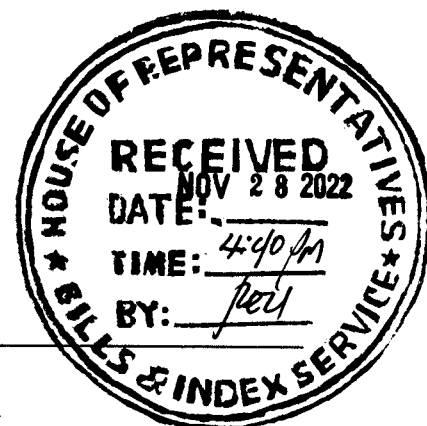


Republic of the Philippines
HOUSE OF REPRESENTATIVES
Quezon City

NINETEENTH CONGRESS
First Regular Session



COMMITTEE REPORT NO. **185**

Submitted by the Committee on Information and Communications Technology on
NOV 28 2022

Re : House Bill No. **6**

Recommending its approval without amendments in consolidation with House Bills Numbered 261, 2382, 2566, 3591, 4164, 5085, 5464, and 5854.

Sponsors : Representatives Tobias "Toby" M. Tiangco and Rep., Jose Francisco "Kiko" B. Benitez, Ph.D.

Mr. Speaker:

The Committee on Information and Communications Technology to which were referred House Bill No. 6 introduced by Reps. Ferdinand Martin G. Romualdez, Yedda Marie K. Romualdez, and Jude A. Acidre, entitled:

**"AN ACT
PROMOTING OPEN ACCESS IN DATA TRANSMISSION AND PROVIDING ADDITIONAL
POWERS TO THE NATIONAL TELECOMMUNICATIONS COMMISSION"**

House Bill No. 261 introduced by Rep. Christian Tell A. Yap entitled:

**"AN ACT
PROMOTING OPEN ACCESS IN DATA TRANSMISSION AND PROVIDING ADDITIONAL
POWERS TO THE NATIONAL TELECOMMUNICATIONS COMMISSION"**

House Bill No. 2382 introduced by Rep. Jurdin Jesus M. Romualdo, entitled:

**"AN ACT
PROMOTING OPEN ACCESS IN DATA TRANSMISSION AND PROVIDING ADDITIONAL
POWERS TO THE NATIONAL TELECOMMUNICATIONS COMMISSION"**

House Bill No. 2566 introduced by Rep. Ralph G. Recto, entitled:

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

House Bill No. 3591 introduced by Rep. Michael L. Romero Ph.D., entitled:

**“AN ACT
AN ACT PROMOTING OPEN ACCESS IN DATA TRANSMISSION, PROVIDING
ADDITIONAL POWERS AND FUNCTIONS TO THE NATIONAL
TELECOMMUNICATIONS COMMISSION AND FOR OTHER PURPOSES”**

House Bill No. 4164 introduced by Rep. Harris Christopher M. Ongchuan, entitled:

**“AN ACT”
PROMOTING OPEN ACCESS IN DATA TRANSMISSION AND PROVIDING ADDITIONAL
POWERS TO THE NATIONAL TELECOMMUNICATIONS COMMUNICATION”**

House Bill No. 5085 introduced by Rep., Jose Francisco "Kiko" B. Benitez, Ph.D., entitled:

**“AN ACT
PROMOTING OPEN ACCESS IN DATA TRANSMISSION AND PROVIDING ADDITIONAL
POWERS TO THE NATIONAL TELECOMMUNICATIONS COMMISSION”**

House Bill No. 5464 introduced by Rep. Ernesto M. Dionisio Jr., entitled:

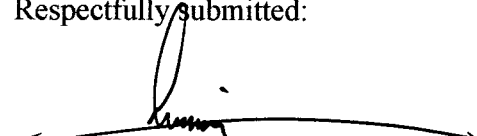
**“AN ACT
PROMOTING OPEN ACCESS IN INTERNET SERVICES AND FOR OTHER PURPOSES”**

House Bill No. 5854 introduced by Rep. Gerville R. Luistro, entitled:

