



HOUSE OF REPRESENTATIVES

HouseBill No. 299

Introduced by Representative VICTOR A. YAP

EXPLANATORY NOTE

Radio frequency spectrum is a scarce public resource on which telecommunication operators develop their respective network to deliver services to customers. The amount of spectrum assigned to a telco has an impact on the cost to build capacity, overall network performance, ability to offer new multimedia services, and general customer experience of wireless services. Thus, it is imperative that spectrum be administered in the interest of the public, and in accordance with international agreements and conventions to which the Philippines is a party.

Assigning spectrum to service providers capable of efficiently and effectively using it to meet public demand is key to ensuring better wireless telecommunications, broadcast, and data transmission services in the country. To achieve this, under this bill, the function of radio spectrum management shall be a joint undertaking of the Department of Information and Communications Technology (DICT), for policy and planning aspects, and the National Telecommunications Commission (NTC), for regulatory matters, particularly spectrum allocation and assignment.

This bill mandates the NTC to make the spectrum allocation, assignment, reclassification, recall, and re-assignment transparent in order to ensure that the rights of all stakeholders are fully protected. The NTC and DICT are also tasked to establish a competitive bidding methodology for the assignment of spectrum.

Under this measure, the NTC shall assign spectrum to qualified entities for an initial period of not more than three years. On the last year, the NTC shall review the assignment to determine if it is being optimally used, and if there is a need to renew or increase, or decrease or recall the assigned spectrum. Subsequent renewals of spectrum assignment shall be for periods of up to five years, and would be again subject to review on the last year. This way, the use of spectrum would be treated as a privilege which may, after due process, be withdrawn any time when the greater good of the public demands it.

To ensure efficient and equitable distribution of spectrum, no entity may hold more than 25% of the licensed radio frequency spectrum in any given band. The sale, lease, transfer, usufruct and assignment of a license shall be prohibited, as well as mergers and acquisitions without prior approval of the NTC and the Philippine Competition Commission.

The use of spectrum shall be subject to reasonable spectrum user fees, based on the use and the amount of spectrum, the type of service being offered, and the economic classification and geographic coverage or scope of the spectrum used.

This measure ultimately aims to ensure proper allocation of spectrum that would promote the adoption of appropriate technologies, best practices, and the highest service standards.

In view of the foregoing, the passage of this bill is earnestly sought.

VICTOR A. YAP
Representative, 2nd District of Tarlac

HOUSE OF REPRESENTATIVES

House Bill No. 299

Introduced by Representative VICTOR A. YAP

AN ACT
PROVIDING FOR POLICIES TO ENHANCE EFFICIENCY AND TRANSPARENCY IN
THE ALLOCATION, ASSIGNMENT, AND MANAGEMENT OF THE RADIO
FREQUENCY SPECTRUM AND FOR OTHER PURPOSES

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

SECTION 1. Short Title. – This Act shall be known as the “Philippine Spectrum Management Act.”

SEC. 2. Declaration of Policy. – 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. To this end –

- (a) The government shall allocate the radio frequency spectrum to promote the adoption of appropriate technologies, an interference-free environment, best practices, and the highest service standards.
- (b) The government shall assign spectrum to service providers capable of efficiently and effectively using it to meet public demand for telecommunications and data transmission services.
- (c) The allocation and assignment of spectrum shall be done in a manner that promotes transparency, competition, and universal service.
- (d) The State recognizes that spectrum allocation and assignment bear significant economic impact on multiple sectors, and therefore the state shall institute in this Act a spectrum allocation and assignment process that is transparent and considers the inputs and needs of various stakeholders, and properly allocates amongst stakeholders the responsibility for spectrum management.
- (e) The use of any portion of the radio frequency spectrum is a privilege conferred by the State which may, after due process, be withdrawn any time when the greater good of the public demands it.

SEC 3. Objectives. – The objectives of this Act are, as follows:

- (a) Encourage the development and rapid deployment of new technology and improvement of service standards to make wireless services in the Philippines competitive and at par with global standards;
- (b) Ensure better wireless telecommunications, broadcast, and data transmission services and extend service coverage by preventing excessive concentration and consolidation of spectrum licenses;

- (c) Recover a greater portion of the economic value of the radio frequency spectrum for the public;
- (d) Promote more efficient and effective use of radio spectrum; and
- (e) Promote the entry and development of new players for telecommunications and data services.

