

Republic of the Philippines
HOUSE OF REPRESENTATIVES
Quezon City

NINETEENTH CONGRESS
First Regular Session

HOUSE BILL NO. 5307

Introduced by HON. GUS S. TAMBUNTING



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

EXPLANATORY NOTE

Sec. 17, Art. II of the 1987 Constitution states that "The State shall give priority to education, science and technology, arts, culture, and sports to foster patriotism and nationalism, accelerate social progress, and promote total human liberation and development."

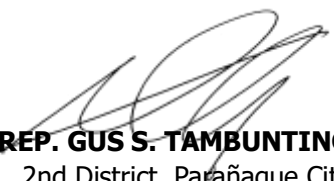
The Covid- 19 pandemic has exposed why access to the internet is a human right. Thus, there is a need to bolster public access to it. To be competitive, our country has to provide better internet access to its citizens.

The Philippines has numerous roadblocks that prevent us from reaching our potential in terms of technology. The government must do its part to remove these roadblocks for us to empower numerous sectors in the country.

The government must protect the right to internet access because in a democratic society people must be able to access the Internet to exercise and enjoy their rights to freedom of expression and other fundamental human rights. The State is responsible for ensuring that Internet access is broadly available and that it may not unreasonably restrict an individual's access to the Internet.

This bill aims to provide fast, reliable, and affordable internet connectivity across the country.

On behalf of the people of Parañaque City's Second District, and for the common good of the Filipino people, the approval of the said measure is earnestly sought.


REP. GUS S. TAMBUNTING
2nd District, Parañaque City

Republic of the Philippines
HOUSE OF REPRESENTATIVES
Quezon City

NINETEENTH CONGRESS
First Regular Session

HOUSE BILL NO. 5307

Introduced by HON. GUS S. TAMBUNTING

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

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

SECTION 1. Short Title. — This Act shall be known as the "Better Internet Act".

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

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

SEC. 3. Definition of Terms. — As used in this Act, the following terms are defined as follows:

- a) Bandwidth shall refer to the data transfer rate or the amount of data that can be carried from one point to another in a given period expressed in bits per second or multiples of it;
- b) Broadband shall refer to high-speed Internet service that is always on and faster than traditional dial-up access transmitted through various wired or wireless data transmission technologies such as, but not limited to, digital subscriber line (DSL), cable modem, fiber optic cable, fixed wireless, satellite, cellular mobile, TV white space, and other evolving and emerging technologies as may be developed in the future;

c) Cellular towers shall refer to passive telecommunication tower infrastructure, including, but not limited to, three-legged or four-legged structures, poles, mast, or similar infrastructure used to support mobile cellular network facilities;

d) Compliance period shall refer to the first two (2) years from the effectivity of this Act within which all ISPs and PTEs are required to comply with the minimum broadband download speeds outlined in this Act;

e) Greenfield Service Area refers to a barangay where an ISP is completely absent or that has an internet connection but does not reach an average minimum broadband speed of two (2) megabits per second (MBPS) or as prescribed by the DICT, whichever is higher;

D Internet Service Providers or ISPs shall refer to an entity, with or without a Congressional franchise, registered as a value-added service (VAS) provider from the National Telecommunications Commission (NTC) and authorized to build, install, operate, and maintain an internet network to offer Internet access services to the public for compensation;

g) Jitter shall refer to the variation of an end-to-end delay from one packet to the next within the same packet stream, connection, or flow;

h) Latency shall refer to the time it takes for a packet of data to get from a source to destination;

i) Packet shall refer to the unit of data that is routed between an origin or source and a destination on the Internet or any other packet-switched network; j) Packet Loss shall refer to the number of packets that do not reach the destination;

k) Service reliability or Uptime refers to the delivery of a certain percentage of advertised speed to a subscriber over a given time;

l) Public Telecommunications Entity or PTEs shall refer to any person, firm, partnership or corporation, government or private, engaged in the provision of 9 telecommunications services to the public for compensation;

m) National ICT Household Plan refers to the plan for the improvement of ICT access and use, including broadband access, by households and individuals developed by the Department of Information Communications Technology (DICT) based on information gathered from the National ICT Household Survey;

n) Threshold Speed refers to minimum upload and download speeds that an ISP or PTE must provide to their end user as entry-level broadband service;

o) Unserved Area refers to a specific population or land area of a city/municipality where broadband access set-vice is not available, as identified by the National ICT Household Plan;

p) Underserved Area refers to a specific population or land area of a city/municipality where broadband access service is covered and available, but below the threshold speed. The underserved areas shall be identified by the National ICT Household Plan while the threshold speed shall be determined by this Act and, subsequently, by the NTC.

