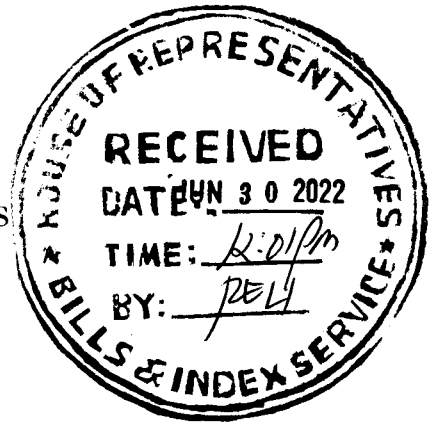




Republic of the Philippines  
**HOUSE OF REPRESENTATIVES**  
Quezon City, Metro Manila

**NINETEENTH CONGRESS**  
First Regular Session



**HOUSE BILL NO. 6**

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**Introduced by Representatives FERDINAND MARTIN G. ROMUALDEZ,  
YEDDA MARIE K. ROMUALDEZ and JUDE A. ACIDRE**

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#### **EXPLANATORY NOTE**

In today's day and age, the world grows more and more dependent on information and communications technology (ICT) related services like the internet. Unfortunately, it is no secret that our country suffers from slow internet speeds. Compounded by the fact that aside from its snail-paced speeds, the Philippines is among the costliest in the world.

Underdeveloped ICT infrastructure coupled with the growing demand for more data and higher bandwidth result in inefficient services that cost people's time and money. In the latest ranking made by the World Economic Forum the Philippines shows the significant drop of position and among the factors linked to this is the supposedly poor competitiveness of the country's ICT infrastructures.

This bill seeks to lay the foundation of a framework that will promulgate rules and standards to promote the construction and development of reliable, affordable, open and accessible data networks that transmit information at speed and quality comparable to the best in the world.

Likewise, the bill proposes to establish a strong and independent regulatory system and body to create an environment within the data transmission industry that is conducive to open, fair and innovation-propelled competition and shall encourage investments in the development of digital infrastructure of the country. Moreover, the proposed bill mandates interconnection among data transmission participants to avoid dominance by a single player or by a group of data providers.

Further, the bill clarifies the role of the National Telecommunications Commission to maximize the utilization of radio spectrum resources in the allocation and assignment of such finite resources in the transmission of data, by ensuring that spectrum is made available for the use of all registered data transmission industry participants and gives NTC additional power to promote a more conducive environment for data networks.

We acknowledge the Chairperson of the Committee on Information and Communications Technology in the 17<sup>th</sup> and 18<sup>th</sup> Congresses, Rep. Victor Yap, for originally filing the proposed bill which was approved by the House of Representatives on 3<sup>rd</sup> Reading and was transmitted to the Senate during the said last two Congresses.

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



**FERDINAND MARTIN G. ROMUALDEZ**

*Representative*

First District, Leyte



**YEDDA MARIE K. ROMUALDEZ**

*Representative*

Party-List, Tingog Sinirangan



**JUDE A. ACIDRE**

*Representative*

Party-List, Tingog Sinirangan



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Introduced by Representatives **FERDINAND MARTIN G. ROMUALDEZ,**  
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**AN ACT**  
**PROMOTING OPEN ACCESS IN DATA TRANSMISSION AND PROVIDING**  
**ADDITIONAL POWERS TO THE NATIONAL TELECOMMUNICATIONS**  
**COMMISSION**

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

**CHAPTER I**  
**INTRODUCTORY PROVISIONS**

1       **SECTION 1. *Short Title.*** – This Act shall be known as the “Open Access in Data  
2       Transmission Act”.