SEC. 4. Definitions. – As used in this Act, the following terms are defined as follows:

- (a) “Allocation” refers to an entry in the National Radio Frequency Allocation Table (NRFAT) of a given frequency band for the purpose of its use by one or more telecommunications or data transmission services.
- (b) “Assignment” refers to an authorization given to a Licensee to use specific frequencies or channels;
- (c) “Block” refers to a portion of the radio frequency spectrum allocated to a Licensee pursuant to this Act.
- (d) “License” refers to a license to be granted pursuant to this Act to establish or use a radio base station or install or use radio base station apparatus in the Philippines at frequencies comprising a portion or several portions of the radio frequency spectrum;
- (e) “Licensee” refers to a natural or juridical person issued a License pursuant to this Act; and
- (f) “Material Interest” refers to any interest, whether direct or indirect, in any share which carries, or any shares which together carry, more than twenty-five percent (25%) of the votes entitled to be cast at a general meeting of a Licensee; or any share or shares in the case where the consent of the holder of that share or those shares is required for the conduct of any business of a Licensee; or the right to appoint or remove a majority of a Licensee’s board of directors or trustees.

SEC. 5. Mandate for Spectrum Management. – The function of radio spectrum management shall be a joint undertaking of the Department of Information and Communications Technology or DICT, for policy and planning aspects, and the National Telecommunications Commission or NTC, for regulatory matters, in consultation with other key relevant government agencies and concerned stakeholders.

- (a) Spectrum allocation and assignment shall be performed by the NTC strictly in accordance with the recommendations of the Radio Frequency Consultative Committee (RFCC) to be organized by the DICT. The RFCC shall be composed of:
 - i. The Secretary of the DICT, who shall also act as Chairman;
 - ii. The Commissioner of the NTC;
 - iii. The Commissioner of the Philippine Competition Commission (PCC);
 - iv. The Secretary of the Department of Science and Technology (DOST)
 - iv. The National Security Adviser
 - v. One representative each from the following private sector groups:
 - (a) Telecommunications entities’ associations;
 - (b) Broadcasters’ associations;
 - (c) Cable TV operators’ associations; and
 - (d) Telecommunications and data services consumer and advocacy groups.

1 The private sector groups shall nominate their representatives to the RFCC within
2 forty-five (45) days from the effectivity of this Act, and every two (2) years
3 thereafter. The private sector representatives shall be appointed by the President of
4 the Philippines (Secretary of the DICT?) for a term of two years.

5
6 (b) Within sixty (60) days from the creation of the RFCC, the RFCC and the NTC shall jointly
7 promulgate a Memorandum Circular to cover the following:

- 8 i. The definition of, and criteria for determining, efficient and effective spectrum use;
9 ii. The procedure for:
10 a. review, allocation, assignment, recall, and re-assignment of the radio spectrum,
11 and the reclassification of spectrum from one classification to another (i.e., broadcast
12 to telecom, and vice versa) which shall incorporate the Transparency Rule set forth
13 in Section 6 of this Act;
14 b. determining license-exempt spectrum, spectrum-sharing techniques, and
15 dynamic spectrum access (DSA) bands; and
16 c. for determining the spectrum for review;
17 iii. Appropriate measures to minimize the impact of recall and re-assignment on active
18 users of services utilizing the recalled or re-assigned spectrum
19 iv. The procedure on how to calculate the reasonable spectrum users' fees and the amount
20 to be paid for the use of the spectrum
21 v. The determination of situations where the demand for a particular radio frequency
22 band exceeds availability and the manner by which spectrum shall be subject to open
23 tender in case the demand for a specific band of radio frequencies exceeds availability.

24
25 (c) The RFCC shall promote policies for the proper management of radio spectrum in order to
26 assure its availability for all existing and potential competitors in the market, for all present
27 and future telecommunications, data transmission, and broadcast services.

28
29 (d) The DOST shall support the DICT and NTC in carrying out their spectrum management
30 functions by conducting spectrum monitoring, research, and analysis;

31
32 (e) The NTC shall be responsible for other aspects of spectrum management, including:

- 33 i. Verification of the correct use of frequency assignment and of station characteristics;
34 ii. Spectrum monitoring, inspection, investigation and elimination of interference;
35 iii. Gathering and reporting of data for quantitative estimation of spectrum utilization
36 factors such as ambient radio noise, emission parameters, etc., and for local and
37 international reporting;
38 iv. Promulgation of regulations for consumer protection against misuse of a
39 telecommunications entity's monopoly, quasi-monopolistic or oligopolistic powers by
40 investigation of complaints and exacting compliance with service standards from such
41 entity;
42 v. Recommendation to the RFCC of the allocation of spectrum for a particular purpose or
43 use, in accordance with the international conventions to which the Philippines is a
44 party;
45 vi. In the exercise of its regulatory powers, impose fines against Public
46 Telecommunications Entities (PTEs), data transmission providers, and broadcasting
47 companies within the scope of its regulation, which are found to have violated,
48 violating or [those which] have failed or are failing to comply with the terms and
49 conditions of this Act, any certificate, or any order, decision, regulation or required
50 performance standards of the NTC.

