

REPUBLIC OF THE PHILIPPINES
HOUSE OF REPRESENTATIVES
Quezon City, Metro Manila

SIXTEENTH CONGRESS
First Regular Session

House Bill No. 1100



Introduced by **Kabataan Party-list Representative Terry L. Ridon**

EXPLANATORY NOTE

This bill seeks to promote and protect the rights of internet users.

The State recognizes the importance of information and communications in nation-building. It also recognizes its concomitant obligation to ensure the people's enjoyment of the right to freedom of speech and of expression. Hence, it is imperative for the State to guarantee the free flow of information and the growth, promotion and development of information and communications technologies and industries.

In a report to the United Nations Human Rights Commission by the Special Rapporteur on the promotion and protection of the right of freedom of opinion and expression released in June 2011, it was stated: *"Given that the Internet has become an indispensable tool for realizing a range of human rights, combating inequality, and accelerating development and human progress, ensuring universal access to the Internet should be a priority for all States."*

The Special Rapporteur also believes that the internet is one of the most powerful instruments of the 21st Century for increasing transparency in the conduct of the powerful, ensuring access to information, and for facilitating active citizen participation in building democratic societies.

The advancement of information and communications technology has brought many advantages as well as challenges to its users and the authorities regulating its use. The creation of the internet is a landmark development that has caused a revolutionary effect to a majority of the world's population as it now affects almost all aspects of human life. It has affected the social, cultural, political and economic development of the world. It has changed the ways that transactions are done. One can now do real time business with someone who is half-way around the world; families can easily communicate with their loved ones who work abroad; people are now more involved in the formulation of policies by the government; even the implementation of government programs can now be monitored by the citizens through the internet.

All these are made possible by the interactive nature of the internet, its speed and worldwide reach. However, unscrupulous persons have also adapted to the development of information and communications technologies and have found ways to exploit internet-based

opportunities and take advantage of other people by committing crimes through online and computer platforms.

The growing importance of the internet and the critical role it plays in national development necessitate the enactment of measures to protect and promote the rights of its end users.

This bill aims to transcend the current trend of information and communications technology-related laws passed in our great nation – which is to restrict, rather than promote the rights of users. The hurried passage of RA 10175 or the Cybercrime Prevention Act of 2012 is proof to this ongoing trend, as the law defined unlawful acts on the internet yet forgot to define the freedoms it needs to protect, and ultimately curtailed those freedoms.

This bill seeks to reaffirm that constitutionally guaranteed rights apply on the internet.

In view of the foregoing considerations, Kabataan Party-list refiles this bill and urgently seeks its approval.



HON. TERRY L. RIDON
Representative, Kabataan Party-list

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

SECTION 2. *Declaration of Policy.*— It is the policy of the State to uphold the people's right to freedom of speech, of expression and of the press through all types of media, including the internet. The State recognizes the vital role of communication and information in nation-building and affirms that all the rights, guarantees, and privileges provided by the Constitution and the generally accepted principles of international law, shall apply to the Filipino people in their use, development, innovation, and invention of information and communications technology (ICT) and the internet.

The State also recognizes internet access as a right and thereby promotes access to the internet and shall keep the internet free from censorship while providing ample regulatory control within the bounds of the Philippine Constitution.

The State upholds that the rights that the people possesses as defined in the Bill of Rights of the Constitution must also be protected online, regardless of frontiers and through any media of one's choice, including new and emerging platforms afforded by the internet.

Towards this end, the State shall adopt measures to protect the internet's universality, integrity and openness and to maximize the internet's potential to promote democracy and cultural diversity. It shall periodically formulate studies, targets and strategies, and implement a comprehensive program on the use and development of the internet in the country. The State shall likewise take steps to protect the privacy of its users and ensure that access to the internet is available to its citizens.

SECTION 3. **Guiding Principles.**— This Act shall be guided by the following principles:

a) Access to the internet is a civil right and the ability to share information and communicate freely using the internet is vital to the realization of human rights;

1 b) The global and open nature of the internet is an important driving force in national
2 socio-economic and political development; and

3 c) Regulation on the internet shall be responsive rather than prohibitive towards
4 users, and shall maintain the openness or the free, public character of the internet.

