESTRICTED FROM
38 OPERATING ITS OWN INTERNET DATA CENTER IF ITS VIABILITY IS

1 DEPENDENT THERETO: *PROVIDED, FURTHER*, THAT SUCH INTERNET
2 DATA CENTER SHALL HAVE THE FOLLOWING OBLIGATIONS:

3 (A) IT SHALL INTERCONNECT WITH ALL OTHER INTERNET DATA
4 CENTERS IN THE SAME CATEGORY AND WITH ALL LOCAL INTERNET
5 SERVICE PROVIDERS AND OTHER TELECOMMUNICATIONS ENTITIES,
6 UPON APPLICATION AND WITHIN A REASONABLE TIME PERIOD, AND
7 UNDER FAIR AND REASONABLE LEVEL CHARGES, IN ORDER THAT
8 INTERNET AND NETWORK SERVICES ARE MADE AVAILABLE;

9 (B) IT SHALL HAVE THE RIGHT TO ESTABLISH AND OPERATE ITS
10 OWN NETWORK FACILITIES THROUGH WHICH INTERNATIONAL
11 NETWORKS OR INTERNATIONAL GATEWAY FACILITIES SHALL BE ABLE
12 TO COURSE THEIR MESSAGES OR SIGNALS; AND

13 (C) IT SHALL COMPLY WITH INTERNATIONAL AND GENERIC
14 ENGINEERING REQUIREMENTS AND STANDARDS OF OPERATION FOR
15 NETWORK AND DATA CENTERS.

16 SEC. 9. Section 10 of the same Act is hereby renumbered as Section 13.

17 SEC. 10. A new Section 14 shall be inserted after the renumbered Section 13 of the same
18 Act which shall read as follows:

19 SEC. 13. *INTERNET GATEWAY FACILITY*. – ONLY ENTITIES WHICH
20 WILL PROVIDE INTERNET EXCHANGE SERVICES OR INTERNET DATA
21 CENTER SERVICES, AND CAN DEMONSTRABLY SHOW TECHNICAL AND
22 FINANCIAL CAPABILITY TO INSTALL AND OPERATE AN
23 INTERNATIONAL GATEWAY FACILITY, SHALL BE AUTHORIZED TO
24 OPERATE AS AN INTERNET GATEWAY FACILITY.

25 THE AUTHORIZED ENTITY SHALL BE REQUIRED TO PRODUCE A
26 FIRM CORRESPONDENT OR INTERCONNECTION RELATIONSHIPS WITH
27 MAJOR OVERSEAS TELECOMMUNICATIONS AUTHORITIES, CARRIERS,
28 OVERSEAS INTERNET GATEWAYS, NETWORKS, AND INTERNET SERVICE
29 PROVIDERS WITHIN ONE (1) YEAR FROM THE GRANT OF THE
30 AUTHORITY.

31 THE INTERNET GATEWAY FACILITY SHALL ALSO COMPLY WITH
32 ITS OBLIGATIONS TO PROVIDE INTERNET EXCHANGE SERVICES IN
33 UNSERVED OR UNDERSERVED AREAS WITHIN THREE (3) YEARS FROM
34 THE GRANT OF THE AUTHORITY AS REQUIRED BY EXISTING
35 REGULATIONS: *PROVIDED*, THAT SAID INTERNET GATEWAY FACILITY
36 SHALL BE DEEMED TO HAVE COMPLIED WITH THE SAID OBLIGATION IN
37 THE EVENT THAT IT ALLOWS AN AFFILIATE THEREOF TO ASSUME SUCH
38 OBLIGATION AND WHO COMPLIES THEREWITH.

1 **FAILURE TO COMPLY WITH THE ABOVE OBLIGATIONS SHALL BE**
2 **A CAUSE TO CANCEL ITS AUTHORITY OR PERMIT TO OPERATE AS AN**
3 **INTERNET GATEWAY FACILITY.**

4 **SEC. 11.** A new Section 15 shall be inserted after the new Section 14 of the same Act
5 which shall read as follows:

6 **SEC. 15. CONTENT PROVIDER. - EXCEPT FOR BUSINESS PERMITS**
7 **AND OTHER REGULATORY REQUIREMENTS AS PROVIDED FOR BY THE**
8 **CONSUMER ACT OF THE PHILIPPINES, AS AMENDED, AND OTHER**
9 **RELEVANT LAWS, AND PROVIDED THAT THE TRANSMISSION OF ITS**
10 **CONTENT IS SOLELY DEPENDENT ON EXISTING NETWORKS BEING**
11 **OPERATED AND MAINTAINED BY AT LEAST ONE OTHER**
12 **TELECOMMUNICATIONS ENTITY, A CONTENT PROVIDER FOR**
13 **COMMERCIAL OR NON-COMMERCIAL PURPOSES NEED NOT SECURE A**
14 **FRANCHISE, LICENSE, OR PERMIT TO OPERATE IN THE PHILIPPINES.**

15 **SUBJECT TO THE NATURE OF THE CONTENT THAT IS PROVIDED**
16 **BY THE CONTENT PROVIDER FOR COMMERCIAL PURPOSES, LAWS SUCH**
17 **AS THE PAGCOR CHARTER, AS AMENDED, THE MTRCB CHARTER, AS**
18 **AMENDED, AND OTHER RELEVANT LAWS, SHALL BE DEEMED**
19 **APPLICABLE TO THE CONTENT PROVIDER.**

20 **SEC. 12.** Section 11 of the same Act is hereby renumbered as Section 16 and shall be
21 amended to read as follows:

22 **"SEC. [11] 16. Value-added Service Provider. - [Provided that it does not put up**
23 **its own network] IF THE SERVICE OF THE VAS PROVIDER IS SOLELY**
24 **DEPENDENT ON EXISTING NETWORKS BEING OPERATED AND**
25 **MAINTAINED BY AT LEAST ONE OTHER TELECOMMUNICATIONS**
26 **ENTITY, a VAS provider need not secure a franchise. A VAS provider shall be allowed**
27 **to competitively offer its services and/or expertise, and lease or rent telecommunications**
28 **equipment and facilities necessary to provide such specialized services, in the domestic**
29 **and/or international market in accordance with network compatibility.**

30 **"Telecommunications entities may provide VAS, subject to the additional**
31 **requirements that:**

32 **"(a) prior approval of the Commission is secured to ensure that such VAS offerings**
33 **are not cross-subsidized from the proceeds of their utility operations;**

34 **"(b) other providers of VAS are not discriminated against in rates nor denied**
35 **equitable access to their facilities; and**

36 **"(c) separate books of accounts are maintained for the VAS.**

37 **THE PROVISION OF HIGH-SPEED OR HIGH-VOLUME INTERNET**
38 **CONNECTION OR DATA TRANSMISSION SERVICES AS A SERVICE**

1 SEPARATE FROM NORMAL INTERNET CONNECTION OR DATA
2 TRANSMISSION SERVICES SHALL NOT BE CLASSIFIED AS A VALUE-
3 ADDED SERVICE."

4 SEC. 13. The succeeding sections of the same Act are hereby renumbered accordingly.

5 SEC. 14. Article V, Section 19 of the same Act, as renumbered, is hereby amended to read
6 as follows:

7 "SEC. [14] 19. *Customer Premises Equipment.* – Telecommunications subscribers
8 AND NETWORK AND INTERNET USERS shall be allowed to use within their
9 premises terminal equipment, such as telephone, PABX, facsimile, SUBSCRIBER
10 IDENTIFICATION MODULE (SIM) CARDS, data, record, message and other special
11 purpose or multi-function telecommunication terminal equipment intended for such
12 connection: *Provided*, That the equipment is type-approved by the Commission.

13 UNLESS DESIGNED AND MANUFACTURED AS SUCH WITHOUT
14 NEED FOR A SPECIAL REQUEST BY A TELECOMMUNICATIONS ENTITY,
15 NO CUSTOMER PREMISES EQUIPMENT SHALL BE RESTRICTED FROM
16 INTERCONNECTING TO A NETWORK OR TO THE INTERNET, OR
17 INTEROPERABILITY WITH OTHER CUSTOMER PREMISES EQUIPMENT,
18 NETWORK EQUIPMENT, DATA STORAGE EQUIPMENT, OR OTHER
19 DEVICES OR EQUIPMENT THAT MAY BE NORMALLY INTERCONNECTED
20 WITH OR MAY NORMALLY ENJOY INTEROPERABILITY WITH, AS
21 APPLICABLE: *PROVIDED*, THAT IN THE COURSE OF NORMAL
22 OPERATIONS SUCH INTERCONNECTION OR INTEROPERABILITY SHALL
23 NOT COMPROMISE DATA OR NETWORK PRIVACY OR SECURITY."

