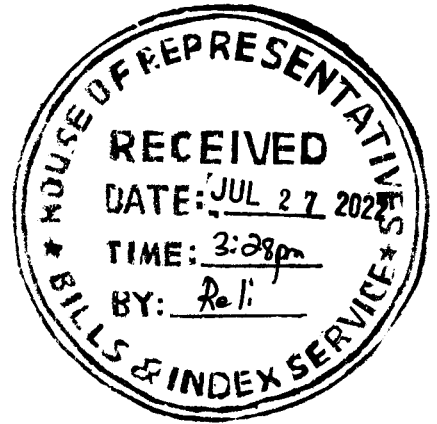


NINETEENTH CONGRESS OF THE)
REPUBLIC OF THE PHILIPPINES)
First Regular Session)



HOUSE OF REPRESENTATIVES

H. B. No. 2566

Introduced by Representative Ralph G. Recto

AN ACT
PROMOTING OPEN ACCESS IN DATA TRANSMISSION, PROVIDING
ADDITIONAL POWERS TO THE NATIONAL TELECOMMUNICATIONS
COMMISSION (NTC), AND FOR OTHER PURPOSES

EXPLANATORY NOTE

Philippine telecommunication services have been besieged with persistent issues of poor quality and high prices attributed to a weak regulatory environment and a lack of real competition among the few players in the industry. The recent mergers and acquisitions consummated without the proper review of the Philippine Competition Commission has allowed current and large players to strengthen their market share and encouraged vertical integration or the ownership or operation in all segments of the telecommunications value chain over the years.

Another major concern is that our existing policies and regulations were designed only for basic telecommunication service. Our current telecommunications regime is still governed by an outdated law, Republic Act No. 7925 or the Public Telecommunications Policy Act of 1995, passed at a time when the Internet and data services are not yet commercially available. As the Age of Internet and data services progressed, at present, operations in all segments in the telecommunications industry still necessitate a number of requirements that was originally intended for basic telecommunications services. Even when entering the data transmission industry, securing a Certificate of Public Convenience and Necessity (CPCN), Provisional Authority (PA), and the Congressional grant of a franchise are still obligatory.

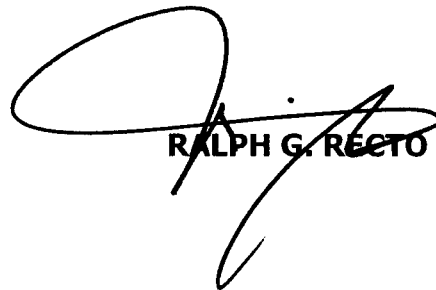
As this age transitions to a more decentralized, distributed and redundant data transmission regime, it is necessary to create a more relevant regulatory environment that will govern and focus on the Internet and data transmission services. This will further lower barriers and costs to entry of new players especially in certain segments which do not need stringent requirements. In particular, this bill removes the requirement for a Congressional franchise and CPCN/PA, except for international cable landing stations and national backbone network operators. The franchise and CPCN/PA will still apply to a network operator that installs and operates infrastructure on a nationwide scale, such as landing stations and backbone networks, which are considered "nationally significant" such that when these networks are compromised, the whole country is affected and may lose connectivity with the rest of the world.

Amid the removal of a Congressional franchise and CPCN/PA for certain segments, regulatory oversight remains as data transmission industry participants need to register with the NTC, stating the services offered and providing their schedule of rates. The NTC shall put in place a set of criteria for the qualification of data transmission industry participants, which are in accordance with the provisions of the bill, and which shall take into consideration national security concerns, especially for facilities handling data traffic direct from another country's domestic network, such as a cable landing station.

This bill also aims to adopt an open access model for regulating the data transmission industry, which promotes the following:

- Efficient and speedy authorization and registration of industry players;
- Technology-neutral framework;
- Fair and open competition;
- Mandated interconnection;
- Mandated transparency in pricing;
- Transparent and equitable spectrum management framework; and
- Infrastructure sharing and co-location.