**“AN ACT
PROMOTING OPEN ACCESS IN DATA TRANSMISSION AND PROVIDING ADDITIONAL
POWERS TO THE NATIONAL TELECOMMUNICATIONS COMMISSION”**

has considered the same and recommends that House Bill No. 6 be approved without amendments in consolidation with House Bills Numbered 261, 2382, 2566, 3591, 4164, 5085, 5464 and 5854 with Representatives Ferdinand Martin G. Romualdez, Yedda Marie K. Romualdez, Jude A. Acidre, Christian Tell A. Yap, Jurdin Jesus M. Romualdo, Ralph G. Recto, Michael L. Romero Ph.D., Harris Christopher M. Ongchuan, Jose Francisco "Kiko" B. Benitez Ph.D., Ernesto M. Dionisio Jr., Gerville R. Luistro, Tobias "Toby" M. Tiangco, Wilter Y. Palma, Christopherson "Coco" M. Yap, Keith Micah "Atty. Mike" D.L. Tan, Shernee A. Tan-Tambut, Noel "Bong" N. Rivera, Carl Nicolas C. Cari, Robert Ace S. Barbers, Ramon Jolo B. Revilla III, Linabelle Ruth R. Villarica, Antonio "Tonypet" T. Albano, John Tracy F. Cagas, Edwin L. Olivarez, Jaime D. Cojuangco, Gerardo P. Valmayor, Loreto B. Acharon, Lorenz R. Defensor, Sonny "SL" L. Lagon, Daphne A. Lagon, Gus S. Tambunting, Aman C. Panaligan, Roman T. Romulo, Eduardo R. Rama Jr., Dean Asistio, Richelle Singson, Bryan B. Revilla, Jose Gay G. Padiernos, Carlito S. Marquez, Luis Raymund "Lray" R. Villafuerte Jr., Fernando T. Cabredo, Jaime D. Cojuangco, Antonio "Aa" B. Legarda Jr., Jernie Jett V. Nisay, Bambi B. Emano, Alan "Aldu" R. Dujali, Edgar M. Chatto, and Irwin C. Tieng as authors thereof.

Respectfully submitted:


TOBIAS "TOBY" M. TIANGCO
Chairperson
Committee on Information and
Communications Technology

**THE HONORABLE SPEAKER
HOUSE OF REPRESENTATIVES
Quezon City**

Republic of the Philippines
HOUSE OF REPRESENTATIVES
Quezon City, Metro Manila

NINETEENTH CONGRESS
First Regular Session

House Bill No. 6

(In Consolidation with House Bills Numbered 261, 2382, 2566, 3591, 4164, 5085, 5464, and 5854)

Introduced by Representatives Ferdinand Martin G. Romualdez, Yedda Marie K. Romualdez, Jude A. Acidre, Christian Tell A. Yap, Jurdin Jesus M. Romualdo, Ralph G. Recto, Michael L. Romero Ph.D., Harris Christopher M. Ongchuan, Jose Francisco "Kiko" B. Benitez Ph.D., Ernesto M. Dionisio Jr., Gerville R. Luistro, Tobias "Toby" M. Tiangco, Wilter Y. Palma, Christopherson "Coco" M. Yap, Keith Micah "Atty. Mike" D.L. Tan, Shernee A. Tan-Tambut, Noel "Bong" N. Rivera, Carl Nicolas C. Cari, Robert Ace S. Barbers, Ramon Jolo B. Revilla III, Linabelle Ruth R. Villarica, Antonio "Tonypet" T. Albano, John Tracy F. Cagas, Edwin L. Olivarez, Jaime D. Cojuangco, Gerardo P. Valmayor, Loreto B. Acharon, Lorenz R. Defensor, Sonny "SL" L. Lagon, Daphne A. Lagon, Gus S. Tambunting, Arnan C. Panaligan, Roman T. Romulo, Eduardo R. Rama Jr., Dean Asistio, Richelle Singson, Bryan B. Revilla, Jose Gay G. Padiernos, Carlito S. Marquez, Luis Raymund "Lray" R. Villafuerte Jr., Fernando T. Cabredo, Jaime D. Cojuangco, Antonio "Aa" B. Legarda Jr., Jernie Jett V. Nisay, Bambi B. Emano, Alan "Aldu" R. Dujali, Edgar M. Chatto, and Irwin C. Tieng

