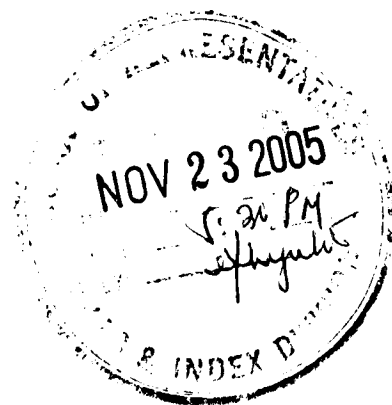


Republic of the Philippines
HOUSE OF REPRESENTATIVES
Quezon City

THIRTEENTH CONGRESS
Second Regular Session

HOUSE BILL NO. 4942



Introduced by Rep. Simeon L. Kintanar

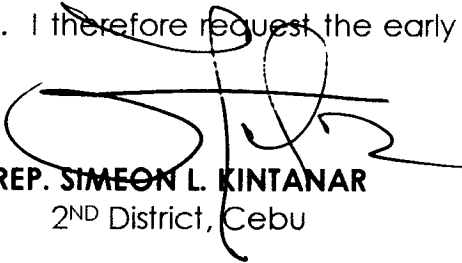
EXPLANATORY NOTE

The development of technology in the field of telecommunications in the last ten years alone has redefined geographical limits. The technology developed has erased boundaries between and among countries in terms of sending and receiving information through various telecommunications facilities, services and technology.

When Executive Order No. 546 was issued in 1979, it integrated the Board of Communications (BOC) and the Telecommunications Control Bureau (TCB) into the National Telecommunications Commission (NTC) under the administrative jurisdiction of the Ministry of Transportation and Communications. The idea then, as provided in EO 546, was for government "to develop an integrated nationwide transmission system by itself or through or together with other entities in accordance with national and international telecommunications standards to meet all telecommunications service requirements".

Since 1979, the country has seen the development of telecommunications from being a monopolistic industry to one that provides consumers with choices and improved access to information through telecommunications. With globalization upon us, it has become imperative for the government through the NTC to provide a viable, adequate, efficient, and reliable policy and regulatory environment that will allow for the continued improvement of services, better access and greater affordability for the general public.

Passage of this bill will certainly ensure that. I therefore request the early approval of this Bill.


REP. SIMEON L. KINTANAR
2ND District, Cebu

Republic of the Philippines
HOUSE OF REPRESENTATIVES
Quezon City

THIRTEENTH CONGRESS

Second Regular Session

HOUSE BILL NO. 4942

Introduced by Rep. Simeon L. Kintanar

AN ACT
REORGANIZING THE NATIONAL TELECOMMUNICATIONS COMMISSION INTO THE
NATIONAL INFORMATION AND COMMUNICATIONS COMMISSION, DEFINING
ITS POWERS AND FUNCTIONS, AND APPROPRIATING FUNDS THEREFOR

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

1 **SECTION 1. Title** - This Act shall be known as the "National Information
2 and Communications Commission (otherwise referred to as the NICC) Act of
3 2005."

4 **SEC. 2. Declaration of Policy** - It is the declared policy of the State to
5 build and provide high quality information and communication infrastructures
6 and services and to harness the country's human resource skills and
7 capabilities as vital tools for nation building, sustainability and global
8 competitiveness. This shall be pursued in accordance with the following
9 policies:

10 a) High quality information, communications, broadcast, CATV and other
11 multi-media infrastructures and services are essential to the economic
12 growth, sustained development, integrity and security of the Philippines.
13 These shall be developed and administered to enrich and strengthen the
14 socio economic, cultural and political fabric of the Philippines and
15 safeguard consumer interests;