1 **SEC. 6. Transparency Policy.** – The NTC shall make the spectrum allocation, assignment,
2 reclassification, recall, and re-assignment transparent in order to ensure that the rights of all
3 stakeholders are fully protected.

4
5 (a) The NTC shall publish and make available in print and online formats the National Radio
6 Frequency Allocation Table (NRFAT), indicating therein the purpose or use to which each
7 frequency band is allocated. For frequency bands allocated for public use, the NTC shall
8 likewise make available in print and online formats the frequency band, frequency range in
9 each band, the services and/or technology the frequency band is used for, the total
10 assignable channels/bandwidth in a particular frequency band, the name of the person and/or
11 entity to whom each particular frequency is assigned, the bandwidth assigned to a person
12 and/or entity from a particular frequency band, as well as the date each bandwidth
13 assignment was made. The NRFAT and updated radio spectrum use information shall be
14 made available on the NTC's website and to any person who requests the same, upon
15 written request. The NRFAT shall be updated at least once every quarter to reflect changes
16 in allocation and assignments.

17
18 (b) The NTC shall publish the results of the review of spectrum assignment and use on its
19 website.

20
21 (c) The NTC shall be responsible for responding to Requests for Information (RFOIs) relative
22 to spectrum. The NTC shall be responsive and transparent in replying to RFOIs on
23 spectrum, including requests for information on spectrum assignments, which is hereby
24 declared as public information available to all.

25
26 (d) All proposed allocation of spectrum, requests for new spectrum assignments, changes in
27 spectrum assignment, and requests for approval of spectrum co-use between entities,
28 whether initiated by an interested private party or by the NTC, shall be submitted to the
29 RFCC for its review and recommendation. All applications for such actions, including those
30 initiated by the NTC *motu proprio* shall –

- 31 i. Be published in a newspaper of general circulation at least once a week for
32 three consecutive weeks
33 ii. Posted in a publicly accessible place within the premises of the NTC.
34 iii. Subjected to at least one (1) public hearing to be held within seven (7) days
35 from the completion of publication.

36 Thereafter, the RFCC shall, within seven (7) days from the last public hearing, submit its
37 recommendation on the proposed action to the NTC, for the implementation of the NTC.
38 The NTC shall publish all decisions on spectrum permits, allocations, re-allocations,
39 assignments, re-assignments, and co-use in a newspaper of general circulation and in a
40 prominent place within the premises of the NTC. The decision shall become effective
41 within 15 days from publication if no appeal is received therefrom. Any appeal shall be
42 addressed to the NTC Commission en banc, which shall dispose of the same in a quasi-
43 judicial proceeding.

44
45 The recall of frequency for purposes of free public use shall be given priority.

46
47 The immediately preceding paragraphs shall not apply to applications for frequency
48 assignments for fixed point-to-point radio links, Wi-Fi, and satellite networks, and another
49 spectrum declared to be license-exempt.

50
51 (e) Any proposal of the NTC to reclassify, recall, and/or re-assign spectrum shall likewise be
52 published and subjected to public hearing by the NTC in the manner stated in Section 6 (c)
53 above, and shall likewise require the recommendation of the RFCC, without prejudice to the

1 conduct of quasi-judicial recall proceedings where spectrum is being recalled from a current
2 assignee.

3
4 (f) The NTC shall not issue a test or demonstration permit or allow joint use or co-use on a
5 spectrum assigned to an entity other than the applicant of the test, demonstration or co-use
6 permit. The NTC shall require the applicant for a test, demonstration or co-use permit on a
7 spectrum assigned to another entity to submit the written consent of the spectrum's assignee
8 on record.

9
10 (g) The NTC shall promptly act on applications for permits to import equipment. Any
11 application for permit to import equipment that is not acted on by the NTC within seven (7)
12 days shall be deemed approved.

13
14 (h) If the NTC finds, on its own initiative or upon complaint, that any right, license or radio
15 spectrum assignment to any entity has not been used despite the lapse of an initial
16 authorization, or is no longer in use, or is not being maximized by the user thereof, or that
17 the grantee has violated the provisions of this Act, it may, *motu proprio* or upon petition by
18 any person, and subject at all time to due process and securing the recommendation of the
19 RFCC, initiate the recall of the radio spectrum assignment of a Licensee. The NTC shall,
20 where required and appropriate, make provisions for substitute frequency to address the
21 needs of active users of the spectrum recalled from the data transmission industry participant
22 or PTE.

