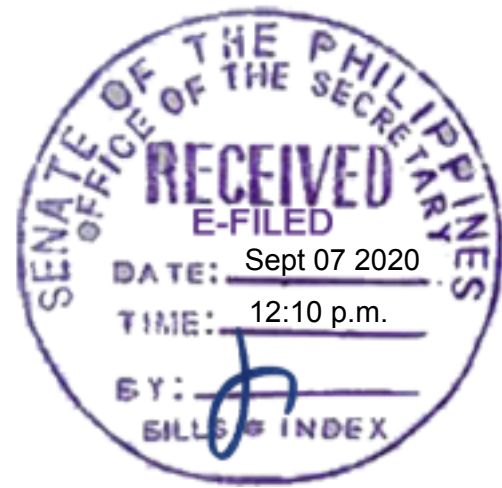


EIGHTEENTH CONGRESS OF THE)
REPUBLIC OF THE PHILIPPINES)
Second Regular Session)



SENATE
S.B. No. 1808

Introduced by SENATOR IMEE R. MARCOS

AN ACT
PROMOTING ONLINE TRANSACTIONS, SAFEGUARDING THE RIGHTS OF
CONSUMERS AND MERCHANTS, AND FOR OTHER PURPOSES

EXPLANATORY NOTE

Article II, Section 20 of the 1987 Constitution provides that, "The State recognizes the indispensable role of the private sector, encourages private enterprise, and provides incentives to needed investments."

In 2000, Republic Act No. 8792 otherwise known as the "Electronic Commerce Act of 2000" was enacted which aimed to facilitate domestic and international dealings, transactions, agreements, contracts and exchanges and storage of information through the utilization of electronic, optical and similar medium, instrumentality and technology to recognize the authenticity and reliability of electronic data messages or electronic documents related to such activities and to promote the universal use of electronic transactions in the government and by the general public.

However, two decades later, the said law remains unchanged. The shift to electronic or online commerce is inevitable. The use of technology-based services such as online markets is expected to soar with the continued threat of the COVID-19 pandemic.

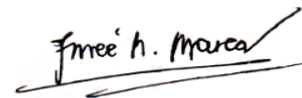
The Philippine Statistical Authority (PSA) released the 2nd Quarter GDP Data of 2020 last August 6, 2020. The 2nd Quarter GDP contracted by 16.5% year-on-year. With a contraction of 0.7% of GDP on 1st Quarter 2020, the Philippines is now officially in recession, defined as 2 quarters of economic contraction.

Further, mobility restrictions and personal avoidance behavior curbed not just demand, but also the production of goods and services, with, for instance, the services sector growing at its slowest pace in nearly three decades in the first quarter of 2020.

Thus, the trend in digital transactions and the surge in the use of online e-commerce and cashless payments shall create a huge impact in the recovery of the Philippine economy.

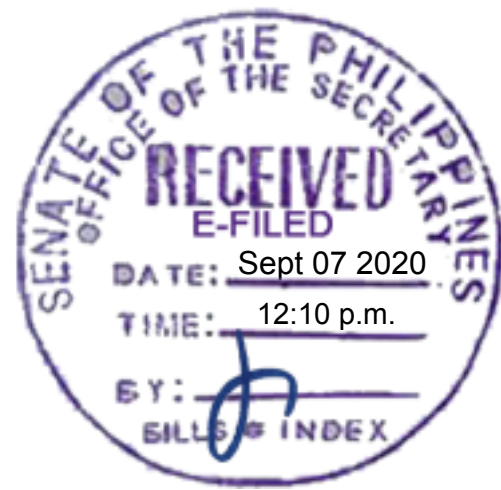
The bill seeks to promote the growth of the eCommerce and online transactions where digital access to goods and digital products, including digital content and digital services, are secure, fast, and accessible to consumers, and where businesses are more readily able to adopt to innovations. Further, the bill aims to uphold fair business competition and practices and enable all businesses and consumers with online eCommerce platforms to have access to effective mechanisms for dispute resolution

Given the abovementioned circumstances, the immediate passage of this bill is earnestly sought.

A handwritten signature in black ink, reading "Imee R. Marcos", written over a horizontal line.

IMEE R. MARCOS

EIGHTEENTH CONGRESS OF THE)
REPUBLIC OF THE PHILIPPINES)
Second Regular Session)



SENATE
S.B. No. 1808

Introduced by SENATOR IMEE R. MARCOS

AN ACT
PROMOTING ONLINE TRANSACTIONS, SAFEGUARDING THE RIGHTS OF
CONSUMERS AND MERCHANTS, AND FOR OTHER PURPOSES

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

1 Section 1. *Short Title.* – This Act shall be known as the "*Online Transactions Act.*"

2 Sec. 2. *Declaration of Policy.* – The State shall promote the growth of the eCommerce,
3 digital economy, and online transactions where digital access to goods and services are
4 secure, fast, and accessible to consumers, and where businesses are more readily able to
5 adopt to innovations. Further, the State shall ensure fair business competition and practices
6 and enable all businesses and consumers with online eCommerce platforms to have access to
7 effective mechanisms for dispute resolution.