- 1 b) A fundamental objective of government is to provide the policy and
2 regulatory environment for a viable, adequate, efficient, reliable and
3 universal information and communications infrastructures/services using
4 the best available and affordable technologies, and the full development
5 of Filipino human resource skills and capabilities as effective instruments for
6 national development, security and safety;
- 7 c) The private sector shall be the engine of rapid and efficient growth of the
8 information, communications, broadcast, CATV and other multi-media
9 infrastructures and services in the country. Private enterprises shall
10 participate under a framework of sound minimum regulation that ensures
11 a fair, healthy, competitive and responsible environment to accelerate
12 the growth and sustained development of an efficient, adequate and
13 universal information, communications, broadcast and other multi-media
14 infrastructures and services;
- 15 d) A healthy competitive environment shall be fostered, one in which service
16 providers shall engage in fair and efficient market conduct, be protected
17 from unfair trade practices and barriers, free to make business decisions
18 and to interact with one another in providing services with the end in view
19 of maintaining their financial viability for growth and sustainable
20 development while maintaining affordable rates;
- 21 e) Consumer welfare shall be promoted by facilitating access to services
22 whose infrastructure and network must be geared towards the needs of
23 individual and business users. The right of end-users to information,
24 privacy, security, and non-discriminatory access to equitable and
25 affordable services shall be ensured protection;
- 26 f) Strategic, reliable, cost-efficient, affordable information, communications,
27 broadcast, CATV and other multi-media infrastructures and services,
28 systems, applications and processes shall be available as instruments for
29 the promotion of ubiquitous and universal access, empowerment of
30 marginal sectors and local communities, nation building and global
31 competitiveness;

g) The radio frequency spectrum is a scarce public resource that shall be administered in the public interest and in accordance with international agreements and conventions to which the Philippines is a party. The government shall ensure the fair allocation of the spectrum and only to qualified service providers under such terms and conditions for its efficient and effective utilization.

SEC. 3. Definition of terms. - For purposes of this Act, the following terms are hereby defined:

a) "Authorization" shall refer to any certificate, permit, license, accreditation, registration, recognition, or similar permission granted to a person or entity to lawfully engage in activities falling under the jurisdiction of the Commission;

b) "Commission" shall refer to the National Information and Communication Commission (NICC);

c) "Department" shall refer to the Department of Transportation and Communications or to its successor agency;

d) "Universal Access" shall refer to provision of widest access to affordable and efficient information and communications infrastructures and services to the people in the interest of national development, national sovereignty, public interest and worldwide interconnectivity and accessibility;

e) "Certificate of Public Convenience and/or Authority (CPC/CA), Certificate of Public Convenience and Necessity (CPCN)" shall refer to a certificate issued by the Commission in the provision of services within the Commission's jurisdiction;

f) "Legislative Franchise" refers to the franchise issued by Congress authorizing that entity to engage in a certain type of telecommunications, broadcast, CATV, multimedia and other information and communications infrastructures and services;

g) "Radio Spectrum" shall cover radio frequencies from 9khz or higher that can be used;

h) "Frequency" - refers to the number of cycles per unit time, usually expressed in hertz;

i) Information and Communications Technology (ICT) is an umbrella term that includes any information or communication infrastructure, service, device and/or process encompassing wire, optics, radio, television, cable TV, mobile devices, computer and network hardware and software, satellite systems and so on, as well as the various services and applications associated with them;

j) "Interconnection" the linkage by any means of transmission such as by wire, radio, satellite, microwave channel of networks and services of two or more existing service providers with one another.

SEC. 4. Organization - The Commission is hereby re-organized to re-enforce or augment its existing organizational structure and capabilities in order to meet the rapid developments of new and emerging technologies in the field of information, communications, broadcast, cable TV and other multi-media infrastructures and services critical to the needs and aspirations of the nation and its international obligations.

SEC. 5. The Commissioners - (a) Composition. The Commission shall be a collegial body of three (3) Commissioners, composed of a Chairperson and two (2) Commissioners, all of whom shall be appointed by the President upon the recommendation of the Secretary of the Department of Transportation and Communications or its successor agency.

(b) Salaries, allowances and tenure of Commissioners. The Commission shall be constituted as a collegial body comprised of a Chairperson and two (2) Commissioners and shall be entitled to the same salary, allowances and benefits, including retirement, as those of the Justices of the Court of Appeals; except for the Chairperson who shall have the rank of the Presiding Justice of the Court of Appeals.

