

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



23 FEB 14 P3:09

SENATE

S. No. 1876

RECEIVED BY: _____

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Introduced by Senator MANUEL "LITO" M. LAPID

AN ACT
PROMOTING OPEN ACCESS IN DATA TRANSMISSION AND PROVIDING
ADDITIONAL POWERS TO THE NATIONAL TELECOMMUNICATIONS
COMMISSION

EXPLANATORY NOTE

The world is increasingly becoming digital and dependent on Information and Communications Technology (ICT) related services such as the internet. In fact, 5.16 billion people around the world are said to be using the internet at the start of 2023, which is equivalent to 64.4% of the world's total population. In the Philippines alone, there were about 76 million internet users as of January 2022.

However, the Network Readiness Index (NRI), a global report that looks into the impact of the ICT in economies around the world and examines various countries based on their performances in four pillars: technology, people, governance, and impact, revealed in 2022 that although the Philippines improved from being the 83rd to 71st among the 131 countries examined, it ranked lowest among the ASEAN 6. Further, our country suffers from slow internet speeds. The download and upload speeds in the country lag behind its Southeast Asian neighbors, being 100th place in global rankings. Ironically, internet connectivity in the Philippines is also among the costliest in the world. In the 2020 Digital Quality of Life Index, the Philippines ranked 82nd in terms of internet affordability out of 85 countries.

As can be seen, the high cost yet low-quality internet connectivity necessitates the country to pursue legislative reforms to achieve inclusive and accelerated digital connectivity. Thus, this bill seeks to promote the construction and development of reliable, affordable, open and accessible data networks that transmit information at speed and quality comparable to the best in the world. It likewise seeks to establish a strong and independent regulatory system and body to create an environment within the data transmission industry. It also seeks to encourage infrastructure sharing and co-location in order to promote network investment, eliminate the uneconomic duplication of infrastructure facilities, and strengthen competition, among others.

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



MANUEL "LITO" M. LAPID
Senator

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AN ACT
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COMMISSION

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

CHAPTER I

INTRODUCTORY PROVISIONS

1
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3 **SECTION 1.** *Short Title.* — This Act shall be known as the "Open Access in
4 Data Transmission Act".

5 **SECTION 2.** *Declaration of Policy.* — It is the policy of the State to narrow
6 the digital divide in the country by encouraging the development of data transmission
7 infrastructure and removing any barrier to competition in data transmission services.
8 Moreover, the State shall implement measures to require data transmission service
9 providers to adhere to telecommunications standards suitable to the needs and
10 aspirations of the nation and ensure that internet users enjoy the best quality of data
11 transmission service. The State shall:

- 1 a. Promote the construction and development of reliable, affordable, open and
2 accessible data networks that transmit information at speed and quality
3 comparable to the best in the world;
- 4 b. Create an entrepreneurial ecosystem where persons who wish to engage in the
5 data transmission industry can compete openly and freely in the spirit of fair
6 competition and permission-less innovation;
- 7 c. Encourage investments in the digital infrastructure development in the country;
- 8 d. Adopt and ensure open access in the regulation of the data transmission
9 industry;
- 10 e. Protect the public interest as it is affected by its ability to access data networks;
- 11 f. Establish a strong and independent regulatory body and system to ensure and
12 enhance fair competition in the data transmission industry;
- 13 g. Protect and promote the internet as an open platform enabling consumer
14 choice, freedom of expression, end user control, competition and the freedom
15 to innovate without permission, and thereby encouraging the development of
16 advanced telecommunications capabilities and the removal of barriers to
17 infrastructure investment;
- 18 h. Encourage infrastructure sharing and co-location in order to promote network
19 investment, eliminate the uneconomic duplication of infrastructure facilities,
20 and strengthen competition; and
- 21 i. Ensure efficient and transparent management of the radio frequency spectrum,
22 especially those utilized in the delivery of data transmission services.

