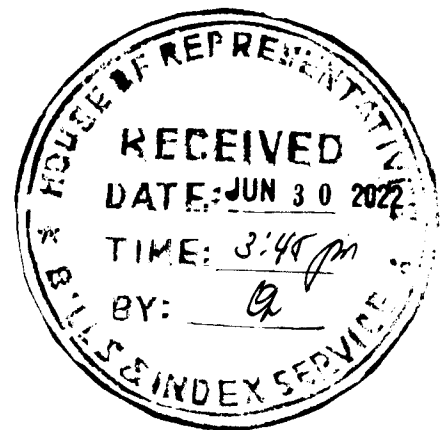




HOUSE OF REPRESENTATIVES

House Bill No. 261

Introduced by Representative Christian Tell A. Yap

The Open Access in Data Transmission Act aims to bridge the Information and Communications Technology (ICT) infrastructure gap in the Philippines by opening up and bringing in more players in the telecommunications industry. The bill intends that every local community has accessible, reliable and affordable internet connectivity by updating analogue-era laws designed for telephone landlines and radio broadcasting to the present wave of handheld internet connectivity and data transmission.

According to the 2019 National ICT Household Survey (NICTHS) by the Department of Information and Communications Technology (DICT), only around 18% of Filipino households have their own internet access at home. In terms of affordability, the Philippines has the least affordable internet accessibility in Asia, requiring more than seven (7) hours of work (at average pay), for a month of broadband internet, despite poor overall quality. As such, the number one reason why Filipino households are not connected to the internet is because of its high cost.

The primary reason for the country's underdeveloped ICT network infrastructure is the lack of competition between internet service and telecommunication provider. This in turn provides little to no choice for consumers to their economic disadvantage.

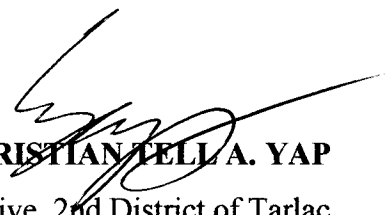
The Open Access Bill addresses the ICT infrastructure gap in the country by lowering the barriers to entry for telecommunications service providers by removing the current legal limitations as to who can build and operate ICT networks and allowing Internet Service Providers (ISPs) to participate in building the country's digital infrastructure, paving the way for lowering the cost of broadband internet service and giving more choices for consumers.

Moreover, the Open Access bill aims to open up the telecommunications industry by enabling and encouraging the creation of small ICT service providers. In turn, the intended spread of ICT use and penetration from highly urbanized areas to the unserved and underserved rural communities will

spur innovation in the ICT industry and bolster economic growth across all sectors of Philippine society. The enactment of this bill will ultimately result in reducing the price of internet connectivity, provide internet accessibility to the last-mile or geographically-distant communities, and improve the overall internet services in the country.

With connectivity being an undeniable necessity and a great equalizer, we seek the passage of this landmark legislation to connect all Filipinos to the internet, intending to bridge the digital divide, include all sectors of society especially the underprivileged, and provide economic opportunities to all Filipinos in the digital sphere

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



CHRISTIAN TELL A. YAP

Representative, 2nd District of Tarlac

HOUSE OF REPRESENTATIVES

House Bill No. 261

Introduced by Representative Christian Tell A. Yap

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 1
INTRODUCTORY PROVISIONS

SECTION 1. Short Title. - This Act shall be known as the *"Open Access in Data
Transmission Act"*.

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

- (a) 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;
- (b) Create an entrepreneurial ecosystem where persons who wish to engage in the data
transmission industry can compete openly and freely in the spirit of fair
competition and permission-less innovation;
- (c) Encourage investments in the digital infrastructure development in the country;
- (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 telecommunication 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;