The Commissioners shall have a fixed term of seven (7) years; Provided that, for the first set of appointees, the Chairperson shall hold office for seven (7) years, and one (1) member shall serve for five (5) years and the other

one for three years; and provided further, that any appointment to any future vacancy shall only be for the unexpired term of the predecessor, with no reappointment. In no case shall any member serve for more than seven (7) years in the Commission.

The Commissioners shall enjoy security of tenure and shall neither be suspended nor removed except for just cause as provided for by law.

(c) Qualification of the Commissioners. The Commissioners must be natural-born citizens, residents of the Philippines and at least thirty-five (35) years of age; of good moral character, of unquestionable integrity, of known probity and patriotism, and with recognized competence in the field of information and communications, with at least five (5) years actual and distinguished experience in their respective fields of expertise. *Provided, that* from the three (3) members of the Commission, one shall preferably be a member of the Philippine Bar and another a licensed electronics and communications engineer (ECE), and the third one preferably an economist or a graduate of any relevant profession.

(d) Chief Executive Officer. The Chairperson is the chief executive officer of the Commission and shall have general executive direction and supervision of the work and operation of the Commission and of its members, bodies, boards, offices, personnel and all its administrative business.

SEC. 6. Structure of the Organization. (a) The Commission shall be an attached agency for policy and program coordination, and, shall be under the administrative supervision of the Department of Transportation and Communications or of its successor agency.

The Department, or its successor agency, shall not exercise any power which will tend to influence or effect a review or a modification of the quasi-judicial functions of the Commission. The decisions of the Commission, however, as a quasi-judicial entity, shall be appealed only to the Court of Appeals and the Supreme Court of the Philippines, as provided for by law.

(b) All powers vested upon the Commission shall be vested on the commissioners sitting as collegial body. Hearings may be conducted by any

1 of the Commissioners, individually or jointly, or by Hearing Officers duly
2 authorized or delegated to hear the cases. A majority of two (2)
3 Commissioners shall be required to reach a decision, ruling or order of the
4 Commission. Notwithstanding the foregoing provisions, the Chairperson may
5 provisionally approve immediately cases involving the fixing of rates or
6 charges, provided that a hearing be scheduled within thirty (30) days from
7 the grant thereof.

8 (c) The Commission shall have Regional Offices headed by Regional
9 Directors, appointed by the President of the Philippines, upon the
10 recommendation of the Department to which it is attached, one to be
11 located in each geographical region of the country, with at least one field
12 office in every region of the country.

13 These offices shall function as line organization interfacing directly with
14 the public in their respective regions and shall be responsible for the delivery
15 of front line services such as the implementation of laws, policies, projects,
16 plans, rules and regulations of the Commission, supervise and inspect the
17 operation of radio, television, cable TV and telecommunications networks,
18 stations, systems, facilities and services; exercise supervision and regulation of
19 communications, CATV and broadcast services; conduct hearing of
20 administrative cases, issue permits, licenses and certificates, including the
21 conduct of examination and licensing of qualified operators; and such other
22 functions as may be assigned to them.

23 (d) There shall be a Commission audit staff, a public information Office
24 and a secretariat under the office of the Chairperson. The Secretariat shall
25 be responsible for recording, the protection and maintenance of records,
26 decisions, docketing and recording of quasi-judicial processes as well as the
27 release of decisions and their official notification to the public.

28 **SEC. 7. Jurisdiction.** - The Commission shall have jurisdiction, supervision,
29 regulation, and control over all persons, entities engaged in the operation
30 and/or provision of information and communications, telecommunications,
31 broadcast, CATV, and other multi-media infrastructures and services,

1 including program, content and application providers in such infrastructures
2 and services, radio stations and radio training schools, maritime point of
3 service activation, networks or systems services, their franchise, equipment,
4 and other properties, and/or any person using the radio spectrum and other
5 limited resources in communications and information e.g. numbering systems,
6 domain name systems and other related concerns.

7 The Commission shall have the power to institute measures to curb
8 intellectual property- related violations committed by the above parties.

9 Telecommunication stations owned and operated by the Armed
10 Forces of the Philippines shall be subject to the Commission's jurisdiction only
11 to that extent that all such stations shall use frequencies as authorized by the
12 Commission.

