

Republic of the Philippines
HOUSE OF REPRESENTATIVES
Quezon City

EIGHTEENTH CONGRESS
Third Regular Session

HOUSE BILL NO. 9853



Introduced by **HON. LUIS RAYMUND "LRAY" F. VILLAFUERTE, JR.**

AN ACT
REQUIRING ALL PUBLIC TELECOMMUNICATIONS ENTITIES AND INTERNET
SERVICE PROVIDERS IN THE COUNTRY TO INCREASE SERVICE COVERAGE
AND DELIVER A MINIMUM STANDARD FOR INTERNET CONNECTION SPEED

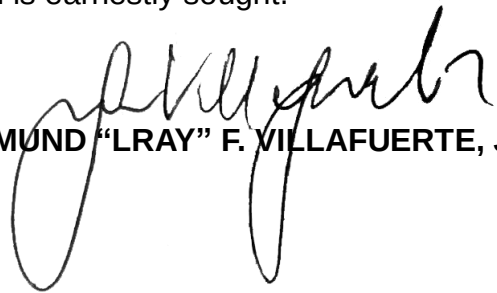
The Human Rights Council of the United Nations General Assembly has affirmed the promotion, protection, and enjoyment of human rights on the Internet which enables individuals to exercise their right to freedom of opinion and expression.

More than expression, the Internet has proved to be very important in the conduct of business, the facilitation of education and effective delivery of information, in light of the restrictions brought by the prolonged battle against the COVID-19 pandemic.

The truth, however, is that mere access to the Internet does not mean that everyone is benefitting from it equally. High-speed connections and bigger bandwidths allow us to maximize the benefit that the Internet should bring. The reality is that we get left behind because of poor connection. High-speed internet connections is important in increasing productivity and the growing demands for connectivity.

In view of the foregoing, this proposed measure mandates internet service providers (ISPs) to deliver minimum internet connection speeds of 10 Mbps for mobile broadband/internet access and 20 Mbps for fixed and fixed wireless broadband/internet access to their subscribers to ensure that we attain an internet connection speed above global average.

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


LUIS RAYMUND "LRAY" F. VILLAFUERTE, JR.

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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 "Better Internet Act".

Sec. 2. *Declaration of Policy.* – The State recognizes the importance of technological advancements in nation building, economic development, and promoting people's well-being and as such, it endeavors to ensure the provision of strategic, reliable, cost-efficient, and citizen-centric information and communication technology (ICT) infrastructure, systems, and resources to guarantee that the population has access to quality, reliable, and affordable ICT services.

In line with this, the State shall ensure that all Public Telecommunications Entities (PTEs) and Internet Service Providers (ISPs) will continuously upgrade their facilities and improve their services to be responsive to the growing demand for quality Internet access services.

Sec. 3. *Definition of Terms.* – As used in this Act, the following terms are defined as follows:

- a) *Bandwidth* shall refer to the maximum data transfer rate over an Internet connection in a given amount of time expressed in bits per second or multiples of it;
- b) *Broadband* shall refer to high-speed Internet service that is always on and faster than traditional dial-up access transmitted through various wired or wireless data transmission technologies such as, but not limited to, digital subscriber line (DSL), cable modem, fiber optic cable, fixed wireless, satellite, cellular mobile, and TV white space.
- c) *Cellular towers* shall refer to passive telecommunication tower infrastructure, including, but not limited to, (i) three-legged or four-legged structure, (ii) poles, or

- (iii) mast, or (iv) similar infrastructure used to support mobile cellular network facilities;
- d) *Compliance period* shall refer to the first three (3) years from the effective date of this Act within which all ISPs and PTEs are required to extend and expand Internet service coverage in all unserved and underserved areas in the country;
- e) *Internet Service Providers or ISPs* shall refer to an entity, with or without Congressional franchise, registered as value added service provider from the National Telecommunications Commission (NTC) and authorized to offer Internet access services to the public for compensation;
- f) *Jitter* shall refer to the variation of end-to-end delay from one packet to the next within the same packet stream, connection, or flow;
- g) *Latency* shall refer to the time it takes for a packet of data to get from a source to destination;
- h) *Packet* shall refer to the unit of data that is routed between an origin or source and a destination on the Internet or any other packet-switched network;
- i) *Packet Loss* shall refer to the number of packets that does not reach the destination;
- j) *Public Telecommunications Entity or PTEs* shall refer to any person, firm, partnership or corporation, government or private, engaged in the provision of telecommunications services to the public for compensation;
- k) *National ICT Household Plan* refers to the plan for the improvement of ICT access and use, including broadband access, by households and individuals developed by the Department of Information Communications Technology (DICT) on the basis of information gathered from the National ICT Household Survey;
- l) *Threshold Speed* refers to the minimum upload and download speeds that an ISP and PTE must provide to their end user of broadband service;
- m) *Unserved Area* refers to a specific population or land area of a city/municipality where broadband access service is not available, as identified by the National ICT Household Plan;
- n) *Underserved Area* refers to a specific population or land area of a city/municipality where broadband access service is covered and available, but below the threshold speed. The underserved areas shall be identified by the National ICT Household Plan while the threshold speed shall be determined by this Act and, subsequently, by the NTC.