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



RALPH G. RECTO

Note: This version of this bill is essentially the Committee Report version reported out by the Committee on Science and Technology in the 17th Congress, which was authored and sponsored by Sen. Benigno "Bam" Aquino IV, and including some proposed additions to the measure by this representation.

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COMMISSION (NTC), AND FOR OTHER PURPOSES

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 Transmissions 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 investment in the digital infrastructure of 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 telecommunications capabilities and the removal of barriers to infrastructure investment; and
- h. Encourage infrastructure sharing and co-location in order to promote network investment, eliminate the uneconomic duplication of infrastructure facilities, and strengthen competition.

Sec. 3. *Definition of Terms.* – As used in this Act, the following terms shall mean:

- 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 or internet network;
- d. *Core/Backbone Network* refers to the main line or connection including international connection that ties networks, delivers routes to exchange information among various sub-networks, connects regional distribution networks, and in some instances, provides connectivity to other peer networks;

1 e. *Data Transmissions* refers to the process of sending digital or digitized
2 analog signal over a communication medium to one or more computing
3 networks, communication or electronic device. It enables the transfer and
4 communication of devices in a point-to-point, point-to-multipoint and
5 multipoint-to-multipoint environment. The term data transmission includes the
6 provision of Voice over Internet Protocol (VoIP) services but does not include
7 the provision of Basic Telephone Services;

8 f. *Data Transmission Industry Participant* refers to any person, firm,
9 partnership or corporation, government or private, engaged in the provision
10 of data transmission services to the public. This includes public
11 telecommunications entities (PTEs) as defined under Republic Act No. 7925,
12 otherwise known as the *Public Telecommunications Policy Act of the*
13 *Philippines*, that offer data transmission services;

14 g. *International Cable Landing Station* refers to a segment of data
15 transmission that consists of any facility that terminates an international
16 submarine cable, and which provides an interface to send and receive data
17 traffic between one country's domestic network facilities and those in another
18 country;

19 h. *Open Access* refers to the system of allowing the use of data transmission
20 and/or distribution systems and associated facilities subject to fair,
21 reasonable, and non-discriminatory terms in a transparent market;

22 i. *Paid Prioritization* refers to the management of a data transmission network
23 to directly or indirectly favor some traffic over other traffic, through the use of
24 techniques such as, traffic shaping, prioritization, resource reservation, zero-
25 rating, or other forms of preferential traffic management, either:

26 1. in exchange for consideration, monetary or otherwise, from a third
27 party, or

28 2. to benefit an affiliated entity;

29 j. *Voice over Internet Protocol (VoIP) Service* refers to the provision of voice
30 communication using Internet Protocol (IP) technology.

CHAPTER II
ORGANIZATION AND OPERATION OF THE DATA TRANSMISSION
INDUSTRY

Sec. 4. *Scope.* – This Act applies to all duly qualified persons who participate in the data transmission industry subject to domestic regulations and existing laws. For this purpose, any person or entity whose business deals substantially with the transmission of data, including VoIP service provider, Internet Service Providers (ISPs), and Data Center service providers, shall be governed by the provisions of this Act. PTEs principally engaged in the provision of basic telephone services, such as international carrier, inter-exchange carrier, local exchange operator, and mobile radio services provider, as these entities are defined in Republic Act No. 7925, which also provide data transmission services, shall likewise be subject to the provisions of this Act with respect to the data transmission services they provide and the interconnection to their networks that they extend to data transmission industry participants.

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

- a. All data transmission industry participants shall be required to register with the National Telecommunication Commission (NTC). The NTC shall promulgate a speedy and expeditious administrative process for registration and shall, in coordination with Department of Information and Communications Technology (DICT), develop a set of criteria for qualifying data transmission industry participants that will encourage the widest possible participation of as many industry players as possible who will offer data transmission services to end users in different parts of the country. The qualification requirements for data transmission industry participants shall also take national security concerns into consideration, particularly for facilities that interface directly with another country's domestic network;
- b. A data transmission industry participant shall not be required to secure a Congressional franchise and/or a Certificate of Public Convenience and

