

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

Thirteenth Congress
First Regular Session

HOUSE BILL NO. 2581



Introduced by the Hon. JOSEPH A. SANTIAGO

EXPLANATORY NOTE

Just like other countries around the globe, the Philippines is trying to grapple with far-reaching implications being presented by the developments of technology in this age. Technology is radically altering the profile of realities that we have always known, especially in the legal scene. That is to say that, the country lacks laws that could appropriately take into account these developments and thereafter harness them to maximize their benefit to our populace.

Laws governing our CATV Industry are one of those that need legal remediation. Seriously confronted with legal interrogatives brought on by contradictions among the laws governing the industry, the growth potential of the CATV industry is greatly stifled. The dilemma regarding capacity, provision of value added services, carriage of television signals including advertisements and rates are some of the contentious matters, while capital and/or equity sharing bears the greater issue, that need to be addressed. To wit: Executive Order No. 205 issued by then President Corazon Aquino through the exercise of her legislative powers, classified the CATV Industry as part of broadcast media that requires a 100% Filipino equity hence barring the entry of the much needed foreign capital; Executive Order No. 436 on the other hand, issued by then President Fidel Ramos, which was supposed to amend E.O. 205 to relax its equity proviso, foisted rather another uncertainty as it queried--- "Would a mere executive issuance legally amend a legislative issuance?" While Republic Act No. 7925 which followed the Constitution's formula of 60%-40% equity sharing, neither solved the issue through consideration of CATV as a telecommunications entity--- classified as a public utility. That is, its provisions still fall short of what is necessary to attract more foreign investment in the CATV Industry that thereby could extend aid in a capital-intensive industry.

As we now live in a time so dubbed as the Age of Information, "digitalization" and "globalization" have assumed new significance to the CATV Industry. This bill seeks to address such concerns by laying down the legal basis not only for the entry of capital, acquisition of state-of-the-art CATV technology, transmission, programming and production, but will also rationalize government regulation on the industry through clear delineation of the powers of the regulating body and by the formulation of provisions specific and categorical to the industry.

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


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15 **Introduced by the Honorable Joseph A. Santiago**
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19 AN ACT
20 TO PROMOTE AND REGULATE THE CABLE TELEVISION SERVICES IN THE
21 PHILIPPINES AND FOR OTHER PURPOSES
22
23

24 SECTION 1. Title. – This Act shall be known as the “Cable TV Act of 2001.”
25

26 SECTION 2. Scope and Application. – This act shall apply to all cable
27 television entities in the Philippines.
28

29 SECTION 3. Declaration of Policy. – It shall be the policy of the State to:
30

- 31 a. Recognize cable television services as a service impressed with public
32 interest and therefore subject to reasonable government regulation;
33 b. Promote viable competition in the cable television industry in order to sustain
34 its growth;
35 c. Establish and promote the highest standards for cable television service and
36 operations to maximize its value to its subscribers; and
37 d. Encourage self-regulation in the cable television industry and professionalism
38 in the delivery of its services through nationwide associations of legitimate
39 cable television service operators.
40

41
42 SECTION 4. Definition of Terms. – As used in this Act:
43

- 44 a. Cable Television Service – shall refer to the transmission or delivery to
45 subscribers of video and audio programming and/or other programming
46 service for a fee, with or without subscriber interaction, through fiber optics,
47 coaxial cable and other future technological means. For the purpose of this
48 Act, cable television systems shall include, but not limited to, Cable television,
49 Direct-to-Home (DTH) television, and Multi-Distribution-System (MDS)
50 television services.