23 **SECTION 3. *Definition of Terms.*** — As used in this Act:

- 24 a. *Basic telephone service* refers to the local exchange telephone service for
25 residence and business establishments provided via the circuit switched
26 telephone network;

- 1 b. *Cellular Mobile Telephone Service (CMTS)* refers to the wide area mobile radio
2 telephone system with its own switch, base stations and transmission facilities
3 capable of providing high- capacity mobile telecommunications by utilizing radio
4 frequencies;
- 5 c. *Content* refers to, among others, texts, images, audios, videos, and animations
6 that are carried over the broadband/internet network;
- 7 d. *Core or Backbone Network* refers to the main line, including international
8 connection, that ties networks, delivers routes to exchange information among
9 various subnetworks, connects regional distribution networks and, in some
10 instances, provides connectivity to other peer networks;
- 11 e. *Data transmission* refers to the process of sending digital or digitized analog
12 signal over a communication medium to one or more computing networks,
13 communication or electronic devices. It enables the transfer and
14 communication of devices in a point-to-point, point-to-multipoint and
15 multipoint-to-multipoint environments. The term data transmission includes the
16 provision of Voice over Internet Protocol (VoIP) services but does not include
17 the provision of basic telephone services;
- 18 f. *Data transmission industry participant* refers to any person, firm, partnership
19 or corporation, government or private, engaged in the provision of data
20 transmission services to the public. This includes public telecommunications
21 entities (PTEs) that offer data transmission services as defined under Republic
22 Act (RA) No.7925, otherwise known as the "Public Telecommunications Policy
23 Act of the Philippines";
- 24 g. *International gateway or landing* refers to a segment of data transmission that
25 consists of any facility that provides an interface to send and receive data traffic
26 between one country's domestic network facilities and those in another
27 country;
- 28 h. *Last mile* refers to the segment of data transmission network that connects end
29 users;

- 1 i. *Middle mile* refers to the segment of data transmission network that links the
2 last mile network to the core or backbone network;
- 3 j. *Open access* refers to the system of allowing the use of data transmission or
4 distribution systems and associated facilities subject to fair, reasonable, and
5 non-discriminatory terms in a transparent market;
- 6 k. *Paid prioritization* refers to the management of a data transmission network to
7 directly or indirectly favor some traffic over other traffic, through the use of
8 techniques such as traffic shaping, prioritization, resource reservation, zero-
9 rating, or other forms of preferential traffic management, either in exchange
10 for consideration (monetary or otherwise) from a third party, or to benefit an
11 affiliated entity;
- 12 l. *Voice over Internet Protocol (VoIP) service* refers to the provision of voice
13 communication using Internet Protocol (IP) technology; and
- 14 m. *Passive infrastructure* collectively refers to telecommunication towers, poles,
15 cable entrances, ducts, utility corridors, and any other non-electronic
16 infrastructure and facilities, either existing or to be deployed in the future, that
17 may be used to support data transmission.

18 **CHAPTER II**

19 **ORGANIZATION AND OPERATION OF THE DATA TRANSMISSION** 20 **INDUSTRY**

21 **SECTION 4. Scope.** — This Act applies to all persons who participate in the
22 data transmission industry. Any person or entity whose business deals substantially
23 with the transmission of data, including VoIP service provider, internet service
24 providers (ISPs), and data center service providers, shall be governed by the
25 provisions of this Act. PTEs that are principally engaged in the provision of basic
26 telephone services, such as an international carrier, interexchange carrier, local
27 exchange operator, and mobile radio services provider, as defined in Republic Act No.
28 7925, and which also provide data transmission services, shall likewise be subject to
29 the provisions of this Act with respect to the data transmission services they provide

1 and the interconnection to their networks that they extend to data transmission
2 industry participants.