1 Necessity (CPCN) in order to construct, install, operate, lease, or own
2 networks and facilities except if (a) it owns and operates an international
3 cable landing station; or (b) it provides a nationwide backbone network,
4 offering services as a carrier's carrier. For purposes of this law, the term
5 nationwide means that the backbone network provides coverage for 80% of
6 all municipalities and 100% of chartered cities in the Philippines;

7 c. Data transmission industry participants shall likewise be required to comply
8 with national and global best practices and standards on cybersecurity and
9 shall be subject to a network audit by the Cybersecurity bureau of the DICT.
10 Data transmission industry participants shall, after three (3) years of
11 operation, be required to secure a cybersecurity certification from a third-
12 party organization based on the prevailing ISO standards on information
13 security management.

14 **CHAPTER III**

15 **REGULATION OF THE DATA TRANSMISSION INDUSTRY**

16 *Sec. 6. Open Access Approach to Regulation of the Data Transmission*
17 *Industry.* – The NTC shall adopt and ensure that the data transmission industry
18 remains open and accessible to all qualified participants. Specifically, it shall:

- 19 a. Implement an efficient and speedy administrative process in the
20 authorization and registration of data transmission sector participants;
- 21 b. Adopt a technology-neutral framework that allows data transmission
22 industry participants to use any available technology to provide service;
- 23 c. Promote fair and open competition in all the segments of the data
24 transmission network, allowing a wide variety of physical networks and
25 applications to interact in an open architecture;
- 26 d. Mandate transparency in pricing and the publication of pricing information
27 to ensure fair trading within and between each data transmission segment so
28 as to allow clear, comparative information on market prices and services;
- 29 e. Mandate interconnection so that data transmission industry participants can
30 connect to each other at the various segments and interfaces, such that,
31 entities of any size may freely enter and exit the market, and dominance by a
32 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 Philippine Competition Commission (PCC), rules defining and regulating entities with substantial market power; and
- i. Publish a spectrum management framework to be developed together with the DICT and the PCC.

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

- a. The procedure for radio spectrum allocation, re-allocation, assignment, re-assignment, re-classification, joint use or co-use, and recall shall be made transparent to the public. All applications, including letter-requests, allocation, re-allocation, assignment, re-assignment, re-classification, joint use or co-use, and recall shall be posted in the NTC's 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 allocation, re-allocation, assignment, re-assignment, re-classification, joint use or co-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 allocation, re-allocation, assignment, re-assignment, re-classification, joint use or co-use and recall. The NTC shall not allocate, re-allocate, assign, re-assign, re-classify, allow joint use or co-use, or recall 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 applies to all spectrum, whether used for data transmission or not;
- b. All radio spectrum, radio frequency allocation, re-allocation, assignment, re-assignment, re-classification, joint use or co-use, and recall decisions of the NTC shall be published on the NTC's website and in a conspicuous place in

1 the offices of the NTC for at least three (3) consecutive months. The recall of
2 frequency for purposes of free public use shall be given priority.

3 The immediately preceding paragraphs (a) and (b) shall not apply to
4 applications for frequency assignment for fixed point-to-point radio links, Wi-
5 Fi and satellite networks;

6 c. The NTC shall ensure that the allocation, re-allocation, assignment, re-
7 assignment, re-classification, joint use or co-use, and recall of spectrum does
8 not result in the concentration of spectrum resources which promote,
9 establish, or perpetuate the significant market power of PTEs or of only a
10 limited number of participants. In instances where the resulting assignment of
11 spectrum for mobile and point-to-multipoint networks will give an assignee or
12 entities it controls, jointly or singly, or under common control, either by virtue
13 of that request or in combination with other previous requests by that party
14 or its affiliates, fifteen percent (15%) or above of assignable spectrum in the
15 same band, the party requesting for an assignment of spectrum or a joint use
16 of spectrum shall be required to serve notice to the PCC and secure a no-
17 objection notice from the PCC. The PCC shall issue a no-objection notice
18 within thirty (30) working-days upon its receipt of pertinent information
19 necessary for the review and issuance of the notice: *Provided*, That PCC may
20 once extend such period for an addition fifteen (15) working-days upon their
21 notification of the NTC and the party or parties concerned to a spectrum
22 allocation, re-allocation, assignment, re-assignment, re-classification, joint use
23 or co-use, and recall. Any person or entity who believes that any one or more
24 of the NTC's decisions for the assignment of radio spectrum, whether past or
25 present, will promote the dominance of any entity and hinder competition
26 may file a complaint before the PCC to determine the dominance of a data
27 transmission industry participant and act on anti-competitive conduct in
28 accordance with its mandate under Republic Act No. 10667, otherwise known
29 as the *Philippine Competition Act*;