3       **SEC. 2. *Declaration of Policy.*** – It is the policy of the State to narrow the digital divide in  
4       the country by encouraging the development of data transmission infrastructure and removing any  
5       barrier to competition in data transmission services. Moreover, the State shall implement measures to  
6       require data transmission service providers to adhere to telecommunications standards suitable to the  
7       needs and aspirations of the nation and ensure that internet users enjoy the best quality of data  
8       transmission service. The State shall:

9           (a) Promote the construction and development of reliable, affordable, open and accessible data  
10       networks that transmit information at speed and quality comparable to the best in the world;

11          (b) Create an entrepreneurial ecosystem where persons who wish to engage in the data  
12       transmission industry can compete openly and freely in the spirit of fair competition and permission-  
13       less innovation;

14          (c) Encourage investments in the digital infrastructure development in the country;

15          (d) Adopt and ensure open access in the regulation of the data transmission industry;

- (e) Protect the public interest as it is affected by its ability to access data networks;
- (f) Establish a strong and independent regulatory body and system to ensure and enhance fair competition in the data transmission industry;
- (g) Protect and promote the internet as an open platform enabling consumer choice, freedom of expression, end-user control, competition and the freedom to innovate without permission, and thereby encouraging the development of advanced telecommunications capabilities and the removal of barriers to infrastructure investment;
- (h) Encourage infrastructure sharing and co-location in order to promote network investment, eliminate the uneconomic duplication of infrastructure facilities, and strengthen competition; and
- (i) Ensure efficient and transparent management of the radio frequency spectrum, especially those utilized in the delivery of data transmission services.

**SEC. 3. Definition of Terms.** – As used in this Act:

- (a) *Basic telephone service* refers to the local exchange telephone service for residence and business establishments provided via the circuit switched telephone network;
- (b) *Cellular Mobile Telephone Service (CMTS)* refers to the wide area mobile radio telephone system with its own switch, base stations and transmission facilities capable of providing high capacity mobile telecommunications by utilizing radio frequencies;
- (c) *Content* refers to, among others, texts, images, audios, videos, and animations that are carried over the broadband/internet network;
- (d) *Core or Backbone Network* refers to the main line including international connection, that ties networks, delivers routes to exchange information among various subnetworks, connects regional distribution networks and, in some instances, provides connectivity to other peer networks;
- (e) *Data transmission* refers to the process of sending digital or digitized analog signal over a communication medium to one or more computing networks, communication or electronic devices. It enables the transfer and communication of devices in a point-to-point, point-to-multipoint and multipoint-to-multipoint environments. The term data transmission includes the provision of Voice over Internet Protocol (VoIP) services but does not include the provision of basic telephone services;
- (f) *Data transmission industry participant* refers to any person, firm, partnership or corporation, government or private, engaged in the provision of data transmission services to the public. This includes public telecommunications entities (PTEs) that offer data transmission services as defined under Republic Act No.7925, otherwise known as the “Public Telecommunications Policy Act of the Philippines”;
- (g) *International gateway or landing* refers to a segment of data transmission that consists of any facility that provides an interface to send and receive data traffic between one country’s domestic network facilities and those in another country;
- (h) *Last mile* refers to the segment of data transmission network that connects end users;
- (i) *Middle mile* refers to the segment of data transmission network that links the last mile network

1 to the core or backbone network;

2 (j) *Open access* refers to the system of allowing the use of data transmission or  
3 distribution systems and associated facilities subject to fair, reasonable, and  
4 nondiscriminatory terms in a transparent market;

5 (k) *Paid prioritization* refers to the management of a data transmission network to directly or  
6 indirectly favor some traffic over other traffic, through the use of techniques such as traffic shaping,  
7 prioritization, resource reservation, zero-rating, or other forms of preferential traffic management,  
8 either in exchange for consideration (monetary or otherwise) from a third party, or to benefit an  
9 affiliated entity;

10 (l) *Voice over Internet Protocol (VoIP) service* refers to the provision of voice communication using  
11 Internet Protocol (IP) technology; and

12 (m) *Passive infrastructure* collectively refer to telecommunication towers, poles, cable entrances,  
13 ducts, utility corridors, and any other non-electronic infrastructure and facilities, either existing or to  
14 be deployed in the future, that may be used to support data transmission.

