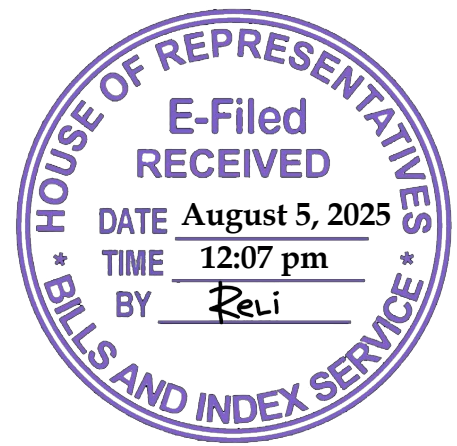


Republic of the Philippines
HOUSE OF REPRESENTATIVES
Quezon City

TWENTIETH CONGRESS
First Regular Session
House Bill No. 3052



Introduced by: Congressman **BIENVENIDO M. ABANTE, JR.**

AN ACT
REGULATING FOREIGN ADVERSARY CONTROLLED APPLICATIONS

EXPLANATORY NOTE

On May 7, 2024, a certain mayor, Alice Guo of Bamban, Tarlac, was linked to Philippine Offshore Gaming Operator (Pogo) operations in her town – Hongsheng Gaming Technology Incorporated and Zun Yuan Technology Incorporated. Hongsheng was raided by the police in February 2023 and was replaced by Zun Yuan in the same location. It was then again raided in March 2024 for charges of alleged human trafficking and serious illegal detention.

The mayor's case escalated further amid even more damning accusations involving her supposed Chinese nationality. If proven true, this is very alarming – a Chinese national was able to win an elective post in our country.

The Chinese have been deepening their ties in the Philippines' critical infrastructure. Beyond the construction projects of transportation infrastructure, such as bridges, roads, and rail lines, Chinese companies have found a way to gain large shares in Filipino utility companies. Most notably, Chinese companies own a 40 percent stake in both the National Grid Corporation of the Philippines (NGCP) and Dito Telecommunity. Both of these arrangements should cause concern as the Chinese companies are owned by the PRC and, by extension, the Chinese Communist Party (CCP).

The NGCP is a consortium of three companies in charge of "operating, maintaining, and developing the country's state-owned power grid." While two Filipino companies, Monte Oro Grid Resources Corporation and Calaca High Power Corporation, each own 30% of the NGCP, the remaining 40% is owned by the State Grid Corporation of China (SGCC).

In 2008, NGCP secured a 50-year franchise from the Congress of the Philippines to manage the state power grid, focused on operating, maintaining, and developing transmission capabilities. NGCP maintains that SGCC's role remains one of "technical

partner," a caveat peculiarly placed throughout the company's website adjacent to any mention of SGCC.

Despite this caveat, a leaked report in 2019 highlighted that through the SGCC, the Chinese government could theoretically shut down power throughout the Philippines' power grid "with a single switch," requiring 24 to 48 hours to revert the grid to manual operations. Whether this is factual or just speculative paranoia remains unverified, but it is not a position where any country would desire to be.

Equally troubling is the large Chinese interest in Dito Telecommunity, which is one of three companies providing broadband internet and cell service in the Philippines. Dito Telecommunity is another consortium comprised of the Udenna Corporation and its subsidiary, Chelsea Logistic Corporation (60 percent share, Philippines) and China Telecommunications Corporation (China Telecom, 40 percent share, China).

In 2018, Dito Telecommunity won a bid to provide Filipinos with a third 5G broadband and cell network option to provide additional competition to a market dominated by PLDT-Smart and Globe. This is troubling as China Telecom reports directly to China's Ministry of Industry and Information Technology, making it an extension of the Chinese government.

An investigative report produced by Creator Tech, an Asia Pacific consulting firm, found that China Telecom reports intelligence directly to the PRC and describes itself as "a main force for building cyber power." To top it all off, this transaction with a Chinese government-owned company holding a 40 percent share, signed a deal with the Armed Forces of the Philippines to provide internet connectivity at military installations. If control of the power grid is insufficient, China's telecommunications ventures on the islands generate an enormous espionage vulnerability.