13 **SEC. 8. Powers and Functions.** - In addition to powers already
14 provided for by existing laws, not inconsistent with this Act, the Commission
15 shall have the following powers and functions:

- 16 a. Administer and implement the Public Telecommunications Policy Act and
17 all other laws that the Commission is mandated to enforce and implement
18 or such amendments thereto, and/or such other policies that shall be
19 enacted or promulgated pursuant to law, or entered into by the Philippine
20 Government under a binding national, regional or international treatise,
21 convention and/or agreements;
- 22 b. Recommend policies for the promotion of communications, information,
23 broadcast media and other technologies, as well as any other related
24 fields thereof, and the wider use of the Internet for an integrated and
25 comprehensive communications and information technology (IT) systems
26 and services at the national, regional and local levels;
- 27 c. Establish standards, specifications, measures, guidelines, rules and
28 regulations, and the like for information and communications, broadcast,
29 CATV, multimedia infrastructures/services, and towards an aggressive and
30 comprehensive information and communication

1 systems/networks/processes by service providers and private users at the
2 national, regional and international levels;

3 d. Issue certificate of public convenience/necessity and authorizations for
4 the operation of information and communication, radio and television
5 broadcast, CATV and other multi-media facilities, networks, systems, and
6 services;

7 e. Adopt an administrative process which facilitates entry of qualified service
8 providers, pricing and competition policies to enable the public to access
9 information and communications infrastructures/services, at the same
10 time, enable service providers to generate sufficient returns to promote
11 the growth and sustainability of their infrastructures/services, including the
12 provisioning of services in un- served and underserved areas at affordable
13 rates;

14 f. Prescribe rules and regulations, guidelines, measures and specifications in
15 accordance with acceptable standards, to ensure quality, safety,
16 reliability, security, compatibility and interoperability of information and
17 communication, radio and television broadcast, and other multi-media
18 facilities, stations, networks or systems and services in conformity with
19 national standards and specifications and those set by international radio
20 and telecommunications bodies to which the Philippines is a signatory;

21 g. Formulate and implement regulatory policies for the establishment,
22 operation and maintenance of ICT facilities of new and converged
23 services;

24 h. Prescribe rules and regulations, guidelines, measures and specifications for
25 the following:

26 1. The setting and imposition of appropriate fees and charges
27 over persons and entities within its jurisdiction, such as:

28 a) radio spectrum fees for all assignees except those
29 assigned to military and public safety services;

30 b) permits, certificates, registrations and license fees;

31 c) supervision and regulations fees; and

- 1 d) other administrative fees and charges, fines and
- 2 sanctions;
- 3 2. The determination and prescription of rates and tariffs for
- 4 facilities and services except when these rates and tariffs are
- 5 deregulated or established by international bodies or
- 6 association of which the Philippines is a participating member or
- 7 by bodies recognized by the Philippine Government as the
- 8 proper arbiter of such rates and tariffs. Rules shall be established
- 9 for payment schemes whether for regulated or deregulated
- 10 rates;
- 11 3. The accreditation and registration of radio and
- 12 telecommunications equipment dealers, suppliers,
- 13 manufacturers, repair shops; and the purchase, sale, lease,
- 14 rental, possession and type approval/acceptance of radio and
- 15 telecommunications equipment;
- 16 4. The fostering of fair and efficient market conduct through, but
- 17 not limited to, the protection of information, communication,
- 18 radio, broadcast, CATV and other multi-media facilities, systems
- 19 or networks and services entities from unfair practices or other
- 20 barriers;
- 21 5. The implementation of a responsive and more effective use of
- 22 information and communications facilities and services due to
- 23 existing and emerging technologies;
- 24 6. The protection of consumers against inadequate/unsatisfactory
- 25 service, any illegal activity and/or the misuse or abuse of any
- 26 entity's monopolistic or quasi-monopolistic powers and anti-
- 27 competitive practices by, but not limited to, the investigation of
- 28 complaints and to exact compliance from the providers to
- 29 conform with service standards.
- 30 i. Establish, prescribe, and regulate areas of operation of public
- 31 services/utilities, their equipments and other properties, processes in

1 accordance with their legislative franchise and their certificates, licenses,
2 registration, accreditation and other authorizations;