8 Sec. 3. *Scope and Coverage.* – This Act shall apply to eCommerce transactions or the
9 sale, lease, exchange, traffic, or distribution of digital products over the internet or by
10 electronic means, which shall include the following:

- 11 a. Online retail of consumer goods and services;
- 12 b. Online travel and tour services, covering the purchase or booking of flights,
13 accommodations and rental spaces, as well as reservations at restaurants and
14 other tourism-related establishments or activities;
- 15 c. Digital media, including advertising, gaming, music subscription, video-on-
16 demand, and other streaming or over-the-top (OTT) media content and services;

- 1 d. Booking services relating to Ride-hailing services for personal transport, insofar as
2 this Act is not inconsistent with the issuances of the Land Transportation
3 Franchising and Regulatory Board (LTFRB) related to transport network vehicle
4 service (TNVS), delivery of food and merchandise, and other articles, and other
5 similar booking services; and
- 6 e. Financial services offered through digital online platforms, such as online
7 payments, remittances, online lending, online investment, and online insurance
8 services, insofar as this Act is not inconsistent with the provisions of Republic Act
9 No. 11127 otherwise known as the "*National Payment Systems Act (NPSA)*."

10 For purposes of this Act, "*Electronic Commerce or eCommerce*" shall refer to the sale,
11 lease, exchange, traffic or distribution of goods, commodities, productions, services or
12 property, tangible or intangible, over the Internet or by electronic means and the transfer of
13 data and money or consideration, pursuant to these transactions.

14 Sec. 4. *eCommerce Bureau*. – Upon the effectivity of this Act, there is hereby created
15 the "*eCommerce Bureau*", hereinafter referred to as the "Bureau", under the Department of
16 Trade and Industry (DTI), in coordination with the concerned department or agency, shall
17 perform the following functions:

- 18 a. Implement, monitor, and ensure strict compliance by eCommerce stakeholders of
19 the provisions of this Act;
- 20 b. Build trust between consumers and sellers, and Online eCommerce Platform
21 Providers to promote eCommerce growth;
- 22 c. Coordinate the formulation of policies, plans and programs to increase the number
23 of online merchants and consumers;
- 24 d. Ensure fair competition among all key players in the eCommerce industry;
- 25 e. Act as a virtual one stop shop for consumer complaints on internet transactions,
26 and facilitate the speedy resolution of consumer complaints by the respective
27 government agency which has jurisdiction over the complaint;
- 28 f. Compel or petition any entity, government agency or instrumentality of take action
29 on any matter that may impeded eCommerce;
- 30 g. Monitor the compliance of other government agencies or instrumentalities on their
31 compliance to the provisions of this Act and the eCommerce roadmap;
- 32 h. Represent the Philippines in international negotiations to promote cross border
33 eCommerce transactions;

- 1 i. Collect, compile, analyze, abstract, and publish eCommerce data for policy
2 formulation and program development;
- 3 j. Prepare and conduct periodic studies on eCommerce;
- 4 k. Collaborate with departments of the national government including local
5 government units and government-owned or controlled corporations in
6 implementing programs to promote eCommerce, including information, education,
7 and campaign, as well as in ensuring a policy regime that is pro-active;
- 8 l. Compel or petition any entity, government agency or instrumentality of take action
9 on any matter that may impeded eCommerce; and
- 10 m. Recommend executive and legislative measures to ensure a regulatory framework
11 that encourages growth of the sector.

12 For purposes of this Act, the following shall be defined as follows:

- 13 a. "*Consumer*" shall refer to a natural or juridical person who, acting for purposes which
14 are outside that person's trade, business, craft, or profession, is a purchaser, lessee,
15 recipient or prospective purchaser, lessee or, recipient of consumer products, services,
16 credit, digital products including digital content and digital services or the subject of
17 advertising or promotions, and other goods and services sold, offered for sale, or made
18 available through, by means of or in eCommerce;
- 19 b. "*Online eCommerce Platform Provider*" shall refer to a natural or juridical person that
20 solicits, promotes, markets, allows or facilitates the perfection and/or consummation
21 of the purchase and sale through the Internet or eCommerce transactions over digital
22 products through transfer of data; *Provided, that* natural or juridical entities purporting
23 to act as Online eCommerce Platform providers will be deemed to be Online Merchants
24 under this Act if they act for purposes relating to their own business, and as the direct
25 contractual partner of the consumer for the supply of digital products;
- 26 c. "*Online eCommerce Platform*" shall refer to digital platforms, accessible to consumers
27 over the Internet, either through websites or mobile applications, or both, which
28 connect consumers and sellers, facilitate the perfection and/or consummation of sales
29 of digital products, goods or services through the Internet, which include, among
30 others, online marketplaces, online shopping malls, online intermediaries / brokers,
31 online search engines, and online comparison tools; and
- 32 d. "*Online Merchant*" shall refer to any natural, or juridical person, irrespective of whether
33 privately or publicly owned, who in the ordinary course of business, is engaged in the
34 selling of digital products, whether or not manufactured or produced by such person,

1 directly to consumers over the internet, either through a website or mobile application,
2 an Online eCommerce Platform, a social media website or application, or through other
3 similar means.