24 SEC. 15. Article VII of the same Act is hereby amended to read as follows:

25 "ARTICLE VII

26 "RIGHTS OF [TELECOMMUNICATIONS USERS] SERVICE USERS AND
27 RESPONSIBILITIES OF SERVICE PROVIDERS

28 "SEC. [20] 25. *Rights of End-Users.* - The user of telecommunications,
29 INTERNET, NETWORK, OR DATA TRANSMISSION service shall have the
30 following basic rights:

31 "a) Entitlement of utility service which is nondiscriminatory, reliable and
32 conforming with minimum standards set by the Commission;

33 "b) Right to be given the first single-line telephone, INTERNET OR NETWORK
34 connection or the first party-line connection within two (2) months of application for
35 service, against deposit; or within three (3) months after targeted commencement of service
36 in the barangay concerned per the original schedule of service expansion approved by the
37 Commission, whichever deadline comes later;

1 “(c) Regular, timely and accurate billing, courteous and efficient service at utility
2 business offices and by utility company personnel; [and]

3 **(D) TIMELY CORRECTION OF ERRORS IN BILLING AND THE**
4 **IMMEDIATE PROVISION OF REBATES OR REFUNDS BY THE UTILITY**
5 **WITHOUT NEED FOR DEMAND BY THE USER; AND**

6 [(d)] E) Thorough and prompt investigation of, and action upon complaints. The
7 utility shall endeavor to allow complaints to be received [over the telephone] **BY POST**
8 **AND OVER MEANS USING TELECOMMUNICATIONS FACILITIES OR THE**
9 **INTERNET, INCLUDING BUT NOT LIMITED TO VOICE CALLS, SHORT**
10 **MESSAGE SERVICE (SMS) MESSAGES, MULTIMEDIA MESSAGE SERVICE**
11 **(MMS) MESSAGES, OR E-MAIL, and shall keep a record of all [written or phoned-in]**
12 **complaints RECEIVED AND THE ACTION TAKEN TO ADDRESS THESE**
13 **COMPLAINTS.**

14 **SUBJECT TO THE FILING OF A FORMAL REQUEST TO THE UTILITY,**
15 **A USER MAY REQUEST THE IMMEDIATE TERMINATION OF SERVICE**
16 **WITHOUT THE IMPOSITION OF FEES OR PENALTIES, AND WITH THE**
17 **REFUND OF ANY FEES OR CHARGES ALREADY PAID BY THE USER,**
18 **SHOULD A UTILITY NOT CONSISTENTLY COMPLY WITH PRECEDING**
19 **PARAGRAPHS (A), (D), (E), (F), OR ANY OTHER MINIMUM PERFORMANCE**
20 **STANDARDS SET BY THE COMMISSION.**

21 **SUBJECT TO STANDARDS SET BY THE COMMISSION, REASONABLE**
22 **FEES OR PENALTIES MAY BE IMPOSED BY THE UTILITY, OR MAY BE**
23 **DEDUCTED FROM ANY FEES OR CHARGES ALREADY PAID BY THE USER,**
24 **SHOULD A USER REQUEST THE IMMEDIATE TERMINATION OF SERVICE:**
25 ***PROVIDED, THAT:***

26 **(I) THE UTILITY IS ABLE TO SHOW THAT THE REQUEST IS NOT**
27 **BASED ON A NONCOMPLIANCE WITH PRECEDING**
28 **PARAGRAPHS (A), (C), (D), (E), OR ANY OTHER MINIMUM**
29 **PERFORMANCE STANDARDS SET BY THE COMMISSION; OR**

30 **(II) THE UTILITY HAS EVIDENCE THAT THE NON-COMPLIANCE**
31 **HAS NOT RECURRED, IS NOT RECURRING, NOR WILL RECUR**
32 **IN THE FUTURE; OR**

33 **(III) THE UTILITY HAS EVIDENCE THAT THE NONCOMPLIANCE**
34 **WAS DUE TO FACTORS BEYOND ITS CONTROL; OR**

35 **(IV) THE UTILITY HAS PROVIDED IMMEDIATE REFUND OR REBATE**
36 **TO THE USER UPON DETERMINATION OF THE NON-**
37 **COMPLIANCE; OR**

1 (V) THE UTILITY HAS EVIDENCE THAT IT HAS EXERTED ITS BEST
2 EFFORTS TO RESOLVE THE NON-COMPLIANCE AND RESTORE
3 THE SERVICE TO THE LEVEL AGREED BETWEEN THE UTILITY
4 AND THE USER WITHIN (7) DAYS OF THE REQUEST FOR
5 IMMEDIATE TERMINATION.