Another area of concern is the online application - TIKTOK - which has millions of subscribers in the country. Lawmakers and regulators in the West have increasingly expressed concern that TikTok and its parent company, ByteDance, may put sensitive user data, like location information, into the hands of the Chinese government. They have pointed to laws that allow the Chinese government to secretly demand data from Chinese companies and citizens for intelligence-gathering operations.

China could therefore use TikTok's content recommendations to fuel misinformation, a concern that has escalated in the United States and led to the passage of a law last year banning TikTok in the US.

India did the same in 2020, costing ByteDance one of its biggest markets. The government there cracked down on hundreds of Chinese-owned apps, claiming in part that they were secretly transmitting users' data to foreign servers.

Other countries and government bodies — including Britain and its Parliament, Australia, Canada, the executive arm of the European Union, France, and New Zealand’s Parliament — have banned TIKTOK from official devices. Taiwan’s minister of digital affairs recently declared TikTok a dangerous product representing a national security threat.

This proposed legislation will authorize the President to determine any foreign country to be adversarial or a threat to our national security and thereafter prohibit any foreign adversary-controlled applications from operating in the country.

This bill would prohibit foreign adversary-controlled applications from app stores operating in the Philippines and from “internet hosting services” in the country that support them.

That would effectively restrict new downloads of these foreign adversary-controlled applications and interaction with their content. The goal is to enable the Philippine government to prevent the use of these applications or any other modern technology or public utility from being used by foreign adversarial countries to threaten our national security and territorial integrity.

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



HON. BIENVENIDO M. ABANTE

Republic of the Philippines
HOUSE OF REPRESENTATIVES
Quezon City

TWENTIETH CONGRESS
First Regular Session
House Bill No. **3052**

Introduced by: Congressman **BIENVENIDO M. ABANTE, JR.**

AN ACT
REGULATING FOREIGN ADVERSARY CONTROLLED APPLICATIONS

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

SECTION 1. Short Title. - This Act may be cited as the “*Foreign Adversary Controlled Applications Regulation Act*”.

SEC. 2. Definitions:

(1) **CONTROLLED BY A FOREIGN ADVERSARY.** – The term “controlled by a foreign adversary” means, with respect to a covered company or other entity, that such company or other entity is –

(A) a foreign person that is domiciled in, is headquartered in, has its principal place of business in, or is organized under the laws of a foreign adversary country;

(B) an entity with respect to which a foreign person or combination of foreign persons described in subparagraph (A) directly or indirectly owns at least a 20 percent stake; or

(C) a person subject to the direction or control of a foreign person or entity described in subparagraph (A) or (B).

(2) **COVERED COMPANY.** –

(A) The term “covered company” means an entity that operates, directly or indirectly (including through a parent company, subsidiary, or affiliate), a website, desktop application, mobile application, or augmented or immersive technology application that –

(i) permits a user to create an account or profile to generate, share, and view text, images, videos, real-time communications, or similar content;

(ii) has more than 1,000,000 monthly active users with respect to at least 2 of the 3 months preceding the date on which a relevant determination of the President is made;

(iii) enables 1 or more users to generate or distribute content that can be viewed by other users of the website, desktop application, mobile application, or augmented or immersive technology application; and

(iv) enables 1 or more users to view content generated by other users of the website, desktop application, mobile application, or augmented or immersive technology application.

(B) EXCLUSION.— The term “covered company” does not include an entity that operates a website, desktop application, mobile application, or augmented or immersive technology application whose primary purpose is to allow users to post product reviews, business reviews, or travel information and reviews.

(3) FOREIGN ADVERSARY CONTROLLED APPLICATION.— The term “foreign adversary controlled application” means a website, desktop application, mobile application, or augmented or immersive technology application that is operated, directly or indirectly (including through a parent company, subsidiary, or affiliate), by a covered company that —

(i) is controlled by a foreign adversary; and

(ii) that is determined by the President to present a significant threat to the national security of the Philippines following the issuance of a —

(I) a public notice proposing such determination; and

(II) a public report to Congress, submitted not less than 30 days before such determination, describing the specific national security concern involved and containing a classified annex and a description of what assets would need to be divested to execute a qualified divestiture.