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 I

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

1 permission-less innovation;

2 (c) Encourage investments in the digital infrastructure development in the country;

3 (d) Adopt and ensure open access in the regulation of the data transmission industry;

4 (e) Protect the public interest as it is affected by its ability to access data networks;

5 (f) Establish a strong and independent regulatory body and system to ensure and
6 enhance fair competition in the data transmission industry;

7 (g) Protect and promote the internet as an open platform enabling consumer choice,
8 freedom of expression, end user control, competition and the freedom to innovate without
9 permission, and thereby encouraging the development of advanced telecommunications
10 capabilities and the removal of barriers to infrastructure investment;

11 (h) Encourage infrastructure sharing and co-location in order to promote network
12 investment, eliminate the uneconomic duplication of infrastructure facilities, and strengthen
13 competition; and

14 (i) Ensure efficient and transparent management of the radio frequency spectrum,
15 especially those utilized in the delivery of data transmission services.

16 **SEC. 3. Definition of Terms.** - As used in this Act:

17 (a) *Basic telephone service* refers to the local exchange telephone service for residence and
18 business establishments provided via the circuit switched telephone network;

19 (b) *Cellular Mobile Telephone Service (CMTS)* refers to the wide area mobile radio
20 telephone system with its own switch, base stations and transmission facilities capable of
21 providing high capacity mobile telecommunications by utilizing radio frequencies;

22 (c) *Content* refers to, among others, texts, images, audios, videos, and animations that are
23 carried over the broadband/internet network;

24 (d) *Core or Backbone Network* refers to the main line, including international connection,
25 that ties networks, delivers routes to exchange information among various subnetworks,
26 connects regional distribution networks and, in some instances, provides connectivity to other
27 peer networks;

28 (e) *Data transmission* refers to the process of sending digital or digitized analog signal over
29 a communication medium to one or more computing networks, communication or electronic
30 devices. It enables the transfer and communication of devices in a point-to-point, point-to-
31 multipoint and multipoint-to-multipoint environments. The term data transmission includes
32 the provision of Voice over Internet Protocol (VoIP) services but does not include the provision
33 of basic telephone services;

34 (f) *Data transmission industry participant* refers to any person, firm, partnership or
35 corporation, government or private, engaged in the provision of data transmission services to
36 the public. This includes public telecommunications entities (PTEs) that offer data transmission
37 services as defined under Republic Act (RA) No.7925, otherwise known as the "Public

Telecommunications Policy Act of the Philippines”;

(g) *International gateway or landing* refers to a segment of data transmission that consists of any facility that provides an interface to send and receive data traffic between one country’s domestic network facilities and those in another country;

(h) *Last mile* refers to the segment of data transmission network that connects end users;

(i) *Middle mile* refers to the segment of data transmission network that links the last mile network to the core or backbone network;

(j) *Open access* refers to the system of allowing the use of data transmission or distribution systems and associated facilities subject to fair, reasonable, and non-discriminatory terms in a transparent market;

(k) *Paid prioritization* refers to the management of a data transmission network to directly or indirectly favor some traffic over other traffic, through the use of techniques such as traffic shaping, prioritization, resource reservation, zero-rating, or other forms of preferential traffic management, either in exchange for consideration (monetary or otherwise) from a third party, or to benefit an affiliated entity;

(l) *Voice over Internet Protocol (VoIP) service* refers to the provision of voice communication using Internet Protocol (IP) technology; and

(m) *Passive infrastructure* collectively refer to telecommunication towers, poles, cable entrances, ducts, utility corridors, and any other non-electronic infrastructure and facilities, either existing or to be deployed in the future, that may be used to support data transmission.

