NINETEENTH CONGRESS OF THE REPUBLIC OF THE PHILIPPINES
First Regular Session

SENATE

S.B. No. 814

Introduced by SEN. WIN GATCHALIAN

AN ACT
ENCOURAGING AND PROMOTING THE USE AND DEVELOPMENT OF SATELLITE-BASED TECHNOLOGIES FOR INTERNET CONNECTIVITY

EXPLANATORY NOTE

The importance of fast and reliable internet connectivity cannot be discounted, more so during the outbreak of the COVID-19 pandemic when most transactions were shifted to virtual platforms only to lessen physical interactions. However, the use of digital technologies in the country is still below its potential, with the country's digital adoption still falling behind many of its regional peers, with 45% of Filipino citizens and 74%% of public schools in the country still remaining unconnected.[1] The situation is much worse outside the National Capital Region, with Visayas and Mindanao recording less than 40% of Internet usage.

It also does not help that the internet speed in the country is trailing behind its neighboring countries. While there is a marked improvement on the ranking of the Philippines as shown in the Ookla Speedtest Global Index Report at 93rd spot in terms of mobile data and 60th spot in terms of fixed broadband connections in the first

[1] Jones, Nicholas (2019, January). Small Policy Change, Big Impact: Improving Internet Access in the Philippines. *The Asia Foundation.* https://sandbox.asiafoundation.org/wp-content/uploads/2019/03/CfC-Reform-Story-11-Improving-Internet-Access-in-the-Philippines.pdf

quarter of 2022,[2] the country's average download speed for fixed broadband connections was recorded at 52.16 Mbps[3] in the first quarter of 2022 which is still so far behind the global average of 113.25 Mbps as of September 2021.[4] This is where the need for better information and communications technology (ICT) infrastructure comes in.

Currently, the country's broadband infrastructure is severely lacking. Some residents live on islands or in the mountains with low-population density and limited access to electricity, which are harder and more expensive to reach, making them commercially unattractive for traditional telecom operators. A broadband coverage assessment by the National Telecommunications Commission (NTC) revealed that Northern Luzon, Palawan, Central and Eastern Visayas, and many parts of Mindanao are either "unserved" or "underserved" by Internet service providers (ISP).

With the despondent state of our broadband structure, amidst the increased reliance on internet for daily living during the pandemic and the critical role of digital infrastructure in economic recovery, the government shall continue to explore various technologies that will provide reliable and affordable internet service to all Filipinos, including satellite-based internet technology.

Satellite-based internet technology is a proven internet technology commonly used by both developed and developing countries to provide internet services especially in areas where it is more expensive to roll out wired or mobile networks. It uses a satellite to get an internet signal from the ISP to the user. To further illustrate, the ISP sends a fiber internet signal to a satellite in space. The satellite dish is connected to the modem of the user which then connects the user to the internet.

While Executive Order (EO) No. 127 s. 2021 amends EO No. 467 to allow telcos, value-added service (VAS) providers, and ISPs registered with the NTC to have direct access to all satellite systems to build and operate broadband facilities to offer internet

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[2] https://technology.inquirer.net/115922/ookla-q1-report-shows-faster-ph-internet-caloocan-tops-major-cities-in-download-speeds
[3] Ibid.
[4] https://worldpopulationreview.com/country-rankings/internet-speeds-by-country

services, the policy considerations under EO No. 127 create an ambiguity on the mandate of Department of Information and Communications Technology (DICT) and NTC.

Accordingly, this bill aims to capitalize on the gains made under EO No. 127 to promote broad and inclusive access to satellite technology by institutionalizing its provisions. Moreover, the bill will clearly delineate the jurisdiction of the DICT over ISPs and VAS Providers as against the NTC's jurisdiction over PTEs rendering core voice services. Through this bill, ISPs may directly access available satellite-based technologies and need not wait for infrastructure to be set up by telcos.