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2 b. Cable Television System – shall refer to the process and facilities necessary
3 for the generation, relay, and reception of television and its associated control
4 signals of any design by wire or wireless means for the purpose of providing
5 cable television service to multiple subscribers within defined geographic
6 service areas.
7
8 c. Cable Television Operator/Entity – shall refer to any person or group of
9 persons, natural or juridical, associations or entities engaged in the operation
10 of cable television systems and is actually providing cable television service
11 to its subscribers for a fee.
12
13 d. Direct-to-Home Television Service – shall refer to a cable television service
14 transmitted via satellite direct to the user.
15
16 e. Multi-distribution System Service – shall refer to a cable television service
17 transmitted to the user via terrestrial radio.
18
19 f. Commission – shall refer to the National Telecommunications Commission.
20
21 g. Provisional Authority – shall refer to a conditional authority granted by the
22 Commission, for a limited period, to a qualified applicant, after due notice and
23 hearing to operate and maintain a cable television system/service, pending
24 the grant of a Certificate of Authority.
25
26 h. Certificate of Authority – shall refer to a grant consistent with the cable
27 television system policies and objectives to a qualified applicant, after due
28 notice and hearing of a final authority to own, operate and maintain a cable
29 television by the Commission.
30
31 i. Franchise – shall refer to a privilege conferred upon a cable television
32 operator/entity by Congress, authorizing that operator/entity to engage in the
33 operations of a cable television system or delivery of cable television service.
34
35 j. Franchise Grantee – shall refer to a person or any group of person, natural or
36 juridical associations or entities granted a legislative franchise to operate a
37 cable television system/service.
38
39 k. Service Area – shall refer to the area of operation of a cable television service
40 by one or more operators. It may refer to city, municipality, province, region
41 or the entire country.
42

43 SECTION 5. Ownership and Control – The ownership, control and operations
44 of cable television systems in the Philippines shall be open to all citizens of the
45 Philippines, or associations, cooperatives, partnerships, joint ventures, or
46 corporations organized under Philippines laws with at least sixty percentum (60%) of
47 whose capital is owned by Filipinos. Provided, that the participation of foreign
48 investors in the governing body of such entity shall be limited to their proportionate
49 share in the capital thereof and all executive and management officers of such cable
50 television entities must be citizens of the Philippines.

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2 SECTION 6. Supervision and Regulation - The supervision and regulation
3 of the cable television industry operations in the Philippines shall be vested in the
4 National Telecommunications Commission. In particular, the Commission shall:

- 5
6 a. provide guidelines for the authorization, licensing, construction or installation,
7 operation and maintenance of a cable television system in the Philippines;
8 b. hear, investigate, and decide all questions, controversies or disputes arising out
9 of or in connection with the operation of cable televisions systems in the
10 country;
11 c. determine the necessity of granting additional cable television operators within
12 a service area covered by existing operators;
13 d. prosecute violations of the provisions of this Act, rules and regulations, orders
14 and other issuances promulgated by the Commission in the implementation of
15 this Act, and impose penalties and other sanctions on such violations.
16

17 SECTION 7. Legislative Franchise – No person, natural or juridical, shall
18 operate a cable television system or provide cable television service in the
19 Philippines without first having obtained a legislative franchise from the Congress of
20 the Philippines and the necessary permits and approval from the Commission. The
21 franchise shall be granted on a non-exclusive basis for a period not to exceed
22 twenty-five (25) years.
23

24 Cable television operators/entities operating without a legislative franchise
25 prior to the effectivity of this Act shall obtain a legislative franchise within three (3)
26 years after the effectivity of this Act.
27

28 SECTION 8. Authority to Operate – It shall be unlawful for any person,
29 natural or juridical, associations or entities to install and operate a cable television
30 system or render cable television service for a fee prior to the granting of an
31 Authority to Operate by the Commission and a legislative franchise by Congress as
32 provided in Section 7 of this Act.
33

34 A Certificate of Authority to operate a cable television system shall be issued
35 in favor of an applicant legally, technically and financially capable of providing cable
36 television service, as determined by the Commission, and subject to such other
37 terms and conditions the Commission may reasonably impose.
38

39 SECTION 9. Non-exclusivity – The Congress of the Philippines may award
40 one or more legislative franchises within the same service area and shall not
41 unreasonably refuse to grant such franchise to other operators who wish to cover
42 the same service area. To encourage a healthy competitive environment, Congress
43 shall give a franchise grantee a period of two (2) years from the grant of a franchise
44 to secure subscribers within the subject service area before granting another
45 franchise to other interested cable operators within the same service area.
46

