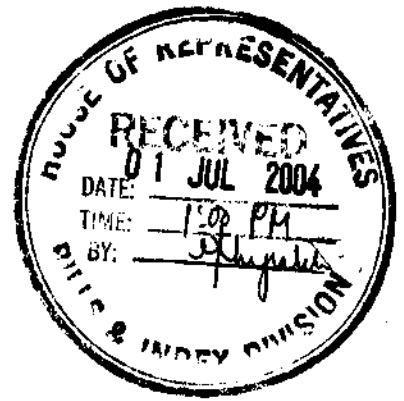


Republic of the Philippines
HOUSE OF REPRESENTATIVES
Quezon City

THIRTEENTH CONGRESS
First Regular Session

House Bill No. 275



Introduced by **HONORABLE JOSE C. DE VENECIA, JR.**

Explanatory Note

The cable television sector faces the problem of having antiquated communication facilities. To upgrade the existing one-way communication facilities of cable TV into two-way communication modes, large capital outlay will be needed. Foreign investors can help provide the funds needed to modernize the industry. However, foreign participation can only be allowed if the cable TV sector is considered as a separate industry.

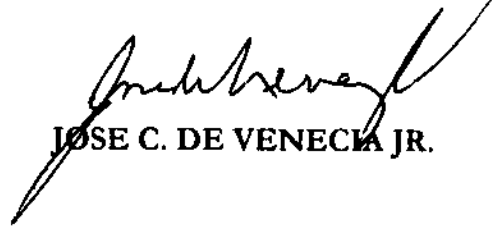
At present cable TV is classified under the broadcast industry although some sectors claim that it belongs to the telecommunications sector. But cable TV can neither be classified as public utility nor media. It cannot be considered as public utility because its facilities are used more as support structures to complement the transport system of telecommunications. If the definition of media is to be strictly followed, it cannot be also classified as such. Media are means of communication with wide range of influence while cable TV covers only a limited number of users who pay for the service.

The proposed bill on cable TV tries to resolve this issue by recognizing it as a separate and distinct industry meant to supplement and complement the telecommunications and broadcast sectors. It provides that ownership, control and operations of the cable TV systems in the Philippines will be open to citizens of the country or associations, cooperatives, partnerships, and joint ventures or corporations organized under Philippine laws. Foreign investors will also be encouraged to invest in the physical infrastructure portion of cable and wireless systems for cable TV in partnership with Filipino investors.

The National Telecommunications Commission (NTC) will be authorized to supervise and regulate the cable TV industry. Any person, association or corporation who will install and operate a cable TV system, or render cable TV service for a fee within the municipality, city or province will have to obtain a certificate of authority from NTC.

The upgrading of the cable TV industry will allow for alternative modes of communication such as cable internet and cable telephony. These modes of communication will help facilitate the exchange and delivery of information in the country.

In view of the foregoing, immediate approval of this bill is requested.



JOSE C. DE VENEZIA JR.

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Introduced by **HONORABLE JOSE C. DE VENECIA, JR.**

**AN ACT TO REGULATE THE CABLE TELEVISION INDUSTRY IN THE
PHILIPPINES, PROVIDING IMPLEMENTING MECHANISMS
THEREFOR AND FOR OTHER PURPOSES**

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

SECTION 1. Title. - This Act shall be known as the "CABLE TV ACT OF 2004".

SEC. 2. Scope and Application. - This Act shall apply to all cable television business entities in the Philippines.

SEC. 3. Declaration of Policy. - It shall be the policy of the State to:

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

SEC. 4. Definition of Terms. - As used in this Act:

- a) **Cable Television Service** - shall refer to the transmission or delivery to subscribers of video and audio programming and/or other programming service for a fee, with or without subscriber interaction, through fiber optics, coaxial cable and other future technological means. For the purpose of this Act, cable television systems shall include, but not limited to, Cable television, Direct-to-Home (DTH) television, and Multi Distribution System (MDS) television services.
- b) **Cable Television System** - shall refer to the process and facilities necessary for the generation, relay, and reception of television and its associated control signals of any

design by wire or wireless means for the purpose of providing cable television service to multiple subscribers within defined geographic service areas.

- c) **Cable Television Operator/Entity** - shall refer to any person or group of persons, natural or juridical, associations or entities engaged in the operation of cable television systems and is actually providing cable television service to its subscribers for a fee.
- d) **Direct-to-Home Television Service** - shall refer to a cable television service transmitted via satellite direct to the user.
- e) **Multi-distribution System Service** - shall refer to a cable television service transmitted to the user via terrestrial radio.
- f) **Commission** - shall refer to the National Telecommunications Commission.
- g) **Provisional Authority** - shall refer to a conditional authority granted by the Commission, for a limited period, to a qualified applicant, after due notice and hearing to operate and maintain a cable television system service, pending the grant of a Certificate of Authority.
- h) **Certificate of Authority** - shall refer to a grant consistent with the cable television system policies and objectives to a qualified applicant, after due notice and hearing, of a final authority to own, operate and maintain a cable television service by the Commission.
- i) **Franchise** - shall refer to a privilege conferred upon a cable television operator entity by Congress, authorizing that operator/entity to engage in the operations of a cable television system or delivery of cable television service.
- j) **Franchise Grantee** - shall refer to a person or any group of persons, natural or juridical, associations or entities granted a legislative franchise to operate a cable television system service.
- k) **Service area** - shall refer to the area of operation of a cable television service by one or more operators. It may refer to city, municipality, province, region or the entire country.