- 1 (g) *International gateway or landing* refers to a segment of data transmission that
2 consists of any facility that provides an interface to send and receive data traffic
3 between one country's domestic network facilities and those in another country;
- 4 (h) *Last mile* refers to the segment of data transmission network that connects end
5 users;
- 6 (i) *Middle mile* refers to the segment of data transmission network that links the last
7 mile network to the core or backbone network;
- 8 (j) *Open access* refers to the system of allowing the use of data transmission
9 or distribution systems and associated facilities subject to fair, reasonable,
10 and nondiscriminatory terms in a transparent market;
- 11 (k) *Paid prioritization* refers to the management of a data transmission network to
12 directly or indirectly favor some traffic over other traffic, through the use of
13 techniques such as traffic shaping, prioritization, resource reservation, zero-
14 rating, or other forms of preferential traffic management, either in
15 exchange for consideration (monetary or otherwise) from a third party, or to
16 benefit an affiliated entity;
- 17 (l) *Voice over Internet Protocol (VoIP) service* refers to the provision of voice
18 communication using Internet Protocol (IP) technology; and
- 19 (m) *Passive infrastructure* collectively refer to telecommunication towers, poles,
20 cable entrances, ducts, utility corridors, and any other non-electronic infrastructure
21 and facilities, either existing or to be deployed in the future, that maybe used to
22 support data transmission.

23

24 **CHAPTER II**

25 **ORGANIZATION AND OPERATION OF THE**

26 **DATA TRANSMISSION INDUSTRY**

27

28 **SEC. 4. Scope.** -This Act applies to all persons who participate in the data
29 transmission industry. Any person or entity whose business deals substantially with the
30 transmission of data, including VoIP service provider, internet service providers (ISPs), and
31 data center service providers, shall be governed by the provisions of this Act. PTEs that are
32 principally engaged in the provision of basic telephone services, such as an international
33 carrier, interexchange carrier, local exchange operator, and mobile radio services provider, as
34 defined in Republic Act No. 7925, and which also provide data transmission services, shall
35 likewise be subject to the provisions of this Act with respect to the data transmission services
36 they provide and the interconnection to their networks that they extend to data transmission
37 industry participants.

38

39

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

- 4 (a) All data transmission industry participants shall be required to register with the
5 National Telecommunications Commission (NTC). The NTC shall promulgate a
6 speedy and expeditious administrative process for registration and shall, in
7 coordination with the Department of Information and Communications
8 Technology (DICT) for policy and standard-setting in the Information and
9 Communications Technology (ICT) sector, and Philippine Competition
10 Commission (PCC) for the promotion of market competition, develop a set of
11 criteria for qualifying data transmission industry participants that will
12 encourage the widest possible participation of as many industry players as
13 possible who will offer data transmission services in all segments of the
14 network and to end users in different parts of the country. The qualification
15 requirements for data transmission industry participants shall also take national
16 security concerns into consideration particularly for facilities that interface
17 directly with another country's domestic network.
- 18 (b) Those who will operate an international cable landing station shall secure a
19 legislative franchise. Those who will operate a nationwide backbone network
20 shall secure a permit from the NTC and submit its proposed route or rollout plan,
21 as well as the manner of construction of the backbone network, subject to the
22 approval of the NTC. All other industry participants shall not be required to
23 secure a legislative franchise or a certificate of public convenience and necessity
24 (CPCN) but must meet the criteria set by the NTC and the DICT in registering as
25 industry participants in order to construct, operate, lease or own networks or
26 facilities except if it owns and operates an international cable landing station:
27 *Provided, That an owner or operator of a cable landing station, not*
28 *considered a public utility, shall no longer be required to secure a CPCN. All*
29 *industry participants intending to be spectrum holders shall need to secure a*
30 *permit from the NTC and shall be allocated such spectrum in accordance with*
31 *the provisions under Section 7 of this Act.*
- 32 (c) Data transmission industry participants shall likewise be required to comply with
33 national and global best practices and standards on cybersecurity and shall be
34 subject to a network audit by the Cybersecurity Bureau of the DICT. Data
35 transmission industry participants shall, after three (3) years of operation, be
36 required to secure a cybersecurity certification from a third-party organization
37 based on the prevailing International Organization for Standardization (ISO)
38 standards on information security management.

