

SENATE

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COMMITTEE REPORT NO. 302

Submitted by the Committee on Public Services on MAR 19 2018

Re: Senate Bill no. 1755

Recommending its approval in substitution of Senate Bill No. 68 taking into consideration House Bill No. 6558

Sponsor: Senator Grace Poe

MR. PRESIDENT:

The Committee on Public Services to which was referred Senate Bill No. 68 introduced by Senator Ralph G. Recto, entitled:

**"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."**

taking into consideration House Bill No. 6558 introduced by Representatives Yap (V.), Dalipe, Santos-Recto, Violago, et.al entitled:

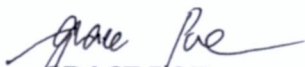
**"AN ACT
STRENGTHENING THE POWERS OF THE NATIONAL TELECOMMUNICATIONS
COMMISSION, AMENDING FOR THE PURPOSE REPUBLIC ACT NO. 7925,
OTHERWISE KNOWN AS THE 'PUBLIC TELECOMMUNICATIONS
POLICY ACT OF THE PHILIPPINES'"**

has considered the same and has the honor to report them back to the Senate with the recommendation that the attached Senate Bill No. 1755, prepared by the Committee entitled:

**"AN ACT
STRENGTHENING THE POWERS OF THE NATIONAL
TELECOMMUNICATIONS COMMISSION (NTC), AMENDING FOR
THE PURPOSE REPUBLIC ACT NO. 7925, OTHERWISE KNOWN
AS THE "PUBLIC TELECOMMUNICATIONS POLICY ACT OF THE PHILIPPINES"**

be approved in substitution of Senate Bill No. 68, taking into consideration House Bill No. 6558, with Senators Recto and Poe as authors thereof.

RESPECTFULLY SUBMITTED:



GRACE POE

Chairperson

Committee on Public Services



JOSEPH VICTOR G. EJERCITO

Vice-Chairperson

Committee on Public Services



FRANCIS "Chiz" G. ESCUDERO

Vice-Chairperson

Committee on Public Services

MEMBERS:



LOREN B. LEGARDA



PANFILO M. LACSON


RICHARD J. GORDON

JOEL VILLANUEVA




RISA HONTIVEROS

ANTONIO "Sonny" F. TRILLANES IV



JUAN MIGUEL "Migz" F. ZUBIRI



PAOLO BENIGNO "Bam" AQUINO IV

Ex-Officio Members:

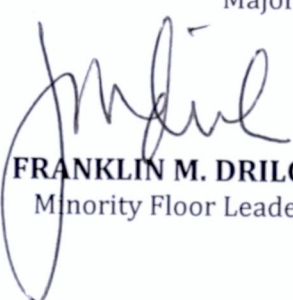
RALPH G. RECTO

Senate President Pro-Tempore



VICENTE C. SOTTO III

Majority Floor Leader



FRANKLIN M. DRILON

Minority Floor Leader

HON. AQUILINO "Koko" PIMENTEL III

President

Senate of the Philippines

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Senate Bill No. 1755

Prepared by the Committee on Public Services with Senators Ralph G. Recto, Joel Villanueva,
and Grace Poe as authors thereof

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

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

1 Section 1. - Section 3 of the Republic Act No. 7925, otherwise known as the
2 "Public Telecommunications Policy Act of the Philippines", is hereby amended to read
3 as follows:

4 "SEC.3. Definitions *and Interpretations.* – For purposes of this Act, the
5 following terms shall be used:

6 "xxx

7

8 **"L) SIGNIFICANT MARKET POWER – THE ABILITY OF A**
9 **PUBLIC TELECOMMUNICATIONS ENTITY TO AFFECT PRICE,**
10 **SUPPLY OR INNOVATION IN THE TELECOMMUNICATIONS**
11 **INDUSTRY OR ANY PART THEROF, AS A RESULT OF EITHER ITS**
12 **CONTROL OVER ESSENTIAL FACILITIES OR THE USE OF ITS**
13 **POSITION IN ANY MARKET IN THE TELECOMMUNICATIONS**
14 **INDUSTRY OR ANY MARKET RELATED THERETO.**