CHAPTER II

ORGANIZATION AND OPERATION OF THE DATA TRANSMISSION INDUSTRY

SEC. 4. Scope. - This Act applies to all persons who participate in the data transmission industry. 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 that are principally engaged in the provision of basic telephone services, such as an international carrier, interexchange carrier, local exchange operator, and mobile radio services provider, as defined in Republic Act No. 7925, and 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 Telecommunications Commission (NTC). The NTC shall promulgate a speedy and expeditious administrative process for registration and shall, in coordination with the

1 Department of Information and Communications Technology (DICT), for policy and standard-
2 setting in the Information and Communications Technology (ICT) sector, and Philippine
3 Competition Commission (PCC) for the promotion of market competition, develop a set of
4 criteria for qualifying data transmission industry participants that will encourage the widest
5 possible participation of as many industry players as possible who will offer data transmission
6 services in all segments of the network and to end users in different parts of the country. The
7 qualification requirements for data transmission industry participants shall also take national
8 security concerns into consideration, particularly for facilities that interface directly with
9 another country's domestic network;

10 b) Those who will operate an international cable landing station shall secure a
11 legislative franchise. Those who will operate a nationwide backbone network shall secure a
12 permit from the NTC and submit its proposed route or rollout plan, as well as the manner of
13 construction of the backbone network, subject to the approval of the NTC.

14 All other industry participants shall not be required to secure a legislative franchise or a
15 certificate of public convenience and necessity (CPCN) but must meet the criteria set by the
16 NTC and the DICT in registering as industry participants in order to construct, operate, lease
17 or own networks or facilities except if it owns and operates an international cable landing
18 station: *Provided*, That an owner or operator of a cable landing station, not considered a public
19 utility, shall no longer be required to secure a CPCN. All industry participants intending to be
20 spectrum holders shall need to secure a permit from the NTC and shall be allocated such
21 spectrum in accordance with the provisions under Section 7 of this Act.

22 c) Data transmission industry participants shall likewise be required to comply with
23 national and global best practices and standards on cybersecurity and shall be subject to a
24 network audit by the Cybersecurity Bureau of the DICT. Data transmission industry
25 participants shall, after three (3) years of operation, be required to secure a cybersecurity
26 certification from a third-party organization based on the prevailing International Organization
27 for Standardization (ISO) standards on information security management.

28 CHAPTER III

29 REGULATION OF THE DATA TRANSMISSION INDUSTRY

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

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

33 (a) Implement an efficient and speedy administrative process in the authorization and
34 registration of data transmission sector participants;

35 (b) Adopt a technology-neutral framework that allows data transmission industry
36 participants to use any available technology to provide service;

37 (c) Promote fair and open competition in accordance with the principles and policies under

1 the Philippine Competition Act and its implementing rules in all segments of the data
2 transmission network, allowing a wide variety of physical networks and applications to interact
3 in an open architecture;

4 (d) Mandate transparency in pricing and the publication of pricing information to ensure
5 fair trading within and between each data transmission segment so as to allow clear,
6 comparative information on market prices and services;

7 (e) Mandate interconnection so that data transmission industry participants can connect
8 to each other at the various segments and interfaces, such that entities of any size may freely
9 enter and exit the market, and dominance by any single player or group of players is avoided;

10 (f) Promulgate policies that will encourage distributed local solutions rather than
11 centralized ones, encouraging services that are closer to the user;

12 (g) Publish the list of registered data transmission industry participants at least once a
13 year;

14 (h) Promulgate, together with the PCC, rules defining and regulating entities with
15 substantial market power;

16 (i) Publish a Spectrum Management Framework to be developed together with DICT and
17 PCC; and

18 (j) Collect the necessary Supervision and Regulation Fee (SRF) and Spectrum User Fee
19 (SUF), and other relevant fees as provided by law.

