

Republic of the Philippines
HOUSE OF REPRESENTATIVES
Constitution Hills, Quezon City

NINETEENTH CONGRESS
First Regular Session

House Bill No. 6915



Introduced by: **REPRESENTATIVE EDWIN L. OLIVAREZ**

EXPLANATORY NOTE

Given the need for the improvement of the telecommunication services in the country, this Bill is intended to expand and strengthen the powers of the National Telecommunication Commission.

The key provisions in this Act include defining significant market power as the ability of a public telecommunications entity to affect price, supply, or innovation in the telecommunications industry or any part thereof, as a result of either its control over essential facilities or the use of its position in any market in the telecommunications industry or any market related thereto; the mandate of the adoption of standardized definitions of the International Telecommunications Union, the Internet Engineering Task Force, the World Wide Web Consortium, and other international and transnational agencies governing the development, use, and standardization of the internet and information and communications technology.

As a measure for the continuous need for the development and improvement of our telecommunication services, this passage of this Bill is earnestly sought.


EDWIN L. OLIVAREZ

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AN ACT EXPANDING THE COVERAGE AND STRENGTHENING THE POWERS OF THE NATIONAL TELECOMMUNICATIONS COMMISSION (NTC) AMENDING FOR THE PURPOSE REPUBLIC ACT NO. 7925 OTHERWISE KNOWN AS THE PUBLIC TELECOMMUNICATIONS POLICY ACT OF THE PHILIPPINES

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

SECTION 1. Section 3 of Republic Act 7925, otherwise known as the ‘Public Communications Policy Act of the Philippines’. is hereby amended to read as follows:

“Sec. 3. *Definitions and Interpretations.* — For purposes of this Act, the following terms shall be used:

XXX

(L) SIGNIFICANT MARKET POWER – THE ABILITY OF A PUBLIC TELECOMMUNICATIONS ENTITY TO AFFECT PRICE, SUPPLY OR INNOVATION IN THE TELECOMMUNICATIONS INDUSTRY OR ANY PART THEREOF, AS A RESULT OF EITHER ITS CONTROL OVER ESSENTIAL FACILITIES OR THE USE OF ITS POSITION IN MARKET IN THE TELECOMMUNICATIONS INDUSTRY OR ANY MARKET RELATED THERETO.

FURTHER, THE COMMISSION IS MANDATED TO ADOPT STANDARDIZED DEFINITIONS OF THE INTERNATIONAL TELECOMMUNICATIONS UNION (ITU), THE INTERNET ENGINEERING TASK FORCE (IETF), THE WORLD WIDE WEB CONSORTIUM (WWW), AND THE INTERNET CORPORATION FOR ASSIGNED NUMBERS AND NAMES (ICANN), AND OTHER INTERNATIONAL AND TRANSNATIONAL AGENCIES GOVERNING THE DEVELOPMENT, USE, AND STANDARDIZATION OF THE INTERNET AND INFORMATION AND COMMUNICATIONS TECHNOLOGY, SUBJECT TO REFINEMENTS OF THESE INTERNATIONAL STANDARDS AS MAY BE PRESCRIBED BY REGIONAL TELECOMMUNICATION BODIES TAKING INTO CONSIDERATION THE SPECIAL CIRCUMSTANCES APPLICABLE ONLY TO THE REGION.”

SECTION 2. Section 5 of the same Act is hereby amended to read as follows:

“Sec.5. Responsibilities of the National Telecommunications Commission. — The National Telecommunications Commission (Commission) shall be the principal administrator of this Act and as such shall take the necessary measures to implement the policies and objectives set forth in this Act. Accordingly, in addition to its existing functions, the Commission shall be responsible for the following:

XXX

(c) Mandate a fair and reasonable interconnection of facilities of authorized public network operators and other providers of telecommunications services through appropriate modalities of interconnection and at a reasonable and fair level of charges, [which make provision for the cross subsidy to unprofitable local exchange service areas so as to promote telephone density and provide the most extensive access to basic telecommunications services available at affordable rates to the public];