3 j. Require, consistent with due process, any public service to provide access
4 to and the use of its facilities and services, including the interconnection
5 with or the attachment to its facilities or equipment, on such terms and
6 conditions and the payment of compensation, as the Commission may
7 determine and approve;

8 k. Sub-allocate, re-allocate, allot radio frequencies, and adopt frequency
9 plans and standards based on the International Telecommunications
10 Union Radio Regulations, to promote the growth and sustained
11 development of the sector;

12 l. Assign radio frequencies, grant permits and licenses for the use of the
13 radio spectrum or such other limited resources to authorized person or
14 entity essential for the efficient operation of any facility, station, networks
15 and services: Provided, That any application under this paragraph shall
16 be acted upon by the Commission within ninety (90) days from the time of
17 the filing thereof, and at the earliest possible time, grant or deny the
18 permit or license in order to optimize the beneficial use of the frequency
19 spectrum and/or other resources;

20 m. Maintain a complete and updated file and ensure the safety and integrity
21 of the records of issued Certificates, licenses, permits, registers, allocated
22 and assigned frequencies and such other authorizations or activities of the
23 Commission essential to planning and regulatory monitoring and
24 enforcement, its efficiency and transparency, target setting for global
25 competitiveness. For this purpose, the NTC shall use funds from the
26 supervisory and regulatory fees and radio spectrum fees;

27 n. Determine and ensure compliance by persons and entities of their
28 franchises, certificates, permits, accreditations, registrations, certifications,
29 licenses, and other existing laws, rules and regulations, technical programs
30 and performance standards, or terms and conditions of their
31 authorizations;

- 1 o. Prosecution of, and, imposition of fines and penalties on persons and
2 entities that operate without authorization, or violate the terms and
3 conditions of any authorization issued by the Commission. The fine may
4 be in an amount as may be deemed appropriate by the Commission but
5 shall not exceed fifty million pesos (Php 50M). Any authorization may be
6 suspended, cancelled, or revoked only upon notice and hearing
7 provided, that when national security, public, safety, welfare or interest
8 requires, the Commission may order immediate suspension, and hold
9 hearing within five (5) days from the promulgation of the order of
10 suspension;
- 11 p. Monitor, enforce rules and regulations, to include the investigation of all
12 persons or entities under the Commission's jurisdiction; to exercise police
13 powers and in accordance with due process, confiscate equipment
14 and/or effect closure of any station found violating the law, rules and
15 regulations, or its franchises; in case of closure, the Commission may take
16 remedial action for a temporary operation by a qualified operator in the
17 interest of public service;
- 18 q. Regulate radio training schools, the conduct of qualifying examinations
19 and issue certification for qualified radio technicians and operators in
20 accordance with domestic laws, and international conventions, treatise,
21 or regulation where the Philippines is a party;
- 22 r. Establish and administer appropriate human resource programs, to
23 include the establishment of training centers to harness our Filipino human
24 resource skills and enhance our capacity building to keep pace with the
25 changes in technology and the changing information economy utilizing
26 supervisory, spectrum and regulatory fees;
- 27 s. Direct, authorize or order another grantee of a Certificate qualified to
28 temporarily operate the business of a grantee whose certificate is revoked
29 or suspended for cause after public hearing, and upon determination of
30 the Commission. The certificate of a grantee who unjustifiably
31 discontinues or abandons his service for whatever reason, causing

1 irreparable damage or serious inconvenience to the public, shall be
2 suspended. An operator shall be deemed to have abandoned its
3 business if it does not operate for a period longer than thirty (30) days, in
4 which case, the Commission may take appropriate action, in accordance
5 with due process, and/or may award new certificates.