30 d. The NTC shall act promptly on applications of data transmission industry
31 participants for permits to import equipment. Any application for permit to

import equipment that is not acted on by the NTC within seven (7) days shall be deemed approved; and

e. If the NTC finds, on its own initiative or upon complaint, that any right, license or radio spectrum assignment to any data transmission industry participant or PTE is not being used, or is not being maximized by the user thereof, or that the grantee has violated the provisions of this Act, it may, *motu proprio* or upon petition by any person, subject to due process, recall the radio spectrum assignment of the data transmission industry participant or PTE. The NTC shall, where required and appropriate, make provisions for substitute frequency to address the needs of active users of the spectrum recalled from the data transmission industry participant or PTE.

Sec. 8. *Setting Performance Standards.* – The NTC shall:

a. Mandate that, within one (1) year from the effectivity of this Act, all last mile providers shall provide a minimum download speed of 5 megabits per second (5 Mbps) or as mandated by the National Broadband Plan, whichever is higher, for mobile broadband and for fixed and fixed wireless/broadband access;

b. In coordination with the DICT, prescribe performance standards after public consultation and hearings within six (6) months from the effectivity of this Act;

c. Upgrade performance standards imposed on the data transmission industry regularly 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 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

1 according to the NTC's published performance standard and to require
2 rectification of such non-compliance; and

3 f. Measure the performance of data industry participants, furnish a copy of
4 the raw data of the measurements to the DICT, and publish the results of its
5 measurements on its website.

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

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

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

26 *Sec. 10. Fair Competition.* – The PCC and the NTC shall ensure that the
27 principles and policies enshrined under Republic Act No. 10667, are strictly adhered
28 to in the data transmission industry. The PCC and NTC shall ensure that all industry
29 players shall observe fair, reasonable and non-discriminatory treatment in all their
30 dealings, and that barriers to entry are eliminated to make the industry highly
31 competitive. To this end, the PCC and NTC shall foster and develop interagency
32 cooperation mechanisms, including information-sharing tools, that will guide them in

1 the performance of their respective mandates, and in the promotion of fair
2 competition in the data transmission industry.

3 Sec. 11. *Technological Neutrality*. – The NTC shall promulgate the necessary
4 rules and regulations to ensure that the provisions of this law apply, *mutatis*
5 *mutandis*, to future technologies in data transmission.

6 Sec. 12. *Expedited Processing*. – In all instances where a participant in the
7 data transmission industry shall require a form, certificate, or request from any
8 government agency or local government unit (LGU), there should be no more than
9 two (2) public officers involved in processing the form, certificate, or request.

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

16 Sec. 13. *Infrastructure Sharing and Co-Location*. – The DICT and NTC shall
17 promulgate policies, rules, and regulations to ensure that a data transmission
18 network's active facilities and support infrastructure available through data
19 transmission networks or networks of public utilities, such as, but not limited to,
20 towers, poles, ducts, entrance cables, risers, dark fiber, and utility corridors are:

21 (a) Mandatory for open access and made available for co-location and co-use
22 by the owner of network facilities, equipment, and infrastructure on an open,
23 fair, and nondiscriminatory basis to any access seeker's network facilities, in
24 any segment, subject to the technical feasibility of the access seeker's request
25 and the network facility and infrastructure owner's standard published offer
26 terms, conditions, and rates: *Provided*, That the provision of access to
27 government-owned and -operated facilities and support infrastructure to
28 access seekers for the purpose of offering data transmission services shall be
29 mandatory, unless special circumstances, such as but not limited to national
30 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) Propagated in the most cost-efficient and timely manner through various means, including, among others, encouraging the operation of independent entities that build and operate towers, dark fiber, and utility corridors, among other infrastructure that help facilitate data transmission network deployment.