CHAPTER III
REGULATION OF THE DATA TRANSMISSION INDUSTRY

SEC. 6. *Open Access Approach to Regulation of the Data Transmission Industry.* –

The NTC shall ensure that the data transmission sector remains open and accessible to all qualified participants. Specifically, it shall:

- (a) Implement an efficient and speedy administrative process in the authorization and registration of data transmission sector participants;
- (b) Adopt a technology-neutral framework that allows data transmission industry participants to use any available technology to provide service;
- (c) Promote fair and open competition in accordance with the principles and policies under the Philippine Competition Act and its implementing rules in all segments of the data transmission network, allowing a wide variety of physical networks and applications to interact in an open 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

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

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

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

- 20 (c) The NTC shall avoid the concentration of spectrum resources in the hands of a few
21 players and shall not assign, or allow joint use of radio spectrum in a manner that
22 establishes, promotes or perpetuates the dominance of PTEs. Any entity who
23 believes that anyone or more of the NTC's decisions for the assignment of radio
24 spectrum, whether past or present, which will promote the dominance of any entity
25 and hinder competition, may file a complaint before the PCC to determine the
26 dominance of a data transmission industry participant and deal with anti-
27 competitive conduct in accordance with its mandate under Republic Act
28 No.10667, otherwise known as the "Philippine Competition Act";

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

- 33 (e) If the NTC finds, on its own initiative or upon complaint, that any right, license or
34 radio spectrum assignment to any data transmission industry participant or PTE is
35 not being used, or is not being maximized by the user thereof, or that the
36 grantee has violated the provisions of this Act, it may, *motu proprio* or upon
37 petition by any person, subject to due process, recall the radio spectrum
38 assignment of the data transmission industry participant or PTE. The NTC shall,

1 where required and appropriate, work with the data transmission industry
2 participant or PTE concerned to take appropriate measures to minimize the
3 impact of such recall on active users of services utilizing the recalled spectrum. The
4 foregoing notwithstanding, no frequency shall be recalled within eighteen (18)
5 months of the awarding of a provisional authority or license or registration; and

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

23
24 **SEC. 8. *Setting Performance Standards.*** - The NTC shall:

- 25 (a) Mandate that, within one (1) year from the effectivity of this Act, all last mile
26 providers shall provide a minimum download speed of 2 megabits per second or as
27 mandated by the National Broadband, whichever is higher, for mobile
28 broadband and for fixed wireless/broadband access;
- 29 (b) Prescribe performance standards after public consultation and hearings within six
30 (6) months from the effectivity of this Act;
- 31 (c) Regularly upgrade performance standards imposed on the data transmission
32 industry to ensure that performance standards shall, at a minimum, be at par
33 with service levels established in regional data network performance indices
34 and aligned with international best practices. Such standards shall take into
35 account speed, packet loss, jitter, and latency;
- 36 (d) Regularly review performance standards at least once a year and publish new
37 performance standards at least thirty (30) days before they take effect. The
38 publication of the results of the performance measurements shall be done in
39 an open data format and made accessible to the general public;

- 1 (e) Any person, or the NTC itself, may, *motu proprio*, file a petition to penalize any data
2 transmission industry participant for failure to deliver service according to the
3 NTC's published performance standard and to require rectification of such
4 noncompliance; and
5 (f) Measure the performance of the data industry participants quarterly and publish
6 the results of its assessment in its website.
7

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

- 9 (a) Publish and make available in print and online formats all aspects of spectrum use
10 information, including the National Radio Frequency Allocation Table (NRFAT),
11 indicating therein the purpose or use to which each frequency band is allocated, and,
12 for frequency bands allocated for public use, the persons and/or entities to whom
13 each particular frequency is assigned. The NRFAT and updated radio spectrum
14 use information shall be made available on the NTC's website and to any person
15 who requests the same, upon written request; and
16 (b) Promulgate rules requiring all data transmission industry participants to file
17 an annual report and include therein a fair and accurate statement regarding
18 their market prices and their services. The annual report shall include all costs
19 and charges relevant to the data transmission network segment where the
20 participants operate. The rates shall be made available online, in print, and in
21 any other viable venue to the public. Any person can file a complaint pertaining
22 to these rates within thirty (30) days of posting. Each player at each segment
23 shall submit a copy of their rates to the NTC and the PCC. The rates shall be
24 published, including a historical record, in a consolidated manner. The data
25 transmission industry participants shall keep a publicly accessible archive of
26 their rates.
27

28 **SEC. 10. *Fair Competition.*** - The PCC and the NTC shall ensure that the principles and
29 policies enshrined under the Philippine Competition Act are strictly adhered to in the data
30 transmission industry. The PCC and the NTC shall ensure that all industry players observe
31 fair, reasonable, and nondiscriminatory treatment in all their dealings, and that barriers to
32 entry are eliminated to make the industry highly competitive. To this end, within thirty (30)
33 days from the effectivity of this Act, the PCC and the NTC shall enter into an agreement to
34 foster and develop interagency cooperation mechanisms, including information-sharing tools,
35 that will guide them in the performance of their respective mandates, and in the
36 promotion of fair competition in the data transmission industry.
37