6 In case of mere suspension and the grantee has effected remedies
7 within six (6) months from the suspension, the remedial measures necessary
8 to enable him to operate the business satisfactorily again shall be reverted
9 to his prior authorization under this Certificate with notice and approval
10 from the Commission; otherwise, this certificate shall be permanently
11 revoked. A grantee whose certificate has been revoked may re-apply
12 but shall be treated as a new applicant;

- 13 t. Mandate a fair and reasonable interconnection of systems, stations,
14 networks, facilities and/or services of authorized network operators and
15 other providers through appropriate modalities of interconnection, that
16 provides a reasonable and fair level of charges, so as to provide the most
17 extensive access, availability and affordability to the public, and ensures
18 that no single player or interest controls access to facilities and services;
- 19 u. Directly intervene, enjoin speedy settlement through modes of alternative
20 dispute resolution, and impose judgment on on-going and protracted
21 disputes involving interconnection among service providers, including the
22 final approval of any interconnection agreements;
- 23 v. The Commission shall have the power to make rules and procedures for
24 the conduct of its proceedings and in arriving at its decisions or orders,
25 and impose fines and penalties to enforce compliance with any rule,
26 regulation, order or other requirements;
- 27 w. The Commission may summarily punish for contempt by a fine not
28 exceeding five thousand pesos or by imprisonment not exceeding thirty
29 (30) days or both, any person guilty of such misconduct in the presence of
30 the Commission or so near thereto as to seriously interrupt any hearing or
31 session or any proceedings before it, including cases in which a person

1 willfully fails or refuses, without just cause, to comply with summons,
2 *subpoena ad testificandum*, *subpoena duces tecum*, injunctions,
3 decisions or orders, rules and regulations legally issued or promulgated by
4 the Commission; or being present at a hearing, session or investigation,
5 refuses to be sworn as a witness or to answer questions when lawfully
6 required to do so, or to furnish information required by the Commission.
7 The police agencies of the place where the hearing or investigation is
8 conducted shall, upon the request of the Commission, assist in enforcing
9 the provisions of this section;

10 x. Require any public service or utility to produce before the Commission any
11 and all records, data, statistics and documents deemed proper or
12 necessary in the exercise of its powers and functions, and cite for
13 contempt, direct or indirect, any person who fails or refuses to comply with
14 any lawful order of the Commission;

15 y. Inspect, on its own or through duly authorized representatives, the
16 operations, premises, books of accounts and records of any person or
17 entity at any reasonable time, in the exercise of its quasi-judicial power for
18 purposes of determining the existence of any anti-competitive behavior
19 and/or market power abuse and any violation of rules and regulations
20 issued by the Commission;

21 z. Enlist the aid and support of any and all enforcement agencies of the
22 Government, civil or military as well as any private institution, corporation,
23 firm, association or person in the implementation of its powers and
24 functions under this Act;

25 aa. Approve the submission by all operators of information and
26 communication, radio, broadcast, CATV and other multi-media facilities,
27 stations, systems or networks and services including radio training schools,
28 the following:

29 (a) The amount, terms, and conditions of each proposed issue, sale or
30 other disposition of its capital stocks if the issuance, sale or disposition
31 would result in:

1 (1) a sale to any other public service or any corporation,
2 domestic or foreign which vest in such one person or entity, more than
3 forty (40) per cent of its subscribed capital stock;

4 (2) a sale or transfer to any alien which results to a reduction to
5 less than sixty (60) per cent of the capital stock belonging to the
6 Philippine citizens.

7 (b) The terms and conditions of each proposed contract or agreement
8 for the interconnection of systems, facilities, networks and services;

9 (c) Any contract or arrangement entered into between operators and
10 program/content providers which tends or aims to exclude, inhibit and
11 frustrate the ability to offer diverse programs for a wider variety of
12 choices and diversity of programming to the subscribing public;

13 (d) Any contract, agreement, reports as may be prescribed by the
14 Commission from time to time.

15 bb. Accept and/or grant donations, in any form, from/to any entity, private
16 or government, domestic or foreign for the Commission's programs and
17 activities;

18 cc. Acquire equipment and/or raw materials and supplies by outright
19 purchase or lease or rent from, as well as contract services or the
20 undertaking or development projects to, any person or entity, domestic or
21 foreign, private or government, with or without bidding, as the Commission
22 may deem reasonable and proper;

23 dd. Issue orders, rules, regulations and other issuances as may be necessary
24 to ensure the effective implementation of the provisions of this Act;

25 ee. Determine and prescribe fair and reasonable charges or rates
26 pertinent to the operation of public utility facilities and services, after
27 conducting public hearings or hearing on applications; except in cases
28 where charges or rates are established by international bodies or
29 associations of which the Philippines is a participating member or by
30 bodies recognized by the Philippines as the proper arbiter of such charges
31 or rates. (RA 7925)

