

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

Seventeenth Congress
_____ Session

H.B. No. 8134



Introduced by Rep. Dakila Carlo E. Cua

**AN ACT SYSTEMIZING SPECTRUM USER FEES
IMPOSED AGAINST RADIO FREQUENCY BANDS,
AMENDING REPUBLIC ACT NO. 7925, AND FOR
OTHER PURPOSES**

EXPLANATORY NOTE

This bill seeks to systematize spectrum user fees imposed on radio frequency bands.

Spectrum user fees have long been imposed and collected by the National Telecommunications Commission [NTC] on all allocated and assigned National Radio Frequency Bands. However, to date, there is still no definite system on its imposition.

As a result, the Government failed to maintain a leveled playing field for all telecommunication companies. As borne by the records, bigger telecommunication companies are hoarding most of the available frequency bands without even utilizing them. As a result, a duopoly exists as new telecommunication companies are prevented from entering the industry, or competing with the larger and more established telecommunication companies.

In order to correct this injustice, this representation sincerely proposes to systemize the spectrum user fees imposed on allocated and assigned national radio frequency bands


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

Section 1. The provisions of Section 3 Article I of Republic Act No. 7925, otherwise known as the “Public Telecommunications Policy Act of the Philippines” [“RA7925”], are hereby amended to include the following definitions:

(l) Licensed frequency – is a band of radio frequency spectrum that is licensed through auction or grant, and subsequently assigned to a public telecommunication entity; and which frequency spectrum can only be used by the public telecommunication entity authorized by the relevant regulatory agency to operate the assigned frequencies.

(m) Unlicensed frequency – or technically referred to as “Open and Unprotected Frequencies”, are frequencies open to all public telecommunications entities, which frequencies’ right of use is determined by the assignment or grant, after paying the prescribed Spectrum User Fee; and the use by a telecommunication entity granted with such paid unlicensed frequency shall not be interfered.

Section 2. The provisions of Section 5 Article III of Republic Act No. 7925, otherwise known as the “Public Telecommunications Policy Act of the Philippines” [“RA7925”], are hereby amended to include the following responsibilities:

(h) Monitor the use and utilization of frequencies granted or licensed to public telecommunication entities; and

(i) Submit annual reports on the grant, use, utilization, and recall of frequencies to both Houses of Congress.

Section 3. The provisions of Section 15 Article V of Republic Act No. 7925, otherwise known as the "Public Telecommunications Policy Act of the Philippines" ["RA7925"], are hereby amended to read:

"Section 15. *Radio Frequency Spectrum.* - The radio frequency spectrum allocation and assignment shall be subject to periodic review. The use thereof shall be subject to reasonable spectrum user fees **AS COMPUTED IN SECTION 15(A) OF THIS ACT.** [Where demand for specific frequencies exceed availability, the Commission shall hold open tenders for the same and ensure wider access to this limited resource.]

THE COMMISSION SHALL INITIATE CALL BACK OR RECALL PROCEEDINGS AGAINST ALL ASSIGNED SPECTRUM THAT REMAINS UNUSED, UNUTILIZED, AND/OR UNDERUTILIZED AFTER THE EXPIRATION OF THE PROVISIONAL AUTHORITY GRANTED BY THE COMMISSION.

FOR PURPOSES OF THIS ACT, ASSIGNMENT, LEASING OR RENTING, AND/OR ANY ANTI-COMPETITIVE ACT, INCLUDING COLLUSION, FOR NON-USE OR UNDERUTILIZATION OF FREQUENCIES SHALL NOT BE CONSIDERED AS USE OR UTILIZATION OF LICENSED FREQUENCIES."

Section 4. The provisions of Article V of Republic Act No. 7925, otherwise known as the "Public Telecommunications Policy Act of the Philippines" ["RA7925"], are hereby amended to include the following:

Section 15(A). *Computation of Spectrum User Fees.* – The Commission shall impose Spectrum User Fees ("SUF") based on the following:

1. No SUF shall be collected from public telecommunication entities exclusively providing services to urban and rural communities with no connection; Provided, that: all telecommunication entities falling under this subsection shall meet all the qualifications and conditions set forth by the Commission.

2. The Commission shall prescribe, and periodically increase, reasonable SUF for the use of licensed frequencies.

3. Telecommunication entities holding more than one licensed frequency shall, per category of licensed frequency as identified by the Commission, be charged Twenty (20) times the prescribed rate of SUF on the second and succeeding licensed frequencies.

4. Telecommunication entities holding licensed frequencies shall, per category of licensed frequency as identified by the Commission, be charged Two (2) times the rate of imposed SUF on all their assigned frequencies that remains unused, unutilized and/or underutilized.

As used in this subsection, imposed SUF shall include the prescribed SUF, and the times Twenty (x20) rate imposed on the second and succeeding licensed frequencies as prescribed in the preceding subsection.

5. Telecommunication entities holding unlicensed (or "Open and Unprotected") frequencies shall be charged SUF at the rate of Two Percent (2%) computed based on the SUF imposed against the licensed frequencies as prescribed by the Commission under Section 15(A) (2) hereof.

6. Under no circumstance shall the use of licensed frequencies be charged SUF at the rate imposed against unlicensed frequencies (or "Open and Unprotected"), and the use of unlicensed frequencies (or "Open and Unprotected") be charged SUF at the rate imposed against licensed frequencies.

Section 5. *Applicability.* – The provisions of this Act shall apply to all spectrum frequencies, whether assigned or unassigned as of the date of the effectivity of this Act.

Section 6. *Appropriation.* – In order to equip and modernize, and improve the capability of the Commission, the amount of Two Billion Pesos (Php2,000,000,000.00) is hereby appropriated out of the National Treasury.

Section 7. *Separability Clause.* – If any of the sections or provisions of this Act is held invalid, all other provisions not affected thereby shall remain valid.

Section 8. *Implementing Rules and Regulations.* The NTC shall promulgate the rules and regulations to effectively implement this Act.

Section 9. *Repealing Clause.* – All laws, decrees, executive orders, rules and regulations or parts or provisions thereof which are not consistent with this Act are hereby repealed, amended, or modified accordingly.

Section 10. *Effectivity.* – This Act shall take effect fifteen (15) days after its publication in the Official Gazette or in a newspaper of general circulation.

Approved,