



**NINETEENTH CONGRESS OF THE  
REPUBLIC OF THE PHILIPPINES** ]  
] ]  
*First Regular Session* ]

'22 JUL 25 A11 :28

**SENATE**

RECEIVED BY: \_\_\_\_\_

**S.B. No. 815**

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**Introduced by SEN. WIN GATCHALIAN**

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

**EXPLANATORY NOTE**

Data transmission through the Internet is governed by outdated laws and regulations – such as Republic Act No. 7925<sup>1</sup> – which were made for basic telecommunications services. Compared to such basic services, which operate as a vertically integrated and monolithic network, the Internet thrives in a decentralized, distributed setting where services in different segments can be provided by different entities, that are, ideally, interconnected.

The present structure of the Philippine telecommunications industry imposes a high barrier to the entry of new, independent players, both local and foreign, who may participate in these segments. Instead, it encourages an operator to own and maintain a network as a vertical, monolithic whole that provides all services – from international connectivity to internet service direct to end users – and even for segments that do not serve the public directly, such as the IGF or landing station, backbone, and middle mile.<sup>2</sup>

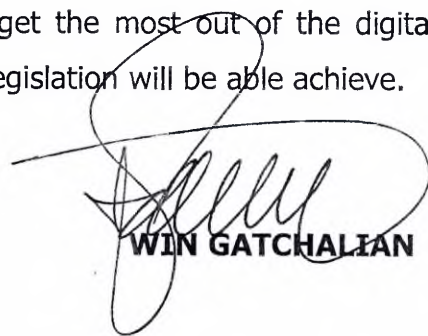
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<sup>1</sup> Otherwise known as "The Public Telecommunications Policy Act of the Philippines."

<sup>2</sup> Mirandilla-Santos, Mary Grace, Philippine Broadband: A Policy Brief, Arangkada Philippines, February 2016.

This legislation proposes that instead of a single, vertically integrated network, there should be an Open Access Model which will identify the various segments in the infrastructure and open them up to more and different players without requiring a Congressional franchise. It seeks to open up the different segments of the market to other players by breaking down regulatory barriers, lowering cost to entry, and institutionalizing a technology-neutral policy framework based on openness, transparency, fairness, and a level playing field among service providers at any given segment of the market. It also defines and clarifies the role of the National Telecommunications Commission in the Age of the Internet.

The passage of this law is earnestly sought to narrow down the country's digital divide in order for everyone everywhere to get the most out of the digital revolution. And I hope that this is the goal that this legislation will be able achieve.



**WIN GATCHALIAN**



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

1       **SECTION 1. Short Title.** – This Act shall be known as the “Open Access in Data  
2 Transmission Act”.

3  
4       **SEC. 2. Declaration of Policy.** – It is the policy of the State to narrow the  
5 digital divide in the country by encouraging the development of data transmission  
6 infrastructure and removing any barrier to competition in data transmission services.  
7 Moreover, the State shall implement measures to require data transmission service  
8 providers to adhere to telecommunications standards suitable to the needs and  
9 aspirations of the nation and ensure that internet users enjoy the best quality of data  
10 transmission service. The State shall:

11       (a) Promote the construction and development of reliable, affordable, open and  
12 accessible data networks that transmit information at speed and quality comparable  
13 to the best in the world;

1 (b) Create an entrepreneurial ecosystem where persons who wish to engage in  
2 the data transmission industry can compete openly and freely in the spirit of fair  
3 competition and permission-less innovation;

4 (c) Encourage investment in the digital infrastructure development in the  
5 country;

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

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

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

12 (g) Protect and promote the internet as an open platform enabling consumer  
13 choice, freedom of expression, end-user control, competition and the freedom to  
14 innovate without permission, and thereby encouraging the development of advanced  
15 telecommunications capabilities and the removal of barriers to infrastructure  
16 investment;

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

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

22  
23 **SEC. 3. *Definition of Terms.*** – As used in this Act:

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

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

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

1 (d) *Core or Backbone network* refers to the main line including international  
2 connection that ties networks, delivers routes to exchange information among various  
3 subnetworks, connects regional distribution networks and, in some instances, provides  
4 connectivity to other peer networks;

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

12 (f) *Data transmission industry participant* refers to any person, firm, partnership  
13 or corporation, government or private, engaged in the provision of data transmission  
14 services to the public. This includes public telecommunications entities (PTEs) that  
15 offer data transmission services as defined under Republic Act No. 7925, otherwise  
16 known as the "Public Telecommunications Policy Act of the Philippines";