20 **SEC. 7. *Spectrum Allocation, Recall, and Reallocation.*** — The NTC shall maximize
21 the allocation and assignment of finite radio spectrum resources used in the transmission of
22 data by ensuring that the spectrum is made available for the use of all registered data
23 transmission industry participants. To this end:

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

35 (b) All radio spectrums, radio frequency assignments, recalls, and joint use decisions of
36 the NTC shall be published in the NTC website and in a conspicuous place in the offices of the
37 NTC for at least three (3) consecutive months. The recall of frequency for purposes of free public

1 use shall be given priority.

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

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

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

15 (e) If the NTC finds, on its own initiative or upon complaint, that any right, license or radio
16 spectrum assignment to any data transmission industry participant or PTE is not being used,
17 or is not being maximized by the user thereof, or that the grantee has violated the provisions of
18 this Act, it may, *motu proprio* or upon petition by any, subject to due process, recall the radio
19 spectrum assignment of the data transmission industry participant or PTE. The NTC shall,
20 where required and appropriate, work with the data transmission industry participant or PTE
21 concerned to take appropriate measures to minimize the impact of such recall on active users of
22 services utilizing the recalled spectrum. The foregoing notwithstanding, no frequency shall be
23 recalled within eighteen (18) months of the awarding of a provisional authority, license or
24 registration; and

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

spectrum allocation, reallocation, assignment, reassignment, reclassification, joint use or co-use, and recall.

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 two (2) megabits per second or as mandated by the National Broadband, whichever is higher, for mobile broadband and for fixed wireless/broadband access;

(b) Prescribe performance standards after public consultation and hearings within six (6) months from the effectivity of this Act;

(c) Regularly upgrade performance standards imposed on the data transmission 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 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 and made 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 according to the NTC's published performance standard and to require rectification of such noncompliance; and

(f) Measure the performance of the data industry participants quarterly and publish the results of its assessment in its website.

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

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

(b) Promulgate rules requiring all data transmission industry participants to file an annual report and include therein a fair and accurate statement regarding their market prices and their services. The annual report shall include all costs and charges relevant to the data transmission network segment where the participants operate. The rates shall be made available online, in print, and in any other viable venue to the public. Any person can file a complaint pertaining to these rates within thirty (30) days of posting. Each player at each segment shall submit a copy of their rates to the NTC and the PCC. The rates shall be published, including a historical record, in a consolidated manner. The data transmission industry

1 participants shall keep a publicly accessible archive of their rates.

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

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

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

17 (a) made mandatory for open access and made available for co-location and co-use by the
18 owner of network facilities, equipment, and infrastructure on an open, fair, and
19 nondiscriminatory basis to any access seeker's network facilities, in any segment, subject to the
20 technical feasibility of the access seeker's request and the network facility and infrastructure
21 owner's standard published offer terms, conditions, and rates: *Provided*, That the provision of
22 access to government-owned and -operated facilities and support infrastructure to access
23 seekers for the purpose of offering data transmission services shall be mandatory, unless special
24 circumstances, such as but not limited to national security concerns, exist;

25 (b) built not only in the city centers, but most especially in the remote, unserved, and
26 underserved areas in order to extend data transmission services by both the existing and new
27 players throughout the country;

28 (c) as far as possible, deployed together with roadworks, pipe-laying, and other
29 infrastructure development by both government and private entities; and

30 (d) proliferated in the most cost-efficient and timely manner through various means,
31 including, encouraging the operation of independent entities that build and operate towers, dark
32 fiber, and utility corridors, among other passive infrastructure that help facilitate data
33 transmission network deployment.