## 15 16 CHAPTER II 17 ORGANIZATION AND OPERATION OF THE DATA TRANSMISSION INDUSTRY 18

19 **SEC. 4. *Scope.*** – This Act applies to all persons who participate in the data transmission  
20 industry. Any person or entity whose business deals substantially with the transmission of data,  
21 including VoIP service provider, internet service providers (ISPs), and data center service providers,  
22 shall be governed by the provisions of this Act. PTEs that are principally engaged in the provision of  
23 basic telephone services, such as an international carrier, interexchange carrier, local exchange  
24 operator, and mobile radio services provider, as defined in Republic Act No. 7925, and which also  
25 provide data transmission services, shall likewise be subject to the provisions of this Act with respect  
26 to the data transmission services they provide and the interconnection to their networks that they  
27 extend to data transmission industry participants.

28 **SEC. 5. *Registration and Certification.*** – All segments of the data transmission network  
29 shall be competitive and open. Notwithstanding the provisions of this Act or any other law, the  
30 following registration and certification shall apply to data transmission:

31 (a) All data transmission industry participants shall be required to register with the National  
32 Telecommunications Commission (NTC). The NTC shall promulgate a speedy and expeditious  
33 administrative process for registration and shall, in coordination with the Department of Information  
34 and Communications Technology (DICT) for policy and standard-setting in the Information and  
35 Communications Technology (ICT) sector, and Philippine Competition Commission (PCC) for the

1 promotion of market competition, develop a set of criteria for qualifying data transmission  
2 industry participants that will encourage the widest possible participation of as many industry players  
3 as possible who will offer data transmission services in all segments of the network and to  
4 end users in different parts of the country. The qualification requirements for data transmission  
5 industry participants shall also take national security concerns into consideration particularly for  
6 facilities that interface directly with another country's domestic network.

7 (b) Those who will operate an international cable landing station shall secure a legislative  
8 franchise. Those who will operate a nationwide backbone network shall secure a permit from  
9 the NTC and submit its proposed route or rollout plan, as well as the manner of construction of the  
10 backbone network, subject to the approval of the NTC.

11 All other industry participants shall not be required to secure a legislative franchise or a  
12 certificate of public convenience and necessity (CPCN) but must meet the criteria set by the NTC  
13 and the DICT in registering as industry participants in order to construct, operate, lease or own  
14 networks or facilities except if it owns and operates an international cable landing station: *Provided,*  
15 That an owner or operator of a cable landing station, not considered a public utility, shall no longer  
16 be required to secure a CPCN. All industry participants intending to be spectrum holders shall need  
17 to secure a permit from the NTC and shall be allocated such spectrum in accordance with the  
18 provisions under Section 7 of this Act.

19 (c) Data transmission industry participants shall likewise be required to comply with national  
20 and global best practices and standards on cybersecurity and shall be subject to a network audit by the  
21 Cybersecurity Bureau of the DICT. Data transmission industry participants shall, after three (3) years  
22 of operation, be required to secure a cybersecurity certification from a third-party organization based  
23 on the prevailing International Organization for Standardization (ISO) standards on information  
24 security management.

## 25 CHAPTER III

### 26 REGULATION OF THE DATA TRANSMISSION INDUSTRY

27 **SEC. 6. *Open Access Approach to Regulation of the Data Transmission Industry.*** – The  
28 NTC shall ensure that the data transmission sector remains open and accessible to all qualified  
29 participants. Specifically, it shall:

30 (a) Implement an efficient and speedy administrative process in the authorization and  
31 registration of data transmission sector participants;

32 (b) Adopt a technology-neutral framework that allows data transmission industry participants  
33 to use any available technology to provide service;

34 (c) Promote fair and open competition in accordance with the principles and policies under  
35 the Philippine Competition Act and its implementing rules in all segments of the data transmission  
36 network, allowing a wide variety of physical networks and applications to interact in an open  
37 architecture;

(d) Mandate transparency in pricing and the publication of pricing information to ensure fair trading within and between each data transmission segment so as to allow clear, comparative information on market prices and services;