47 However, the Commission may grant to an applicant-operator the authorization
48 to operate a cable television system before the expiration of the two-year period
49 given a prior cable television operator within the same franchise area upon
50 determination by the Commission that:

- a. The prior cable television operator/entity has not substantially complied with the terms and conditions of his authorization;
- b. The cable television service being provided by the prior cable television operator/entity to its subscribers is sub-standard, inefficient and/or inadequate; and/or,
- c. The prior cable television operator/entity has unreasonably and unjustifiably refused or failed to comply with the terms and conditions of the authorization or the orders, issuances or regulations promulgated by the Commission.

SECTION 10. Rights of the Cable Television Operators – To maximize the use of available facilities and promote development of the cable television industry, all cable television operators/entities shall have the following rights:

- a. Right of Easement – Duly authorized cable television operators shall have the right of easement over rights-of-way granted to existing public utilities and dedicated to compatible uses; Provided, that the cable television operator shall ensure that:
 1. The owner of the property subject to easement is justly compensated for the servitude and damages caused by the installation, operation or removal of its cable television facilities;
 2. The function, appearance and safety of the property subject to easement and the convenience and safety of other users and the general public are not adversely affected; and
 3. The expenses of installation, operation or removal of such facilities are borne by the cable television operator exercising the right of easement; Provided, further, that the rate of annual fees to be paid by the cable television operator in compensation to the owner of the property subject to easement shall be fixed by the Commission.
- b. Right to Lease Excess Capacity – Duly authorized cable television operators/entities may, with the approval of the Commission, lease or sub-lease the excess capacity of its cable television system, but not utilize such excess capacity, or in any manner engage, in broadcast or telecommunications without securing appropriate legislative franchise from the Congress of the Philippines and authority from the Commission.

SECTION 11. Value-added Services – Cable television operators may offer, provide and operate other cable television system- related value-added services; Provided, that prior approval of the Commission is acquired.

SECTION 12. Advertisements – Cable television may include advertisements and other similar paid segments for which the cable television operator may charge and collect reasonable fees ; Provided , that such paid segments shall not exceed ten (10) minutes per hour of the program; Provided further that said advertisements and similar paid segments shall be exhibited or shown at the start and/ or end of the program; Provided, finally, that no foreign program provider or distributors shall be allowed to solicit and sell commercial positions and advertising time in their programming for products and services directed solely at and within the Philippines

1 and insert that advertisements in the regional satellite feed of such foreign
2 programmers and distributors to be received by the cable television operator;
3

4 SECTION 13. Carriage of Commercial Television Signal – a duly authorized
5 cable television operator operating in a service area which is within the Grade A or B
6 contours of an authorized television broadcast station or stations must carry on its
7 cable television system the signals of commercial television station, in full and in
8 uninterrupted manner unless there is an agreement to the contrary in conformity with
9 the laws on intellectual property rights.
10

11 The signal shall be carried without material degradation in quality and in
12 accordance with the technical standards as prescribed by the commission. The
13 signal shall, on request of the station licensee or permittee, be carried on the
14 channel number on which the station is transmitting, except where technically not
15 feasible.
16

17 SECTION 14. Deregulation of Service Rates – The deregulation of service
18 rates of cable television services shall be maintained and respected by the national
19 and local government units to encourage growth in the industry and foster the
20 availability of quality programs.
21

22 The commission, shall however, retain its residual powers to regulate service
23 rates when ruinous competition results or when a monopoly or a cartel or
24 combination in restraint of free competition exists and the service rates are distorted
25 or unable to function freely and the subscribers are adversely affected. In such
26 cases, the commission shall establish either as floor or ceiling on the service rates.
27

28 SECTION 15. Responsibility to Public – The cable television operator/ entity
29 shall have the following responsibilities:
30

31 a). Provide adequate public service time to enable the government, through
32 the said cable service stations, to reach the population on important public issues.