In sum, this measure is envisioned to consequently improve internet access in the country by spurring investment in the ICT sector and expanding the existing digital infrastructure that will ensure universal access to the internet, especially in critical areas such as e-government and the delivery of basic services, education, health, trade, finance, disaster preparedness, and public safety

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

WIN GATCHALIAN

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

SECTION. 1. *Short title.* – This Act shall be known as the "Satellite-Based Technologies for Internet Connectivity Act of 2022."

SEC. 2. *Declaration of Policy.* – It shall be declared the policy of the State to promote broad and inclusive access to satellite technology for reliable and affordable internet services, which are crucial for stimulating economic growth, providing opportunities for decent employment in the countryside, and improving education, healthcare and government services.

To further improve internet access and connectivity, the State shall also foster a policy environment that promotes a broad market-led development of the Information and Communication Technology (ICT) and ICT-enabled services sectors, a level playing field, partnerships between and among the public and private sectors,

strategic alliances with foreign investors, and balanced investments between high-growth and economically depressed areas.

The State shall recognize provision of broadband internet and internet access as an information service in line with modern ICT industry and global practices, in order to address the global calls for all countries to prioritize universal access to the Internet and develop concrete and effective policies to make the Internet widely available, accessible, and affordable to all segments of the population, and for purposes, inter alia, of implementing the national policy of expanding the provision of internet services through inclusive access to satellite service.

Towards these objectives, the State shall open up and expand access to satellite-based services, hasten the expansion of broadband infrastructure, especially in places unserved or underserved by conventional wired and cellular mobile networks, and bring reliable internet service to all Filipinos anywhere in the country.

SEC. 3. *Definition of terms.* – For the purposes of this Act, the term:

a. *Authorized Entity* refers to the entity or entities authorized under Executive Order (EO) No. 467, s. 1998, as amended by EO 127, s. 2021, and under the provisions of other existing laws, insofar as their conduct of activities and their rendition of services pursuant to the authorities granted therein;

b. *Broadband* refers to high-speed internet access that is always-on and capable of multiple service provision simultaneously, delivered via broadband networks, i.e., high capacity fixed or wireless data links, that are propagated via ICT and ICT-enabled technologies that facilitate the use of various types of networks as underlying transmission mediums, or through the deployment of computer-based area network configurations, or any combination thereof. As an information service, broadband internet enables users to access information from the internet, and makes the data processing capabilities necessary to use the internet available to them, via several devices or any one or a combination of several high-speed transmission technologies;

c. *Core Services* refers to circuit switched voice services rendered over cellular mobile, fixed line (local exchange), and inter-exchange facilities;

d. *Enfranchised Telecommunications Entity or Public Telecommunications Entity* (ETE/PTE) refers to any person, firm, partnership or corporation, government or private, that holds a valid and existing Congressional franchise authorizing it to operate in one or more of the telecommunications categories provided by law, such as a local exchange operator, inter-exchange carrier, or international carrier, pursuant to which it can put up, install, own, or operate the telecommunications service network appropriate for the telecommunications category for which it is enfranchised. ETE/PTEs are utilities that offer and provide for the public, for compensation, with telecommunications services covered within certain telecommunications categories for which the law requires a franchise. An ETE/PTE is likewise issued a valid Certificate of Public Convenience and Necessity (CPCN) by the NTC;

e. *Direct Access* refers to any one of a number of measures permitting direct dealings between authorized entities and satellite system providers or operators at specified levels as defined by the NTC. With direct dealings between Authorized Entities and Satellite System Providers or Operators (SSPO) being allowed, intervening third party arrangements with ETEs/PTEs shall not be imposed as a regulatory requirement by the government;

f. *ICT Sector* shall mean those engaged in providing goods and services primarily intended to fulfill or enable the function of information processing and communication by electronic means. The ICT Sector includes telecommunications and broadcast information operators, ICT equipment manufacturers, multimedia content developers and providers, ICT solution providers, internet service providers, ICT training institutions, software developers and ICT-ES providers, and other ICT and ICT-ES providers;