(e) Mandate interconnection so that data transmission industry participants can connect to each other at the various segments and interfaces, such that entities of any size may freely enter and exit the market, and dominance by any single player or group of players is avoided;

(f) Promulgate policies that will encourage distributed local solutions rather than centralized ones, encouraging services that are closer to the user;

(g) Publish the list of registered data transmission industry participants at least once a year;

(h) Promulgate, together with the PCC, rules defining and regulating entities with substantial market power;

(i) Publish a Spectrum Management Framework to be developed together with the DICT and the PCC; and

(j) Collect the necessary Supervision and Regulation Fee (SRF) and Spectrum User Fee (SUF), and other relevant fees as provided by law.

**SEC. 7. *Spectrum Allocation, Recall, and Reallocation.*** – The NTC shall maximize the allocation and assignment of finite radio spectrum resources used in the transmission of data by ensuring that the spectrum is made available for the use of all registered data transmission industry participants. To this end:

(a) The procedure for radio spectrum assignment, joint use and recall shall be made transparent to the public. All applications, including letter requests, spectrum assignment, joint use, recall, and reallocation shall be posted in the NTC website and in a conspicuous place in the offices of the NTC for at least three (3) consecutive months. The notice shall specifically indicate the names of the applicants for spectrum assignment, joint use and recall, including where the NTC itself is the proponent of any such action, the affected spectrum, and the applicant's or NTC's reasons for the proposed spectrum assignment, joint use and recall. The NTC shall not assign, recall or allow co-use or joint use of any radio frequency band or bands without conducting at least one (1) public hearing and allowing public comment for a period of fifteen (15) days from the date of the public hearing, prior to approval and/or disapproval of the same. This shall apply to all spectrum, whether used for data transmission or not;

(b) All radio spectrums, radio frequency assignments, recalls, and joint use decisions of the NTC shall be published in the NTC website and in a conspicuous place in the offices of the NTC for at least three (3) consecutive months. The recall of frequency for purposes of free public use shall be given priority.

The immediately preceding paragraphs (a) and (b) herein shall not apply to applications for frequency assignments for fixed point-to-point radio links, wifi, and satellite networks;

(c) The NTC shall avoid the concentration of spectrum resources in the hands of a few players

1 and shall not assign, or allow joint use of radio spectrum in a manner that establishes, promotes or  
2 perpetuates the dominance of PTEs. Any entity who believes that any one or more of the NTC's  
3 decisions for the assignment of radio spectrum, whether past or present, which will promote the  
4 dominance of any entity and hinder competition, may file a complaint before the PCC to determine  
5 the dominance of a data transmission industry participant and deal with anti-competitive conduct in  
6 accordance with its mandate under Republic Act No.10667, otherwise known as the "Philippine  
7 Competition Act";

8 (d) The NTC shall promptly act on applications of data transmission industry participants for  
9 permits to import equipment. Any application for a permit to import equipment that is not acted on  
10 by the NTC within seven (7) days shall be deemed approved;

11 (e) If the NTC finds, on its own initiative or upon complaint, that any right, license or radio  
12 spectrum assignment to any data transmission industry participant or PTE is not being used, or is not  
13 being maximized by the user thereof, or that the grantee has violated the provisions of this Act, it may,  
14 *motu proprio* or upon petition by any person, subject to due process, recall the radio spectrum  
15 assignment of the data transmission industry participant or PTE. The NTC shall, where required and  
16 appropriate, work with the data transmission industry participant or PTE concerned to take  
17 appropriate measures to minimize the impact of such recall on active users of services utilizing the  
18 recalled spectrum. The foregoing notwithstanding, no frequency shall be recalled within eighteen (18)  
19 months of the awarding of a provisional authority or license or registration; and