SEC. 4. Increase in service coverage. — The NTC shall require all ISPs and PTEs to extend and expand the service coverage of wired and wireless broadband service in all unserved and underserved areas in the Philippines within two (2) years from the effectivity of this Act (the "Compliance Period"), according to the schedule and strategy to be set forth by the DICT in the National ICT Household Plan. The DICT shall develop the National ICT Household Plan, identify unserved and underserved areas in the Philippines and devise a plan of action to ensure Internet services are available at the household level. The DICT shall make such information and plans public within sixty (60) days from the effectivity of this Act: Provided, That subject to regulatory requirements, ISPs shall be allowed to own, establish, and operate wired and wireless networks, utilizing any available technology, to meet their obligations under this Act. ISPs shall be allowed access to unlicensed radio spectrum necessary to enable them to utilize wireless technologies to provide Internet service: Provided, Further, ISPs shall not build an international carrier, inter-exchange carriers, local exchange carriers, and mobile radiotelephone networks reserved for PTEs, as provided for in Republic Act No. 7925, otherwise known as the Public Telecommunications Policy Act of the Philippines.

SEC. 5. Delivery of Advertised Speeds. — Within one (1) year from the effectivity of this Act, the NTC is hereby mandated to require all PTEs and ISPs to only advertise and offer internet set-vice download speeds that they can consistently provide and work towards providing an average internet connection speed above the global average. PTEs and ISPs shall deliver at least eighty (80%) percent of advertised broadband speed to their subscribers at eighty (80) percent service reliability or at least eighty (80) percent of the time: Provided, That the entry-level broadband connection speed offered by ISPs or PTEs to subscribers shall not be lower than the following:

- a) Twenty (20) Megabits per second (Mbps) for wired broadband and ten (10) Mbps for wireless broadband in metropolitan cities;
- b) Ten (10) Mbps for wired broadband and five (5) Mbps for wireless broadband services in all other cities; and
- c) Five (5) Mbps for wired broadband and two (2) Mbps for wireless broadband services in rural areas.

PTEs and ISPs shall have two (2) years from the effectivity of this Act to ensure that they provide, as a minimum, the above threshold speeds to their end-users; Provided, That PTEs and ISPs will expand coverage and offer internet services in "Greenfield Service Areas" or previously unserved and underserved areas, as identified by the DICT, shall not be subjected to the minimum download speed for the next five (5) years.

The NTC shall conduct a regular review of technological advancements in the field of communications and data transmission to determine the necessity of adjusting the minimum speed standards set in this Act: Provided, That internet speed and service reliability of internet connections delivered by service providers shall be measured based on the methodology prescribed by the NTC.

After the end of the compliance period, it shall be considered a violation of this Act, subject to the penalties provided in Sec. 15 of this Act, to offer paid Internet service below the threshold speed. For the avoidance of doubt, there shall be no minimum speed required for free Internet service: Provided, however, that service

provided under the Free Internet Access in Public Places Act or RA 10929 shall meet the minimum speeds prescribed therein or in the relevant rules of the DICT for free Internet service programs.

SEC. 6. Measurement and Publication of Broadband Quality of Service (QOS). — To monitor and enforce compliance of PTEs and ISPs, the NTC shall:

- a) Prescribe, in coordination with DICT, the criteria and methodology for the measurement and publication of broadband quality of service, including parameters such as download speed, upload speed, latency, packet loss, jitter, and service availability, with appropriate benchmarks, after public consultation and hearings within six (6) months from the effectivity of this Act;
- b) Provide the public a mechanism to run broadband diagnostics in a secure and consumer-friendly format;
- c) Develop a procedure for collecting and analyzing broadband QOS measurements from various platforms and processing test data in a central database, which shall update and release results every 24 hours, at the least;
- d) Make publicly available on the NTC website and other media the criteria and methodology for the broadband QOS measurement tool and the list of platforms using the NTC-prescribed broadband measurement mechanism;
- e) Review, after the two-year compliance period, the compliance of PTEs and ISPs with the minimum download speeds, and prescribe and upgrade on an annual basis, the minimum broadband download speed, and QOS standards, on the internet 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 QOS standards shall take into account speed, packet loss, jitter, latency, and service availability: Provided, That the NTC shall not decrease the minimum speeds outlined in this Act: Provided, Further, That new performance standards shall be published at least thirty (30) days before they take effect.
- f) Diligently monitor and conduct monthly network audits and/or QOS tests to ensure compliance of the PTEs and ISPs with threshold speeds, advertised speeds, and coverage obligations, and publish network audit reports every month; and,
- g) Publish the results of all the NTCs network audits, broadband QOS tests, and the results of the consumer broadband QOS tests on their official website and social media accounts every month, and furnish a copy of the same to the DICT. Such reports should be in a format that can easily be analyzed by third-party data scientists.