15 **"FURTHER, THE COMMISSION IS MANDATED TO ADOPT**
16 **STANDARDIZED DEFINITIONS OF THE INTERNATIONAL**

1 TELECOMMUNICATIONS UNION (ITU), THE INTERNET
2 ENGINEERING TASK FORCE (IETF), THE WORLD WIDE WEB
3 CONSORTIUM (WWWC), AND THE INTERNET CORPORATION
4 FOR ASSIGNED NUMBERS AND NAMES (ICANN) AND OTHER
5 INTERNATIONAL AND TRANSNATIONAL AGENCIES
6 GOVERNING THE DEVELOPMENT, STANDARDIZATION, AND
7 UTILIZATION OF THE INTERNET AND INFORMATION AND
8 COMMUNICATIONS TECHNOLOGY, SUBJECT TO
9 REFINEMENTS OF THESE INTERNATIONAL STANDARDS AS
10 MAY BE PRESCRIBED BY REGIONAL TELECOMMUNICATIONS
11 BODIES TAKING INTO CONSIDERATION THE SPECIAL
12 CIRCUMSTANCES APPLICABLE ONLY TO THE REGION."

13
14 Sec. 2. Section of the same Act is hereby amended to read as follows:
15

16 "SEC. 5. *Responsibilities of the National Telecommunications*
17 *Commission.* – The National Telecommunications Commission
18 (Commission) shall be the principal administrator of this Act and as such
19 shall take the necessary measures to implement the policies and
20 objectives set forth in this Act. Accordingly, in addition to its existing
21 functions, the Commission shall be responsible for the following:
22

"x x x

23 "c) Mandate a fair and reasonable interconnection of facilities
24 of authorized public network operators and other providers of
25 telecommunications services through appropriate modalities of
26 interconnection and at a reasonable and fair level charges [which
27 make provision for the cross subsidy to unprofitable local exchange
28 service areas so as to promote telephone density and provide the
29 most extensive access to basic telecommunications services
30 available at affordable rates to the public];

31 "x x x

1 "f) Protect consumer against misuse of a
2 telecommunications entity's monopoly or quasi-monopolistic
3 powers by, but not limited to, the investigation of complaints
4 and exacting compliance with service standards from such entity;
5 [and]

6 "g) In the exercise of its regulatory powers, continue to
7 impose such fees and charges as may be necessary to cover
8 reasonable costs and expenses for the regulation and supervision of
9 the operations of telecommunications Entities [.]; **AND**

10
11 **"H) IN THE EXERCISE OF ITS REGULATORY POWERS,**
12 **IMPOSE FINES AGAINST PUBLIC TELECOMMUNICATIONS**
13 **ENTITIES WITHIN THE SCOPE OF ITS REGULATION, WHICH**
14 **ARE FOUND TO HAVE VIOLATED, VIOLATING, OR THOSE**
15 **WHICH HAVE FAILED OR ARE FAILING TO COMPLY WITH THE**
16 **TERMS AND CONDITIONS OF THIS ACT, ANY CERTIFICATE,**
17 **OR ANY ORDER, DECISION OR REGULATION OF THE**
18 **COMMISSION.**

19
20 **"THE ERRING PUBLIC TELECOMMUNICATIONS ENTITY**
21 **SHALL BE SUBJECT TO A FINE AMOUNTING TO THE TOTAL**
22 **ACTUAL LOSS OR OVERCHARGING AS DETERMINED BY THE**
23 **COMMISSION FOR EVERY DAY DURING WHICH SUCH**
24 **DEFAULT OR VIOLATION CONTINUES, OR IF IT IS NOT**
25 **FEASIBLE TO QUANTIFY THE OFFENSE, TO A FINE**
26 **AMOUNTING TO ONE MILLION PESOS (P1,000,000.00) FOR**
27 **EVERY DAY DURING WHICH SUCH DEFAULT OR VIOLATION**
28 **CONTINUES UNTIL THE AMOUNT IS FULLY PAID:**
29 ***PROVIDED,* THAT, IF THE PUBLIC TELECOMMUNICATIONS**
30 **ENTITY HAS A GROSS ANNUAL INCOME NOT EXCEEDING TEN**
31 **MILLION PESOS (P10,000,000.00), THE PENALTY THAT MAY**
32 **BE IMPOSED SHALL BE EQUIVALENT TO ONE PERCENT (1%)**

