


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

7 NOV 5 1986

SENATE

RECEIVED BY: 

S. No. 1807

Introduced by Senator Manuel "Lito" M. Lapid

**EXPLANATORY NOTE**

Prior to 1986, the policy of the government on telecommunications was integrated. In accordance with the said policy, one carrier provided all national and international voice network and services. However, in 1987, the government saw the wisdom of allowing the entry of competition in the industry, albeit regulated. Other carriers, aside from the Philippine Long Distance Telephone Company (PLDT) were authorized to provide national and international long distance services. Two cellular mobile telephone service operators, three radio paging service operators and five domestic satellite service operators were likewise authorized to operate.

With the entry of new players in the telecommunications field, the government issued Executive Order NO. 59, which mandates the compulsory interconnection of all public telecommunications networks in order to ensure universally accessible telecommunications facilities and services.

The deregulation policy of the government resulted in the rapid expansion of the telecommunications networks. From less than one million lines, the number of installed telephone lines increased to more than six million. Subscribed capacity went up from one million to three million. And the number of cellular mobile phone subscribers has grown from one hundred thousand to more than ten million.

However, along with the entry of more competition came numerous disputes pertaining to commercial terms, quality of service and the number of additional interconnection trunks, among others.

This bill proposes to address interconnection problems and other concerns to ensure expeditious interconnection between and among parties.

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

  
**MANUEL "LITO" M. LAPID**  
Senator

FOURTEENTH CONGRESS OF THE REPUBLIC )  
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7 10:5 P.M. 1995

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**AN ACT**  
**STRENGTHENING THE MANDATE ON THE INTERCONNECTION**  
**BETWEEN AND AMONG PUBLIC TELECOMMUNICATION ENTITIES,**  
**PROVIDING PENALTIES FOR ITS VIOLATION AND FOR OTHER**  
**PURPOSES**

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

**SECTION 1. Declaration of Policy.** - Recognizing the vital role of communications and information in nation-building and economic development, the State shall promote the rapid expansion of telecommunications services in all areas of the Philippines, maximize the use of all available telecommunications service, and ensure access to such facilities at a mandated standard of service and at a reasonable cost.

Pursuant thereto, every authorized public network operator shall interconnect with other providers of telecommunications services in a speedy, efficient, fair, transparent and nondiscriminatory manner. Interconnection between or among public telecommunications companies (PTCs) shall be mandatory and compulsory, and, such interconnection shall encompass other telecommunications services such as, but not limited to, value-added services or radio paging, trunked radio, short messaging system, other store and forward systems of facsimile or messaging (voice or data), packet switching and circuit data switching (including conveyance of messages which have been or are to be transmitted or received at such points of interconnection), and any information and services as the National Telecommunications Commission (NTC) may determine to be in the interest of the public.

**SEC. 2. Matters to be Covered by the Interconnection Agreement.** - The interconnection agreement among the public telecommunications entities shall be nondiscriminatory and shall contain, but not be limited to, the following matters:

- (a) scope of agreement;
- (b) point(s) of interconnection and technical configuration;
- (c) provision of capacity (interconnection circuits);
- (d) period of implement;
- (e) technical performance and quality standards and grade of service, as well as measurement and monitoring thereof;
- (f) measurement of calls, settlement and dispute resolution procedure;
- (g) interconnection charge / compensation scheme;
- (h) maintenance procedure;

- (i) fault reporting and clearing procedures;
- (j) duration and re-negotiation of agreement; and
- (k) arbitration agreement as may be directed by the NTC.

The NTC shall within ninety (90) days from the approval of this Act, prepare a *pro forma* Interconnection Agreement, covering the above matters and provide guidelines which shall be used as basis for public telecommunications entities to arrive at an agreement that will effect a timely, fair and efficient interconnection.

The NTC shall also, within ninety (90) days from the approval of this Act, prescribe revised technical and service performance standards for interconnection and establish a performance monitoring system to ensure compliance therewith;

The NTC shall, upon request of a carrier and within a period of thirty (30) days:

(a) Decide a dispute relative to the implementation of the interconnection agreement and of the amounts due from and payable by a party thereunder. Any uncontested amount shall immediately be payable to the parties; and

(b) In the absence of a carry-over clause, the NTC shall, in case of an impasse between the interconnected carriers, determine and fix the terms and conditions, of the renewal or extension of an interconnection agreement, to include the compensation scheme thereof.

**SEC. 3. Interconnection Parameters.** - The following shall be the minimum parameters:

(1) The parties shall jointly and equally provide and share the costs of interconnection facilities necessary to interconnect the systems of both parties: *Provided*, That in an interconnection between an Inter Exchange Carrier (IXC) and a Local Exchange Carrier (LEC) with less than five thousand (5,000) total system-wide line capacity and does not offer or provide any other telecom services, except value-added service (VAS), the former shall shoulder the costs of interconnection;

(2) The point(s) of interconnection (POI) shall be made at a technically feasible point;

(3) The quantity of interconnection circuits shall be based on traffic studies or interconnecting parties. In case of disagreement, the NTC shall, within a period of thirty (30) days from the request of either party, decide on the quantity of interconnection circuits;

(4) The underwriting of interconnection costs as may be determined by the NTC; and

(5) The determination of interconnection charges by the NTC in compliance with law.