4
5 *Sec. 5. Composition of the Bureau.* – The Bureau shall be headed by a Commissioner
6 who must have sufficient knowledge and background in production, distribution, marketing,
7 sale, or delivery of goods and services by electronic means.

8 The Commissioner shall be assisted by six (6) Deputy Commissioners, as follows: one
9 (1) for Administration, one (1) for Finance, one (1) for Planning, one (1) for Operations, one
10 (1) for Franchising, and one (1) for Law Enforcement and Adjudication. All Deputy
11 Commissioners must be Career Executive Service Officers with at least ten (10) years of
12 experience and practice in eCommerce. However, the Deputy Commissioner for Law
13 Enforcement and Adjudication must be a member of the Philippine Bar.

14 The Commissioner and Deputy Commissioners shall be appointed by the President of
15 the Philippines upon the recommendation of the Secretary of Trade and Industry.

16 **CHAPTER I**
17 **ONLINE RETAIL OF CONSUMER GOODS**

18
19 *Sec. 6. Qualifications to Engage in eCommerce.* - The following are presumed legally
20 to be qualified to engage in eCommerce in the Philippines in the ordinary course of their trade
21 or business:

22 a. A Filipino individual who is duly licensed to do business as a single proprietor and
23 authorized to engage in such eCommerce activities with the DTI;

24 b. A juridical entity that is organized and existing under Philippine laws, duly registered
25 with the Securities and Exchange Commission (SEC), and authorized to engage in such
26 eCommerce activities whether as a corporation or as a partnership;

27 c. A Filipino cooperative that is duly licensed and authorized to engage in such
28 eCommerce activities by the Cooperative Development Authority (CDA); and

29 d. A foreign corporation that is duly licensed and authorized to engage in such
30 eCommerce activities by the SEC to transact business in the Philippines.

1 *Provided, that* a person who is authorized to engage in eCommerce in the Philippines
2 and who facilitates the sale of a digital product or service by one who is not so authorized
3 shall be deemed primarily liable for any obligation, damage, or fine, that may arise from the
4 transaction or from the digital product, without prejudice to the obligation, damage, or fine
5 that may be imposed on the latter under existing laws and regulations, subject to the
6 provisions of this Act.

7 *Provided, further, that* a non-resident of the Philippines who, in the ordinary course of
8 business, engages in eCommerce transactions in relation to digital products, by marketing
9 goods or services, that are accessible in the Philippines or made available to consumers in the
10 Philippines, may not evade legal liability in the Philippines owing to the fact of non-residency,
11 and shall be subject the same obligations and liabilities arising from any transaction as those
12 who are authorized to engage in eCommerce in the Philippines.

13 Sec. 7. *Business Registration.* – For purposes of this Act, the following shall be
14 considered:

- 15 a. To encourage the formation of business enterprises, the growth and integrated
16 development of eCommerce, and protection of consumers, all persons, natural or
17 juridical, engaged in eCommerce transactions either as Online Merchants or as
18 online eCommerce Platform Providers, shall register with and/or obtain the
19 necessary business license from the DTI, SEC, or CDA, as the case may be, either
20 as a sole proprietor, one-person corporation, partnership, corporation, or
21 cooperative, or as a branch office for foreign corporations;
- 22 b. Any person, whether natural or juridical, is found to be engaged in eCommerce
23 transactions, either as Online Merchants or as Online eCommerce Platforms, in the
24 ordinary course of business, without such business license and/or registration is in
25 violation of this Act and other existing laws and regulations; *Provided that,*
26 *Consumer-to-Consumer (C2C)* transactions, or singular, isolated, casual, or
27 occasional transactions between one consumer to another, both acting for
28 purposes which are outside their respective trade, business, craft, or profession,
29 shall not be covered by this Act; and *Provided further that,* for a period of one (1)
30 year from the effectivity of this Act, the applicable penalties for the first offense of
31 unregistered Online Merchants Online eCommerce Platform Providers commuted
32 shall be waived upon presentation of business registration papers;
- 33 c. All regulatory agencies responsible for business registration whether for sole
34 proprietorships, one-person corporations, partnerships, corporations, or

1 cooperatives, shall extend its jurisdiction or regulatory powers over business
2 websites and other communication channels covering internet transactions. The
3 DTI or any of the implementing agencies shall have the authority to enforce
4 website takedown procedures and shall report the violator to the Bureau of Internal
5 Revenue;

- 6 d. Consistent with Republic Act No. 11032, otherwise known as the "*Ease of Doing*
7 *Business Act*," all National Government agencies and local government agencies
8 (LGUs) shall make available online registration of business permits and licenses
9 particularly for those engaged in eCommerce; and
- 10 e. The SEC, LGUs, and the CDA shall submit to the DTI an annual list of registered
11 enterprises for monitoring and for purposes of maintaining a database of online
12 merchants.