3 **SECTION 5. *Registration and Certification.*** — All segments of the data
4 transmission network shall be competitive and open. Notwithstanding the provisions
5 of this Act or any other law, the following registration and certification shall apply to
6 data transmission:

7 a. All data transmission industry participants shall be required to register with the
8 National Telecommunications Commission (NTC). The NTC shall promulgate a
9 speedy and expeditious administrative process for registration and shall, in
10 coordination with the Department of Information and Communications
11 Technology (DICT), for policy and standard - setting in the Information and
12 Communications Technology (ICT) sector, and Philippine Competition
13 Commission (PCC) for the promotion of market competition, develop a set of
14 criteria for qualifying data transmission industry participants that will encourage
15 the widest possible participation of as many industry players as possible who
16 will offer data transmission services in all segments of the network and to end
17 users in different parts of the country. The qualification requirements for data
18 transmission industry participants shall also take national security concerns into
19 consideration, particularly for facilities that interface directly with another
20 country's domestic network;

21 b. Those who will operate an international cable landing station shall secure a
22 legislative franchise. Those who will operate a nationwide backbone network
23 shall secure a permit from the NTC and submit its proposed route or rollout
24 plan, as well as the manner of construction of the backbone network,
25 subject the approval of the NTC.

26 All other industry participants shall not be required to secure a legislative
27 franchise or a certificate of public convenience and necessity (CPCN) but must
28 meet the criteria set by the NTC and the DICT in registering as industry
29 participants in order to construct, operate, lease or own networks or facilities
30 except if it owns and operates an international cable landing station: *Provided,*

1 That an owner or operator of a cable landing station, not considered a public
2 utility, shall no longer be required to secure a CPCN. All industry participants
3 intending to be spectrum holders shall need to secure a permit from the NTC
4 and shall be allocated such spectrum in accordance with the provisions under
5 Section 7 of this Act;

6 c. Data transmission industry participants shall likewise be required to comply with
7 national and global best practices and standards on cybersecurity and shall be
8 subject to network audit by the Cybersecurity Bureau of the DICT. Data
9 transmission industry participants shall, after three (3) years of operation, be
10 required to secure a cybersecurity certification from a third-party organization
11 based on the prevailing International Organization for Standardization (ISO)
12 standards on information security management; and

13 d. Provisional authorities (PA), certificate of public convenience and necessity
14 (CPCN) or certificates of registration issued by the NTC prior to the effectivity
15 of this Act shall be deemed valid without necessity of revalidation or reissuance
16 until the date of expiration as stated in such certificates or other documents,
17 and until the expiration of such certificates shall be deemed compliant with the
18 qualification requirements for data transmission industry participants under this
19 Section and other regulations issued pursuant hereto.

20 **CHAPTER III**

21 **REGULATION OF THE DATA TRANSMISSION INDUSTRY**

22 **SECTION 6.** *Open Access Approach to Regulation of the Data Transmission*
23 *Industry.* — The NTC shall ensure that the data transmission sector remains open
24 and accessible to all qualified participants. Specifically, it shall:

25 a. Implement an efficient and speedy administrative process in the authorization
26 and registration of data transmission sector participants;

27 b. Adopt a technology-neutral framework that allows data transmission industry
28 participants to use any available technology to provide service;

- 1 c. Promote fair and open competition in accordance with the principles and
2 policies under the Philippine Competition Act and its implementing rules in all
3 segments of the data transmission network, allowing a wide variety of physical
4 networks and applications to interact in an open architecture;
- 5 d. Mandate transparency in pricing and the publication of pricing information to
6 ensure fair trading within and between each data transmission segment so as
7 to allow clear, comparative information on market prices and services;
- 8 e. Mandate interconnection so that data transmission industry participants can
9 connect to each other at the various segments and interfaces, such that entities
10 of any size may freely enter and exit the market, and dominance by any single
11 player or group of players is avoided;
- 12 f. Promulgate policies that will encourage distributed local solutions rather than
13 centralized ones, encouraging services that are closer to the user;
- 14 g. Publish the list of registered data transmission industry participants at least
15 once a year;
- 16 h. Promulgate, together with the PCC, rules defining and regulating entities with
17 substantial market power;
- 18 i. Publish a Spectrum Management Framework to be developed together with
19 DICT and PCC; and
- 20 j. Collect the necessary Supervision and Regulation Fee (SRF) and Spectrum User
21 Fee (SUF), and other relevant fees as provided by law.