1 Subject to the provision of RA 7925 and such other laws as may be
2 promulgated, except where deregulation has been authorized, rates and
3 other charges of public services and utilities shall be submitted to the
4 Commission for its approval and the Commission shall, after public
5 hearing, render a decision, ruling, or order on said rates by:

- 6 a. Approving the proposed rate and charges or any part thereof with or
7 without alterations; or
- 8 b. Rejecting the proposed rates and charges or any part thereof without
9 prejudice to the submission of new proposal for new schedules of
10 rates and charges;
- 11 c. In the interest of the public, prescribe rates after due notice and
12 public hearing for the use of facilities/networks and services offered
13 other than those may be proposed by service providers.

14 The NICC shall have the original and exclusive jurisdiction over all cases
15 contesting rates, fees, fines, and penalties imposed by the Commission;

- 16 ff. Require public service time through broadcasting stations, including
17 cable television operators, to enable the Government to reach the
18 population on important public issues; provide at all times sound and
19 balanced programming; assist in the functions of public information and
20 education; and conform to the ethics of honest enterprise.

21 The Commission shall also prohibit the use of their stations for the
22 broadcasting of obscene and indecent language, speech, act or scene,
23 or for the dissemination of deliberately false information or willful
24 misrepresentation, or to the detriment of the public interest, or to incite,
25 encourage, or assist in subversive or treasonable acts; and

- 26 gg. Perform such other powers and functions as may be prescribed by
27 law, as well as those that which may be implied from, or are necessary or
28 incidental to the carrying out of, the express powers granted the
29 Commission to achieve the objectives and purposes of these laws.

30 **SEC. 10. Fiscal Autonomy** - The Commission shall enjoy fiscal autonomy
31 to be an effective independent regulatory body for the growth and

sustainability of a dynamic and vital infrastructure/service of the economy. Appropriations for the Commission may not be reduced below the amount appropriated for the previous year and after approval, shall be automatically and regularly released.

The Commission may re-align allocations to supplement any insufficient or inadequate appropriation as may be necessary to effectively discharge its duties.

Furthermore, thirty percent (30%) of the total supervisory and regulatory fees (SRF) collected by the Commission in the exercise of its powers over persons, entities, facilities, services, franchises, processes, or devices within its jurisdiction, shall constitute receipts automatically appropriated for a period of five (5) years from the effectivity of this Act, to be disbursed by the Commission for additional needed personnel services, maintenance and operating expenses, acquisition of urgently needed vehicles, monitoring and enforcement facilities, reference library, public hearings and traveling expenses, additional incentives/rewards for personnel who have shown exemplary work performance, introduced work systems improvements and cost savings, and other exemplary actions and/or other expenses necessary for efficient administration, capacity building and effective supervision and regulation of the sector .

SEC. 11. Compensation and Emoluments of NICC Personnel – In order to ensure effectiveness and efficiency, the NICC must meet the regulatory demands of maintaining a high-level of technical expertise and proficiency in its human resource. All positions of the Commission requiring technical proficiency and expertise shall be governed by a compensation comparable to the private sector and position classification systems and qualification standards approved by the Commission, in consultation with the Civil Service Commission (CSC) and the Department of Budget and Management (DBM) based on a comprehensive job analysis and audit of actual duties and responsibilities. The compensation plan shall be subject to periodic review by the Commission, the CSC and the DBM no more than once every two (2)

1 years without prejudice to yearly merit reviews or increases based on
2 productivity and efficiency.

3 The Commissioners shall receive compensation and other emoluments
4 equivalent to the compensation and other emoluments of the Justices of the
5 Court of Appeals. The compensation and other emoluments for the
6 personnel with high level of expertise and proficiency shall be exempted from
7 the coverage of Republic Act No. 6758, otherwise known as the "Salary
8 Standardization Act". For this purpose, the schedule of compensation of
9 NICC personnel with high levels of expertise and proficiency as determined
10 by the Commission in consultation with the CSC and the DBM shall be
11 submitted for approval by the President of the Philippines. The new schedule
12 of compensation shall be implemented within six (6) months from the
13 effectivity of this Act and may be upgraded by the President of the
14 Philippines as the need arises: *Provided*, That in no case shall the rate be
15 upgraded more than once a year.