13

14 *Sec. 8. Foreign Corporations Registration Requirement.* – Foreign corporations who
15 are not registered or duly licensed by the SEC, but who are otherwise doing or engaged in
16 the eCommerce business within the Philippines, including maintaining active websites which
17 generate sufficient business over the internet from Philippine consume, should acquire
18 registration with the SEC, as may be determined by the SEC under the rules and regulations.

19 *Sec. 9. Regulatory Jurisdiction of the DTI.* – The DTI shall exercise primary regulatory
20 jurisdiction over any website, webpage, social media account, or other similar platform that
21 markets digital products that are accessible in the Philippines, regardless of whether the owner
22 of the website, webpage, social media account, or other similar platform is authorized to
23 engage in eCommerce in the Philippines. The jurisdiction of the DTI includes the authority to
24 order the owner of the website, webpage, social media account, or other similar platform to
25 desist from marketing or offering goods or services that are accessible in the Philippines on
26 account of violation of this Act, or any other consumer or trade laws and regulations, as well
27 as the prerogative to refer the matter to the Bureau of Internal Revenue for appropriate
28 action.

29 *Sec. 10. Obligations of Online eCommerce Platforms Providers.* – Online eCommerce
30 Platform Providers shall have the following obligations:

- 31 a. Online eCommerce Platforms Providers shall ensure that any commercial
32 communications in their Online eCommerce Platforms shall:
- 33 i. Be clearly identifiable as a commercial communication;

- 1 ii. Clearly identify the person or entity on whose behalf the commercial
2 communication is made;
- 3 iii. Clearly identify any promotional offer including any discount, premium, or gift,
4 and ensure that any conditions which must be met to qualify for it are easily
5 accessible, and presented clearly and unambiguously; and
- 6 iv. Clearly identify any promotional competition or game and ensure that any
7 conditions for participation are easily accessible and presented clearly and
8 unambiguously.
- 9 b. Online eCommerce Platforms Providers shall require all Online Merchants, prior
10 to the latter's onboarding, to submit the following:
- 11 i. Name of the online merchant;
- 12 ii. Registration documents of the online merchant from the appropriate
13 regulatory authority, including but not limited to business permits,
14 certificate of registration, barangay clearance;
- 15 iii. Geographic address at which the online merchant is established;
- 16 iv. Details of the online merchant, a mobile or landline number, and a valid
17 electronic mail address, which makes it possible to immediately and easily
18 contact and communicate with the online merchant and communicate in a
19 direct and effective manner; and
- 20 v. Details of any professional body or similar institution with which the online
21 merchant is registered, in instances when the online merchant exercises a
22 regulated profession.
- 23 c. Online eCommerce Platforms Providers shall maintain a file of all registered
24 online merchants which shall be regularly verified and updated.
- 25 Online eCommerce Platforms shall publish on their website, webpage, social media
26 account, or other similar platform, the information on the online merchant required
27 to be collected from the latter under Section 10 of this Act.

28 Sec. 11. *Internet Transactions Involving Consumers.* – An online merchant of goods
29 shall exercise the following responsibilities:

- 30 a. Deliver or cause the delivery of goods to the consumer ensuring the following
31 requirements:
- 32 i. The goods are of the description, type, quantity, and quality, and possess the
33 functionality, compatibility, interoperability and other features, as required by
34 the sales contract. The seller must show a sample or a model of the goods to

1 the consumer and the goods possess the quality of and correspond to the
2 description of the sample or model; possess the qualities and performance
3 features of which the consumer may reasonably expect; for any particular
4 purpose for which the consumer requires them and which the consumer made
5 known to the seller at the time of the conclusion of the contract, and which the
6 seller has accepted; and possess the qualities and performance capabilities
7 indicated in any pre-contractual statement which forms an integral part of the
8 contract.

9 ii. Ensure that all digital goods shall:

10 a. Be delivered along with the accessories including packaging, installation
11 instructions or other instruction as the consumer may expect to receive;
12 and

13 b. Possess qualities and performance capabilities which are normal in
14 goods of the same type and which the consumer may expect given the
15 nature of the goods and taking into account any public statement made
16 by or on behalf of the seller or other persons in earlier links of the chain
17 of transactions, including the producer, unless the online merchant
18 shows that:

19 1. The online merchant was not, and could not reasonably have been
20 aware of the statement in question;

21 2. By the time of conclusion of the contract, the statement had been
22 corrected; or

23 3. The decision to buy the goods could not have been influenced by
24 the statement.