5 SECTION 4. **Objectives.** – This Act shall have the following objectives:

6 a) To promote the right of all citizens to access the internet;

7 b) To promote the rights and freedoms of internet users;

8 c) To promote access to information, knowledge and participation in cultural activities
9 and public affairs;

10 d) To promote innovation and encourage the dissemination of new technologies and
11 models of use and access;

12 e) To ensure protection of data and privacy of internet users; and

13 f) To promote compliance with the open technological standards that allows
14 communication, accessibility and interoperability between applications and databases.

15 SECTION 5. **Definition of Terms.** – As used in this Act:

16 a) **Internet** refers collectively to the myriad of computers and telecommunications
17 facilities, including equipment and operating software, which comprise the interconnected
18 worldwide network of networks that employ the transmission control protocol or internet
19 protocol, or any predecessor or successor protocols to such protocol to communicate
20 information of all kinds by wire, radio, or other electronic media;

21 b) **Internet Access** refers to the means by which users connect to the internet by
22 equipping the computer with a modem and using the common methods of internet access
23 such as dial-up, landline, T-lines, Wi-Fi, satellite, cell phones and similar technologies;

24 c) **Internet Service Provider (ISP)** refers to any person or entity that supplies or
25 proposes to supply, an internet service carriage to the public;

26 d) **Internet Applications** refer to the group of functionalities that can be accessed by
27 a terminal connected to the internet;

28 e) **Internet Application Access Logs** refer to the information regarding the date and
29 time of use, from a determined IP address, of a specific internet; and

30 f) **Terminal** refers to a computer or any device that connects to the internet;

31 SECTION 6. **Universal Access to the Internet.** – All citizens have the right to access
32 the internet. No citizen shall be denied access to the internet on account of one's socio-
33 economic status, political or religious beliefs, sexual orientation, or physical handicap.

34 SECTION 7. **Rights of Internet Users.** – All internet users shall enjoy the following
35 rights:

1 a) The non-violation and secrecy of communications on the internet, except upon
2 order of a competent court or as may be prescribed by law, for purposes of criminal
3 investigations or the gathering of evidence for criminal prosecutions;

4 b) The non-suspension of internet connections, except upon any one of the following
5 grounds:

6 1. Suspension or termination of the service at the request of the subscriber;

7 2. Non-payment by a subscriber of the fees relating to the use of internet
8 connections;

9 3. Expiration of a fixed contract; or

10 4. When an ISP is required by law or a court order to suspend or terminate its
11 service.

12 c) The maintenance of the agreed upon quality of internet connections;

13 d) Clarity and thoroughness of information in contracts for internet services, with
14 explicit mention of the applicable regimes for data protection, connection logs and internet
15 application access logs, as well as network management practices that can affect the quality
16 of offered services; and

17 e) The non-disclosure, to third parties of connection logs and internet application
18 access logs, except if the consent of the user or subscriber is obtained or when required by
19 a court order or by law.

20 SECTION 8. **Limitations and Restrictions.**— Internet access shall be subject to
21 limitations set forth in existing laws such as Republic Act (RA) No. 9775, otherwise known as
22 the “*Anti-Child Pornography Act of 2009*,” RA 9995, otherwise known as the “*Anti-Photo and*
23 *Video Voyeurism Act of 2009*,” and RA 10173, otherwise known as the “*Data Privacy Act of*
24 *2012*,” among others.

25 Restrictions on the operation of websites, blogs or any other internet-based,
26 electronic or other such information dissemination system, including systems to support such
27 communication, such as internet service providers or search engines, may only be permitted
28 if the aforementioned systems pose threats to fundamental rights of a person. The restriction
29 of such systems may only be implemented following a court order: *Provided*, That the court
30 order shall specify and limit which particular content shall be restricted.

31 SECTION 9. **Association on the Internet.**— All citizens have the right to gather and
32 participate in shared learning, creation and exchange of ideas through online activities.

33 SECTION 10. **Quality of Connection.** — All internet subscribers have the right to
34 quality connection, which ensures that internet speed and signal strength received by the
35 subscriber shall not be lower than that agreed upon by the subscriber and the internet
36 service provider.