The DICT and 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.

The DICT and NTC shall also promulgate policies, rules, and guidelines that will ensure a level-playing field and price non-discrimination among data transmission industry participants and network facility and infrastructure owners.

The DICT and NTC shall coordinate and issue a policy with other government agencies, as necessary, including but not limited to the Department of Public Works and Highways (DPWH), Metropolitan Waterworks and Sewerage System (MWSS), the Metropolitan Manila Development Authority (MMDA), the National Electrification Administration (NEA), and the Department of Human Settlements and Urban Development (DHSUD), and private entities concerned to implement this provision.

The DICT and NTC shall also ensure the disaster resiliency and ease of recovery and restoration of support infrastructure, such as towers, poles, and utility corridors, from the effects of disasters by strictly enforcing compliance with internationally-accepted engineering standards and best practices, and relevant engineering codes and codes of practice.

CHAPTER IV

PROHIBITED ACTS

Sec. 14. Prohibited Acts. – The following acts shall be prohibited:

1 a. *Refusal to Plug and Play* - Any data transmission industry participant, insofar as
2 such person is so engaged, shall not refuse access to infrastructure to any other
3 data transmission industry participant, except for failure to pay open market fees for
4 the access to the service.

5 Data transmission industry participant shall not impede the end-user's right to
6 access and distribute information and content, use and provide applications and
7 services and use terminal equipment of their choice, regardless of the end-user's or
8 provider's location or the location, origin or destination of the information, content,
9 application or service, via their data transmission service. Agreements between data
10 transmission providers of data services and end-users on commercial and technical
11 conditions and the characteristics of data access services such as price, data volume
12 or speed, and any commercial practices conducted by providers of internet access
13 services, shall not limit the exercise of the rights of end-users laid down in the
14 preceding paragraph;

15 b. *Paid prioritization* - A data transmission industry participant, shall not engage in
16 paid prioritization for monetary or other consideration except when allowed by the
17 NTC after such participant demonstrates that the practice would provide significant
18 public interest benefit and will not disadvantage content and applications that are
19 not prioritized nor harm the open nature of the Internet;

20 c. *Throttling* - Data transmission industry participants shall treat all traffic equally
21 when providing data access services without discrimination, restriction or
22 interference, regardless of the sender and receiver, the content accessed or
23 distributed, the applications or services used or provided, or the terminal equipment
24 used.

25 It shall be prohibited for a data transmission industry participant to hinder or
26 slow down services or applications or access to specific sites on the internet except
27 where (a) access to such sites, services or applications are prohibited by law; (b) it
28 is necessary to preserve the integrity and security of the provider and the equipment
29 of the end-user: *Provided*, That if the breach of integrity or security is caused by the
30 equipment of the end-user, the provider has to notify the end-user first and provide
31 the end-user sufficient time to rectify the situation; or (c) it is necessary to block the
32 transmission of unwanted communications to an end-user, on the application or

complaint of the end-user or the data transmission industry participant, and upon lawful order of the court;

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, on a timely basis, to suppliers of data transmission services, technical information about its essential facilities or network facilities and commercially relevant information that are necessary for them to provide services; and

e. *Anti-competitive cross-subsidization* - The NTC shall require separate books of account 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 PCC 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 interconnecting facilities.

CHAPTER V

PENALTIES

Sec. 15. *Administrative Penalties.* – The NTC shall require data transmission industry participants and PTEs providing data transmission services to comply with the prescribed performance standards and shall impose penalties for failure to comply with such performance standards.

a. Any data transmission industry participant that engages in the prohibited acts under Section 14 of this Act or fails to comply with the obligations under Section 8 of this Act 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, which is prohibited under Section 14 (e)

1 of this Act, the imposable penalties are those provided for under Republic Act
2 No. 10667. The NTC is hereby authorized and empowered to impose such
3 fine, after due notice and hearing.