25 b. Be liable for any lack of conformity with the contract which exists at the time when
26 the consumer or a third party indicated by the consumer other than the earner has
27 acquired the physical possession of the goods, or when the goods are handed over
28 to the carrier chosen by the consumer, and that carrier was not proposed by the
29 seller or where the seller proposes no means of carriage:

30 i. The goods were installed by the seller or under the seller's responsibility, and
31 the time when the installation is completed is considered as the time when the
32 consumer has acquired the physical possession of the goods;

33 ii. The goods were intended to be installed by the consumer, and the time when
34 the consumer had reasonable time for the installation not later than thirty (30)
35 days after the time indicated in subparagraph (a) of paragraph B, is considered

1 as the time when the consumer has acquired the physical possession of the
2 goods.

3 iii. The goods are incorrectly installed. Any lack of conformity resulting from the
4 correct installation is regarded as lack of conformity with the contract of the
5 goods if:

6 1. The goods were installed by the seller or under the seller's responsibility;
7 and

8 2. The goods, intended to be installed by the consumer, were installed by
9 the consumer and the correct installation was due to a shortcoming in
10 the installation instructions.

11 c. Where the online merchant operates its own website, webpage, social media
12 account, or any other similar platform, it shall publish on its homepage the
13 following:

14 i. Name of the online merchant;

15 ii. Registration documents of the online merchant from the appropriate regulatory
16 authority, including but not limited to business permits, certificate of
17 registration, barangay clearance;

18 iii. Geographic address at which the online merchant is established;

19 iv. Details of the online merchant, a mobile or landline number, and a valid
20 electronic mail address, which makes it possible to immediately and easily
21 contact and communicate with the online seller and communicate in a direct
22 and effective manner; and

23 v. Details of any professional body or similar institution with which the online
24 merchant is registered, in instances when the online merchant exercises a
25 regulated profession
26

27 Any agreement is valid only if, at the time of the conclusion of the contract, the
28 consumer has knowledge of the specific condition of the goods and the consumer has expressly
29 accepted this specific condition when concluding the contract.
30

31 For purposes of this Act, "*goods*" shall refer to physically produced items over which
32 ownership rights may be established and whose economic ownership may be passed from one
33 institutional unit to another, by engaging in transactions, and may include, among others:

1 (i) any tangible movable items, including water, gas, and electricity. *Provided that,*
2 water, gas and electricity will be consisted as goods only if they are put up for supply
3 in a limited volume or set quantity; and

4 (ii) goods with digital elements, or any tangible movable items that incorporate or are
5 inter-connected with digital content or a digital service in such a way that the absence
6 of that digital content or digital service would prevent the goods from performing their
7 functions.

8 **CHAPTER II**
9 **DIGITAL MEDIA**

10
11 *Sec. 12. Internet Transactions Involving Digital Media.* – A digital career worker,
12 freelancer, and freelance worker shall deliver or cause the delivery of digital products to the
13 consumer ensuring that such shall possess the qualities and performance features, including
14 in relation to functionality, compatibility, interoperability, accessibility, continuity, and security,
15 normal for digital content or digital services of the same type and of which the consumer may
16 reasonably expect.

17 Where the contract provides that the digital content or digital service is to be supplied
18 or made accessible to the consumer over a period of time, the seller may modify the digital
19 content or digital service beyond what is necessary to maintain the digital content or digital
20 service in conformity, if the following conditions are met:

- 21 i. The contract allows, and provides a valid reason for, such a modification;
22 ii. Such a modification is made without additional cost to the consumer; and
23 iii. The consumer is informed in a clear and comprehensible manner of the
24 modification.

25 For purposes of this Act, the following shall be defined as follows:

- 26 i. "*Digital Products*" shall refer to goods and services transacted over the internet
27 or by electronic means or otherwise in eCommerce, as defined in this Act, and
28 shall include digital content and digital services;
29 ii. "*Digital Content*" shall refer to data which are produced and supplied in digital
30 form;
31 iii. "*Digital Service*" shall refer to a service that allows the consumer to create,
32 process, store, or access data in digital form or allows the sharing of or any other

1 interaction with data in digital form uploaded or created by the consumer or
2 other users of that service;

3 iv. "*Interoperability*" shall be defined as the ability of the digital content or digital
4 service to function with hardware or software different from those with which
5 digital content or digital services of the same type are normally used;

6 v. "*Functionality*" shall be defined as the ability of the digital content or digital
7 service to perform its functions according to its purpose; and

8 vi. "*Compatibility*" shall be defined as the ability of the digital content or digital
9 service to function with hardware or software with which digital content or digital
10 services of the same type are normally used, without the need to convert the
11 digital content or digital service.

13 **CHAPTER III**

14 **DIGITAL PAYMENT PORTALS**

15 *Sec. 13. Digital Payments.* – Online eCommerce Platforms and Online Merchants shall
16 issue paper or electronic invoices or receipts for all sales. An electronic invoice or receipt shall
17 have the same legal effect as a physical invoice or receipt.