22 **SECTION 7. *Spectrum Allocation, Recall, and Reallocation.*** — The NTC shall
23 maximize the allocation and assignment of finite radio spectrum resources used in the
24 transmission of data by ensuring that the spectrum is made available for the use of all
25 registered data transmission industry participants. To this end:

- 26 a. The procedure for radio spectrum assignment, joint use and recall shall be
27 made transparent to the public. All applications, including letter requests,
28 spectrum assignment, joint use, recall, and reallocation shall be posted in the

1 NTC website and in a conspicuous place in the offices of the NTC for at least
2 three (3) consecutive months. The notice shall specifically indicate the names
3 of the applicants for spectrum assignment, joint use and recall, including where
4 the NTC itself is the proponent of any such action, the affected spectrum, and
5 the applicant's or NTC's reasons for the proposed spectrum assignment, joint
6 use and recall. The NTC shall not assign, recall or allow co-use or joint use of
7 any radio frequency band or bands without conducting at least one (1) public
8 hearing and allowing public comment for a period of fifteen (15) days from the
9 date of the public hearing, prior to approval and/or disapproval of the same.
10 This shall apply to all spectrum, whether used for data transmission or not;

11 b. All radio spectrums, radio frequency assignments, recalls, and joint use
12 decisions of the NTC shall be published in the NTC website and in a conspicuous
13 place in the offices of the NTC for at least three (3) consecutive months. The
14 recall of frequency for purposes of free public use shall be given priority. The
15 immediately preceding paragraphs (a) and (b) herein shall not apply to
16 applications for frequency assignments for fixed point-to-point radio links, wifi,
17 and satellite networks;

18 c. The NTC shall avoid the concentration of spectrum resources in the hands of a
19 few players and shall not assign, or allow joint use of radio spectrum in a
20 manner that establishes, promotes or perpetuates the dominance of PTEs. Any
21 entity who believes that any one or more of the NTC's decisions for the
22 assignment of radio spectrum, whether past or present, which will promote the
23 dominance of any entity and hinder competition, may file a complaint before
24 the PCC to determine the dominance of a data transmission industry participant
25 and deal with anti-competitive conduct in accordance with its mandate under
26 Republic Act No.10667, otherwise known as the "Philippine Competition Act";

27 d. The NTC shall promptly act on applications of data transmission industry
28 participants for permits to import equipment. Any application for a permit to
29 import equipment that is not acted on by the NTC within seven (7) days shall
30 be deemed approved;

- 1 e. If the NTC finds, on its own initiative or upon complaint, that any right, license
2 or radio spectrum assignment to any data transmission industry participant or
3 PTE is not being used, or is not being maximized by the user thereof, or that
4 the grantee has violated the provisions of this Act, it may, *motu proprio* or upon
5 petition by any, subject to due process, recall the radio spectrum assignment
6 of the data transmission industry participant or PTE. The NTC shall, where
7 required and appropriate, work with the data transmission industry participant
8 or PTE concerned to take appropriate measures to minimize the impact of such
9 recall on active users of services utilizing the recalled spectrum. The foregoing
10 notwithstanding, no frequency shall be recalled within eighteen (18) months of
11 the awarding of a provisional authority, license or registration; and
- 12 f. The NTC shall ensure that the allocation, reallocation, assignment,
13 reassignment, reclassification, joint use or co-use, and recall of spectrum does
14 not result in the concentration of spectrum resources which promote, establish,
15 or perpetuate the significant market power of PTEs or of only a limited number
16 of participants. In instances where the resulting assignment of spectrum for
17 mobile and point-to-multipoint networks will give an assignee or entities it
18 controls, jointly or singly, or under common control, either by virtue of that
19 request or in combination with other previous requests by that party or its
20 affiliates, fifteen percent (15%) or above of assignable spectrum in the same
21 band, the party requesting for an assignment of spectrum or a joint use of
22 spectrum shall be required to serve notice to the PCC and secure a no-objection
23 notice from the PCC. The PCC shall issue a no-objection notice within thirty (30)
24 working-days upon its receipt of pertinent information necessary for the review
25 and issuance of the notice: *Provided*, That the PCC may once extend such
26 period for an additional fifteen (15) working-days upon their notification of the
27 NTC and the concerned party or parties to a spectrum allocation, reallocation,
28 assignment, reassignment, reclassification, joint use or co- use, and recall.