20 (f) The NTC shall ensure that the allocation, reallocation, assignment, reassignment,  
21 reclassification, joint use or co-use, and recall of spectrum does not result in the concentration of  
22 spectrum resources which promote, establish, or perpetuate the significant market power of PTEs or  
23 of only a limited number of participants. In instances where the resulting assignment of spectrum for  
24 mobile and point-to-multipoint networks will give an assignee or entities it controls, jointly or singly,  
25 or under common control, either by virtue of that request or in combination with other previous  
26 requests by that party or its affiliates, fifteen percent (15%) or above of assignable spectrum in the  
27 same band, the party requesting for an assignment of spectrum or a joint use of spectrum shall be  
28 required to serve notice to the PCC and secure a no-objection notice from the PCC. The PCC shall  
29 issue a no-objection notice within thirty (30) working days upon its receipt of pertinent information  
30 necessary for the review and issuance of the notice: *Provided*, That the PCC may once extend such  
31 period for an additional fifteen (15) working days upon their notification of the NTC and the  
32 concerned party or parties to a spectrum allocation, reallocation, assignment, reassignment,  
33 reclassification, joint use or co-use, and recall.

34 ***SEC. 8. Setting Performance Standards. – The NTC shall:***

35 (a) Mandate that, within one (1) year from the effectivity of this Act, all last mile providers shall  
36 provide a minimum download speed of 2 megabits per second or as mandated by the National



Broadband, whichever is higher, for mobile broadband and for fixed wireless/broadband access;

(b) Prescribe performance standards after public consultation and hearings within six (6) months from the effectivity of this Act;

(c) Regularly upgrade performance standards imposed on the data transmission industry to ensure that performance standards shall, at a minimum, be at par with service levels established in regional data network performance indices and aligned with international best practices. Such standards shall take into account speed, packet loss, jitter, and latency;

(d) Regularly review performance standards at least once a year and publish new performance standards at least thirty (30) days before they take effect. The publication of the results of the performance measurements shall be done in an open data format and made accessible to the general public;

(e) Any person, or the NTC itself, may, *motu proprio*, file a petition to penalize any data transmission industry participant for failure to deliver service according to the NTC's published performance standard and to require rectification of such noncompliance; and

(f) Measure the performance of the data industry participants quarterly and publish the results of its assessment in its website.

**SEC. 9. Arms-length Transactions and Transparency. – The NTC shall:**

(a) Publish and make available in print and online formats all aspects of spectrum use information, including the National Radio Frequency Allocation Table (NRFAT), indicating therein the purpose or use to which each frequency band is allocated, and, for frequency bands allocated for public use, the persons and/or entities to whom each particular frequency is assigned. The NRFAT and updated radio spectrum use information shall be made available on the NTC's website and to any person who requests the same, upon written request; and

(b) Promulgate rules requiring all data transmission industry participants to file an annual report and include therein a fair and accurate statement regarding their market prices and their services. The annual report shall include all costs and charges relevant to the data transmission network segment where the participants operate. The rates shall be made available online, in print, and in any other viable venue to the public. Any person can file a complaint pertaining to these rates within thirty (30) days of posting. Each player at each segment shall submit a copy of their rates to the NTC and the PCC. The rates shall be published, including a historical record, in a consolidated manner. The data transmission industry participants shall keep a publicly accessible archive of their rates.

**SEC. 10. Fair Competition. –** The PCC and the NTC shall ensure that the principles and policies enshrined under the Philippine Competition Act are strictly adhered to in the data transmission industry. The PCC and the NTC shall ensure that all industry players observe fair, reasonable, and nondiscriminatory treatment in all their dealings, and that barriers to entry are eliminated to make the industry highly competitive. To this end, within thirty (30) days from the

effectivity of this Act, the PCC and the NTC shall enter into an agreement to foster and develop interagency cooperation mechanisms, including information-sharing tools, that will guide them in the performance of their respective mandates, and in the promotion of fair competition in the data transmission industry.

**SEC. 11. *Technological Neutrality.*** – The NTC shall ensure that the provisions of this Act apply, *mutatis mutandis*, to future technologies in data transmission.