18 Within sixty (60) days from the effectivity of this Act, the Bureau of Internal Revenue
19 shall, in coordination with the Bureau of Customs, issue rules and regulations that modernize
20 and streamline the regulatory framework and encourage the adoption of electronic payment
21 systems by the citizenry. The DTI and the Bangko Sentral ng Pilipinas shall also develop
22 guidelines to protect merchants and consumers covering the various digital payment solutions.

23 **CHAPTER IV**

24 **RIGHT TO REDRESS, REMEDIES, AND PENALTIES**

25 *Sec. 14. Right to Redress by Online Merchants.* – Where the online merchant is liable
26 to the consumer because of a lack of conformity with the contract resulting from an act or
27 omission by a person in earlier links of the chain of transactions, the online merchant is entitled
28 to pursue remedies against the person or persons liable in the chain of transactions.

29
30 The person against whom the online merchant may pursue remedies and the relevant
31 actions and conditions to exercise must be in accordance with the following:

- 1 a. A repair or replacement must be completed within a reasonable time and without any
2 significant inconvenience to the consumer, taking into account the nature of the goods
3 and the purpose for which the consumer acquired the goods;
- 4 b. A proportionate reduction of the price or the termination of the contract, including
5 restitution of the price, in the following instances:
- 6 i. A repair or replacement is impossible or unlawful;
- 7 ii. The online merchant has not completed repair or replacement within a
8 reasonable time;
- 9 iii. A repair or replacement may cause significant inconvenience to the consumer;
10 or
- 11 iv. The online merchant has declared, or it is equally clear from the circumstances
12 that the online merchant may not bring the goods in conformity with the
13 contract within a reasonable time;
- 14 c. The consumer is entitled to withhold the payment of any outstanding part of the price,
15 until the online merchant has brought the goods into conformity with the contract;
- 16 d. The consumer is not entitled to a remedy to the extent that the consumer has
17 contributed to the lack of conformity with the contract or its effects;
- 18 e. Where the online merchant remedies the lack of conformity with the contract by
19 replacement, the online merchant may take back the replaced goods at the online
20 merchant's expense unless the parties have agreed otherwise after the lack of
21 conformity with the contract has been brought to the online merchant's attention by
22 the consumer;
- 23 f. Where the consumer had installed the goods in a manner consistent with their nature
24 and purpose, before the lack of conformity with the contract became apparent, the
25 cost for the removal of the non-conforming goods and the installation of replacement
26 goods, and all associated costs shall be for the account of the online merchant;
- 27 g. In case of goods that do not conform to the contract, the consumer is not liable to pay
28 for using the non-conforming goods prior to its replacement;
- 29 h. The consumer may choose between repair and replacement unless the option chosen
30 is impossible, unlawful or, imposes costs upon the online merchant that is
31 disproportionate, taking into account all circumstances, including:
- 32 i. The value the goods would have if the goods conformed to the contract;
- 33 ii. The significance of the lack of conformity with the contract; and
- 34 iii. Whether the alternative remedy may be completed without significant
35 inconvenience to the consumer.

1 Sec. 15. *Right to Terminate the Contract.* – If the goods delivered do not conform to
2 the contract, the consumer may exercise the right to terminate the contract by giving notice
3 to the online merchant. Where the lack of conformity relates to only some of the goods
4 delivered under the contract, the consumer may terminate the contract only in relation to the
5 non-conforming good and any other goods which was acquired as an accessory it Where the
6 consumer terminates a contract as a whole or in relation to some of the goods delivered:

- 7 A. The online merchant shall reimburse to the consumer the price paid without undue
8 delay and in any event not later than fourteen (14) days from receipt of the notice;
9 B. Upon receipt of the reimbursement from the online merchant, the consumer shall
10 return, at the online merchant’s expense, the goods without undue delay and in
11 any event not later than fourteen (14) days from the receipt of the reimbursement;
12 C. Where the goods cannot be returned because of destruction or loss, the consumer
13 shall pay to the online merchant the monetary value which the non-conforming
14 goods would have had at the date when the return was to be made if they had
15 been kept by the consumer without destruction or loss until that date, unless the
16 destruction or loss has been caused by a lack of conformity with the goods with
17 the contract; and
18 D. The consumer shall pay for a decrease in the value of the goods only to the extent
19 that the decrease in value exceeds depreciation through regular use. The payment
20 for decrease in value shall not exceed the price paid for the goods.
21

22 Sec. 16. *Damages.* – The online merchant is liable for damages to the consumer due
23 to the lack of conformity with the contract of the goods: *Provided that*, the lack of conformity
24 becomes apparent within two (2) years from the relevant time of establishing conformity.
25 *Provided further that*, no damages may be recovered from this Act after the lapse of four (4)
26 years from the time the conformity has been established.

27 Sec. 17. *Online Dispute Resolution.* – The DTI shall develop an online dispute
28 resolution (ODR) platform which is a single point of entry for consumers, online merchants
29 and traders seeking out-of-court resolution of disputes.