Sec. 4. *Increase in service coverage.* – The NTC shall require all ISPs and PTEs to extend and expand the service coverage of fixed and mobile Internet service in all unserved and underserved areas in the Philippines within three (3) years from the effective date of this Act (the "Compliance Period"), according to the schedule and strategy to be set forth by the DICT in the National ICT Household Plan.

The DICT shall develop the National ICT Household Plan, identify therein unserved and underserved areas in the Philippines and devise a plan of action to ensure Internet services shall be made available at the household level. The DICT shall make such information and plans public within sixty (60) days from the effective date of this Act.

Provided, that subject to regulatory requirements, ISPs shall be allowed to own, establish, and operate wired and wireless networks, utilizing any available technology, in order to meet their obligations under this Act. ISPs shall be allowed access to

unlicensed radio spectrum necessary to enable them to utilize wireless technologies to provide Internet service: *Provided further*, that ISPs shall not build international carrier, inter-exchange carrier, local exchange carrier, and mobile radio telephone networks reserved for PTEs, as provided for in Republic Act No. 7925, otherwise known as the Public Telecommunications Policy Act of the Philippines.

Sec. 5. *Threshold Speeds.* – PTEs and ISPs shall deliver paid broadband service to subscribers at a minimum download speed of:

- a) 10 Megabits per second (Mbps) for fixed broadband and 5 Mbps for mobile broadband in highly urbanized cities;
- b) 5 Mbps for fixed broadband and 3 Mbps for mobile broadband services in all other cities; and
- c) 3 Mbps for fixed broadband and 2 Mbps for mobile broadband services in rural areas.

PTEs and ISPs shall have three (3) years from the effective date of this Act to ensure that they provide, as a minimum, the threshold speeds to their end users.

After the end of the compliance period, it shall be considered a violation of this Act, subject to the penalties provided in Sec. 15 of this law, to offer paid Internet service below the threshold speed. For the avoidance of doubt, there shall be no minimum speed required for free Internet service: *Provided*, however, that service provided under the Free Internet Access in Public Places Act or RA 10929 shall meet the minimum speeds prescribed therein or in the relevant rules of the DICT for free Internet service programs.

Sec. 6. *Annual Review of Service Standards.* – The NTC shall review, on an annual basis, the level of threshold speeds and prescribe the threshold speeds and other quality of service standards, such as upload and download speeds, packet loss, jitter, latency, and service availability, to provide subscribers average Internet connection speeds equal to, or above, what is prevalent among Asia Pacific countries and the global average: *Provided*, that the NTC may not decrease the threshold speeds set forth under this Act.

Sec. 7. *Measurement and Publication of Broadband Quality of Service (QOS).* – In order to monitor and enforce compliance of PTEs and ISPs, the NTC shall:

- a) Prescribe a criteria and methodology for the measurement and publication of broadband quality of service, including parameters such as download speed, upload speed, latency, packet loss, jitter, and service availability, with appropriate benchmarks;
- b) Provide the public a mechanism to run broadband diagnostics in a secure and consumer-friendly format;
- c) Develop a procedure for collecting and analyzing broadband QOS measurements from various platforms and processing test data in a central database, which shall update and release results every 24 hours, at the least;
- d) Make publicly available on the NTC website and other media the criteria and methodology for the broadband QOS measurement tool and the list of platforms using the NTC-prescribed broadband measurement mechanism;

- e) Diligently monitor and conduct monthly network audits and/or QOS tests in order to ensure compliance of the PTEs and ISPs with threshold speeds, advertised speeds, and coverage obligations, and publish its network audit report on a monthly basis; and,
- f) Publish the results of the NTC's broadband QOS tests and the results of the consumer broadband QOS tests on a monthly basis. Such reports should be in a format that can easily be analyzed by third party data scientists.