29 **SECTION 8. *Setting Performance Standards.*** — The NTC shall:

- 1 a. Mandate that, within one (1) year from the effectivity of this Act, all last mile
2 providers shall provide a minimum download speed of two (2) megabits per
3 second or as mandated by the National Broadband, whichever is higher, for
4 mobile broadband and for fixed wireless/broadband access;
- 5 b. Prescribe performance standards after public consultation and hearings within
6 six (6) months from the effectivity of this Act;
- 7 c. Regularly upgrade performance standards imposed on the data transmission
8 industry to ensure that performance standards shall, at a minimum, be at par
9 with service levels established in regional data network performance indices
10 and aligned with international best practices. Such standards shall take into
11 account speed, packet loss, jitter, and latency;
- 12 d. Regularly review performance standards at least once a year and publish new
13 performance standards at least thirty (30) days before they take effect. The
14 publication of the results of the performance measurements shall be done in
15 an open data format and made accessible to the general public;
- 16 e. Any person, or the NTC itself, may, *motu proprio*, file a petition to penalize any
17 data transmission industry participant for failure to deliver service according to
18 the NTC's published performance standard and to require rectification of such
19 noncompliance; and
- 20 f. Measure the performance of the data industry participants quarterly and publish
21 the results of its assessment in its website.

22 **SECTION 9. *Arms-length Transactions and Transparency.*** — The NTC shall:

- 23 a. Publish and make available in print and online formats all aspects of spectrum
24 use information, including the National Radio Frequency Allocation Table
25 (NRFAT), indicating therein the purpose or use to which each frequency band
26 is allocated, and, for frequency bands allocated for public use, the persons
27 and/or entities to whom each particular frequency is assigned. The NRFAT and
28 updated radio spectrum use information shall be made available on the NTC's
29 website and to any person who requests the same, upon written request; and

1 b. Promulgate rules requiring all data transmission industry participants to file an
2 annual report and include therein a fair and accurate statement regarding their
3 market prices and their services. The annual report shall include all costs and
4 charges relevant to the data transmission network segment where the
5 participants operate. The rates shall be made available online, in print, and in
6 any other viable venue to the public. Any person can file a complaint pertaining
7 to these rates within thirty (30) days of posting. Each player at each segment
8 shall submit a copy of their rates to the NTC and the PCC. The rates shall be
9 published, including a historical record, in a consolidated manner. The data
10 transmission industry participants shall keep a publicly accessible archive of
11 their rates.

12 **SECTION 10. *Fair Competition.*** — The PCC and the NTC shall ensure that the
13 principles and policies enshrined under the Philippine Competition Act are strictly
14 adhered to in the data transmission industry. The PCC and the NTC shall ensure that
15 all industry players observe fair, reasonable, and nondiscriminatory treatment in all
16 their dealings, and that barriers to entry are eliminated to make the industry highly
17 competitive. To this end, within thirty (30) days from the effectivity of this Act, the
18 PCC and the NTC shall enter into an agreement to foster and develop interagency
19 cooperation mechanisms, including information-sharing tools, that will guide them in
20 the performance of their respective mandates, and in the promotion of fair competition
21 in the data transmission industry.

22 **SECTION 11. *Technological Neutrality.*** — The NTC shall ensure that the
23 provisions of this law apply, *mutatis mutandis*, to future technologies in data
24 transmission.

25 **SECTION 12. *Infrastructure Sharing and Co-location.*** — The DICT and the
26 NTC shall promulgate policies, rules, and regulations to ensure that passive
27 infrastructure, whether existing or built in the future, necessary or capable of
28 supporting data transmission networks or services are:

29 a. made mandatory for open access and made available for co-location and co-
30 use by the owner of network facilities, equipment, and infrastructure on

1 an open, fair, and nondiscriminatory basis to any access seeker's network
2 facilities, in any segment, subject to the technical feasibility of the access
3 seeker's request and the network facility and infrastructure owner's standard
4 published offer terms, conditions, and rates: *Provided*, That the provision of
5 access to government-owned and -operated facilities and support infrastructure
6 to access seekers for the purpose of offering data transmission services shall
7 be mandatory, unless special circumstances, such as but not limited to national
8 security concerns, exist;