g. *ICT-Enabled Sector or ICT-ES* shall mean those engaged in providing services that require the intrinsic use of ICT including engineering or architectural design, informatics service providers, offshoring and outsourcing service

providers such as call centers, back office processing, software development, medical or legal transcription, animation, game development, and other services that require the intrinsic use of a networked information infrastructure;

h. *Internet Service Providers* (ISP) refers to any person or entity, natural or juridical, public or private, that provides internet services or services for access to, use of, or participation in the Internet or the worldwide web, *via* any one or a combination of transmission or delivery systems or networks for internet services. The term shall likewise include persons or entities that supply or propose to supply internet carriage services to the public. Commercial and private sectors ISPs are generally required to be registered with the NTC as Value-Added Service (VAS) Providers when they rely on the telecommunications service network of an ETE/PTE as the underlying transmission medium for providing internet services. As a VASP, an ISP need not secure a franchise unless it intends to put up its own telecommunications service network for any of the telecommunications categories, such as a local exchange carrier or landline telephone service, an inter-exchange carrier or national long distance telephone service, an international carrier or international long distance service, or a mobile radio telephone service, for which a franchise is required;

i. *Permitted Entities* refer to: (i) ETE/PTE duly authorized by the NTC to provide internet services; (ii) VAS providers duly registered with the NTC and (iii) Internet Service Providers (ISPS) duly registered with the DICT, whether with or without a legislative franchise;

j. *Satellite-based technologies* refer to technologies for the operation, administration, deployment, or use of communications satellites;

k. *Satellite* refers to "communications satellites" or earth-orbiting systems capable of receiving and relaying signals to and from the ground to provide links for use in the provisioning of a variety of ICT services, such as telephony, radio, television, or broadband internet. For purposes of this Act, satellites used exclusively for space/earth exploration are not included;

l. *Satellite Services* refer to:

i. *Fixed Satellite Services* (FSS) refers to a radio communications service between earth stations at given points, when one or more satellites are used; the given position may be a specified point or any fixed points within specified areas.

ii. *Mobile Satellite Service* (MSS) refers to a radio communications service between mobile earth stations and one or more space stations, or between space stations used by this service, or between mobile earth stations by means of one or more space stations;

m. *Satellite Systems Provider or Operator* (SSPO) refers to providers or operators of satellite systems, whether fixed or mobile, international or domestic, that are duly authorized to engage in the provision of satellite communications services under the laws of their respective countries of domicile;

n. *Value-Added Service or VAS*, as applied to the telecommunications industry, refers to enhanced or specialized services and/or expertise that are beyond the telecommunications services ordinarily provided by ETE/PTEs, such as local exchange and interexchange operators, and overseas carriers. The variety of enhanced or specialized VAS offerings that are outside or beyond the services in the telecommunications categories ordinarily provided by ETE/PTEs, include but are not limited to the provision of online databases, electronic mail, voice mail, internet, and other information services. When offered on top of, in addition to, or in conjunction with the services falling under the ETE/PTE's telecommunications category, a VAS serves to promote or add value to the telecommunications services ordinarily provided by the ETE/PTE;

o. *Value-Added Service Providers (VASP)* refer to entities which offer enhanced or specialized services beyond the telecommunications services ordinarily provided by ETE/PTEs, i.e., operators of local exchanges or interexchange, and over carriers, but are reliant on the carriers' transmission, switching and local distribution facilities. As such, VASPs are duly registered with the NTC and allowed to competitively offer to the domestic and/or international markets, their enhanced or specialized service(s) as an added value over and

above the services in the telecommunications category of the ETE/PTE whose telecommunications service networks, composed of transmission, switching, and local distribution facilities, are being relied upon by the VASP as the underlying transmission medium for the latter's enhanced or specialized service offerings, in accordance with network compatibility. VASPs are generally not required to secure a franchise.