**SEC. 12. *Infrastructure Sharing and Co-location.*** – The DICT and the NTC shall promulgate policies, rules, and regulations to ensure that passive infrastructure, whether existing or built in the future, necessary or capable of supporting data transmission networks or services are:

(a) made 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 nondiscriminatory basis to any access seeker's network facilities, in any segment, subject to the technical feasibility of the access seeker's request and the network facility and infrastructure owner's standard published offer terms, conditions, and rates: *Provided*, That the provision of access to government-owned and -operated facilities and support infrastructure to access seekers for the purpose of offering data transmission services shall be mandatory, unless special circumstances, such as but not limited to national security concerns, exist;

(b) built not only in the city centers, but most especially in the remote, unserved, and underserved areas in order to extend data transmission services by both the existing and new players throughout the country;

(c) as far as possible, deployed together with roadworks, pipe-laying, and other infrastructure development by both government and private entities; and

(d) proliferated 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 passive infrastructure that help facilitate data transmission network deployment.

The DICT shall coordinate and issue a policy with other relevant government agencies upon consultation with stakeholders to implement this provision. For purposes of data transmission, the NTC shall, in case of a dispute arising from an infrastructure sharing agreement: (1) mediate between a data transmission industry participant and an infrastructure owner, and (2) serve as the primary enforcer of this provision.

The DICT and the NTC shall 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 nondiscriminatory access to multiple data transmission industry players in order for them to provide service. They shall also promulgate policies, rules, and guidelines that will ensure a level-playing field and price nondiscrimination among data transmission industry participants and network facility and infrastructure owners.

1 The DICT and the NTC, in coordination with relevant government agencies, shall also ensure  
2 the disaster resiliency and ease of recovery and restoration of passive infrastructure, such as towers,  
3 poles, and utility corridors, from the effects of disasters by strictly enforcing compliance with  
4 internationally-accepted engineering standards and best practices, and relevant engineering codes and  
5 codes of practice.

6 The DICT and the NTC shall maintain an updated database of data transmission  
7 infrastructure, including passive infrastructure used to support data transmission. The database, to be  
8 updated annually, shall include the exact location, ownership, technical specifications, and other  
9 relevant information about the facility.

## 10 11 CHAPTER IV 12 PROHIBITED ACTS

13 **SEC. 13. *Prohibited Acts.*** – The following acts are prohibited:

14 (a) Refusal to Plug and Play. – Any data transmission industry participant, insofar as such  
15 person is so engaged, shall not refuse access to infrastructure to any other data transmission industry  
16 participant, except for failure to pay open market fees for the access to the service.

17 Data transmission industry participants shall not impede the end-user's right to access and  
18 distribute information and content, use and provide applications and services and use terminal  
19 equipment of their choice, regardless of the end user's or provider's location or the location, origin or  
20 destination of the information, content, application or service via their data transmission service.

21 Agreements between data transmission providers of data services and end users on commercial  
22 and technical conditions and the characteristics of data access services such as price, data volume or  
23 speed, and any commercial practices conducted by providers of internet access services shall not limit  
24 the exercise of the rights of end users laid down in the preceding paragraph;

25 (b) Paid Prioritization. – A data transmission industry participant shall not engage in paid  
26 prioritization for monetary or other consideration except when allowed by the NTC after such  
27 participant demonstrates that the practice will provide significant public interest benefit and will not  
28 disadvantage content and applications that are not prioritized or harm the open nature of the internet;

29 (c) Throttling. – A data transmission industry participant shall treat all traffic equally when  
30 providing data access services without discrimination, restriction or interference, regardless of the  
31 sender and receiver, the content accessed or distributed, the applications or services used or provided,  
32 or the terminal equipment used.