33 b). Conform to the ethics of honest enterprise and not use its stations for the
34 exhibition, distribution or transmission of materials in violation existing laws,
35 executive orders, rules and regulations of Movie and Television Review and
36 Classification Board, Videogram Regulatory Board, Intellectual Property Office and
37 other related government agencies.

38 c). Provide prior notification to its subscribers concerning the change or
39 deletion of programs, or the transfer of programs to another channel.
40

41 SECTION 16 Prohibited Acts – The following acts are hereby declared
42 unlawful:
43

44 a). No cable television/entity shall engage in any commercial television
45 broadcast or telecommunications activity unless duly approved/authorized for the
46 purpose, excluding government mandated public service community programs.
47

48 b). No cable television operator/entity shall engage in any electronic
49 commercial transactions through the cable television system unless duly
50 approved/authorized for the purpose;

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2 c). No cable television operator/entity shall receive and distribute/transmit
3 encoded or unencoded satellite program signals, or cinematographic works or other
4 programs, including videograms, without the written authorization of the concerned
5 satellite programmer or copyright owner.
6

7 d). No person shall intercept or receive, or assist in intercepting or receiving
8 any service offered over a cable television by tapping or making or causing to be
9 made any unauthorized connection, to existing cable television facilities by the
10 recording reproduction, distribution, importation or sale, of intercepted or received
11 cable television system signals; and
12

13 e). No person shall knowingly use or receive any direct or indirect benefit
14 from any cable television service through any of the prohibited acts enumerated in
15 the preceding paragraphs.
16

17 f). No cable television operator/entity shall have unauthorized possession of
18 any receiver-decoder or any equivalent circumvention devices or methods that allow
19 for unauthorized decoding of encrypted satellite programs signals.
20

21 SECTION 17. Penalties – Any person, including directors and officers of a
22 corporation, who knowingly and willfully violates any provision of this act or commits
23 any of the prohibited acts in the preceding section or any provision of this Act shall
24 be punished:

25 a). on the first offense, by a fine of not less than Fifty thousand pesos
26 (P50,000.00) but not more than Three hundred thousand pesos (P300,000.00) or
27 imprisonment of not less than one (1) year but not more than three (3) years, and
28 suspension of the franchise and to operate for a period of not less than the two (2)
29 years but not more than five (5) years;

30 b). on the second offense, by a fine of not less than Three hundred thousand
31 pesos (P300,000.00) but not more than One million pesos (P1,000,000.00) or
32 imprisonment of not less than three (3) years but not more than five (5) years or
33 both, and permanent ineligibility to receive a franchise and authority to operate.

34 Any person, natural or juridical, aggrieved by any violation of the preceding
35 sections may bring a civil, criminal or administrative action in a court or body of
36 competent jurisdiction.

37 SECTION 18. Implementing Rules and Regulations – For the implementation
38 of this Act, the Commission shall, in consultation with the Movie and Television
39 Review and Classification Board, Videogram Regulatory Board and other nationally
40 accredited or government-recognized cable television associations, promulgate the
41 implementing rules and regulations to govern the operations of the cable television
42 industry within six (6) months after the effectivity of this Act.

43 SECTION 19. Reportorial Requirements – A duly authorized cable television
44 operator/entity shall submit an annual report on its operation to the Commission.

1 SECTION 20. Separability Clause – If any provision of this act is declared
2 unconstitutional, the same shall not affect the validity and effectivity of other
3 provisions thereof.

4 SECTION 21. Repealing Clause – Executive Order No. 205, Executive Order
5 No. 436 and all other laws, decrees, regulations or parts thereof inconsistent with the
6 provision of this Act are hereby repealed or modified accordingly.

7 SECTION 22. Effectivity – This Act shall take effect fifteen (15) days after its
8 publication in at least two (2) newspaper of national circulation.

9 APPROVED.