23
24 **SEC. 7. *Spectrum Management Plan.*** – The RFCC shall meet annually to develop a spectrum
25 management plan for the Philippines considering, among others:

26 (a) Recommendations of the ITU and other bodies as required by international conventions to
27 which the Philippines is a part;

28
29 (b) Public revenue generated from the radio frequency spectrum;

30
31 (c) Future spectrum requirements for public and private use;

32
33 (d) Spectrum allocation measures necessary to accommodate those uses; and

34
35 (e) Measures necessary to promote the efficient use of spectrum and that the allocation, re-
36 allocation, assignment, re-assignment, re-classification, joint use or co-use, and recall of
37 spectrum does not result in the concentration of spectrum resources which promote,
38 establish, or perpetuate the significant market power of PTEs or of only a limited number of
39 participants.

40
41 The Secretary of the DICT and the Commissioner of the National NTC shall lead these planning
42 sessions and ensure that the spectrum management plan receives public exposure and incorporates
43 stakeholder input gathered through public hearings and consultations.

44
45 **SEC. 8. *National Security Review.*** –

46
47 (a) The National Security Adviser and/or the Department of National Defense may, *motu proprio*
48 or upon petition by any person, initiate a review of any allocation, re-allocation, assignment,
49 re-assignment, re-classification, joint use or co-use, and recall of spectrum for reasons of
50 national security. The DND shall have a period of thirty (30) working-days upon formal
51 issuance of a notice of review to submit a petition for a review to the RFCC, citing the
52 reasons therefor. A review conducted for reasons of national security shall not require
53 publication and notice; however, any decision on the allocation, re-allocation, assignment,

1 re-assignment, re-classification, joint use or co-use, and recall shall be required to undergo
2 the same publication requirement in Section 6 above.

3
4 **SEC. 9. Auctions.** – The NTC and DICT shall establish a competitive bidding methodology for the
5 assignment of Blocks pursuant to this Act. This methodology shall include safeguards to protect the
6 public interest as well as measures to promote the stated objectives of this Act. Thus, the NTC and
7 DICT, with the recommendations of the RFCC, shall:

- 8
9 (a) Consider alternative payment schedules and methods of calculation, including lump sums or
10 guaranteed installment payments, with or without royalty payments, or other schedules or
11 methods that promote the objectives of this Act, and combinations of such schedules and
12 methods;
13
14 (b) Include performance requirements, such as appropriate deadlines and penalties for
15 performance failures, to ensure prompt delivery of services to the public, prevent
16 stockpiling or warehousing of spectrum, and promote investment in and rapid deployment
17 of new technologies and services;
18
19 (c) Prescribe methods for allocation and assignment that promote an equitable distribution of
20 licenses and services among geographical areas, economic opportunity for a wide variety of
21 applicants, including small businesses, and businesses owned by members of minority
22 groups and women, and investment in and rapid deployment of new technologies and
23 services; and
24
25 (d) Require such transfer disclosures and anti-trafficking restrictions and payment schedules as
26 may be necessary to prevent unjust enrichment as a result of the methods employed to issue
27 licenses.
28

29 **SEC. 10. Validity of Licenses for the Use of the Radio Frequency Spectrum.** –
30

- 31 (a) The allocation and assignment of spectrum, as embodied in the NRFAT, shall be subject to
32 annual review. The NRFAT shall be updated quarterly and published in a newspaper of
33 general circulation annually.
34
35 (b) The NTC may allocate and assign spectrum either on a national or regional basis.
36
37 (c) The NTC shall assign spectrum to qualified entities for an initial period of not more than
38 three (3) years from the date of assignment. On the last year of the initial three-year period,
39 the NTC shall review the assignment to determine if the assigned spectrum is being
40 optimally used, and renew or increase, upon the request of the grantee, decrease or recall the
41 same, as necessary. In the event the NTC finds that the assigned spectrum needs to be
42 decreased or recalled, it shall initiate recall proceedings. Subsequent renewals of spectrum
43 assignment shall be for periods of up to five (5) years. The NTC shall, on the last year of
44 every 5-year term, review the use of spectrum and take the necessary action to ensure its
45 optimal use.
46
47 (d) The NTC shall conduct an annual inspection of the facilities of all licensed holders of
48 spectrum to determine compliance with their provisional authorities. The inspection shall
49 include an audit of the number of subscribers using the spectrum in order to determine if,
50 vis-à-vis the total amount of bandwidth held by the Licensee for the use of spectrum for a
51 particular service, the spectrum is being used adequately, effectively, and efficiently. Where
52 the NTC finds that frequency is unused or under-utilized, it shall initiate the appropriate
53 show-cause and/or recall proceedings against the Licensee.