SEC. 7. Responsibilities of the DICT. — In addition to responsibilities imposed in other sections of this Act, the DICT shall:

a) Maintain and make public a National ICT Assets Index (NICTAI), which shall be updated on an annual basis, to provide accurate data on broadband

coverage and ICT adoption and utilization in the country;

b) Conduct the National ICT Household Survey and publish the National ICT Household Plan every three (3) years, and identify unserved and underserved areas for purposes of this Act;

c) Regularly review and update ICT policy guidelines, strategies and plans, including, but not limited to, the National Broadband Plan to ensure that the Philippines' Internet service policy framework is at par with global standards and best practices; and

d) Ensure the delivery of Internet services at the household level through a schedule and plan of action that includes, but is not limited to, infrastructure sharing

and co-location arrangement;

SEC. 8. Responsibilities of the NTC. — In addition to responsibilities imposed in other sections of this Act, the NTC shall:

(a) Ensure that PTEs and ISPs meet the minimum standards regarding connection, reception, just pricing, and billing practices to promote and 16 protect the rights of consumers of Internet services;

(b) Determine whether the ICT industry has built out the optimal number of towers and other infrastructure necessary to meet the objectives of this law; (c) Promulgate an efficient and expeditious administrative process for the registration of Internet service providers and shall, in coordination with the DICT, develop a set of criteria for qualifying service providers that will encourage the widest possible participation of as many industry players as possible who will build the necessary network infrastructure and offer Internet set-vices to end users in different parts of the country and will take

national security into consideration, particularly for facilities that interface directly with another country's domestic network;

(d) Publish a spectrum management policy framework that promotes a transparent, efficient, and equitable approach to distributing spectrum, including clear guidelines for: (i) recalling unutilized spectrum, (ii) reassigning spectrum for more efficient use, and (iii) implementing an open 1 frequency approach to expand Internet access in underserved and unserved 2 areas, to be developed together with the DICT and the Philippine

Competition Commission;

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

- (f) Provide policies and standards of network elements to ensure that PTEs and ISPs will maintain the Quality of Service (QOS) of the Internet connection they provide to their respective area of coverage;
- (g) Provide for an expeditious mechanism to address consumer complaints on slow Internet speed and false advertising of Internet speeds; and,
- (h) Establish an efficient monitoring system or framework for the PTEs and ISPs' management of consumer complaints and maintain records of subscribers' complaints.

SEC. 9. Reports to Congress. — The DICT and NTC shall submit a quarterly progress report to Congress of all acts performed under this Act during the first 18 weeks after the immediately preceding quarter for the next two (2) years from the effectivity of this Act.

SEC. 10. Streamlining Permitting Requirement. — The DICT and other relevant agencies including, but are not limited to, the Department of Interior and Local Government (DILG), Department of Public Works and Highways (DPWH), Department of Human Settlements and Urban Development (DHSUD), Anti-Red tape Authority (ARTA), Civil Aviation Authority of the Philippines (CAAP), Department of Health (DOH), and the Food and Drug Administration (FDA) shall ensure the streamlining of the permitting process for the construction, installation, and operation of telecommunications tower and other infrastructure such as, but not limited to, permits for base stations, cables, poles, and other work elements necessary' to offer Internet service.

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

To facilitate the expeditious planning of the country's ICT infrastructure, all PTEs and ISPs are required to submit, within fifteen (15) working days upon the request of the DICT or the NTC, a copy of their most updated and complete broadband network map, enabling the government to draw up incentive plans and opportunities to boost internet service and compel the creation of the infrastructure essential for overall economic growth.

