

**Republic of the Philippines
HOUSE OF REPRESENTATIVES
Quezon City, Metro Manila**

Thirteenth Congress
First Regular Session

House Bill No. 1178

Introduced by Honorable Eric D. Singson

EXPLANATORY NOTE

This bill seeks to resolve interconnection disputes between and among Public Telecommunications Entities (PTE's) and providing penalties for its violation.

The State recognizes the vital role of communications and information in nation-building. This state policy gave birth to the enactment of Republic Act No. 7925 otherwise known as the "Public Telecommunications Policy Act of the Philippines". The enactment of said law demonstrated the government's commitment to healthy and sustainable competition by allowing multiple operations by local service providers in partnership with firms of varying nationalities in most segments of the domestic and international telecommunications markets.

However, the public has been inconvenienced lately on interconnection problems. They experienced difficulty in reaching lines with other carriers because dominant carriers refuse to interconnect with others unless their conditions are met.

The proposed measure addresses the problem of interconnection between and among various communications carriers by imposing monetary and penal sanctions to erring PTE's and ensuring that all industry players shall comply with the necessary interconnection. Its approval is earnestly sought.


ERIC D. SINGSON

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AN ACT
STRENGTHENING THE MANDATE ON THE INTERCONNECTION BETWEEN AND
AMONG PUBLIC TELECOMMUNICATIONS ENTITIES, PROVIDING PENALTIES
FOR VIOLATION THEREOF 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 telecommunications in nation-building and economic development, the State, in its desire to attain universal access, shall promote the rapid expansion of telecommunications services in all areas of the Philippines, maximize the use of all available telecommunications facilities, and ensure that every user of the public telecommunications service shall have access to such facilities at a mandated standard of service and at reasonable costs.

Pursuant thereto, every public telecommunications entity shall allow the speedy, efficient and fair interconnection of the facilities of other public telecommunications entities to those of its own, in accordance with the interconnection parameters prescribed in Section 10 hereof and adhere to the principles of transparency and non-discrimination.

SEC. 2. *Definition of Terms* -- For purposes of this Act, the following terms are defined:

- a. Telecommunications - any process which enables a telecommunications entity to relay and receive voice, data, electronic messages, written or printed matter, fixed or moving pictures, words, music or visible or audible signals or any control signals of any design and for any purpose by wire, radio or other electromagnetic, spectral, optical or technological means.
- b. Public Telecommunications Entity -- any person, firm, partnership or corporation, government or private, engaged in the provision of telecommunications services to the public for compensation”.
- c. Interconnection -- the linkage by wire, radio, satellite or other means, of two or more existing telecommunications carriers or operators with one another for the purpose of allowing or enabling the subscribers of one carrier or operator to access

or reach the subscribers of the other carriers or operators, the programming or activation of the interconnecting carriers' access codes relative to telecommunications including value-added services which they are authorized by the National Telecommunications Commission (NTC) to provide, in their respective systems and switches".

SEC. 3. *Prohibited Acts or Omissions* -- The following shall be considered prohibited acts or omissions:

- a. Refusal or failure of any public telecommunications entity to comply, after having been required by lawful written order of the NTC to allow interconnection of the facilities of another public telecommunications entity to those of its own, under such terms and conditions stated therein, within the period prescribed under this law or in the said written order of the NTC;
- b. Willfull termination, disconnection, discontinuance, interruption, blocking and/or disruption of interconnection by any public telecommunications entity, after allowing interconnection of the facilities of another public telecommunications entity to those of its own, except when such was effected or caused to be effected for any of the reasons stated in Sec. 4;
- c. Refusal or failure of any public telecommunications entity to comply, after having been required by lawful written order of the NTC to allow resumption of interconnection within a period of five (5) days from receipt of the NTC order;
- d. Refusal or failure of any public telecommunications entity to comply, after having been required by lawful written order of the NTC with any of the interconnection technical, performance and quality standards set by the NTC and/or those that have been agreed upon under the interconnection agreement of the parties, within a period of five (5) days from receipt of the NTC order.