An ETE/PTE may provide its own VAS offerings on top of its telecommunications services, subject to the additional requirements that (a) prior approval of the NTC is secured to ensure that their VAS offerings are not cross-subsidized from the proceeds of their telecommunications service operations, (b) other VASPs are not discriminated against in rates nor denied equitable access to their facilities, and (c) separate books of accounts are maintained for the VAS. In such cases, the ETE/PTE may likewise be considered as a VASP as regards its VAS offerings.

The term shall likewise include entities expressly recognized or mandated by special laws or legislative charters to offer a service or services that fall under any of the VAS categories, provided they are compliant with the said special law or legislative charter, as well as the applicable policies and requirements on governmental authorization or registration of their respective VAS offerings, inclusive of the submission of their schedule of rates; and

p. *Very-small-aperture terminal (VSAT)* shall refer to a small-sized ground station or earth terminal used for receiving or transmitting data, voice, and video signals over a satellite communications network.

SEC. 4. *Additional mandate to the Department of Information and Communications Technology (DICT)*. – To expand access to satellite-based technologies as an alternative connectivity solution to ensure universal access to the internet, the DICT shall:

(1) Exercise regulatory and administrative jurisdiction over ISPs and satellite policies;

(2) Adopt an expeditious administrative process for the registration of ISPs, whether local or foreign; for this purpose, the registration of, and jurisdiction over, ISPs is hereby transferred from the National Telecommunications Commission (NTC) to the DICT;

(3) Pursue policies to secure necessary orbital slots for Philippine satellite(s) and the NTC shall provide all necessary assistance in this effort;

(4) Pursue such plans, programs, activities, or initiatives as may be necessary or desirable to incentivize duly accredited SSPOs and Permitted Entities that invest in, adopt, roll out, implement, establish, own, maintain, operate or utilize new and next generation satellite technologies, inclusive of in-country satellite earth complexes or teleports, in order to propagate ICT and to expand the provision of quality internet services across the country through direct access to the services of satellites and other emerging technologies for purposes of ensuring universal coverage. The departmental plans, programs, activities, or initiatives shall include, but not be limited to, effectively coordinating with the Board of Investments (BOI), Philippine Economic Zone Authority (PEZA), the LGUs, and other concerned government agencies or instrumentalities, for the issuance and implementation of policies for the grant of applicable incentives and benefits;

(5) Create a coherent spectrum management policy which include radio frequency spectrum for satellite systems;

(6) Conduct annual policy review together with relevant stakeholders and concerned government agencies with consideration of different opportunities and challenges that satellite internet brings;

(7) Identify areas that are underserved and unserved by traditional broadband network operators and where the use of satellite-based internet can be maximized;

(8) Issue rules and regulations on the development, use, and maintenance of satellite-based technology; and

(9) Perform such other functions as may be relevant to its work as the principal regulatory and development agency for satellite technology.

SEC 5. *Policy on the Use of Satellite Technology for Internet Connectivity.* – The government shall promote the use and development of satellite services as a means to ensure universal access to the internet, especially in critical areas such as e-government and the delivery of basic services, education, health, trade, finance, disaster preparedness, and public safety, specifically:

(a) To promote the expansion of satellite-based networks, particularly in rural areas, and in areas with limited fixed or cellular mobile network connectivity, VAS providers and ISPs shall be allowed direct access to all satellite systems—whether fixed or mobile, international or domestic—for all segments of the broadband network. VAS providers and ISPs shall be allowed to directly access, utilize, own and operate networks for internet access service utilizing satellite technologies such as VSAT and other similar technologies for all segments of the broadband network without need of a franchise and a provisional authority or Certificate of Public Convenience and Necessity (CPCN) from the NTC. VAS providers and ISPs shall, however, comply with existing policies requiring registration of VAS and ISP offerings and submission of their schedule of rates;

(b) To invite investment and the propagation of new internet technologies in the ICT and ICT-enabled sector, ISPs and VAS Providers may be 100% foreign-owned. ISPs and VAS providers shall, however, comply with the policies of the DICT for the registration of ISPs and VAS Providers.