1 TO TWO PERCENT (2%) OF ITS GROSS ANNUAL INCOME. THE
2 COMMISSION IS HEREBY AUTHORIZED AND EMPOWERED TO
3 IMPOSE SUCH FINE, AFTER DUE NOTICE AND HEARING. THE
4 ERRING PUBLIC TELECOMMUNICATIONS ENTITY IS ALSO
5 MANDATED TO REFUND TO CONSUMERS THE CHARGES IT
6 ERRONEOUSLY IMPOSED TO ITS SUBSCRIBERS.
7

8 "THE COMMISSION IS FURTHER AUTHORIZED TO
9 IMPOSE A FINE OF ONE MILLION PESOS (1,000,000.00) FOR
10 EVERY DAY THAT A VIOLATION OF SECTIONS 18 AND 19
11 HEREOF IS COMMITTED, AND UNTIL SUCH TIME THAT THE
12 ERRING PUBLIC TELECOMMUNICATIONS ENTITY FULLY
13 COMPLIES WITH THE TERMS AND CONDITIONS OF THIS
14 ACT, ANY CERTIFICATE, OR ANY ORDER, DECISION, OR
15 REGULATION OF THE COMMISSION: *PROVIDED*, THAT, IF THE
16 PUBLIC TELECOMMUNICATIONS ENTITY HAS A GROSS
17 ANNUAL INCOME NOT EXCEEDING TEN MILLION PESOS
18 (P10,000,000.00), THE PENALTY THAT MAY BE IMPOSED
19 SHALL BE EQUIVALENT TO ONE PERCENT (1%) TO TWO
20 PERCENT (2%) OF ITS GROSS ANNUAL INCOME.
21

22 "I) THE COMMISSION SHALL REQUIRE PUBLIC
23 TELECOMMUNICATIONS ENTITIES WITH SIGNIFICANT
24 MARKET POWER AS DETERMINED BY THE PHILIPPINE
25 COMPETITION COMMISSION (PCC) TO PROVIDE TIMELY
26 ACCESS TO ITS NETWORK, FACILITIES OR EQUIPMENT TO
27 ACCESS SEEKERS ON A FAIR, REASONABLE AND
28 NONDISCRIMINATORY TERMS AND CONDITIONS."

29 Sec. 3. - Section 10 of the same Act is hereby amended to read as
30 follows:

31 "SEC. 10. *International Carrier*. - Only entities which [will
32 provide local exchange service and] can demonstrably show technical

1 and financial capability to install and operate an international gateway
2 facility shall be allowed to operate as an international carrier.”

3
4 [The entity so allowed shall x x x grant of the authority.]

5 [The international carrier shall x x x complies therewith.]

6 [Failure to comply with x x x international carrier.]

7
8 Sec. 4. - Section 12 of the same Act is hereby amended to read as follows:

9
10 “SEC. 12. *Mobile Radio Services.* – [In a local telephone
11 exchange area, m]More than one duly enfranchised provider of mobile
12 radio services, distinct and separate from the local exchange carrier,
13 may be allowed to operate. However, such entities shall secure prior
14 authority from the Commission and, in addition, comply with the
15 [conditions imposed on VAS and with the] norms on radio frequency
16 spectrum utilization.”

17
18 [The operator of a x x x a mobile radio telephone system.]

19
20 Sec. 5. - Section 15 of Republic Act No. 7925 is hereby amended to read as
21 follows:

22
23 “SEC. 15. [*Radio Frequency Spectrum.*] **USE OF AVAILABLE**
24 **OR UNASSIGNED SPECTRUM.** – The radio frequency spectrum
25 allocation and assignment shall be subject to **AN ANNUAL** [periodic]
26 review. The use thereof shall be subject to reasonable spectrum user
27 fees. Where demand for specific frequencies exceed availability, the
28 commission shall hold open tenders for the same and ensure wider
29 access to this limited resource.

30
31 “**WITHIN ONE (1) YEAR FROM THE EFFECTIVITY OF THIS**
32 **ACT, THE DEPARTMENT OF INFORMATION AND**

COMMUNICATIONS TECHNOLOGY (DICT), IN CONSULTATION WITH THE COMMISSION AND THE PCC, SHALL ISSUE THE GUIDING PRINCIPLES AND POLICY DIRECTION FOR THE USE OF THE SPECTRUM."