37 The National Telecommunications Commission shall ensure that internet service
38 providers deliver the agreed internet speed and signal strength.

1 SECTION 11. ***Right to Benefit from What They Create.***– All citizens have the right
2 to benefit from their ideas, creations and publications on the internet, including but not
3 limited to monetary remunerations and credit for the work done.

4 SECTION 12. ***Freedom of Expression on the Internet.*** – All citizens have the right
5 to express their ideas, views and opinions on the internet without fear of reprisal. The
6 preservation of the right to privacy and freedom of expression in communications is a
7 condition for the full exercise of the right to internet access.

8 SECTION 13. ***Privacy on the Internet.***– The State shall guarantee the right to
9 privacy of its citizens. The State shall protect the right of a person to ensure the privacy of
10 the data or networks over which the person has property rights over, and shall protect the
11 right of a person to employ reasonable means to this end.

12 SECTION 14. ***Prohibited Acts.*** – To ensure privacy of internet users, the following
13 acts shall be prohibited:

14 a) Monitoring or analyzing of data by an internet service provider without prior
15 knowledge and consent of the user or subscriber;

16 b) Internet surveillance and data collection on users by agencies and
17 instrumentalities of the State without securing a court order. The State may only acquire
18 private user data through its civil law enforcement agency in pursuit of a crime;

19 c) Identifying internet users and disclosing their communications data without a court
20 order and for purposes other than criminal investigations and criminal proceedings; and

21 d) Accessing communications data by persons other than public authorities that are
22 directly involved in criminal investigations and criminal proceedings.

23 SECTION 15. ***Penalties.*** – Any person who shall commit the prohibited acts under
24 Section 14 of this Act or any regulation hereunder shall, upon conviction, be imposed the
25 fine of not less than One Hundred Thousand pesos (P100,000.00) but not more than Five
26 Hundred Thousand pesos (P500,000.00) or imprisonment of not less than six (6) months but
27 not more than six (6) years, or both fine and imprisonment at the discretion of the court.

28 If the offense is committed by a corporation, trust, firm, partnership, association or
29 any other juridical entity, the penalty shall be imposed upon the officer responsible for the
30 violation. In case the offender is an alien he shall be deported immediately after service of
31 sentence or payment of fine.

32 A prosecution under this Act shall be without prejudice to any liability for violation of
33 any provision of the Revised Penal Code, as amended, or other special criminal laws.

34 SECTION 16. ***Disclosure of Access Logs.*** – Interested parties may, for the purpose
35 of gathering evidence in civil and criminal proceedings, request a competent court to order
36 the party responsible for storing internet application access logs or connection logs, to
37 disclose these logs. The requesting party must fully justify the necessity of the disclosure of
38 these connection logs, otherwise, the request shall be denied.

1 The court shall take the necessary measures to ensure the secrecy of the information
2 received to protect the reputation of the subscriber subject of the request.

3 SECTION 17. **Implementing Rules and Regulations.** – Within sixty (60) days after
4 the effectivity of this Act, the Chairman of the National Telecommunications Commission
5 (NTC) shall, in coordination with the Executive Director of the Information and
6 Communications Technology Office of the Department of Science and Technology, the
7 Secretary of Justice, and the Chairman of the National Privacy Commission, promulgate the
8 necessary rules and regulations for the effective implementation of this Act.

9 The Information and Communications Technology Office of the Department of
10 Science and Technology, and the Technical Education and Skills Development Authority
11 shall develop and implement plans, policies, programs, measures, and mechanisms for the
12 development of human resources, skills development, and technology development for
13 information and communications technology infrastructure in the Philippines.

14 SECTION 18. **Separability Clause.** – If any provision or part of this Act is declared
15 unconstitutional or invalid, the remaining parts or provisions not affected shall remain in full
16 force and effect.

17 SECTION 19. **Repealing Clause.** – All laws, decrees, orders and issuances or
18 portions thereof, which are inconsistent with the provisions of this Act are hereby repealed or
19 modified accordingly.

20 SECTION 20. **Effectivity.** – This Act shall take effect fifteen (15) days after its
21 publication in at least two (2) national newspapers of general circulation.

22 Approved,