30 Sec. 18. *Joint and Solidary Liability.* – Online eCommerce platforms shall share solidary
31 liability with an online merchant under the following instances:

- 32 a. If the online eCommerce platform fails to exercise ordinary diligence to prevent
33 any loss or damage to the consumer;

- 1 b. If the identity of the online merchant and the online eCommerce platform is the
2 same;
- 3 c. If the online eCommerce Platform Provider knows or should have known, as when
4 it is apparent, that the online products sold do not comply with law, or otherwise
5 infringes on intellectual property rights, and fails to take necessary measures.
6 Liability shall not attach to the online eCommerce Platform Provider in instances
7 when the illegality or infringing nature of the online products advertised, offered
8 for sale, or sold through the online eCommerce Platform are not apparent,
9 provided that:
- 10 (i) the online eCommerce Platform contains a simple and straightforward
11 procedure for consumers, rights-holders or online merchants to report the
12 existence of illegal or infringing materials in the Platform;
- 13 (ii) the policy of implementing the procedure has been properly relayed to the
14 consumers, rights holders or online merchants; and
- 15 (iii) any report of illegal or infringing products shall be expeditiously acted
16 upon through investigations, suspensions, and takedown measures, if
17 necessary, by the online eCommerce Platform Provider.
- 18 d. If the online eCommerce platform fails to publish the details of its online
19 merchants, as required under this Act;
- 20 e. If the online eCommerce Platform fails to ensure regulatory compliance of digital
21 products related to food, drugs, and cosmetics or otherwise relates to the life or
22 health of consumers; and
23 If an online merchant is not duly registered with the appropriate regulatory agencies
24 and the online eCommerce platform permits the online merchant to sell digital
25 products.

26 *Sec. 19. Penalties. –*

- 27 a. Online merchants found guilty of violating Sec. 7, paragraph (B) of this Act or who
28 fail to register either as a sole proprietor, one-person corporation, partnership,
29 corporation, or cooperative, shall be punished with a fine equivalent to one
30 hundred percent (100%) of the amount of the digital goods offered or sold based
31 on the market price as determined by the Bureau, including confiscation of the
32 digital products as advertised, and forfeiture of license; and

1 b. Online eCommerce platforms and online merchants, except those who are
2 considered as Micro, Small or Medium Enterprises (MSMEs) under existing laws
3 and regulations, who are found guilty of violating Sec. 10 or 11 of this Act shall be
4 punished with a fine not less than Five Hundred Thousand Pesos (P500,000.00)
5 but not more than Five Million Pesos (P5,000,000.00) or the revocation of their
6 licenses, or both, at the discretion of the court.

7 c. Online merchants who are considered as MSMEs, under existing laws and
8 regulations, found guilty of violating Section 11 of this Act shall be punished with
9 a fine of not less than fifty thousand pesos (P50,000.00) but not more than Two
10 Hundred Thousand Pesos (P200,000.00), at the discretion of the court.

11 Online merchants who are considered as Micro, Small, or Medium Enterprises (MSMEs)
12 found guilty of violating this Act shall be punished with a fine of not less than fifty thousand
13 pesos (P50,000.00) but not more than Two Hundred Thousand Pesos (P200,000.00), at the
14 discretion of the court.

15 **CHAPTER V**
16 **OTHER MATTERS**

17
18 *Sec. 20. Tax Exemption for Newly Registered eCommerce Enterprises.* – Newly
19 registered MSMEs, as defined under existing laws, and which are engaged in eCommerce shall
20 be exempt from all national and local taxes for the first three (3) years of operation under the
21 following conditions:

- 22 a. The enterprise is not an affiliate, subsidiary, or a franchise of any existing company;
23 b. In the case of a sole proprietorship, one-person corporation or partnership, it does
24 not have any previous or other existing registered companies, partnerships, or
25 businesses; and
26 c. In the case of a corporation, each stockholder of the eCommerce enterprise must
27 have at least a five percent (5%) share in stocks and the corporation must have
28 no nominal stakeholders or stockholders holding the shares in trust for others:
29 Provided, That all stockholders of the corporation shall not have held shares of a
30 previous or existing corporation with at least a five percent (5%) share therein,
31 nor registered any former or existing sole proprietorship or partnership.

32
33 *Sec. 21. Code of Conduct.* – All businesses engaged in eCommerce are expected to
34 act responsibly and consistent with the following principles:

- 1 a. Treat consumers with honesty, integrity, fairness, and refrain from engaging in
2 illegal, fraudulent, unethical, or unfair business practices that harm consumers, as defined in
3 Title II, Chapter III of Republic Act No. 7394 otherwise known as the "*Consumer Act of the*
4 *Philippines*", and to faithfully comply with all requirements of said law, its implementing rules
5 and regulations, and related laws and issuances, and to apply and recognize the rights of
6 consumers equally;
- 7 b. Comply with Republic No. Act 7394, Republic Act No. 8792, Republic Act No. 10175,
8 Republic Act No. 10667, Joint DTI-DOH-DA Administrative Order No. 1, NTC Memorandum
9 Circular No. 05-06-2007, and other applicable laws and regulations;
- 10 c. Ensure that goods and services marketed and sold online to Philippine consumers,
11 especially food, drugs, cosmetics, and devices that are hazardous to consumer health and
12 safety, conform to Philippine regulatory standards and provide accurate information about the
13 digital products in Filipino and English;
- 14 d. Ensure that the safety of digital products marketed or sold online are not
15 compromised and that products that have been recalled in the offline retail market are not
16 marketed or sold online;
- 17 e. Ensure that all representations and information on digital products or services are
18 truthful and should be easily accessible, complete, and correct through fair advertising and
19 marketing practices;
- 20 f. Ensure transparency to consumers about costs and avoid any hidden charges or
21 additional costs such as customs duties, currency conversion, and shipping, or delivery fees;
- 22 g. Allow for tracking of deliveries on both parties, provide complete record of the goods
23 purchased, and have them delivered within the promised time and condition;
- 24 h. Any personal data or privileged information supplied by consumers or online
25 merchants shall be treated as confidential and shall not be used for purposes not authorized
26 by the data subjects. Upon collection and processing of such data, the data subjects shall be
27 informed of their right to privacy and the manner by which their data will be protected. All
28 personal data controllers and processors of the personal data shall strictly comply with all
29 applicable data privacy laws and regulations including Republic Act No. 10173, otherwise
30 known as the "*Data Privacy Act of 2012*" its implementing rules and regulations as well as
31 issuances of the National Privacy Commission, and other similar related laws and regulations;

1 i. Offer cancellation options in order that consumers may be able to review their online
2 orders before finally confirming their purchase, and be able to withdraw from a confirmed
3 transaction in appropriate circumstances;

4 j. Take consumer complaints seriously and address them fairly by instituting
5 comprehensive and equitable mechanisms for consumer redress through easy, fair, and
6 transparent methods, and provide compensation, refund, repair, and replacement, if
7 warranted;

8 k. Ensure the safety and security of online payments and safeguard sensitive data by
9 using secure technology and protocols, as evidenced by visible trust certificates and by
10 complying with all applicable banking laws, such as but not limited to, Republic Act No. 11127
11 or the "*National Payment Systems Act*", as well as the guidelines, rules and regulations of the
12 Bangko Sentral ng Pilipinas;

13 l. Provide the consumer readily accessible configurations allowing the consumer to
14 choose whether they wish to receive or opt-out from commercial messages by email or
15 electronic means; and

16 m. Provide consumers with options to report fraudulent, infringing, or other types of
17 illegal goods and services promoted, offered for sale, or sold in Online eCommerce Platforms,
18 and for such reports to be acted on expeditiously.

19 Whenever appropriate, the DTI shall issue the corresponding rules and regulations in
20 accordance with the international best practices.

21 *Sec. 22. eCommerce Philippine Trustmark.* – To provide assurance of safety and
22 security in internet transactions, an eCommerce Philippine Trustmark shall be developed for
23 online merchants.

24 a. The DTI is tasked to create an eCommerce Philippines Trustmark to be
25 administered and managed by an industry-led private sector governance body;

26 b. The industry-led governance body comprises the following:

27 (i) Two (2) representatives from the digital platforms;

28 (ii) Two (2) representatives from the payment gateways;

29 (iii) Two (2) representatives from the logistics services;

30 (iv) Two (2) representatives from other enablers; and

31 (v) One (1) representative from the public sector.

- 1 c. An eCommerce Philippine Trustmark on the website of an online merchant
2 signifies that the company is committed to the Code of Conduct stipulated in
3 Section 8 of this Act, guaranteeing ethical standards in the digital marketplace;
4 d. In the case of a complaint involving the purchase of their products or services,
5 those companies with the trust mark shall give consumers the option of filing claims
6 through the trust mark portal, if the company's customer care service has not been
7 able to resolve the issue; and
8 e. The eCommerce Philippines Trustmark shall be linked to DTI's online ODR.

9 For purposes of this Act, "*eCommerce Philippine Trustmark*" shall refer to the mark
10 approved by the eCommerce Bureau that assures consumer protection for online transactions
11 and consumer complaints.

12 *Sec. 23. Implementing Rules and Regulations.* – Upon the effectivity of this Act, the
13 necessary rules and regulations shall be issued by the DTI, in coordination with the DOH, DA,
14 IPO, SEC, OMB, PNP and BSP, within sixty (60) days.

15 *Sec. 24. Repealing Clause.* – All laws, decrees, orders, rules and regulations or other
16 issuances or parts thereof inconsistent with the provisions of this Act are hereby repealed or
17 modified accordingly.

18 *Sec. 25. Separability Clause.* – If any portion or provision of this Act is declared
19 unconstitutional, the remainder of this Act or any provision not affected thereby shall remain
20 in force and effect.

21 *Sec. 26. Effectivity.* – This Act shall take effect after fifteen (15) days following the
22 completion of its publication either in the Official Gazette or in a newspaper of general
23 circulation in the Philippines.

Approved,