33 It shall be prohibited for a data transmission industry participant to hinder or slow down services  
34 or applications or access to specific sites in the internet except where (1) access to such sites, services  
35 or applications are prohibited by law; (2) it is necessary to preserve the integrity and security of the  
36 network and service of the provider or the equipment of the end user: *Provided,* That if the breach of  
37 integrity or security is caused by the equipment of the end user, the provider has to notify the end user

first and give the former sufficient time to rectify the situation; and (3) it is necessary to block the transmission of unwanted communications such as spam and child pornographic materials upon the complaint of the end user or the data transmission industry participant;

(d) Refusal to Give Information. – It shall be prohibited for any data transmission industry participant, including PTEs with regard to its network and facilities, to refuse or fail to make available to suppliers of data transmission services, on a timely basis, the technical information about its essential facilities or network facilities and commercially relevant information that are necessary for the efficient provision of their services; and

(e) Anti-competitive Cross-subsidization. – The NTC shall require separate books of accounts between different data transmission segments in order to allow identification of costs and revenues for each segment. Any violation of this provision shall give rise to a presumption of anti-competitive cross-subsidization, which shall then be referred to the Philippine Competition Commission for proper determination and action, in accordance with the provisions of Republic Act No. 10667. Nothing herein shall prevent interconnecting networks from charging the appropriate cost-based compensation for the use of interconnection facilities.

**SEC. 14. Administrative Penalties.** – The NTC shall require data transmission industry participants and PTEs providing data transmission services to comply with prescribed performance standards and shall impose penalties for failure to comply with such performance standards.

(a) Any data transmission industry participant who fails to comply with the minimum service standards set by the NTC shall be imposed a minimum penalty of a fine of not less than One hundred thousand pesos (P100,000.00) but not more than Five million pesos (P5,000,000.00) per day for every day during which such default or violation continues, until the participant fully complies: *Provided, That* if the data transmission industry participant has a gross annual income not exceeding Ten million pesos (P10,000,000.00), the penalty that may be imposed shall be equivalent to one percent (1%) to two percent (2%) of its gross annual income. The NTC is hereby authorized and empowered to impose such fine, after due notice and hearing.

(b) An entity who fails to substantially comply with the NTC's performance standards for three (3) consecutive years shall, subject to due process, be removed from the registry of registered data transmission industry participants and shall be prohibited from rendering data transmission services.

(c) Any data transmission industry participant who engages in the prohibited acts under Section 12 of this Act or fails to comply with the performance standards set by the NTC shall suffer a minimum penalty of a fine of not less than Three hundred thousand pesos (P300,000.00) but not more than Five million pesos (P5,000,000.00) for every day that the violation continues until the participant fully complies: *Provided, That* if the data transmission industry participant has a gross annual income not exceeding Ten million pesos (P10,000,000.00), the penalty that may be imposed shall be equivalent to one percent (1%) to two percent (2%) of its gross annual income. In cases of anti-competitive cross-subsidization, the imposable penalties are those provided under Republic Act No. 10667.

1 (d) A data transmission industry participant violating any provision of this Act shall forfeit all  
2 certificates, licenses, authorizations, rights, and awards issued to it in relation to its participation in the  
3 data transmission industry.

4 (e) Any other violations not specifically penalized under the relevant provisions of this Act shall  
5 be penalized by a fine of not less than Fifty thousand pesos (P50,000.00) and not more than Two  
6 million pesos (P2,000,000.00).

7 **SEC. 15. *Adjustment for Inflation.*** – The fines imposed under this Act shall be adjusted by  
8 the NTC, year-on-year, considering the prevailing cost of money based on the current consumer price  
9 index, and subject to publication of such adjustments.

## 10 11 **CHAPTER V**

### 12 **RIGHTS OF DATA TRANSMISSION SERVICE USERS AND RESPONSIBILITIES OF** 13 **DATA TRANSMISSION SERVICE PROVIDERS**

14 **SEC. 16. *Rights of End Users.*** – The user of data transmission services shall have the  
15 following basic rights:

16 (a) To be entitled to data transmission services which is nondiscriminatory, reliable, and  
17 conforming with minimum standards set by the NTC;

18 (b) To be rendered data transmission services within two (2) months from application for  
19 service;

20 (c) Regular, timely and accurate billing, courteous and efficient service at business offices and  
21 by company personnel;

22 (d) Timely correction of errors in billing and the immediate provision of rebates or refunds by  
23 the data transmission service provider without the need for demand by the user; and

24 (e) Thorough and prompt investigation of, and action upon complaints. The data transmission  
25 service provider shall endeavor to allow complaints to be received by any means convenient to the  
26 end user, including voice calls, post, short messaging service (SMS), multi-media messages (MMS) and  
27 online communication, and shall keep a record of all complaints received and the action taken to  
28 address the complaints.