(4) FOREIGN ADVERSARY COUNTRY.— The term “foreign adversary country” means any country identified by the President as having interests adversarial to that of the Philippines, in terms of threats to national security and our territorial integrity.

(5) INTERNET HOSTING SERVICE.— The term “internet hosting service” means a service through which storage and computing resources are provided to an individual or organization for the accommodation and maintenance of 1 or more websites or online services, and which may include file hosting, domain name server hosting, cloud hosting, and virtual private server hosting.

(6) QUALIFIED DIVESTMENT.—The term “qualified divestment” means a transfer of title or disposal of interest in property (or shares of stocks) by voluntarily, completely, and actually depriving or dispossessing oneself of his right or title to it in favor of a person or persons other than his spouse and relatives as defined in this Act.

It shall also mean divestiture or similar transaction that the President determines, through an interagency process, would result in the relevant foreign adversary-controlled application no longer being controlled by a foreign adversary;

(7) SOURCE CODE.—The term “source code” means the combination of text and other characters comprising the content, both viewable and nonviewable, of a software application, including any publishing language, programming language, protocol, or functional content, as well as any successor languages or protocols.

SEC. 3. *Prohibition Of Foreign Adversary Controlled Applications.* --It shall be unlawful for an entity to distribute, maintain, or update (or enable the distribution, maintenance, or updating of) a foreign adversary-controlled application by carrying out, within the territory of the Philippines, any of the following:

(A) Providing services to distribute, maintain, or update such foreign adversary-controlled application (including any source code of such application) by means of a marketplace (including an online mobile application store) through which users within the territory of the Philippines may access, maintain, or update such application.

(B) Providing internet hosting services to enable the distribution, maintenance, or updating of such foreign adversary-controlled application for users within the territory of the Philippines.

SEC. 4. *Penalties*

(A) The act of providing services to distribute, maintain, or update such foreign adversary-controlled application (including any source code of such application) by means of a marketplace (including an online mobile application store) shall be penalized by imprisonment ranging from six (6) years to twelve (12) years and a fine of not less than Five Million pesos (Php5,000,000.00) but not more than Ten Million pesos (Php10,000,000.00).

(B) The act of providing internet hosting services to enable the distribution, maintenance, or updating of such foreign adversary-controlled application for users within the territory of the Philippines shall be penalized by imprisonment

ranging from three (3) years to six (6) years and a fine of not less than Five hundred thousand pesos (Php500,000.00) but not more than Four million pesos (Php4,000,000.00).

SEC. 5. *Combination or Series of Acts.* – Any combination or series of acts as defined in Sections 3 hereof shall make the person subject to imprisonment ranging from six (6) years to twelve (12) years and a fine of not less than Ten Million pesos (Php10,000,000.00) but not more than Twenty Million pesos (Php5,000,000.00).

SEC. 6. *Extent of Liability.* – If the offender is a corporation, partnership, or any juridical person, the penalty shall be imposed upon the responsible officers, as the case may be, who participated in, or by their gross negligence, allowed the commission of the crime. If the offender is a juridical person, the court may suspend or revoke its permit or license to operate and any of its rights under Philippine laws. If the offender is an alien, he or she shall, in addition to the penalties herein prescribed, be deported without further proceedings after serving the penalties prescribed. If the offender is a public official or employee and he or she is found guilty of acts penalized under Sections 3, 4, and 5 of this Act, he or she shall, in addition to the penalties prescribed herein, suffer perpetual or temporary absolute disqualification from office, as the case may be.

SEC. 7. *Maximum Penalty.* – The maximum penalty in the scale of penalties respectively provided for the preceding sections shall be imposed when the offender also commits acts of Treason or Espionage or any other offense against the State, as defined under our Penal laws.

SEC. 8. *Separability Clause.* -- In case any provision of this Act is declared unconstitutional or invalid, the other provisions hereof which are not affected thereby shall continue in full force and effect.

SEC 9. *Effectivity.* – This Act shall take effect fifteen (15) *days* after its publication in two (2) national newspapers of general circulation.

Approved,