SEC. 4. *Grounds for Termination, Disconnection, Discontinuance, Interruption, Blocking or Disruption of Interconnection* -- Notwithstanding receipt of a written notice or demand to cure or remedy such breach, pay such undisputed amount due, and/or desist or cease from committing such activities or violations, 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, disconnect, interrupt, block and/or disrupt an interconnection in any of the following cases:

- a) When the other public telecommunications entity is:
 - (i) not duly licensed or has lost its license to operate as a public telecommunications entity;
 - (ii) in material breach of the terms and conditions of the interconnection agreement between the parties; or

- (iii) in default of any amount due and payable under the Interconnection Agreement; or
 - (iv) using or allowing the use of interconnection facilities for uncompensated toll bypass; or
 - (v) using or allowing the use of interconnection facilities for the conduct of any service such as callback, unauthorized audiotex, international simple resale (ISR), and other analogous services or any alternative calling procedure (ACP) which are prohibited in the Philippines; or
 - (vi) in violation of the rules and regulations of the NTC
- b. where it is necessary for a public telecommunications entity to effect or conduct maintenance or repair activities or upgrades or expansion of the interconnection facilities or its network or any part thereof, or to conduct such activities to maintain the quality of the service specified in the Interconnection Agreement or such quality of service in which its own subscribers have been customarily receiving; Provided, that, prior written notice of the planned maintenance or repair activity, or upgrade or expansion is served on the NTC, the public and other interested public telecommunications entities that may be affected thereby.
- c. when by reason of force majeure, being the proximate and only cause of failure to interconnect, a public telecommunications entity is unable to effect interconnection under 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.

SEC. 5. *Interconnection Procedure* -- The following policies and standards shall be strictly observed to ensure expeditious interconnection between and among parties:

- a) Parties have a non-extendible sixty (60) days period to negotiate and enter into an interconnection agreement. The sixty (60) day period shall commence upon notice to NTC by a party of its initiation of negotiations for interconnection and submission to the other carriers of the documents, data or information required under Sec. 6.1.3 of NTC Memorandum Circular No. 9-7-93;
- b) During the sixty (60) day period, upon the request of any of the parties negotiating for interconnection, NTC shall intervene and take an active role to ensure, facilitate and expedite interconnection; Provide, That, the NTC may, in the interest of the State, motu proprio intervene in the negotiation after the lapse of thirty (30) days from the start of the negotiations;
- c) In any case, despite the absence of notice to it by any party to a proposed interconnection, NTC in the exercise of its police power, may initiate on its own the interconnection of two or more telecommunications carriers if the public interest will

be served thereby and such interconnection must be arrived at within a sixty (60) day period from the commencement of NTC's action;

- d) 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, technical, commercial or otherwise, to be made in a written order directing the appropriate parties concerned. Any party who fails to comply with said order of interconnection shall be held liable under this Act.

SEC. 6. *Matters to be Covered by the Interconnection Agreement* – The interconnection arrangement between the public telecommunications entities shall be non-discriminatory and, at the very least, cover the following matters:

- a) scope of the agreement;
- b) point(s) of interconnection and technical configuration;
- c) provision of capacity (interconnection circuits);
- d) period to 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; and
- j) duration and re-negotiation of agreement.

In this connection, NTC shall, within ninety (90) days from the approval of this Act promulgate an Interconnection Agreement, covering the above matters and provide guidelines which will be used as basis by public telecommunications entities in concluding an arrangement to effect a timely, fair and efficient interconnection.

The NTC shall, also within sixty (60) days from the approval of this Act, prescribe revised interconnection technical and performance quality standards to particularly address the minimum answer-seizure and busy hour congestion ratios and maximum trunk utilization level, and establish a performance monitoring system to ensure compliance by interconnecting carriers with such standards.