34 The DICT shall coordinate and issue a policy with other relevant government agencies
35 upon consultation with stakeholders to implement this provision. For purposes of data
36 transmission, the NTC shall, in case of a dispute arising from an infrastructure sharing
37 agreement: (1) mediate between a data transmission industry participant and an infrastructure

owner, and (2) serve as the primary enforcer of this provision.

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

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

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

CHAPTER IV

PROHIBITED ACTS

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

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

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

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

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

1 nature of the internet;

2 (c) Throttling. — A data transmission industry participant shall treat all traffic equally
3 when providing data access services without discrimination, restriction or interference,
4 regardless of the sender and receiver, the content accessed or distributed, the applications or
5 services used or provided, or the terminal equipment used.

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

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

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

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

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

1 The NTC is hereby authorized and empowered to impose such fine, after due notice and hearing.

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

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

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

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

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 CHAPTER V

25 RIGHTS OF DATA TRANSMISSION SERVICE USERS AND RESPONSIBILITIES OF 26 DATA TRANSMISSION SERVICE PROVIDERS

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

29 (a) To be entitled to data transmission services which is nondiscriminatory, reliable, and
30 conforming with minimum standards set by the NTC;

31 (b) To be rendered data transmission services within two (2) months from application for
32 service;

33 (c) Regular, timely and accurate billing, courteous and efficient service at business offices
34 and by company personnel;

35 (d) Timely correction of errors in billing and the immediate provision of rebates or
36 refunds by the data transmission service provider without the need for demand by the user; and

37 (e) Thorough and prompt investigation of, and action upon complaints. The data

transmission service provider shall endeavor to allow complaints to be received by any means convenient to the end user, including voice calls, post, short messaging service (SMS), multimedia messages (MMS) and online communication, and shall keep a record of all complaints received and the action taken to address the complaints.

Subject to the filing of a formal request to the data 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 data service provider not consistently comply with paragraphs (a), (d), and (e) of this Section or any other minimum performance standards set by the NTC.

CHAPTER VI

FINAL PROVISIONS

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

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

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

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

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

The Chairperson of the Senate Committee on Science and Technology and the Chairperson of the House of Representatives Committee on Information and Communications Technology

1 shall act as co-Chairpersons of the JCOCOADT. The ranking minority members nominated by
2 both the Senate and the House of Representatives shall act as co-Vice Chairpersons. The
3 Secretariat of the JCOCOADT shall come from the existing Secretariat personnel of the
4 Committee on Science and Technology of the Senate and the Committee on Information and
5 Communications Technology of the House of Representatives. The JCOCOADT shall have its
6 own independent counsel.

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

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

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

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

18 Approved.

FACT SHEET

House Bill No. 6

(In Consolidation with House Bills Numbered 261, 2382, 2566, 3591, 4164, 5085, 5464, and 5854)