The NTC and DICT shall comply with international regulations on the allocation and use of frequency for satellite services and shall not re-allocate them to the detriment of users of VSAT or other satellite technologies. The NTC and DICT shall observe transparency in the allocation and assignment of spectrum and shall ensure the availability of satellite frequencies for the use of SSPOs and Permitted Entities. The NTC and DICT shall regularly publish on its website the allocation and assignment of all spectrum and shall promptly reply to Freedom of Information (FOI) requests on

spectrum allocation and assignment. The NTC shall, within thirty (30) days upon the effectivity of this Act, issue the rules and regulations necessary for the implementation of portions of this paragraph that require administrative and regulatory oversight; Provided, that, Section 7 of this Act shall be immediately executory upon the effectivity of this Act.

SEC. 6. *Direct Access to Satellite Systems.* – Permitted Entities are allowed to (i) deploy satellite technology and use associated spectrum in any or all segments of their broadband network without needing to go through, lease or rent capacity for such from PTEs, and (ii) apply with the NTC for permission to use spectrum for this purpose. PTEs, VAS Providers, and ISPs may directly access, utilize, own and operate facilities for internet access service using satellite technologies such as, but not limited to, VSAT, Broadband Global Area Network and other similar technologies, for all segments of the broadband network without need of a Congressional franchise.

Prior authorization of either the DICT (for broadband networks) or the NTC (for broadcast providers and for services that do not involve broadband networks) shall not be required for direct access to satellite systems under this provision; Provided that, the terms and conditions, which include levels of access to any international fixed or mobile satellite system, shall be submitted by the Permitted Entities to the DICT or NTC, as applicable, for record purposes.

SEC. 7. *Promotion of Satellite-based Technologies for Sustainable Development and Inclusive Growth.* – Government organizations, public and non-profit private institutions, volunteer organizations engaged in education, health, finance, agriculture, environmental management, climate change management, disaster preparedness and crisis response shall be allowed to own and operate satellite-based technology in order to aid and augment their activities.

The NTC shall, within thirty (30) days upon the effectivity of this Act, establish an expeditious administrative process to allow such entities to apply for permits to import and or own such technology. The Anti-Red Tape Authority (ARTA) shall ensure

that the procedures set forth by the NTC pursuant to this Section complies with Republic Act No. 9485, or the Anti-Red Tape Act of 2007.

SEC. 8. *Satellite-powered Communication Tool for Disaster and Emergency.* — Every Local Government Unit (LGU) shall be required to set up a satellite-powered communication tool, such as but not limited to satellite phones, satellite-powered portable cell sites, and/or wireless or wired broadband networks, to aid in disaster preparedness and emergency response.

SEC. 9. *Requirements for Satellite Systems Providers or Operators (SSPOs).* — All operators or providers of satellite systems desiring to provide satellite services in the Philippines by directly engaging with Authorized Entities under the provisions of Executive Order (EO) No. 467, s. 1998, as amended by EO No. 127, s. 2021, and other existing laws, shall have the following:

a. *Digital Presence* or having adequate digital presence in the Philippines. Digital presence shall include, but not limited to, having an official website, with sufficient content and information, that is readily accessible online in the Philippines;

b. *Local Presence* or having adequate local presence in the Philippines. For foreign or international SSPOs, local presence shall mean having a branch office, representative office, institutional agent, official distributor, or a combination thereof, in the Philippines;

c. *Capacity, Coverage or Satellite Footprint* or having the capacity, coverage, and satellite footprint in the Philippines for purposes of providing adequate satellite services to the areas covered therein; and

d. *SSPO Accreditation by the DICT* or being duly accredited with the DICT by fulfilling the application requirements for SSPO accreditation issued by the DICT in relation to this Act.

For a seamless and expeditious registration process, the DICT within 30 days upon the effectivity of this Act shall establish a one-stop shop where the SSPOs can inquire, clarify, and submit all requirements as provided by this Act.