SEC. 5. Ownership and Control. - The ownership, control and operations of cable television systems in the Philippines shall be open to all citizens of the Philippines, or associations, cooperatives, partnerships, joint ventures, or corporations organized under Philippine laws with at least sixty percent (60%) of whose capital is owned by Filipinos. *Provided*, That the participation of foreign investors in the governing body of such entity shall be limited to their proportionate share in the capital thereof and all executive and management officers of such cable television entities must be citizens of the Philippines.

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

- a) Provide guidelines for the authorization, licensing, construction or installation, operation and maintenance of a cable television system in the Philippines;
- b) Hear, investigate, and decide all questions, controversies or disputes arising out of or in connection with the operation of cable television systems in the country;
- c) Determine the necessity of granting additional cable television operators within a service area covered by existing operators;
- d) Prosecute violations of the provisions of this Act, rules and regulations, orders and other issuance promulgated by the Commission in the implementation of this Act, and impose penalties and other sanctions on such violations;

- e) Perform such other functions, as the Commission deems necessary in the implementation of this Act.

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

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

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

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

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

However, the Commission may grant to an applicant-operator the authorization to operate a cable television system before the expiration of the two-year period given a prior cable television operator within the same franchise area upon 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, issuance or regulations promulgated by the Commission.

SEC. 10. *Rights of 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 operators/ entities may, with the approval of the Commission, lease or sub-lease the excess capacity of its cable television system, but may not utilize such excess capacity, or in any manner engage, in broadcast or telecommunications without securing the appropriate legislative franchise from Congress of the Philippines and authority from the Commission.

SEC. 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.

SEC. 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 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 distributor 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 and insert such advertisements in the regional satellite feed of such foreign programmers and distributors to be received by the cable television operator.

SEC. 13. Carriage of Commercial Television Signal. - A duly authorized cable television operator operating in a service area which is within the Grade A or B contours of an authorized television broadcast station or stations must carry on its cable television system the signals of commercial television stations, in full and in an uninterrupted manner unless there is an agreement to the contrary in conformity with the laws on intellectual property rights. The signal shall, on request of the station licensee or permittee, be carried on the channel number on which the station is transmitting, except where technically not feasible.

SEC.14. Deregulation of Service Rates. - The deregulation of service rates of cable television services shall be maintained and respected by the national and local government units to encourage growth in the industry and foster the availability of quality programs. The Commission shall, however, retain its residual powers to regulate service rates when ruinous competition results or when a monopoly or a cartel or combination in restraint of free competition exists and the service

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rates are distorted or unable to function freely and the subscribers are adversely affected. In such cases, the Commission shall establish either a floor or a ceiling on the service rates.

SEC. 15. *Prohibited Acts.* - The following acts are hereby declared unlawful:

- a) No cable television operator/entity shall engage in any commercial television broadcast or telecommunications activity unless duly approved/ authorized for the purpose, excluding government mandated public service community programs;
- b) No cable television operator/entity shall engage in any electronic commercial transactions through the cable television system unless duly approved/ authorized for the purpose;
- c) No cable television operator/entity shall receive and distribute/ transmit encoded or unencoded satellite program signals, or cinematographic works or other programs, including videograms, without the written authorization of the concerned satellite programmer or copyright owner;
- d) No person shall intercept or receive, or assist in intercepting or receiving, any service offered over a cable television system by tapping, or making or causing to be made, any unauthorized connection, to existing cable television facilities by the recording reproduction, distribution, importation or sale, of intercepted or received cable television system signals; and
- e) No person shall knowingly use or receive any direct or indirect benefit from any cable television service through any of the prohibited acts enumerated in the preceding paragraphs.
- f) No cable television operator/entity shall have unauthorized possession of any receiver-decoder or any equivalent circumvention devices or methods that allow for unauthorized decoding of encrypted satellite program signals.

SEC. 16. *Penalties.* - Any person, including directors and officers of a corporation, who knowingly and willfully violates any provision of this Act or commits any of the prohibited acts in the preceding section or any provision of this Act shall be punished:

- a) On the first offense, by a fine not less than One Hundred Thousand Pesos (P100, 000.00) but not more than Three Hundred Thousand Pesos (P300, 000.00) or imprisonment of not less than one (1) year but not more than three (3) years, and suspension of the franchise and authority to operate for a period of not less than two (2) years but not more than five (5) years;
- b) On the second offense, by a fine of not less than Three hundred Thousand Pesos (P300, 000.00) but not more than One Million Pesos (P1, 000,000.00) or imprisonment of not less than three (3) years but not more than five (5) years or both, and permanent ineligibility to receive a franchise and authority to operate.

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

SEC. 17. *Implementing Rules and Regulations.* - For the implementation of this Act, the Commission shall, in consultation with the Movie and Television Review and Classification Board, Videogram Regulatory Board, and nationally accredited or government-recognized cable television

associations, promulgate the implementing rules and regulations to govern the operations of the cable television industry within six (6) months after the effectivity of this Act.

SEC.18. *Reportorial Requirements.* – All duly authorized cable television operator/entity shall submit annual reports on its operations to the Commission. The Commission shall submit yearly report to the Congress on the status of the industry and the Commission's actions pursuant to this Act.

SEC. 19. *Separability Clause.* – If any provision of this Act is declared unconstitutional, the same shall not affect the validity and effectivity of other provisions thereof.

SEC. 20. *Repealing Clause.* - Executive Order No. 205, Executive Order No. 436 and all other laws, decrees, regulations or parts thereof inconsistent with the provision of this Act are hereby repealed or modified accordingly

SEC. 21. *Effectivity.* - This Act shall take effect fifteen (15) days after its publication in at least two (2) newspapers of national circulation.

Approved,