OPEN ACCESS IN DATA TRANSMISSION ACT

Introduced by: REPS. FERDINAND MARTIN G. ROMUALDEZ, YEDDA MARIE K. ROMUALDEZ, JUDE A. ACIDRE, CHRISTIAN TELL A. YAP, JURDIN JESUS M. ROMUALDO, RALPH G. RECTO, MICHAEL L. ROMERO PH.D., HARRIS CHRISTOPHER M. ONGCHUAN, JOSE FRANCISCO "KIKO" B. BENITEZ PH.D., ERNESTO M. DIONISIO JR., GERVILLE R. LUISTRO, TOBIAS "TOBY" M. TIANGCO, WILTER Y. PALMA, CHRISTOPHERSON "COCO" M. YAP, KEITH MICAH "ATTY. MIKE" D.L. TAN, SHERNEE A. TANTAMBUT, NOEL "BONG" N. RIVERA, CARL NICOLAS C. CARI, ROBERT ACE S. BARBERS, RAMON JOLO B. REVILLA III, LINABELLE RUTH R. VILLARICA, ANTONIO "TONYPET" T. ALBANO, JOHN TRACY F. CAGAS, EDWIN L. OLIVAREZ, JAIME D. COJUANGCO, GERARDO P. VALMAYOR, LORETO B. ACHARON, LORENZ R. DEFENSOR, SONNY "SL" L. LAGON, DAPHNE A. LAGON, GUS S. TAMBUNTING, ARNAN C. PANALIGAN, ROMAN T. ROMULO, EDUARDO R. RAMA JR., DEAN ASISTIO, RICHELLE SINGSON, BRYAN B. REVILLA, JOSE GAY G. PADIERNOS, CARLITO S. MARQUEZ, LUIS RAYMUND "LRAY" R. VILLAFUERTE JR., FERNANDO T. CABREDO, JAIME D. COJUANGCO, ANTONIO "AA" B. LEGARDA JR., JERNIE JETT V. NISAY, BAMBI B. EMANO, ALAN "ALDU" R. DUJALI, EDGAR M. CHATTO, AND IRWIN C. TIENG

Committee Referral: COMMITTEE ON INFORMATION and COMMUNICATIONS TECHNOLOGY

Committee Chairperson: REP. TOBIAS "TOBY" M. TIANGCO

OBJECTIVES:

- To create an environment within the data transmission industry that is conducive to open, fair and innovation-propelled competition.
- To establish a strong and independent regulatory system and body to ensure and enhance fair competition in the data transmission industry.

- To encourage investments in the development of digital infrastructure of the country.
- To protect the public interest and the public's ability to access data networks.

KEY PROVISIONS:

- Provides for an open access approach in the regulation of data transmission services sector through a speedy and efficient registration process and promotion of fair and open competition;
- Mandates interconnection among data transmission participants to avoid dominance by a single player or by a group of data providers;
- Mandates the National Telecommunications Commission (NTC) to maximize the utilization of radio spectrum resources in the allocation and assignment of such finite resources in the transmission of data by ensuring that spectrum is made available for the use of all registered data transmission industry participants;
- Mandates the NTC to require all data transmission industry participants and Public Telecommunications Entities (PTEs) providing data transmission services, to comply with the prescribed performance standards and shall impose penalties for failure to comply with such performance standards;
- Ensures fair competition by mandating that at any given layer, there should be at least two (2) significant providers;
- Provides that all segments of the data transmission network shall be competitive and open;
- Mandates that all data transmission industry participants shall be required to register with the NTC and those who will operate an international cable landing station shall secure a legislative franchise;
- Mandates that those who will operate a nationwide backbone network shall secure a permit from the NTC by submitting its proposed route or rollout plan, as well as the manner of construction of the backbone network;
- Provides that all other industry participants shall not be required to secure a legislative franchise or a certificate of public convenience and necessity (CPCN) but must meet with the criteria set by the NTC and Department of

Information and Communications Technology in registering as industry participants in order to construct, operate, lease or own networks or facilities except if it owns and operates an international cable landing station;

- Prohibits and penalizes the following acts: 1) Refusal to plug and play; 2) Paid Prioritization; 3) Throttling; and 4) Vertical Ownership.
- Authorizes the NTC to impose a fine of Three hundred thousand pesos (Php 300,000.00) but not exceeding Five million pesos (Php 5,000,000.00) for every day of violation, per prescribed performance standards to any data transmission industry participant that fails to substantially comply with the minimum service requirement. In addition, if the said entity fails to comply with the prescribed performance standards for three (3) consecutive years, it shall be removed, subject to due process, from the registry of registered data transmission industry participants and shall be prohibited from rendering data transmission services;

RELATED LAWS:

- Republic Act No. 7925 (Public Telecommunications Policy Act)
- Republic Act No. 10667 (Philippine Competition Act)