9 b. built not only in the city centers, but most especially in the remote, unserved,
10 and underserved areas in order to extend data transmission services by both
11 the existing and new players throughout the country;

12 c. as far as possible, deployed together with roadworks, pipe-laying, and other
13 infrastructure development by both government and private entities; and
14 proliferated in the most cost-efficient and timely manner through various
15 means, including, encouraging the operation of independent entities that build
16 and operate towers, dark fiber, and utility corridors, among other passive
17 infrastructure that help facilitate data transmission network deployment.

18 The DICT shall coordinate and issue a policy with other relevant government
19 agencies upon consultation with stakeholders to implement this provision. For
20 purposes of data transmission, the NTC shall, in case of a dispute arising from an
21 infrastructure sharing agreement:

- 22 1) mediate between a data transmission industry participant and an
23 infrastructure owner, and
- 24 2) serve as the primary enforcer of this provision.

25 The DICT and the NTC shall promulgate policies, rules, and regulations to
26 ensure that buildings, condominiums, villages, towns, and subdivisions are all built
27 with facilities, such as cable entrances, ducts, and risers, that allow nondiscriminatory
28 access to multiple data transmission industry players in order for them to provide
29 service. They shall also promulgate policies, rules, and guidelines that will ensure a

1 level-playing field and price nondiscrimination among data transmission industry
2 participants and network facility and infrastructure owners.

3 The DICT and the NTC, in coordination with relevant government agencies,
4 shall also ensure the disaster resiliency and ease of recovery and restoration of passive
5 infrastructure, such as towers, poles, and utility corridors, from the effects of disasters
6 by strictly enforcing compliance with internationally-accepted engineering standards
7 and best practices, and relevant engineering codes and codes of practice.

8 The DICT and the NTC shall maintain an updated database of data transmission
9 infrastructure, including passive infrastructure used to support data transmission. The
10 database, to be updated annually, shall include the exact location, ownership,
11 technical specifications, and other relevant information about the facility.

12 **CHAPTER IV**
13 **PROHIBITED ACTS**

14 **SECTION 13. *Prohibited Acts.*** — The following acts are prohibited:

15 a. *Refusal to Plug and Play.* – Any data transmission industry participant, insofar
16 as such person is so engaged, shall not refuse access to infrastructure to any
17 other data transmission industry participant, except for failure to pay open
18 market fees for the access to the service.

19 Data transmission industry participants shall not impede the end user’s right to
20 access and distribute information and content, use and provide applications and
21 services and use terminal equipment of their choice, regardless of the end
22 user’s or provider’s location or the location, origin or destination of the
23 information, content, application or service via their data transmission service.
24 Agreements between data transmission providers of data services and end
25 users on commercial and technical conditions and the characteristics of data
26 access services such as price, data volume or speed, and any commercial
27 practices conducted by providers of internet access services shall not limit the
28 exercise of the rights of end users laid down in the preceding paragraph;

- 1 b. *Paid Prioritization.* – A data transmission industry participant shall not engage i
2 paid prioritization for monetary or other consideration except when allowed by
3 the NTC after such participant demonstrates that the practice will provide
4 significant public interest benefit and will not disadvantage content and
5 applications that are not prioritized or harm the open nature of the internet;
- 6 c. *Throttling.* – A data transmission industry participant shall treat all traffic
7 equally when providing data access services without discrimination, restriction
8 or interference, regardless of the sender and receiver, the content accessed or
9 distributed, the applications or services used or provided, or the terminal
10 equipment used. It shall be prohibited for a data transmission industry
11 participant to hinder or slow down services or applications or access to specific
12 sites in the internet except where (1) access to such sites, services or
13 applications are prohibited by law; (2) it is necessary to preserve the integrity
14 and security of the network and service of the provider or the equipment of the
15 end user: *Provided,* That if the breach of integrity or security is caused by the
16 equipment of the end user, the provider has to notify the end user first and
17 give the former sufficient time to rectify the situation; and (3) it is necessary to
18 block the transmission of unwanted communications such as spam and child
19 pornographic materials upon the complaint of the end user or the data
20 transmission industry participant;
- 21 d. *Refusal to Give Information.* – It shall be prohibited for any data transmission
22 industry participant, including PTEs with regard to its network and facilities, to
23 refuse or fail to make available to suppliers of data transmission services, on a
24 timely basis, the technical information about its essential facilities or network
25 facilities and commercially relevant information that are necessary for the
26 efficient provision of their services; and
- 27 e. *Anti-competitive Cross-subsidization.* – The NTC shall require separate books
28 of accounts between different data transmission segments in order to allow
29 identification of costs and revenues for each segment. Any violation of this
30 provision shall give rise to a presumption of anti-competitive cross-