SEC. 11. Rights of End-Users. — The user of internet services shall have the following basic rights, in addition to other rights under existing laws:

- a) To be entitled to internet services that are not discriminatory, reliable, and conforming with minimum standards set by the NTC;

- b) To be rendered internet services within two (2) months from application for service, in areas where the service is advertised to be available;
- c) Timely correction of errors in billing or prepaid load and the immediate provision of rebates or refunds by the service provider without the need for demand by the user; and
- d) Subject to the filing of a formal request to the service provider, a user may request the immediate termination of service without the imposition of fees or penalties, and with the refund of any fee or charge already paid by the user, should a service provider not consistently comply with the preceding paragraphs (a), (c), (d), or any minimum performance standards set by the NTC.

SEC. 12. Local Government Units (LGUs) as Partners in Broadband

Infrastructure Development. — The LGU shall serve as a strategic partner who shall ensure that all LGU-related permits and requirements necessary' to expand Internet coverage and improve the quality of Internet service shall be acted upon immediately. To ensure that all municipalities and barangays have access to Internet facilities, an LGU shall be allowed to build and operate its broadband network in partnership with PTEs and ISPs.

SEC. 13. Infrastructure Sharing and Co-location. —

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

mandatory for open access and made available for co-location and co-use by the owner of network facilities, equipment, and infrastructure on an open, fair, and non- discriminatory' basis to any access seeker's network facilities;

ii. as far as possible, deployed together with roadworks, pipe-laying, and other infrastructure development by both government and

private entities; and

propagated in the most cost-efficient and timely manner through various means, including encouraging the operation of independent entities that build and operate towers, dark fiber, and utility corridors, among other infrastructures that help facilitate broadband network deployment.

b) The DICT shall, in coordination with the Philippine Competition

Commission and other relevant government agencies promulgate policies, rules, and regulations to ensure that buildings, condominiums, villages, towns, and subdivisions are all built with facilities, such as cable entrances, ducts, and risers, that allow non-discriminatory and nonexclusive access to multiple service providers, for PTEs and ISPs to provide Internet service;

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

- i. Coordinate with the regulator of the infrastructure;
- ii. Mediate between a PTE or ISP and an infrastructure owner, which may include a PTE, an ISP, or a public service network provider;

and/or

iii. Serve as the primary enforcer of this provision.

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

e) The regulator of the shared infrastructure shall, in consultation with concerned stakeholders, determine and ensure reasonable rental rates for use of shared infrastructure such as, but not limited to, utility poles, utility corridors, and ducts; and f) For shared infrastructure arrangements, the DICT shall also look into the following considerations:

i. Technical feasibility of the request of access seeker to use infrastructure;

ii. Incentives to encourage investment in less commercially viable areas;

iii. Fair and reasonable rates for shared facilities, depending on the location and market size in a particular area.

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

SEC. 14. Penalties. — The NTC may, motu proprio or upon complaint of any interested party in the appropriate administrative and/or quasi-judicial process, and by due process, shall:

a) Require any PTE or ISP, who shall not meet the requirements set forth under, or shall not comply with the provisions of this Act, to comply with 6 service standards that have not been met or provisions of this Act that have been violated;

b) Impose upon entities who do not comply with Internet service standards as laid down by Sections 4 and 5 of this Act and as prescribed by the NTC:

i. The penalty of a fine of not less than two hundred thousand pesos (Php200,000.00) but not more than two million pesos

for each count of violation: Provided, That if a the service provider has a gross annual income not exceeding Ten Million Pesos the penalty shall be equivalent to one percent (1%) to two percent (2%) of its gross annual income; and

ii. For repeated violations, revoke the PTE's Provisional Authority or Certificate of Public Convenience and Necessity, or cancel the registration of an ISP, whichever applies, including waiving any pre-termination fees of affected subscribers and timely disbursement of any remaining from excessive downtime. The foregoing is without prejudice to any other remedies available to the NTC under existing laws.

SEC. 15. Implementing Rules and Regulations. — Within sixty (60) days after the effectivity of this Act, the DICE and the NTC shall issue a Joint Memorandum Circular setting forth the rules and regulations to effectively implement the provisions of this Act.

SEC. 16. Separability Clause. —If any portion or provision of this Act is declared unconstitutional, the remainder of this Act or any provisions not affected thereby shall remain in force and effect.

SEC. 17. Repealing Clause. — Any law, presidential decree, or issuance, The executive order, letter of instruction, rule, or regulation inconsistent with the provisions of this Act is hereby repealed or modified accordingly.

SEC. 18. Effectivity. — This Act shall take effect fifteen (15) days following its complete publication in a newspaper of general circulation.

Approved,