Sec. 6. - Section 8 of the same Act is hereby amended to read as follows:

"SEC. 18. *Access Charge / Revenue Sharing.* – The access charge/revenue sharing arrangements between all interconnecting carriers shall be negotiated between the parties and the agreement between the parties shall be submitted to the Commission **FOR REVIEW AND APPROVAL.** In the event the parties fail to agree thereon within a reasonable period of time, the dispute shall be submitted to the Commission for resolution.

"In adopting or approving an access charge formula or revenue sharing agreement, between two or more carriers, particularly, but not limited to a local exchange, interconnecting with a mobile radio, inter-exchange long distance carrier, or international carrier, the Commission shall ensure equity, reciprocity and fairness among the parties concerned." [In so approving the rates for x x x interconnecting with them.]

Sec. 7. - A new Section shall be inserted after Section 18 of the same Act to read as follows:

"SEC. 18. (1) *TRANSPARENCY.* – ALL INTERCONNECTING CARRIERS SHALL PROVIDE TO THE COMMISSION ALL TERMS AND CONDITIONS, INCLUDING RATES, OF ACCESS CHARGE/REVENUE SHARING ARRANGEMENTS SUCH CARRIERS HAVE ENTERED INTO.

1 **"ALL TELECOMMUNICATIONS SERVICE**
2 **PROVIDERS SHALL OPEN THEIR BOOKS OF ACCOUNT TO THE**
3 **COMMISSION, WHICH IS EMPOWERED TO DEMAND COPIES**
4 **THEREOF."**

5
6 **Sec. 8. -** A new Section 24 is hereby inserted and the same shall
7 read as follows:

8
9 **"SEC. 24. IMMUNITY FROM SUIT. - THE**
10 **COMMISSIONER, THE DEPUTY COMMISSIONERS, OFFICERS,**
11 **AND EMPLOYEES OF THE COMMISSION, SHALL NOT BE**
12 **SUBJECT TO ANY ACTION, CLAIM OR DEMAND IN CONNECTION**
13 **WITH ANY ACT DONE OR OMITTED BY THEM IN THE**
14 **PERFORMANCE OF THEIR DUTIES AND EXERCISE OF THEIR**
15 **POWERS EXCEPT FOR THOSE ACTIONS AND OMISSIONS**
16 **DONE IN EVIDENT BAD FAITH OR GROSS NEGLIGENCE."**

17
18 **Sec. 9. -** A new Section 25 is hereby introduced and the same
19 shall read as follows:

20
21 **"SEC. 25. INDEMNITY. - UNLESS THE ACTIONS OF THE**
22 **COMMISSION, OR ITS COMMISSIONER, OR ANY OF ITS**
23 **DEPUTY COMMISSIONERS, OFFICERS, AND EMPLOYEES ARE**
24 **FOUND TO BE IN WILLFUL VIOLATION OF THIS ACT,**
25 **PERFORMED WITH EVIDENT BAD FAITH OR GROSS**
26 **NEGLIGENCE, THE COMMISSION, ITS COMMISSIONER, ITS**
27 **DEPUTY COMMISSIONERS, OFFICERS, AND EMPLOYEES ARE**
28 **HELD FREE AND HARMLESS TO THE FULLEST EXTENT**
29 **PERMITTED BY LAW FROM ANY LIABILITY, AND THEY SHALL**
30 **BE INDEMNIFIED FOR ANY AND ALL LIABILITIES, LOSSES,**
31 **CLAIMS, DEMANDS, DAMAGES, DEFICIENCIES, COSTS AND**
32 **EXPENSES OF WHATSOEVER KIND AND NATURE THAT MAY**