16 **SEC. 12. Indemnification of Officials and Employees of the Commission**

17 - The Commission shall indemnify each Commissioner, including officials and
18 employees performing supervisory and regulatory functions for all costs and
19 expenses reasonably incurred by such persons in connection with any civil or
20 criminal actions, suits or proceedings to which they may be or made a party
21 by reason of the performance of their functions or duties, unless they are
22 finally adjudged in such actions or proceedings to be liable for gross
23 negligence or misconduct.

24 In the event of settlement or compromise, indemnification shall be
25 provided only in connection with such matters covered by the settlement as
26 to which the Commission is advised by external counsel that the persons to
27 be indemnified did not commit any gross negligence or misconduct.

28 The costs and expenses incurred in defending the aforementioned
29 action, suit or proceeding may be paid by the Commission in advance of the
30 final disposition of such action, suit or proceeding upon receipt of an
31 undertaking by or on behalf of the Commissioner, officer or employee to

1 repay the amount advanced should it ultimately be determined by the
2 Commission that he/she is not entitled to be indemnified as provided in this
3 subsection.

4 **SEC. 13. Enhancement of Technical Competence** – The Commission
5 shall establish a rigorous training program, to include setting of a training
6 center, for its personnel to enhance the technical and regulatory
7 competence of the NICC in the monitoring and enforcement of laws, orders,
8 rules and regulations of the Commission, and the compliance thereof, as to
9 enable the Commission to adequately and efficiently perform its duties and
10 functions and address the challenges in a fast evolving Information Economy.

11 **SEC. 14. Annual Report.** - The Commission shall submit an annual report
12 to the Congress not later than April 30 of each year, to include specific goals,
13 objectives and priorities of the Commission over a five-year of 5 years; the
14 strategic plan of action; recommendations for legislative action to enable
15 the Commission attain its objectives and such other data as may be required
16 from time to time.

17 **SEC. 15. Funding.** - In addition to the sums to be appropriated for the
18 Commission under the General Appropriation Act for the fiscal year following
19 the approval of this Act, any savings in the appropriation of the Commission
20 and fees collected by the Commission for the current fiscal year may also be
21 used for carrying out the provisions of this Act. Thereafter, the same sum or
22 so much as may be necessary shall be included in the appropriation for the
23 Commission in subsequent annual General Appropriation Acts, or through
24 special appropriations.

25 **SEC. 16. Transitory Provisions** – (a) Within ninety (90) days after
26 approval of this Act, the Commission, as a body shall draw the new structure
27 and staffing pattern necessary to carry out the powers and functions of the
28 newly reorganized Commission to be submitted to the Department Secretary
29 for approval.

b. The current Commissioners and existing personnel shall continue to hold office until approval of the staffing pattern and new appointments are issued.

c. Any personnel, whose positions are not included in the new position structure and the duly approved staffing pattern shall be deemed separated from the service. The officials and employees who are or wish to be separated as a result of the implementation of this Act shall be entitled to five (5) months separation pay for every year of service; *Provided, That they had been in the Commission for at least ten (10) years of continuous service; and, Provided, further, That for officials and employees with the Commission for the last five (5) years, they shall be entitled to three (3) months separation pay for every year of service and shall further be entitled to all other benefits accruing to them under the laws of general application enforced at the time of their separation.*

d. All regular or permanent employees who shall be affected by this Act shall not suffer any loss of seniority or rank or decrease in emoluments.

SEC. 17. Repealing Clause - Provisions of all existing laws, decrees, charters, executive orders, administrative order, rules and regulations, or parts thereof, inconsistent with this act are hereby repealed or modified accordingly.

SEC. 18. Separability Clause - If for any reason, any section of provision of this Act shall be held to be unconstitutional or invalid, the other sections or provisions of this Act shall not be affected thereby.

SEC. 19. Effectivity Clause - This Act shall take effect immediately upon its approval.

Approved,