Sec. 8. *Consumer Protection.* – PTEs and ISPs shall not advertise nor offer Internet service speeds that they cannot consistently provide. PTEs and ISPs shall provide to their subscribers 80% of their advertised speed available at 80% of the time. Speed and reliability shall be measured based on the prescribed measurement methodology by the NTC.

Sec. 9. *Responsibilities of the DICT.* – In addition to responsibilities imposed in other sections of this Act, the DICT shall:

- a) Maintain and make public a National ICT Assets Index (NICTAI), which shall be updated on an annual basis, in order to provide accurate data on broadband coverage and ICT adoption and utilization in the country;
- b) Conduct the National ICT Household Survey and publish the National ICT Household Plan every three (3) years, and identify unserved and underserved areas for purposes of this Act;
- c) Regularly review and update ICT policy guidelines, strategies and plans, including, but not limited to, the National Broadband Plan to ensure that the Philippines' Internet service policy framework is at par with global standards and best practices; and
- d) Ensure the delivery of Internet services at the household level through a schedule and plan of action that includes, but is not limited to, infrastructure sharing and co-location arrangements;

Sec. 10. *Responsibilities of the NTC.* – In addition to responsibilities imposed in other sections of this Act, the NTC shall:

- a) Ensure that PTEs and ISPs meet the minimum standards regarding connection, reception, just pricing, and billing practices to promote and protect the rights of consumers of Internet services;
- b) Determine whether the ICT industry has built out the optimal number of towers and other infrastructure necessary to meet the objectives of this law;
- c) Promulgate an efficient and expeditious administrative process for the registration of Internet service providers and shall, in coordination with the DICT, develop a set of criteria for qualifying service providers that will encourage the widest possible participation of as many industry players as possible who will build the necessary network infrastructure and offer Internet services to end users in different parts of the country and will take national security into consideration, particularly for facilities that interface directly with another country's domestic network;
- d) Publish a spectrum management policy framework that promotes a transparent, efficient, and equitable approach to distributing spectrum, including clear guidelines for: (i) recalling unutilized spectrum, (ii) reassigning spectrum for

more efficient use, and (iii) implementing an open frequency approach to expand Internet access in underserved and unserved areas, to be developed together with the DICT and the Philippine Competition Commission;

e) Provide the public with annual reports on the performance of PTEs and ISPs in terms of increasing Internet coverage and meeting the threshold download speeds;

f) Provide policies and standards of network elements to ensure that PTEs and ISPs will maintain the Quality of Service (QOS) of the Internet connection they provide to their respective area of coverage;

g) Provide for an expeditious mechanism to address consumer complaints on slow Internet speed and false advertising of Internet speeds; and,

h) Establish an efficient monitoring system or framework with regard to the PTEs and ISPs' management of consumer complaints and maintain records of subscribers' complaints.

Sec. 11. *Reports to Congress.* – The DICT and NTC shall submit a quarterly progress report to Congress of all acts performed pursuant to this Act during the first week of the immediately preceding quarter.

Sec. 12. *Streamlining Permitting Requirements.* – The DICT and other relevant regulatory agencies including, but not limited to, the Department of Interior and Local Government (DILG), Department of Public Works and Highways (DPWH), Department of Human Settlements and Urban Development (DHSUD), Anti-Red tape Authority (ARTA), Civil Aviation Authority of the Philippines (CAAP), Department of Health (DOH), and the Food and Drug Administration (FDA) shall ensure the streamlining of the permitting process for the construction, installation, and operation of telecommunications tower and other infrastructure such as, but not limited to, permits for base stations, cables, poles, and other work elements necessary to offer Internet service.

The DICT shall set up a one-stop shop that shall coordinate with other regulatory agencies regarding the permitting requirements and applicable regulatory fees for installing common towers, cables, poles, and other network elements in order to facilitate the attainment of the objectives of this Act.

Sec. 13. *Local Government Units (LGUs) as Partners in Broadband Infrastructure Development.* – The LGU shall serve as a strategic partner who shall ensure that all LGU-related permits and requirements necessary to expand Internet coverage and improve quality of Internet service shall be acted upon immediately. In order to ensure that all municipalities and barangays have access to Internet facilities, an LGU shall be allowed to build and operate its own broadband network in partnership with PTEs and ISPs.