1
2 **SEC. 11. *Prohibition on Sale, Lease, Transfer, Usufruct and Assignment.*** – A Licensee shall not
3 lease, transfer, grant the usufruct of, sell, nor assign a License issued pursuant to this Act, or the
4 rights and privileges acquired there under, to any person, firm, company, corporation, or other
5 commercial or legal entity.
6

7 **SEC. 12. *Mergers and Acquisitions.*** – A Licensee shall not merge with any person, firm, company,
8 corporation or entity, nor shall a Material Interest in a Licensee be transferred, whether as a whole
9 or in parts, and whether simultaneously or contemporaneously, to any such person, firm, company,
10 corporation or entity, without the prior approval of the RFCC, the NTC, and PCC in separate
11 proceedings in accordance with law.
12

13 **SEC. 13. *Efficient and Equitable Distribution of Spectrum.*** –
14

15 (a) No entity or group of entities sharing a Material Interest in each other, may hold more than
16 25% of the licensed radio frequency spectrum in any given band.
17

18 (b) Where the demand for a particular frequency exceeds supply, or the NTC deems it necessary
19 to introduce competition, the NTC shall conduct an open tender. It shall define and
20 determine the process for an open tender, taking into account the need to grant new
21 Provisional Authorities or CPCNs to new entrants, if any.
22

23 (c) The NTC shall not assign or re-assign any frequency that has been recalled or voluntarily
24 returned, either as a result of the NTC's annual inspection or review or the transfer of assets
25 of an entity to another entity due to sales or acquisition, or whose use has been reclassified
26 by the NTC from broadcast to telecommunications or vice-versa, without either (i) going
27 through the procedure stated in Sec. 6 of this Act, or (ii) being made subject to open tender
28 under Sec. 9. No co-use shall be authorized or permitted in violation of this section.
29

30 (d) The NTC, in accordance with the recommendations of the RFCC, shall in accordance with
31 global best practice, issue rules and regulations governing shared spectrum use. The NTC
32 and the DICT shall likewise continuously explore and consider the adoption and application
33 of emerging spectrum management practices, such as dynamic spectrum allocation, in order
34 to make spectrum management more effective and efficient for the benefit of consumers.
35

36 **SEC. 14. *Spectrum User Fees.*** – The use of spectrum shall be subject to reasonable spectrum user
37 fees, based on the use of the spectrum, the amount of spectrum used, the type of service being
38 offered, and the economic classification and geographic coverage or scope of the areas covered by
39 the stations licensed to use the spectrum. The NTC shall balance its revenue-raising objectives for
40 spectrum against the need to make spectrum accessible to as wide a number of industry participants
41 as possible. It shall regularly publish the schedule of rates for spectrum.
42

43 **SEC. 15. *Obligations of a Licensee.*** – Every Licensee shall be bound by the following obligations:
44

45 (a) Observe the spectrum caps stated in this Act;
46

47 (b) Utilize assigned spectrum optimally to provide telecommunications, broadcast, and data
48 transmission services to the public;
49

50 (c) Comply with this Act, its implementing rules and regulations, and all other applicable
51 administrative issuances;
52

53 (d) Pay the lawful fees, charges, and taxes due the national government in connection with
54 Licenses issued pursuant to this Act; and
55

1 (e) Obtain prior approval from the RFCC, NTC, and PCC prior to any merger, acquisition, or
2 transfer of Material Interest in a Licensee.
3

4 **SEC. 16. *Implementing Rules and Regulations.*** – The Secretary of Information and
5 Communications Technology, upon the recommendation of the RFCC, NTC, PCC, DOST, and
6 National Security Adviser, shall issue the Implementing Rules and Regulations for the effective
7 implementation of this Act, within sixty (60) days from the approval thereof.
8

9 **SEC. 17. *Separability Clause.*** – If any provision of this Act is declared unconstitutional or invalid
10 by a court of competent jurisdiction, the remaining provisions not affected thereby shall continue to
11 be in full force and effect.
12

13 **SEC. 18. *Repealing Clause.*** – Republic Act 3846, as well as all other laws, decrees, executive
14 orders, department or memorandum orders and other administrative issuances or parts thereof of
15 which are inconsistent with the provisions of this Act, are hereby modified, superseded, or repealed
16 accordingly.
17

18 **Section 19. *Effectivity.*** This Act shall take effect fifteen (15) days after publication in the *Official*
19 *Gazette* or in at least two (2) newspapers of general circulation.
20

21
22 Approved,