1 subsidization, which shall then be referred to the Philippine Competition
2 Commission for proper determination and action, in accordance with the
3 provisions of Republic Act No. 10667. Nothing herein shall prevent
4 interconnecting networks from charging the appropriate cost-based
5 compensation for the use of interconnection facilities.

6 **SECTION 14. *Administrative Penalties.*** — The NTC shall require data
7 transmission industry participants and PTEs providing data transmission services to
8 comply with prescribed performance standards and shall impose penalties for failure
9 to comply with such performance standards.

10 a. Any data transmission industry participant who fails to comply with
11 the minimum service standards set by the NTC shall be imposed a minimum
12 penalty of a fine of not less than One hundred thousand pesos (P100,000.00)
13 but not more than five million pesos (P5,000,000.00) per day for every day
14 during which such default or violation continues, until the participant fully
15 complies: *Provided,* That if the data transmission industry participant has a
16 gross annual income not exceeding ten million pesos (P10,000,000.00), the
17 penalty that may be imposed shall be equivalent to one percent (1%) to two
18 percent (2%) of its gross annual income. The NTC is hereby authorized and
19 empowered to impose such fine, after due notice and hearing.

20 b. An entity who fails to substantially comply with the NTC's performance
21 standards for three (3) consecutive years shall, subject to due process, be
22 removed from the registry of registered data transmission industry participants
23 and shall be prohibited from rendering data transmission services.

24 c. Any data transmission industry participant who engages in the prohibited acts
25 under Section 12 of this Act or fails to comply with the performance standards
26 set by the NTC shall suffer a minimum penalty of a fine of not less than three
27 hundred thousand pesos (P300,000.00) but not more than five million pesos
28 (P5,000,000.00) for every day that the violation continues until the participant
29 fully complies: *Provided,* That if the data transmission industry participant has
30 a gross annual income not exceeding ten million pesos (P10,000,000.00), the

1 penalty that may be imposed shall be equivalent to one percent (1%) to two
2 percent (2%) of its gross annual income. In cases of anti-competitive cross-
3 subsidization, the imposable penalties are those provided under Republic Act
4 No. 10667.

5 d. A data transmission industry participant violating any provision of this Act shall
6 forfeit all certificates, licenses, authorizations, rights, and awards issued to it in
7 relation to its participation in the data transmission industry.

8 e. Any other violations not specifically penalized under the relevant provisions of
9 this Act shall be penalized by a fine of not less than fifty thousand pesos
10 (P50,000.00) and not more than two million pesos (P2,000,000.00).

11 **SECTION 15.** *Adjustment for Inflation.* — The fines imposed under this Act
12 shall be adjusted by the NTC, year-on-year, considering the prevailing cost of money
13 based on the current consumer price index, and subject to publication of such
14 adjustments.