In addition to the powers granted to it under Section 4, the NTC shall upon request of a carrier and within a period of thirty (30) day:

- a) decide a dispute relative to-
 - (i) the application, construction or interpretation of any of the terms and conditions of the interconnection agreement and/or pertinent rules and regulations on interconnection;

- (ii) amounts due and payable by a party thereunder for a particular settlement period;
- b) determine and fix, in case of an impasse between the interconnected carriers, the terms and conditions, technical, commercial or otherwise, relative to the renewal or extension of an interconnection agreement or the agreed compensation scheme thereof, which by its terms had expired.

SEC. 7. *Reconnection Procedure* -- The following policies and standards shall be strictly observed to ensure expeditious reconnection between and among the parties:

- a) The NTC, upon receipt of notice from a public telecommunications entity whose services were arbitrarily disrupted, terminated, disconnected, discontinued, blocked and/or interrupted by another public telecommunications entity, shall immediately order the concerned public telecommunications entity to resume interconnection services within five (5) days from receipt of said order.
- b) During the five (5) day period, in the interest of the State and in the exercise of its police power, NTC may at any time intervene and take an active role to ensure, facilitate and expedite resumption of interconnection;
- c) In any case, the NTC shall, in the exercise of its police power and in the interest of public welfare, despite the absence of notice from any telecommunications entity whose services were terminated, disrupted, disconnected, discontinued, blocked and/or interrupted by another telecommunications entity, order the concerned public telecommunications entity to resume interconnection within a period of five (5) days from receipt of said order.

After issuing the order adverted to in the preceding paragraphs directing a resumption of the interconnection, the NTC shall within a period of five (5) days, commence an investigation as to whether the termination, disruption, disconnection, blocking or interruption was justified or not, and within a period of thirty (30) days complete its investigation and impose the appropriate penalties and fines under Section 8 hereof, if warranted.

SEC. 8. *Interconnection Parameters* -- (1) The Point(s) of Interconnection (POI) shall be made at a technically feasible point.

(2) The quantity of Interconnection Circuits shall be based on Traffics Studies of interconnecting parties:

- a) Where traffic studies coincide, the required quantity of interconnection circuits are mutually agree on; and
- b) Where traffic studies do not coincide and/or the parties do not agree on the quantity of interconnection circuits, whether initial or additional, NTC shall, within a period of thirty (30) days from the request of either party, decide on the quantity of interconnection circuits.

(3) Underwriting interconnection costs:

- a) Generally, where POI is in the same city or municipality and projected traffic capacity of both carriers coincide, cost of interconnection shall be underwritten on a 50-50 basis.
- b) Where POI is not in the same city or municipality, the requesting carrier underwrites 100% of the cost of interconnection facilities to the nearest Point of Presence defined in NTC Memorandum Circular No. 9-7-93.
- c) Where projected traffic capacities do not coincide, the carriers will share proportionately on the cost based on the interconnection capacity to be determined by the NTC.

(4) Interconnection Charges:

- a) The interconnection charge which shall be by way of access charge shall be based on usage such as on a per-minute or on a per-trunk basis.

In the determination and collection of interconnection charges, the principles of reciprocity shall always apply such that the access charge payable to each of the interconnecting carriers for the same traffic streams terminating to each other shall be the same: *Provided*, That in case where local exchange traffic and non-local exchange traffic are involved, the access charge payable to the local exchange carrier where the local exchange traffic is originating or where the non-local exchange traffic is terminating, it shall include a subsidy component in accordance with the provision of Section 18 of Republic Act No. 7925.

SEC. 9. *Administrative Penalties for Failure to Interconnect and/or Resume Interconnection* – (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 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 (P500,000.00) 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 pesos (P2,500,000.00) per day shall be imposed;
- c) From the twenty-first day after the lapse of the period to comply as stated in the NTC order, a fine of five million pesos (P5,000,000.00) per day shall be imposed.

The fines that will be collected in the enforcement of this Act shall be used by the NTC for the implementation of the provisions of this Act as well as to upgrade its capacity to perform its mandate.