29 Subject to the filing of a formal request to the data service provider, a user may request the  
30 immediate termination of service without the imposition of fees or penalties, and with the refund of  
31 any fee or charge already paid by the user, should a data service provider not consistently comply with  
32 paragraphs (a), (d), and (e) of this section or any other minimum performance standards set by the  
33 NTC.

## 34 **CHAPTER VI**

### 35 **FINAL PROVISIONS**

36 **SEC. 17. *Expedited Processing.*** – In all instances where a participant in the data transmission  
37 industry shall require a form, certificate, or request from any government agency or local government

1 unit (LGU), there should be no more than two (2) public officers involved in processing the form,  
2 certificate, or request.

3 Processing fees and certifications required for the deployment of any segment of data  
4 transmission networks shall be limited to those identified by the DICT. The DICT shall coordinate  
5 with the concerned national government agencies and LGUs, and conduct the necessary consultations  
6 with civil society organizations and other stakeholder groups, for the development of the  
7 implementing rules and policies to minimize the administrative burden of permitting and certification  
8 processes.

9 **SEC. 18. Implementing Rules and Regulations.** – *Within sixty (60) days from the*  
10 *effectivity of this Act, the NTC shall promulgate the necessary rules and regulations for its effective*  
11 *implementation.*

12 **SEC. 19. Joint Congressional Oversight Committee on Open Access in Data**  
13 **Transmission.** – There shall be created a Joint Congressional Oversight Committee on Open Access  
14 in Data Transmission (JCOCOADT) which shall monitor and ensure the effective implementation of  
15 this Act. It shall determine weaknesses and loopholes in the law, recommend the necessary remedial  
16 legislation or administrative measures and perform such other duties and functions as may be  
17 necessary to attain the objectives of this Act.

18 The JCOCOADT shall be composed of five (5) members from the Senate and five (5) members  
19 from the House of Representatives, in addition to the Chairperson of the Senate Committee on  
20 Science and Technology and the Chairperson of the House of Representatives Committee on  
21 Information and Communications Technology: *Provided, That two (2) members of each chamber's*  
22 *nominees shall come from the ranks of the minority party/bloc.*

23 The Chairperson of the Senate Committee on Science and Technology and the Chairperson of  
24 the House of Representatives Committee on Information and Communications Technology shall act  
25 as Cochairpersons of the JCOCOADT. The ranking minority members nominated by both the Senate  
26 and the House of Representatives shall act as CoVice Chairpersons. The Secretariat of the  
27 JCOCOADT shall come from the existing Secretariat personnel of the Committee on Science and  
28 Technology of the Senate and the Committee on Information and Communications Technology of  
29 the House of Representatives. The JCOCOADT shall have its own independent counsel.

30 The JCOCOADT shall exist for a period not exceeding five (5) years from the effectivity of this  
31 Act. Thereafter, its oversight functions shall be exercised by the Senate Committee on Science and  
32 Technology and the House of Representatives Committee on Information and Communications  
33 Technology, acting separately.

34 **SEC. 20. Separability Clause.** – Should any provision herein be declared unconstitutional, the  
35 other provisions not affected shall remain in full force and effect.

36 **SEC. 21. Repealing Clause.** – All laws, decrees, orders, rules and regulations or other  
37 issuances or parts inconsistent with the provisions of this Act are hereby repealed, amended or

1 modified accordingly.

2       **SEC. 22. *Effectivity.*** – This Act shall take effect fifteen (15) days after its publication in the  
3 *Official Gazette* or in a newspaper of general circulation.

Approved.