15 **CHAPTER V**

16 **RIGHTS OF DATA TRANSMISSION SERVICE USERS AND** 17 **RESPONSIBILITIES OF DATA TRANSMISSION SERVICE PROVIDERS**

18 **SECTION 16.** *Rights of End Users.* — The user of data transmission services
19 shall have the following basic rights:

20 a. To be entitled to data transmission services which is nondiscriminatory, reliable,
21 and conforming with minimum standards set by the NTC;

22 b. To be rendered data transmission services within two (2) months from
23 application for service;

24 c. Regular, timely and accurate billing, courteous and efficient service at business
25 offices and by company personnel;

26 d. Timely correction of errors in billing and the immediate provision of rebates or
27 refunds by the data transmission service provider without the need for demand
28 by the user; and

1 e. Thorough and prompt investigation of, and action upon complaints. The data
2 transmission service provider shall endeavor to allow complaints to be received
3 by any means convenient to the end user, including voice calls, post, short
4 messaging service (SMS), multi- media messages (MMS) and online
5 communication, and shall keep a record of all complaints received and the
6 action taken to address the complaints. Subject to the filing of a formal request
7 to the data service provider, a user may request the immediate termination of
8 service without the imposition of fees or penalties, and with the refund of any
9 fee or charge already paid by the user, should a data service provider not
10 consistently comply with paragraphs (a), (d), and (e) of this Section or any
11 other minimum performance standards set by the NTC.

12
13 **CHAPTER VI**
14 **FINAL PROVISIONS**

15 **SECTION 17. *Expedited Processing.*** – In all instances where a participant in
16 the data transmission industry shall require a form, certificate, or request from any
17 government agency or local government unit (LGU), there should be no more than
18 two (2) public officers involved in processing the form, certificate, or request.
19 Processing fees and certifications required for the deployment of any segment of data
20 transmission networks shall be limited to those identified by the DICT. The DICT shall
21 coordinate with the concerned national government agencies and LGUs, and conduct
22 the necessary consultations with civil society organizations and other stakeholder
23 groups, for the development of the implementing rules and policies to minimize the
24 administrative burden of permitting and certification processes.

25 **SECTION 18. *Implementing Rules and Regulations.*** — Within sixty (60) days
26 from the effectivity of this Act, the NTC shall promulgate the necessary rules and
27 regulations for its effective implementation.

28 **SECTION 19. *Joint Congressional Oversight Committee on Open Access in***
29 ***Data Transmission.*** — There shall be created a Joint Congressional Oversight
30 Committee on Open Access in Data Transmission (JCOCOADT) which shall monitor

1 and ensure the effective implementation of this Act. It shall determine weaknesses
2 and loopholes in the law, recommend the necessary remedial legislation or
3 administrative measures and perform such other duties and functions as may be
4 necessary to attain the objectives of this Act.

5 The JCOCOADT shall be composed of five (5) members from the Senate and
6 five (5) members from the House of Representatives, in addition to the Chairperson
7 of the Senate Committee on Science and Technology and the Chairperson of the House
8 of Representatives on Information and Communications Technology: *Provided*, That
9 two (2) members of each chamber's nominees shall come from the ranks of the
10 minority party/bloc.

11 The Chairperson of the Senate Committee on Science and Technology and the
12 Chairperson of the House of Representatives Committee on Information and
13 Communications Technology shall act as co-Chairpersons of the JCOCOADT. The
14 ranking minority members nominated by both the Senate and the House of
15 Representatives shall act as co-Vice Chairpersons. The Secretariat of the JCOCOADT
16 shall come from the existing Secretariat personnel of the Committee on Science and
17 Technology of the Senate and the Committee on Information and Communications
18 Technology of the House of Representatives. The JCOCOADT shall have its own
19 independent counsel.

20 The JCOCOADT shall exist for a period not exceeding five (5) years from the
21 effectivity of this Act. Thereafter, its oversight functions shall be exercised by the
22 Senate Committee on Science and Technology and the House of Representatives
23 Committee on Information and Communications Technology, acting separately.

24 **SECTION 20.** *Separability Clause.* — Should any provision herein be declared
25 unconstitutional, the other provisions not affected shall remain in full force and effect.

26 **SECTION 21.** *Repealing Clause.* — All laws, decrees, orders, rules and
27 regulations or other issuances or parts inconsistent with the provisions of this Act are
28 hereby repealed, amended or modified accordingly.

1 **SECTION 22. Effectivity.** — This Act shall take effect fifteen (15) days after its
2 publication in the *Official Gazette* or in a newspaper of general circulation.

Approved.