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

8 c. A data transmission industry participant violating any provision of this Act
9 shall forfeit all certificates, licenses, authorizations, rights, and awards issued
10 to it in relation to its participation in the data transmission industry.

11 d. Any other violations of this Act shall be sanctioned with a fine of not less
12 than Fifty Thousand Pesos (P50,000.00) but not more than Two Million Pesos
13 (P2,000,000.00).

14 Sec. 16. *Adjustment for Inflation.* – The fines imposed under this Act shall be
15 adjusted by the NTC, year-on-year, considering the prevailing cost of money based
16 on the current consumer price index, and subject to publication of such adjustments.

17 **CHAPTER VI**

18 **RIGHTS OF DATA TRANSMISSION SERVICE USERS AND** 19 **RESPONSIBILITIES OF DATA TRANSMISSION SERVICE PROVIDERS**

20 Sec. 17. *Rights of End-Users.* – The user of data transmission services shall
21 have the 8 following basic rights:

22 a. Entitlement of data transmission service which is non-discriminatory,
23 reliable, and conforming with minimum standards as provided by the
24 appropriate national government agencies;

25 b. To be given data transmission services within two (2) months from
26 application for service;

27 c. Regular, timely and accurate billing, courteous and efficient service
28 at business offices and by company personnel;

29 d. Timely correction of errors in billing and the immediate provision of
30 rebates or refunds by the data transmission service provider without
31 the need for demand by the user; and

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

7 Subject to the filing of a formal request to the data service provider, a user
8 may request the immediate termination of service without the imposition of fees or
9 penalties, and with the refund of any fees or charges already paid by the user,
10 should a data service provider not consistently comply with preceding paragraphs
11 (a), (d), (e), or any other minimum performance standards set by the NTC.

12 **CHAPTER VII**

13 **FINAL PROVISIONS**

14 *Sec. 18. Joint Congressional Oversight Committee on Open Access in Data*
15 *Transmission.* – There is hereby created a Joint Congressional Oversight Committee
16 on Open Access in Data Transmission (JCOCOADT) which shall monitor and ensure
17 the effective implementation of this Act. It shall determine weaknesses and
18 loopholes in the law, recommend the necessary remedial legislation or administrative
19 measures and perform such other duties and functions as may be necessary to
20 attain the objectives of this Act.

21 The JCOCOADT shall be composed of five (5) members from the Senate and
22 five (5) members from the House of Representatives in addition to the Chairperson
23 of the Senate Committee on Science and Technology and the Chairperson of the
24 House of Representatives Committee on Information and Communications
25 Technology, who shall Chair the Oversight Committee in the order specified herein:
26 *Provided, That, two (2) members of each chambers' nominees shall come from the*
27 *ranks of the minority party or bloc.*

28 The Chairperson of the Senate Committee on Science and Technology and the
29 Chairperson of the House of Representatives Committee on Information and
30 Communications Technology shall act as co-Chairpersons of the JCOCOADT. The
31 ranking minority members nominated by both the Senate and the House of
32 Representatives shall act as Vice Co-Chairpersons.

1 The Secretariat of the JCOCOADT shall come from the existing Secretariat
2 personnel of the Senate Committee on Science and Technology and the House of
3 Representatives Committee on Information and Communications Technology. The
4 JCOCOADT shall have its own independent counsel.

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

9 Sec. 19. *Implementing Rules and Regulations.* – Within sixty (60) days from
10 the effectivity of this Act, the DICT, in coordination with the NTC and the PCC, shall
11 promulgate the necessary rules and regulations for the effective implementation of
12 this Act.

13 Sec. 20. *Separability Clause.* – Should any provision herein be declared
14 unconstitutional, the same shall not affect the validity of the other provisions of this
15 Act.

16 Sec. 21. *Repealing Clause.* – All laws, decrees, orders, rules, and regulations
17 or other issuances or parts thereof inconsistent with the provisions of this Act are
18 hereby repealed, amended or modified accordingly.

19 Sec. 22. *Effectivity.* – This Act shall take effect fifteen (15) days after its
20 publication in the *Official Gazette* or in at least two (2) national newspapers of
21 general circulation.

 Approved,