1 ARISE IN CONNECTION WITH THE EXERCISE OF THEIR
2 POWERS AND PERFORMANCE OF THEIR DUTIES AND
3 FUNCTIONS.

4
5 THE COMMISSION SHALL UNDERWRITE OR ADVANCE
6 LITIGATION COSTS AND EXPENSES, INCLUDING LEGAL FEES
7 AND OTHER EXPENSES OF EXTERNAL COUNSEL, OR PROVIDE
8 LEGAL ASSISTANCE TO ITS COMMISSIONER, DEPUTY
9 COMMISSIONERS, OFFICERS, AND EMPLOYEES IN
10 CONNECTION WITH ANY CIVIL, CRIMINAL, ADMINISTRATIVE
11 OR ANY OTHER ACTION OR PROCEEDING, TO WHICH THEY
12 ARE MADE A PARTY BY REASON OF, OR IN CONNECTION
13 WITH, THE EXERCISE OF AUTHORITY OR PERFORMANCE OF
14 DUTIES AND FUNCTIONS UNDER THIS ACT: *PROVIDED*, THAT
15 SUCH LEGAL PROTECTION SHALL NOT APPLY TO ANY CIVIL,
16 CRIMINAL, ADMINISTRATIVE, OR ANY ACTION OR
17 PROCEEDING THAT MAY BE INITIATED BY THE COMMISSION,
18 AGAINST SUCH COMMISSIONER, DEPUTY COMMISSIONERS,
19 OFFICERS, AND EMPLOYEES: *PROVIDED, FURTHER*, THAT THE
20 COMMISSIONER, ITS DEPUTY COMMISSIONERS AND
21 OFFICERS WITH DISCRETION AND SPECIFIC DUTIES TO
22 DECIDE AND ENFORCE THIS ACT WHO SHALL RESIGN,
23 RETIRE, TRANSFER TO ANOTHER AGENCY OR BE SEPARATED
24 FROM THE SERVICE, SHALL CONTINUE TO BE PROVIDED WITH
25 SUCH LEGAL PROTECTION IN CONNECTION WITH ANY ACT
26 DONE OR OMITTED TO BE DONE BY THEM IN GOOD FAITH
27 DURING THEIR TENURE OR EMPLOYMENT WITH THE
28 COMMISSION: *PROVIDED, FINALLY*, THAT IN THE EVENT OF A
29 SETTLEMENT OR COMPROMISE INDEMNIFICATION SHALL BE
30 PROVIDED ONLY IN CONNECTION WITH SUCH MATTERS
31 COVERED BY THE SETTLEMENT AS TO WHICH THE
32 COMMISSION IS ADVISED BY COUNSEL THAT THE PERSONS

1 **TO BE INDEMNIFIED DID NOT COMMIT ANY NEGLIGENCE OR**
2 **MISCONDUCT.**

3
4 **THE COSTS AND EXPENSES INCURRED IN DEFENDING**
5 **THE AFOREMENTIONED ACTION, SUIT OR PROCEEDING MAY**
6 **BE PAID BY THE COMMISSION IN ADVANCE OF THE FINAL**
7 **DISPOSITION OF SUCH ACTION, SUIT OR PROCEEDING UPON**
8 **RECEIPT OF AN UNDERTAKING BY ON BEHALF OF THE**
9 **COMMISSIONER, ITS DEPUTY COMMISSIONERS AND**
10 **OFFICERS WITH DISCRETION AND SPECIFIC DUTIES TO**
11 **DECIDE AND ENFORCE THIS ACT TO REPAY THE AMOUNT**
12 **ADVANCED SHOULD IT ULTIMATELY BE DETERMINED BY THE**
13 **COMMISSION THAT ONE IS NOT ENTITLED TO BE**
14 **INDEMNIFIED AS PROVIDED IN THIS SECTION.**

15
16 Sec. 10. - Renumbering of Provisions. With the introduction of new Sections, a
17 renumbering of the present Public Telecommunications Policy Act of the Philippines is
18 hereby mandated.

19
20 Sec. 11. Separability Clause. – Should any provision herein be declared
21 unconstitutional, the other provisions not affected shall remain in full force and effect.

22
23 Sec. 12. *Repealing Clause.* – Section 23 of Republic Act No. 7925 (Equality of
24 treatment in the Telecommunications Industry) is hereby repealed. All laws, orders,
25 issuances, rules, and regulations or parts thereof inconsistent with the provisions of
26 this Act are hereby repealed, amended, or modified accordingly.

27
28 Sec. 13. *Effectivity.* – *This* Act shall take effect fifteen (15) days after its
29 publication in the *Official Gazette* or in any newspaper of general circulation.

30
31 Approved,