(2) Administrative Penalty for Public Telecommunications Entity which Shall disrupt, Disconnect, Terminate, Interrupt, Block or Discontinue its interconnection with Another Public Telecommunications Entity -- The following administrative penalties shall be imposed by the

NTC after a determination that a public telecommunications entity which has willfully and deliberately disrupted, blocked, interrupted, disconnected, terminated or discontinued its interconnection with another public telecommunications entity for reasons other than those stated in Sec. 4:

(a) A fine of not less than five million pesos (P5,000,000.00) but not exceeding fifteen million pesos (P15,000,000.00) 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, Performance and Quality 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 technical, performance, or quality standard prescribed by the NTC and/or those agreed upon 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 (P200,000.00) 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 (P500,000.00) per day shall be imposed; and

(c) From twenty-first day after the lapse of the period to comply as stated in the NTC order, a fine of one million pesos (P1,000,000.00) shall be imposed.

(4) Compensation Payable to Aggrieve 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 (P1,000,000.00) but not exceeding ten million pesos (P10,000,000.00) to be determined by the NTC, to cover losses and damages incurred by the latter by reason of the unjustified termination, disruption, disconnection, blocking or interruption of the interconnection.

(5) Collection of Fine or Payment of Compensation – The amount of the fine imposed or of compensation determined top be payable by the NTC in accordance with the preceding paragraphs, shall be paid by the erring public telecommunications entity to the NTC or the aggrieved public telecommunications entity, as the case may be, within fifteen (15) days from receipt of the pertinent order of the NTC. In case the erring public telecommunications entity moves for a reconsideration of the order imposing such fine or compensation, or brings the matter on appeal to the Court of Appeals, the payment of the fine or compensation shall be a condition for the perfection of the motion or appeal but the payment shall be deposited in escrow by the NTC or aggrieved public telecommunications entity, as the case may be, until the final adjudication of the case.

(6) Administrative Penalties for NTC officials – The Commissioner and Deputy Commissioners of the NTC who shall fail to perform their task as provided under Sections 5 and 7 of this Act, or its implementing rules and regulations shall be fined ten thousand pesos (P10,000.00) per day based on the number of days of delay.

Sec. 10. *Criminal Penalties* - (1) The President or Chief Executive Officer and the Board of Directors of the public telecommunications entity which fails to comply with the written order of the NTC directing 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 which shall illegally disrupt, disconnect, terminate or discontinue its existing interconnection with another public telecommunications entity shall be liable for imprisonment of not less than six (6) months but not more than one (1) year.

SEC. 11. *Implementing Rules and Regulations*. – 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. Thereafter, the NTC shall be tasked with the administration and implementation of this law, inclusive of the imposition of the fines prescribed under Section 8 hereof. The NTC shall review and determine the “area codes” which should indicate the local and toll charging of Public Switch Telephone Networks (PSTN) operators.

The NTC shall establish a performance monitoring system to ensure compliance by interconnecting companies towards effecting an efficient and orderly interconnection of services and facilities.

SEC. 12. *Prohibition Against the Issuance of Restraining Orders and Injunction Against NTC Decisions and/or Orders*. – The decision of the NTC on interconnection and on matters pertaining to Sections 8 and 9 of this Act shall be immediately executory. No court, other than the Supreme Court of the Philippines, shall have jurisdiction to issue any temporary restraining order, preliminary injunction, or preliminary mandatory injunction against the implementation of physical interconnection or networks of public telecommunications entities as directed by the NTC pursuant to the provisions of this Act.

SEC. 13. *Separability Clause* - If for any cause, any provision of this Act is declared unconstitutional, the rest of the provision shall remain in force and effect.

SEC. 14. *Repealing Clause*. – Section 3, a), b) and k) of the Republic Act No. 7025 and any other provision of law, executive order, rule or regulation or circular inconsistent with the provisions of this Act is hereby modified or repealed accordingly.

SEC. 15. *Effectivity*. – This Act shall take effect upon its approval.

Approved,