6 *PROVIDED*, THAT THE UTILITY SHALL COMPLY WITH IMMEDIATE
7 TERMINATION OF SERVICE, WITHOUT THE IMPOSITION OF FEES OR
8 PENALTIES, AND REFUND ANY FEES OR CHARGES ALREADY PAID BY
9 THE USER WITHOUT NEED FOR DEMAND SHOULD THE SERVICE NOT BE
10 RESTORED WITHIN THE SEVEN (7) DAY PERIOD, WITHIN THREE (3) DAYS
11 AFTER THE TERMINATION OF SERVICE.

12 SUBJECT TO STANDARDS SET BY THE COMMISSION, PENALTIES
13 MAY BE IMPOSED ON A UTILITY THAT IS UNABLE TO COMPLY WITH
14 PRECEDING PARAGRAPH (B). THE COMMISSION MAY IMPOSE
15 ADDITIONAL PENALTIES IF THE UTILITY DOES NOT REFUND ANY
16 DEPOSITS, FEES, OR CHARGES ALREADY PAID BY THE USER WITHOUT
17 NEED FOR DEMAND WITHIN THREE (3) DAYS AFTER THE DEADLINE
18 AGREED UPON BETWEEN THE USER AND THE UTILITY."

19 SEC. 16. A new Section 26 shall be inserted after the renumbered Section 25 of the same
20 Act which shall read as follows:

21 SEC. 26. *QUALITY OF SERVICE AND NETWORK FAIR USE.* – (A) NO
22 INTERNET SERVICE PROVIDER, INTERNET EXCHANGE, INTERNET DATA
23 CENTER, INTERNET GATEWAY FACILITY, TELECOMMUNICATIONS
24 ENTITY, OR PERSON PROVIDING INTERNET CONNECTION, NETWORK,
25 OR DATA TRANSMISSION SERVICES SHALL:

26 (I) FAIL TO PROVIDE A SERVICE, OR NETWORK SERVICES
27 ON REASONABLE, AND NONDISCRIMINATORY TERMS
28 AND CONDITIONS SUCH THAT ANY PERSON CAN
29 OFFER OR PROVIDE CONTENT, APPLICATIONS, OR
30 SERVICES TO OR OVER THE NETWORK IN A MANNER
31 THAT IS AT LEAST EQUAL TO WHAT THE PROVIDER
32 OR ITS AFFILIATES OFFER IN CONTENT,
33 APPLICATIONS, AND SERVICES FREE OF ANY
34 SURCHARGE;

35 (II) REFUSE TO INTERCONNECT FACILITIES WITH OTHER
36 FACILITIES OF ANOTHER PROVIDER OF NETWORK
37 SERVICES ON REASONABLE, AND
38 NONDISCRIMINATORY TERMS OR CONDITIONS;

- 1 (III) BLOCK, IMPAIR, DISCRIMINATE AGAINST, OR
2 INTERFERE WITH THE ABILITY OF ANY PERSON TO
3 USE A NETWORK SERVICE TO ACCESS, USE, SEND,
4 RECEIVE, OR OFFER LAWFUL CONTENT,
5 APPLICATIONS, OR SERVICES OVER THE INTERNET;
6 (IV) IMPOSE AN ADDITIONAL CHARGE TO AVOID ANY
7 CONDUCT THAT IS PROHIBITED BY SUBSCRIPTION;
8 (V) PROHIBIT A USER FROM ATTACHING OR USING A
9 DEVICE ON THE INTERNET SERVICE PROVIDER'S
10 NETWORK THAT DOES NOT PHYSICALLY DAMAGE
11 OR MATERIALLY DEGRADE OTHER USERS'
12 UTILIZATION OF THE NETWORK;
13 (VI) FAIL TO CLEARLY AND CONSPICUOUSLY DISCLOSE
14 TO USERS, IN PLAIN LANGUAGE, ACCURATE
15 INFORMATION CONCERNING ANY TERMS,
16 CONDITIONS, OR LIMITATIONS ON THE NETWORK
17 SERVICE; OR,
18 (VII) IMPOSE A SURCHARGE OR OTHER CONSIDERATION
19 FOR THE PRIORITIZATION OR OFFER OF ENHANCED
20 QUALITY OF SERVICE TO DATA OR PROTOCOL OF A
21 PARTICULAR TYPE, AND MUST PROVIDE EQUAL
22 QUALITY OF SERVICE TO ALL DATA OR PROTOCOL
23 OF THAT TYPE REGARDLESS OF ORIGIN OR
24 OWNERSHIP.