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

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

- 5 (a) made mandatory for open access and made available for co-location and co-use by
6 the owner of network facilities, equipment, and infrastructure on an open,
7 fair, and nondiscriminatory basis to any access seeker's network facilities, in any
8 segment, subject to the technical feasibility of the access seeker's request and
9 the network facility and infrastructure owner's standard published offer terms,
10 conditions, and rates: *Provided*, That the provision of access to government-owned
11 and operated facilities and support infrastructure to access seekers for the purpose of
12 offering data transmission services shall be mandatory, unless special circumstances,
13 such as but not limited to national security concerns, exist;
- 14 (b) built not only in the city centers, but most especially in the remote, unserved, and
15 underserved areas in order to extend data transmission services by both the existing
16 and new players throughout the country;
- 17 (c) as far as possible, deployed together with roadworks, pipe-laying, and other
18 infrastructure development by both government and private entities; and
- 19 (d) proliferated in the most cost-efficient and timely manner through various means,
20 including, encouraging the operation of independent entities that build and operate
21 towers, dark fiber, and utility corridors, among other passive infrastructure that help
22 facilitate data transmission network deployment.

23
24 The DICT shall coordinate and issue a policy with other relevant government agencies
25 upon consultation with stakeholders to implement this provision. For purposes of data
26 transmission, the NTC shall, in case of a dispute arising from an infrastructure sharing
27 agreement: (1) mediate between a data transmission industry participant and an infrastructure
28 owner, and (2) serve as the primary enforcer of this provision.

29
30 The DICT and the NTC shall promulgate policies, rules, and regulations to ensure
31 that buildings, condominiums, villages, towns, and subdivisions are all built with facilities,
32 such as cable entrances, ducts, and risers, that allow nondiscriminatory access to multiple
33 data transmission industry players in order for them to provide service. They shall also
34 promulgate policies, rules, and guidelines that will ensure a level-playing field and price
35 nondiscrimination among data transmission industry participants and network facility and
36 infrastructure owners.

37
38 The DICT and the NTC, in coordination with relevant government agencies, shall also
39 ensure the disaster resiliency and ease of recovery and restoration of passive infrastructure,

1 such as towers, poles, and utility corridors, from the effects of disasters by strictly enforcing
2 compliance with internationally-accepted engineering standards and best practices, and
3 relevant engineering codes and codes of practice.

4
5 The DICT and the NTC shall maintain an updated database of data transmission
6 infrastructure, including passive infrastructure used to support data transmission. The
7 database, to be updated annually, shall include the exact location, ownership, technical
8 specifications, and other relevant information about the facility.

9
10 **CHAPTER IV**
11 **PROHIBITED ACTS**
12

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

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

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

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

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

34 (c) **Throttling.** - A data transmission industry participant shall treat all traffic equally
35 when providing data access services without discrimination, restriction or
36 interference, regardless of the sender and receiver, the content accessed or
37 distributed, the applications or services used or provided, or the terminal equipment
38 used.

39 It shall be prohibited for a data transmission industry participant to hinder

1 or slowdown services or applications or access to specific sites in the internet except
2 where (1) access to such sites, services or applications are prohibited by law; (2) it is
3 necessary to preserve the integrity and security of the network and service of the
4 provider or the equipment of the end user: *Provided*, That if the breach of integrity
5 or security is caused by the equipment of the end user, the provider has to notify
6 the end user first and give the former sufficient time to rectify the situation; and
7 (3) it is necessary to block the transmission of unwanted communications
8 such as spam and child pornographic materials upon the complaint of the end
9 user or the data transmission industry participant;

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

16 (e) Anti-competitive Cross-subsidization. - The NTC shall require separate books of
17 accounts between different data transmission segments in order to allow
18 identification of costs and revenues for each segment. Any violation of this
19 provision shall give rise to a presumption of anti-competitive cross-subsidization,
20 which shall then be referred to the Philippine Competition Commission for proper
21 determination and action, in accordance with the provisions of Republic Act No.
22 10667. Nothing herein shall prevent interconnecting networks from charging the
23 appropriate cost-based compensation for the use of interconnection facilities.
24

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

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

39 (b) An entity who fails to substantially comply with the NTC's performance standards

1 for three (3) consecutive years shall, subject to due process, be removed from the
2 registry of registered data transmission industry participants and shall be
3 prohibited from rendering data transmission services.