Sec. 14. *Infrastructure Sharing and Co-location.* –

a) The DICT shall promulgate policies, rules, and regulations, in coordination and/or jointly with the concerned national government agencies, government owned and operated corporations, and local government units, to ensure that infrastructure, whether existing or built in the future, necessary or capable of supporting data transmission networks or services are:

- (i) mandatory for open access and made available for co-location and co-use by the owner of network facilities, equipment, and infrastructure on an open, fair, and non-discriminatory basis to any access seeker's network facilities;
- (ii) as far as possible, deployed together with roadworks, pipe-laying, and other infrastructure development by both government and private entities; and
- (iii) propagated in the most cost-efficient and timely manner through various means, including encouraging the operation of independent entities that build and operate towers, dark fiber, and utility corridors, among other infrastructure that help facilitate broadband network deployment.

b) The DICT shall, in coordination with the Philippine Competition Commission and other relevant government agencies, promulgate policies, rules, and regulations to ensure that buildings, condominiums, villages, towns, and subdivisions are all built with facilities, such as cable entrances, ducts, and risers, that allow non-discriminatory and non-exclusive access to multiple service providers, in order for PTEs and ISPs to provide Internet service;

c) In case of a dispute arising from a infrastructure-sharing arrangement, the DICT shall:

- (i) Coordinate with the regulator of the infrastructure;
- (ii) Mediate between a PTE or ISP and an infrastructure owner, which may include a PTE, an ISP, or a public service network provider; and/or
- (iii) Serve as the primary enforcer of this provision.

d) The DICT shall encourage the use of existing infrastructure, such as those of cable TV operators, to fast track the layout of networks, to increase coverage, and to address the problem of unserved and underserved areas;

e) The regulator of the shared infrastructure shall, in consultation with concerned stakeholders, determine and ensure reasonable rental rates for use of shared infrastructure such as, but not limited to, utility poles, utility corridors and ducts; and

f) For shared infrastructure arrangements, the DICT shall also look into the following considerations:

- (i) Technical feasibility of the request of access seeker to use infrastructure;
- (ii) Incentives to encourage investment in less commercially viable areas;
- (iii) Fair and reasonable rates for shared facilities, depending on the location and market size in a particular area.

All policies, rules, and regulations under this Section shall be operationalized within one (1) year from the effectivity of this Act.

Sec. 15. Penalties. – The NTC may, *motu proprio* or upon complaint of any interested party, in the appropriate administrative and/or quasi-judicial process, and in

accordance with due process, shall:

- a) Require any PTE or ISP, who shall not meet the requirements set forth under, or shall not comply with the provisions of this Act, to comply with service standards that have not been met, or provisions of this Act that have been violated;
- b) Impose upon entities who do not comply with Internet service standards as laid down by Sections 4, 5, and 8 of this Act and as prescribed by the NTC:
 - (i) The penalty of a fine of not less than two hundred thousand pesos (P200,000) but not more than two million pesos (P2,000,000.00) for each count of violation. Provided, that if a service provider has a gross annual income not exceeding Ten Million Pesos (PHP 10,000,000.00), the penalty shall be equivalent to one percent (1%) to two percent (2%) of its gross annual income; and
 - (ii) For repeated violations, revoke the PTE's Provisional Authority or Certificate of Public Convenience and Necessity, or cancel the registration of an ISP, whichever applies, including the waiving of any pre-termination fees of affected subscribers and timely disbursement of any remaining credits from excessive downtime.

The foregoing is without prejudice to any other remedies available to the NTC under existing law.

Sec. 16. *Implementing Rules and Regulations.* – Within sixty (60) days after the effectivity of this Act, the DICT and the NTC shall issue a Joint Memorandum Circular setting forth the rules and regulations to effectively implement the provisions of this Act.

Sec. 17. *Separability Clause.* – If any portion or provision of this Act is declared unconstitutional, the remainder of this Act or any provisions not affected thereby shall remain in force and effect.

Sec. 18. *Repealing Clause.* – Any law, presidential decree or issuance, executive order, letter of instruction, rule or regulation inconsistent with the provisions of this Act is hereby repealed or modified accordingly.

Sec. 19. *Effectivity.* – This Act shall take effect fifteen (15) days following its complete publication in a newspaper of general circulation.

Approved,