**SEC. 4. Interconnection Procedure.** - The following shall be strictly observed to ensure interconnection between or among the parties:

(a) Parties shall negotiate and enter into an interconnection agreement within a non-extendible period of sixty (60) days commencing from notice to NTC of the initiation of negotiation for interconnection. During the sixty (60) day period, upon the request of any of the parties negotiating for interconnection, the NTC shall intervene and take an active role to facilitate and expedite interconnection. The NTC may, in the interest of the State, *motu proprio* intervene in the negotiation or direct parties, as may

be appropriate, to submit to compulsory arbitration after the lapse of thirty (30) days from the start of negotiations. The arbitration shall be terminated and decided upon within a period of thirty (30) days;

(b) Despite absence of notice to it by any party to a proposed interconnection, the NTC in the exercise of police power, may initiate on its own, the interconnection of two or more telecommunications carriers if the public interest will be served thereby: *Provided*, That such interconnection must be arrived at within a sixty (60) day period from the commencement of NTC's action; and

(c) Should the parties fail to enter into an interconnection agreement after the lapse of the sixty (60) day period, the NTC shall, within thirty (30) days, determine and fix the equitable terms and conditions for interconnection and draw up the Interconnection Agreement and direct the parties, under pain of sanctions prescribed hereunder, to strictly comply therewith.

**SEC. 5. *Prohibited Acts or Omissions.*** - The following shall be considered prohibited acts or omissions:

(a) Refusal or neglect of any public telecommunications entity to interconnect, after having been so directed by written order of the NTC within the period fixed, and, under such terms and conditions as expressly set forth;

(b) Willful disruption or termination of interconnection by any public telecommunications entity, except for any of the reasons stated in Section 6 hereof, or for any other lawful cause;

(c) Refusal or neglect of any public telecommunications entity, after having been required by written order of the NTC, to re-establish / resume interconnection within a period of five (5) days from receipt of the NTC order; and

(d) Refusal or neglect of any public telecommunications entity, after having been required by written order of the NTC, to comply with any of the technical and service performance standards set by the NTC or with any of the terms and conditions of the interconnection agreement entered into by the parties, within a period of five (5) days from receipt of the NTC order.

**SEC. 6. *Grounds for the Disruption or Termination of Interconnection.*** - The following shall be the grounds for the disruption or termination of interconnection:

(a) Notwithstanding a receipt of a written notice or demand to cure or remedy a breach to pay an undisputed amount due, and/or desist or cease from committing such activities or violations of interconnection, as the case may be, within a period of thirty (30) days from receipt, of such notice or demand, a public telecommunications entity may, upon prior hearing and approval by the NTC, terminate, or disrupt any interconnection when the other public telecommunications entity:

(i) is not duly licensed, or has lost its certificate, license or authorization by revocation, cancellation or suspension of its right to operate as a public telecommunications entity; or

(ii) has committed material breach of the terms and conditions of the interconnection agreement between the parties; or

(iii) is in default of any amount due and payable under the Interconnection Agreement; or

(iv) is using or allowing the use of interconnection facilities for uncompensated toll bypass through the use of schemes such as, but not limited to, callback, unauthorized audiotex, international simple resale (ISR), and other analogous services or any alternative calling procedures (ACP) which are prohibited in the Philippines; or

(v) has violated the rules and regulations of the NTC.

The NTC shall, within thirty (30) days, resolve any of the above issues.

(b) Where it is necessary for a public telecommunications entity to maintain, repair, upgrade or expand any of its interconnection facilities or network: *Provided*, That prior written notice of the planned maintenance, repair, upgrade or expansion activity is served on the NTC, and other public telecommunications entities that may be affected thereby. Fifteen (15) days prior to any expansion or upgrades, the NTC shall be notified and notice to the public shall be effected by publication.

(c) By reason of *force majeure*, being the proximate and only cause of failure to maintain the existing interconnection relationship between the parties, such as any of the following circumstances:

- (i) earthquake, lightning or other natural disaster or calamity;
- (ii) act of public enemy in war, whether international or civil; and
- (iii) order or act of competent public authority for reason of national security.

**SEC. 7. Reconnection Procedure.** - The following shall be strictly observed to ensure interconnection at all times, between or among parties:

(a) The NTC shall, within five (5) days from receipt of notice from a public telecommunications entity whose services were arbitrarily disrupted or terminated by another public telecommunications entity, order the parties to reestablish / resume interconnection services within five (5) days from receipt of said order;

(b) During the five (5) day period, in the public interest and in the exercise of police power, the NTC may at any time, intervene at any stage of the negotiation and take an active role therein to ensure, facilitate and expedite resumption of interconnection;

(c) The NTC shall, in the exercise of police power and in the interest of public welfare, despite the absence of notice from any telecommunications entity whose services were disrupted or terminated by another telecommunications entity, order the parties to reestablish / resume interconnection within a period of five (5) days from receipt of said order; and

(d) Within five (5) days after issuing the order adverted to in the preceding paragraphs directing the reestablishment / resumption of the interconnection, the NTC shall commence an investigation to find out the cause of the disruption or termination and, within a period of thirty (30) days, issue its resolution imposing appropriate penalties and fines on the erring party.

