

Republic of the Philippines
HOUSE OF REPRESENTATIVES
Quezon City



SIXTEENTH CONGRESS
Third Regular Session

6369
HOUSE BILL No. _____

Introduced by **BAYAN MUNA Rep. NERI J. COLMENARES** and **Rep. CARLOS ISAGANI ZARATE**

**AN ACT EXPANDING THE POWERS OF THE NATIONAL
TELECOMMUNICATIONS COMMISSION CLASSIFYING SHORT MESSAGING
SERVICE, AND INTERNET SERVICES AS UTILITIES IMBUED WITH PUBLIC
INTEREST AND PROVIDING PENALTIES THEREOF, AMENDING REPUBLIC
ACT 7925 OTHERWISE KNOWN AS THE "PUBLIC TELECOMMUNICATIONS
POLICY ACT OF THE PHILIPPINES" FOR ITS PURPOSE**

EXPLANATORY NOTE

Internet and SMS has been part of our daily lives, it now plays a crucial role in many aspects of society, from media and information, entertainment, education, governance and the economy. The "bayanihan" spirit has extended online where people send support for those affected by calamities and disaster, and government agencies use the internet for relevant alerts. As such the Philippines has been dubbed as the Text Capital, Social Media and even the BPO Capital of the World which shows a very high demand for the use of such services. United Nations Special Rapporteur on the Promotion And Protection Of The Right To Freedom Of Opinion And Expression Frank La Rue submitted a report to the UN Human Rights Council last May 2011 stating that "...internet access facilitates economic development and the enjoyment of a range of human rights, marginalized groups and developing States remain trapped in a disadvantaged situation, thereby perpetuating inequality both within and between States."

However with all the recognition that the Filipinos are SMS and internet savvy, there still lies the fact that the country has been lagging behind in terms of average internet speed and total internet penetration hovers around 35-40% only of the Philippine population, with majority of the activity coming from urban centers. In this crisis, the problem lies with the country's lack of infrastructure to deliver reliable internet connection as it was left to the hands of private telecommunications companies that would only construct facilities that would be financially-viable and the current Telecommunications Act, rendered the NTC as toothless when it comes to regulating internet and text messaging services, which is considered only as a "value-added service" and therefore is outside the jurisdiction of the Commission, notwithstanding the reality

that it has been very long since the first connection of our country to the Internet in March 1994 which was only used by enthusiasts and educational institutions back then. The lack of spending of telecommunications investment by the private sector is evident as it consists only 0.014 % of the GDP. While the sectors that provide relying internet and other telecommunication services such as Business process outsourcing (BPO), Information Technology Outsourcing (ITO), Knowledge process outsourcing (KPO) and other outsourcing industries have contributed USD 11 billion in export revenues, or an estimated 5.4% to the country's GDP in 2011.

This bill echoes the call of consumers that the government should lead the creation of a national telecommunications and internet infrastructure in order to interconnect the different islands of the country, which is a very monumental task and shall need government resources as it would cover areas unprofitable for the telecommunication companies to build its facilities. Moreover, it seeks to rationalize government regulation of the industry by clearly defining the powers of the National Telecommunications Commission through the formulation of provisions specific and categorical to the industry and increasing the fines to be imposed which is also allowed to be adjusted with inflation to ensure maximum compliance on the side of telecommunication companies and internet service providers.

In order to end our plight of experiencing slow internet at the mercy of private telecommunication networks, swift passage of this bill is sought.

Approved,


Rep. NERI J. COLMENARES
Bayan Muna Party-List


Rep. CARLOS ISAGANI T. ZARATE
Bayan Muna Party-List

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

**SECTION 1 – CLASSIFICATION OF SMS AND INTERNET UNDER NTC'S
REGULATION.** Section 3 of Republic Act 7925, otherwise known as the "Public
Telecommunications Policy Act" is hereby amended to read as follows:

Section 3. Definitions and Interpretations. - For purposes of this Act, the following terms
shall be used:

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(c) Short messaging services – is a text messaging component of mobile
communication systems that are transmitted to and from a mobile phone,
fax machine and/or IP address.

(d) Internet – a communication network that allows connection among
computers and devices worldwide via the internet protocol (IP).

(e) Internet service provider – an entity that provides internet access
through existing network infrastructure including but not limited to
telephone lines, cell sites, Ethernet, satellite, cable television lines, and
radio frequency; or through new technologies delivering internet services
that may emerge after the passage of this act.

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Furthermore, the NTC is mandated to adopt standardized definitions the International Telecommunications Union (ITU), the Internet Engineering Task Force (IETF), the World Wide Web Consortium (WWWC), and the Internet Corporation for Assigned Numbers and Names (ICANN), and other international and transnational agencies governing the development, use, and standardization of information and communications technology and the Internet.

SECTION 2. INTRODUCTION OF PENALTIES. Section 5 of Republic Act 7925, otherwise known as the "Public Telecommunications Policy Act" is hereby amended to read as follows:

Section 5. *Responsibilities of the National Telecommunications Commission.* - The National Telecommunications Commission (Commission) shall be the principal administrator of this Act and as such shall take the necessary measures to implement the policies and objectives set forth in this Act. Accordingly, in addition to its existing functions, the Commission shall be responsible for the following:

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(h) In exercise of its regulatory powers, the Commission shall be given the power to impose fines against telecommunication service providers within the scope of its regulation that is found violating or failing to comply with the terms and conditions of any certificate or any orders, decisions or regulations of the Commission shall be subject to a fine amounting to the total actual loss or overcharging as determined by the Commission for every day during which such default or violation continues; and the Commission is hereby authorized and empowered to impose such fine, after due notice and hearing. The erring service providers are also mandated to refund to consumers the charges they erroneously imposed to their subscribers.

SECTION 3. *Development of a National Telecommunications Network.* - Section 6 of of Republic Act 7925, otherwise known as the "Public Telecommunications Policy Act" is hereby amended to read as follows:

Section 6. *Responsibilities of and Limitations to Department Powers.* - The Department of Transportation and Communications (Department) shall not exercise any power which will tend to influence or effect a review or a modification of the Commission's quasi-judicial functions.

In coordination with the Commission, however, the Department shall, in accordance with the policies enunciated in this Act, be responsible for:

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- a.) In coordination with the Department of Science and Technology and other related agencies, they are given the mandate to develop a National Telecommunications and Internet Infrastructure in order to provide a nationwide network that would provide interconnection among different

government offices and Local Government Units. All internet service providers shall be required to connect to the said infrastructure.

SECTION 4. *Repealing Clause.* - All laws, orders, issuances, rules and regulations or part thereof inconsistent with the provisions of this Act are hereby repealed, amended or modified accordingly.

SECTION 5. *Effectivity Clause.* - This Act shall take effect within fifteen (15) days after its publication in the *Official Gazette* or in at least two (2) newspapers of general circulation, whichever comes earlier.

Approved,