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

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

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

20
21 **SEC. 15. *Adjustment for Inflation.*** - The fines imposed under this Act shall be adjusted
22 by the NTC, year-on-year, considering the prevailing cost of money based on the current
23 consumer price index, and subject to publication of such adjustments.

24 25 **CHAPTER V**

26 **RIGHTS OF DATA TRANSMISSION SERVICE USERS AND RESPONSIBILITIES OF** 27 **DATA TRANSMISSION SERVICE PROVIDERS**

28
29 **SEC. 16. *Rights of End Users.*** - The user of data transmission services shall have the
30 following basic rights:

- 31 (a) To be entitled to data transmission services which is nondiscriminatory, reliable,
32 and conforming with minimum standards set by the NTC;
- 33 (b) To be rendered data transmission services within two (2) months from application
34 for service;
- 35 (c) Regular, timely and accurate billing, courteous and efficient service at business
36 offices and by company personnel;
- 37 (d) Timely correction of errors in billing and the immediate provision of rebates or
38 refunds by the data transmission service provider without the need for demand by
39 the user; and

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

7 Subject to the filing of a formal request to the data service provider, a user may
8 request

9 the immediate termination of service without the imposition of fees or penalties,
10 and with the refund of any fee or charge already paid by the user, should a data
11 service provider not consistently comply with paragraphs (a), (d), and (e) of this
12 section or any other minimum performance standards set by the NTC.

13 14 **CHAPTER VI** 15 **FINAL PROVISIONS** 16

17 **SEC. 17. *Expedited Processing.*** - In all instances where a participant in the data
18 transmission industry shall require a form, certificate, or request from any government
19 agency or local government unit (LGU), there should be no more than two (2) public officers
20 involved in processing the form, certificate, or request.

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

27
28 **SEC. 18. *Implementing Rules and Regulations.*** - Within sixty (60) days from the
29 effectivity of this Act, the NTC shall promulgate the necessary rules and regulations for its
30 effective implementation.

31
32 **SEC. 19. *Joint Congressional Oversight Committee on Open Access in Data***
33 ***Transmission.*** - There shall be created a Joint Congressional Oversight Committee on
34 Open Access in Data Transmission (JCOCOADT) which shall monitor and ensure the
35 effective implementation of this Act. It shall determine weaknesses and loopholes in
36 the law, recommend the necessary remedial legislation or administrative measures and
37 perform such other duties and functions as may be necessary to attain the objectives of this
38 Act.

1
2 The JCOCOADT shall be composed of five (5) members from the Senate and five (5)
3 members from the House of Representatives, in addition to the Chairperson of the Senate
4 Committee on Science and Technology and the Chairperson of the House of Representatives
5 Committee on Information and Communications Technology: *Provided*, That two (2)
6 members of each chamber's nominees shall come from the ranks of the minority party/bloc.
7

8 The Chairperson of the Senate Committee on Science and Technology and the
9 Chairperson of the House of Representatives Committee on Information and
10 Communications Technology shall act as Co-chairpersons of the JCOCOADT. The ranking
11 minority members nominated by both the Senate and the House of Representatives shall act
12 as Co-Vice Chairpersons. The Secretariat of the JCOCOADT shall come from the existing
13 Secretariat personnel of the Committee on Science and Technology of the Senate and the
14 Committee on Information and Communications Technology of the House of Representatives.
15 The JCOCOADT shall have its own independent counsel

16 The JCOCOADT shall exist for a period not exceeding five (5) years from the effectivity of
17 this Act. Thereafter, its oversight functions shall be exercised by the Senate Committee on
18 Science and Technology and the House of Representatives Committee on Information and
19 Communications Technology, acting separately.
20

21 **SEC. 20. *Separability Clause.*** - Should any provision herein be
22 declared unconstitutional, the other provisions not affected shall remain in full force and effect.
23

24 **SEC. 21. *Repealing Clause.*** - All laws, decrees, orders, rules and regulations or other
25 issuances or parts inconsistent with the provisions of this Act are hereby repealed, amended
26 or modified accordingly.
27

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

Approved.