XXX

(f) Protect consumers against misuse of a telecommunications entity's monopoly or quasi-monopolistic powers by, but not limited to, the investigation of complaints and exacting compliance with service standards from such entity; [and]

(g) In the exercise of its regulatory powers, continue to impose such fees and charges as may be necessary to cover reasonable costs and expenses for the regulation and supervision of the operations of telecommunications entities.;

AND

(H) IN THE EXERCISE OF ITS REGULATORY POWERS, IMPOSE FINES AGAINST PUBLIC TELECOMMUNICATION ENTITIES WITHIN THE SCOPE OF ITS REGULATION, WHICH ARE FOUND TO HAVE VIOLATED, VIOLATING OR THOSE WHICH HAVE FAILED OR ARE FAILING TO COMPLY WITH THE TERMS AND CONDITIONS OF THIS ACT, ANY CERTIFICATE, OR ANY ORDER, DECISION OR REGULATION OF THE COMMISSION.

THE ERRING PUBLIC TELECOMMUNICATION ENTITY SHALL BE SUBJECT TO A FINE AMOUNTING TO THE TOTAL ACTUAL LOSS OR OVERCHARGING AS DETERMINED BY THE COMMISSION FOR EVERY DAY DURING WHICH SUCH DEFAULT OR VIOLATION CONTINUES, OR IF IT IS NOT FEASIBLE TO QUANTIFY THE OFFENSE, TO A FINE AMOUNTING TO ONE MILLION PESOS (PHP 1,000,000.00) FOR EVERY DAY DURING WHICH SUCH DEFAULT OR VIOLATION CONTINUES UNTIL THE AMOUNT IS FULLY PAID: PROVIDED, THAT, IF THE TELECOMMUNICATION ENTITY HAS A GROSS ANNUAL INCOME NOT EXCEEDING TEN MILLION PESOS (PHP 10,000,00.00), THE PENALTY THAT MAY BE IMPOSED SHALL BE EQUIVALENT TO ONE PERCENT (1%) TO TWO PERCENT (2%) OF ITS GROSS ANNUAL INCOME. THE

COMMISSION IS HEREBY AUTHORIZED AND EMPOWERED TO IMPOSE SUCH FINE, AFTER DUE NOTICE AND HEARING. THE ERRING TELECOMMUNICATION ENTITY IS ALSO MANDATED TO REFUND TO CONSUMERS THE CHARGES IT ERRONEOUSLY IMPOSED TO ITS SUBSCRIBERS.

THE COMMISSION IS FURTHER AUTHORIZED TO IMPOSE A FINE OF ONE MILLION PESOS (PHP 1,000,000.00) FOR EVERY DAY THAT VIOLATION OF SECTIONS 18 AND 19 HEREOF IS COMMITTED, AND UNTIL SUCH TIME THAT THE ERRING TELECOMMUNICATION ENTITY FULLY COMPLIES WITH THE TERMS AND CONDITIONS OF THE ACT, ANY CERTIFICATE, OR ANY ORDER, DECISION, OR REGULATION OF THE COMMISSION: PROVIDED, THAT IF THE TELECOMMUNICATION ENTITY HAS A GROSS ANNUAL INCOME NOT EXCEEDING TEN MILLION PESOS (PHP 10,000,000.00), THE PENALTY THAT MAY BE IMPOSED SHALL BE EQUIVALENT TO ONE PERCENT (1%) TO TWO PERCENT (2%) OF ITS GROSS ANNUAL INCOME.

(F) THE COMMISSION SHALL REQUIRE PUBLIC TELECOMMUNICATION ENTITIES WITH SIGNIFICANT MARKET POWER AS DETERMINED BY THE PHILIPPINE COMPETITION COMMISSION (PCC) TO PROVIDE TIMELY ACCESS TO ITS NETWORK, FACILITIES OR EQUIPMENT TO ACCESS SEEKERS ON A FAIR, REASONABLE AND NON-DISCRIMINATORY TERMS AND CONDITIONS.”