SEC. 10. *SSPOs desiring to do business as Authorized Entities.* — All SSPOs desiring to do business as Authorized Entities providing services or product offerings directly to the general public in the domestic market shall, in addition to the requirements for SSPO accreditation, strictly comply with all pertinent permitting, filing, registration, and/or authorization requirements for an ETE/PTE, ISP, VAS, or other Authorized Entity, whichever is applicable, and other existing laws of general and special application in relation to doing business in the Philippines.

SEC. 11. *DICT Accreditation Certificate; Renewal.* — No entity shall engage, continue to engage, or otherwise be engaged, in the provision of satellite services as an SSPO in the Philippines unless it is duly accredited by the DICT, as evidence by a valid and subsisting SSPO Accreditation Certificate.

The SSPO Accreditation Certificate shall be valid for five (5) years, subject to renewal upon complete and proper application for renewal filed within the third (3rd) month proceeding the prior certificate's expiration. The validity period for the succeeding renewal certificates shall not exceed five (5) years at any single instance.

No Authorized Entity shall engage any private entity purporting to be an SSPO, unless the latter is duly accredited as such by the DICT.

SEC. 12. *Annual Review of Guidelines and Regulations.* — The DICT shall, in consultation with the NTC and other concerned agencies and sectors, conduct a review, annually or as often as it may deem necessary, of the responsiveness of this Act, which review shall include, but not be limited to, the following considerations:

a. The opportunities and challenges of its implementation;

b. The areas served by terrestrial broadband network operators, as well as the quality and cost of internet services therein;
c. The areas that are underserved and unserved by terrestrial broadband network deployments, inclusive of GIDAs;
d. Potential areas for the deployment of satellite services, whether as a primary, complementary, or supplemental source of ICT connectivity, support, backhaul, or protection route;
e. Study and research towards an updated and coherent spectrum management policy that is compliant with international regulations, and beneficial to consumers and users of satellite technologies through the proper allocation of sufficient spectrum for VASPs and ISPs;
f. Further guidance on the use of international earth stations to the registered VASPs and ISPs that offer satellite broadband services; and
g. Other matters as may be necessary, incidental, related to, or in connection with improving the effective implementation of the national policy for inclusive access to satellite services.

When deemed necessary, the DICT may create Task Forces, Technical Working Groups, Committees, or Advisory Bodies in accordance with Section 14, RA No. 10844 to assist in the conduct of the review.

The DICT shall from time to time, and as may be warranted by its review, submit its report to Congress, with recommendations for such legislative action as may be needed for appropriate policy improvement towards a more responsive national policy for inclusive access to satellite services.

SEC. 13. *Appropriation.* – The amount necessary for the implementation of this Act shall be charged against available funds of the DICT and NTC, as may be applicable. Thereafter, the amount shall be included in the General Appropriations Act.

SEC. 14. *Implementing Rules and Regulations*. - Unless otherwise stated, the DICT, in coordination with the NTC, and in consultation with relevant groups and sectors, shall issue the implementing rules and regulations ("IRRs") within sixty (60) days upon the effectivity of this Act. The IRRs shall incorporate the provisions of NTC Memorandum Circular Nos. 04-03-99 and 01-03-2008 in so far as practicable and in furtherance to the objectives of this Act.

SEC. 15. *Repealing Clause.* – Provisions of Executive Order Nos. 467 (s. 1998) and 127 (s. 2021) that are inconsistent with this Act are hereby repealed or modified accordingly. All other laws, decrees, rules and regulations inconsistent with the provisions of this Act are hereby repealed or amended accordingly.

SEC. 16. *Separability Clause.* – If, for any reason, any part or provision of this Act is declared invalid or unconstitutional, any part or provision not affected thereby shall remain in full force and effect.

SEC 17. *Effectivity.* – This Act shall take effect fifteen (15) days after its complete publication in at least two (2) newspapers of general circulation.

Approved,