25 (B) NOTHING IN THIS SECTION SHALL BE CONSTRUED AS TO
26 PREVENT AN INTERNET SERVICE PROVIDER, INTERNET EXCHANGE,
27 INTERNET DATA CENTER, INTERNET GATEWAY FACILITY,
28 TELECOMMUNICATIONS ENTITY, OR PERSON PROVIDING INTERNET
29 CONNECTION, NETWORK, OR DATA TRANSMISSION SERVICES FROM
30 TAKING REASONABLE AND NONDISCRIMINATORY MEASURES:

- 31 (I) TO MANAGE THE FUNCTION OF A NETWORK ON A
32 SYSTEM-WIDE BASIS, SUCH THAT THE MANAGEMENT
33 FUNCTION DOES NOT RESULT IN THE
34 DISCRIMINATION BETWEEN CONTENT,
35 APPLICATION, OR SERVICES OFFERED BY THE
36 PROVIDER OR USER;
37 (II) TO GIVE PRIORITY TO EMERGENCY
38 COMMUNICATIONS;

1 (III) TO PREVENT A VIOLATION OF LAW; OR TO COMPLY
2 WITH AN ORDER OF THE COURT ENFORCING SUCH
3 LAW;

4 (IV) TO OFFER CONSUMER PROTECTION SERVICES SUCH
5 AS PARENTAL CONTROLS, WHEREIN USERS MAY
6 REFUSE TO ENABLE SUCH SERVICES, OR OPT-OUT;
7 OR,

8 (V) TO OFFER SPECIAL PROMOTIONAL PRICING OR OTHER
9 MARKETING INITIATIVES.

10 (C) AN INTERNET SERVICE PROVIDER, INTERNET EXCHANGE,
11 INTERNET DATA CENTER, INTERNET GATEWAY FACILITY,
12 TELECOMMUNICATIONS ENTITY, OR PERSON PROVIDING INTERNET
13 CONNECTION, NETWORK, OR DATA TRANSMISSION SERVICES MAY
14 PROVIDE FOR DIFFERENT LEVELS OF AVAILABILITY, UPTIME, OR
15 OTHER SERVICE QUALITY STANDARDS SET BY THE NATIONAL
16 TELECOMMUNICATIONS COMMISSION FOR SERVICES USING PREPAID,
17 POSTPAID, OR OTHER MEANS OF PAYMENT: *PROVIDED*, THAT MINIMUM
18 LEVELS OF AVAILABILITY, UPTIME, AND OTHER SERVICE QUALITY
19 STANDARDS SET BY THE COMMISSION SHALL NOT BE DIFFERENT
20 BETWEEN SERVICES USING PREPAID, POSTPAID, OR OTHER MEANS OF
21 PAYMENT.”

22 **SEC. 17. *Implementing Rules and Regulations.*** – Within sixty (60) days from the approval
23 of this Act, the NTC and the DICT shall promulgate the rules and regulations to effectively
24 implement the provisions of this Act.

25 **SEC. 18. *Separability Clause.*** – Should any part of this Act be declared unconstitutional,
26 the validity of the remaining provisions hereof shall remain in full force and effect.

27 **SEC. 19. *Repealing Clause.*** – The provisions of other laws, decrees, executive orders, rules
28 and regulations inconsistent with this Act are hereby repealed, amended, or modified accordingly.

29 **SEC. 20. *Effectivity.*** – This Act shall take effect fifteen (15) days after its publication in the
30 Official Gazette or in at least two (2) national newspapers in general circulation.

Approved,