SECTION 3. Section 10 of the same Act is hereby amended to read as follows:

“Sec. 10. International Carrier. — Only entities which [will provide local exchange services and] can demonstrably show technical and financial capability to install and operate an international gateway facility shall be allowed to operate as an international carrier.

[The entity so allowed shall XXX grant of authority.]

[The international carrier shall XXX complies therewith.]

[Failure to comply with XXX international carrier.]”

SECTION 4. Section 12 of the same Act is hereby amended to read as follows:

“Sec. 12. Mobile Radio Services. - [in a local telephone exchange area,] More than one duly enfranchised provider of mobile radio services, distinct and separate from the local exchange carrier, may be allowed to operate. However, such entities shall secure prior authority from the Commission and, in addition, comply with the [conditions imposed on VAS and with the] norms on radio frequency spectrum utilization.

[The operator of XXX a mobile radio telephone system.]”

SECTION 5. Section 15 of Republic Act 7925 is hereby amended to read as follows:

“Sec. 14. [Radio frequency Spectrum.] **USE OF AVAILABLE OR UNASSIGNED SPECTRUM.** - The radio frequency spectrum allocation and assignment shall be subject **to AN ANNUAL REVIEW, THE USE THEREOF**

SHALL BE SUBJECT TO reasonable spectrum user fees. Where demand for specific frequencies exceed availability, the Commission shall hold open tenders for the same and ensure wider access to this limited resource.

WITHIN ONE (1) YEAR FROM THE EFFECTIVITY OF THIS ACT, THE DEPARTMENT OF INFORMATION AND COMMUNICATIONS TECHNOLOGY (DICT), IN CONSULTATION WITH THE COMMISSION AND THE PCC SHALL ISSUE THE GUIDING PRINCIPLES AND POLICY DIRECTION FOR THE USE OF SPECTRUM.”

SECTION 6. Section 18 of the same Act is hereby amended to read as follows:

“Sec. 18. Access Charge/Revenue Sharing. — The access charge/revenue sharing arrangements between all interconnecting carriers shall be negotiated between the parties and the agreement between the parties shall be submitted to the Commission **FOR REVIEW OR APPROVAL**. In the event the parties fail to agree thereon within a reasonable period of time, the dispute shall be submitted to the Commission for resolution.

In adopting or approving an access charge formula or revenue sharing agreement between two or more carriers, particularly, but not limited to a local exchange, interconnecting with a mobile radio, interexchange long distance carrier, or international carrier, the commission shall ensure equity, reciprocity and fairness among the parties concerned. [In so approving the rate XXX interconnecting with them.]”

SECTION 7. A new Section shall be inserted after Section 18 of the same Act to read as follows:

“SEC. 18-A TRANSPARENCY. – ALL INTERCONNECTING CARRIES SHALL PROVIDE TO THE COMMISSION ALL TERMS AND CONDITIONS, INCLUDING RATES, OF ACCESS CHARGE/REVENUE SHARING ARRANGEMENTS SUCH CARRIERS HAVE ENTERED INTO.

ALL TELECOMMUNICATIONS SERVICE PROVIDERS SHALL OPEN THEIR BOOKS OF ACCOUNT TO THE COMMISSION, WHO IS EMPOWERED TO DEMAND COPIES THEREOF.”

SECTION 8. *Separability Clause.* - Should any provision herein be declared unconstitutional, the other provisions not affected shall remain in full force and effect.

SECTION 9. *Repealing Clause.* - Section 23 of Republic Act 7925 Equality of treatment in the Telecommunications Industry is hereby repealed. All laws, orders, issuances, rules and regulations or part thereof inconsistent with the provisions of this Act are hereby repealed, amended or modified accordingly.

SECTION 10. *Effectivity.* - This Act shall take effect fifteen (15) days after its publication in at least two (2) national newspapers of general circulation.

Approved,