**SEC. 8. Criminal Penalties.** - (1) The President or Chief Executive Officer and the Board of Directors of the public telecommunications entity who fail to comply with the written order of the NTC directing the interconnection or reconnection shall be liable for imprisonment of not less than one (1) year but not more than two (2) years.

(2) The President or Chief Executive Officer and the Board of Directors of a public telecommunications entity who shall illegally disrupt or, terminate its existing interconnection with another public telecommunications entity, as may be determined by the Commission after due notice and hearing, shall be liable for imprisonment of not less than six (6) months but not more than one (1) year.

**SEC. 9. Administrative Penalties. –**

(1) The following fines shall be imposed by the NTC on any public telecommunications entity and its President or Chief Executive Officer for willful and deliberate failure to interconnect or reestablish/resume interconnection within the period stated in the order of the NTC:

- (a) From one (1) to ten (10) days after the lapse of the period to comply as stated in the NTC order, a fine of Five Hundred Thousand Pesos (Php500,000.00) per day shall be imposed;
- (b) From eleven (11) to twenty (20) days after the lapse of the period to comply as stated in the NTC order, a fine of Two Million Five Hundred Thousand Pesos (Php2,500,000.00) per day shall be imposed; and
- (c) From the twenty-first day onward after the lapse of the period to comply as stated in the NTC order, a fine of Five Million Pesos (Php5,000,000.00) per day shall be imposed.

(2) The following administrative penalties shall be imposed by the NTC after a determination that a public telecommunications entity has willfully, deliberately and unjustifiably disrupted or terminated its interconnection with another public telecommunications entity:

- (a) A fine of not less than Five Million Pesos (Php5,000,000.00) but not exceeding Fifteen Million Pesos (Php15,000,000.00); and
- (b) Disqualification of the Chief Executive Officer of the violating public telecommunications entity from being employed thereat and in any other entity under the supervision or regulation of the NTC.

(3) **Administrative Penalties for Failure to Comply with Interconnection Technical, Service, Performance Standards** - The following fines shall be imposed by the NTC on any public telecommunications entity for deliberate and willful failure to comply with an order of the NTC requiring compliance with any interconnection such as the technical, service performance, standards prescribed by the NTC and/or those agreed upon under the parties' interconnection agreement:

- (a) From one (1) to ten (10) days after the lapse of the period to comply as stated in the NTC order, a fine of Two Hundred Thousand Pesos (Php200,000.00) per day shall be imposed;
- (b) From eleven (11) to twenty (20) days after the lapse of the period to comply as stated in the NTC order, a fine of Five Hundred Thousand Pesos (Php500,000.00) per day shall be imposed; and
- (c) From the twenty-first day after lapse of the period to comply as stated in the NTC order, a fine of One Million Pesos (Php1,000,000.00) per day shall be imposed.

(4) **Compensation Payable to Aggrieved Public Telecommunications Entity** - The erring public telecommunications entity shall also pay the aggrieved public telecommunications entity compensation in the amount of not less than One Million Pesos (Php1,000,000.00) but not exceeding Ten Million Pesos (Php10,000,000.00) to be determined upon application with the appropriate court to cover losses and damages incurred by the latter caused by the unjustified disruption or termination of the interconnection.

(5) **Collection of Fine or Payment of Compensation** - The amount of the fine imposed by the NTC shall be paid by the erring public telecommunications entity to the NTC within fifteen (15) days from receipt of the NTC order. In case the erring public telecommunications entity moves for a reconsideration of the order imposing such fine or brings the matter on appeal to the Court of Appeals or the Supreme Court, the payment of the fine shall be a condition for the perfection of the motion or appeal but the payment shall be deposited in escrow with the NTC until the final adjudication of the case.

**SEC. 10. Prohibition Against the Issuance of Restraining Orders and injunctions Against NTC Decision and/or Orders.** - The decision of the NTC on interconnection and on matters pertaining to Section 8 and 9 of this Act shall be immediately executory. No court, other than the Court of Appeals and the Supreme Court of the Philippines, shall have jurisdiction to issue a temporary restraining order, preliminary injunction, or preliminary mandatory injunction against the implementation of interconnection of networks pursuant to the provisions of this Act.

**SEC. 11. Implementing Rules and Regulation (IRR).** - Within ninety (90) days from the effectivity of this Act, the NTC shall promulgate rules and regulations for the effective and proper implementation of this Act. The NTC shall be the administrator of this Act and for this purpose, shall establish a performance monitoring system.

**SEC. 12. Separability Clause.** - If any provision of this Act is held invalid, all the other provisions not affected hereby shall remain valid.

**SEC. 13. Repealing Clause.** - Any provision of law, executive order, rule and regulation or circular inconsistent with the provisions of this Act is hereby modified or repealed accordingly.

**SEC. 14. Effectivity.** - This Act shall take effect fifteen (15) days after its publication in two (2) national newspapers of general circulation.

**Approved,**