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

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

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

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

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

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

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

7  
8 **SEC. 4. Scope.** – This Act applies to all persons who participate in the data  
9 transmission industry. Any person or entity whose business deals substantially with  
10 the transmission of data, including VoIP service provider, internet service providers  
11 (ISPs), and data center service providers, shall be governed by the provisions of this  
12 Act. PTEs that are principally engaged in the provision of basic telephone services,  
13 such as international carrier, interexchange carrier, local exchange operator, and  
14 mobile radio services provider, as defined in Republic Act No. 7925, and which also  
15 provide data transmission services, shall likewise be subject to the provisions of this  
16 Act with respect to the data transmission services they provide and the interconnection  
17 to their networks that they extend to data transmission industry participants.

18  
19 **SEC. 5. Registration and Certification.** – All segments of the data  
20 transmission network shall be competitive and open. Notwithstanding the provisions  
21 of this Act or any other law, the following registration and certification shall apply to  
22 data transmission:

23 (a) All data transmission industry participants shall be required to register  
24 with the National Telecommunications Commission (NTC). The NTC shall promulgate  
25 a speedy and expeditious administrative process for registration and shall, in  
26 coordination with the Department of Information and Communications Technology  
27 (DICT) for policy and standard-setting in the Information and Communications  
28 Technology (ICT) sector, and Philippine Competition Commission (PCC) for the  
29 promotion of market competition, develop a set of criteria for qualifying data  
30 transmission industry participants that will encourage the widest possible participation  
31 of as many industry players as possible who will offer data transmission services in all  
32 segments of the network and to end users in different parts of the country. The

1 qualification requirements for data transmission industry participants shall also take  
2 national security concerns into consideration particularly for facilities that interface  
3 directly with another country's domestic network.

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

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

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

25

26 **SEC. 6. Open Access Approach to Regulation of the Data Transmission**  
27 **Industry.** – The NTC shall ensure that the data transmission sector remains open  
28 and accessible to all qualified participants. Specifically, it shall:

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

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

3 (c) Promote fair and open competition in accordance with the principles and  
4 policies under the Philippine Competition Act and its implementing rules in all  
5 segments of the data transmission network, allowing a wide variety of physical  
6 networks and applications to interact in an open architecture;

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

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

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

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

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

20 (i) Publish a Spectrum Management Framework to be developed together with  
21 the DICT and the PCC; and

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

24  
25 **SEC. 7. Spectrum Allocation, Recall, and Reallocation.** – The NTC shall  
26 maximize the allocation and assignment of finite radio spectrum resources used in the  
27 transmission of data by ensuring that the spectrum is made available for the use of all  
28 registered data transmission industry participants. To this end:

29 (a) The procedure for radio spectrum assignment, joint use and recall shall be  
30 made transparent to the public. All applications, including letter requests, spectrum  
31 assignment, joint use, recall, and reallocation shall be posted in the NTC’s website and  
32 in a conspicuous place in the offices of the NTC for at least three (3) consecutive



1 months. The notice shall specifically indicate the names of the applicants for spectrum  
2 assignment, joint use and recall, including where the NTC itself is the proponent of  
3 any such action, the affected spectrum, and the applicant's or NTC's reasons for the  
4 proposed spectrum assignment, joint use and recall. The NTC shall not assign, recall  
5 or allow co-use or joint use of any radio frequency band or bands without conducting  
6 at least one (1) public hearing and allowing public comment for a period of fifteen  
7 (15) days from the date of the public hearing, prior to approval and/or disapproval of  
8 the same. This applies to all spectrum, whether used for data transmission or not;

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

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

16 (c) The NTC shall avoid the concentration of spectrum resources in the hands of  
17 a few players and shall not assign, or allow joint use of radio spectrum in a manner  
18 that establishes, promotes or perpetuates the dominance of PTEs. Any entity who  
19 believes that any one or more of the NTC's decisions for the assignment of radio  
20 spectrum, whether past or present, which will promote the dominance of a data  
21 transmission industry participant and deal with anti-competitive conduct in accordance  
22 with its mandate under Republic Act No. 10667, otherwise known as the "Philippine  
23 Competition Act";

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

28 (e) If the NTC finds, on its own initiative or upon complaint, that any right, license  
29 or radio spectrum assignment to any data transmission industry participant or PTE is  
30 not being used, or is not being maximized by the user thereof, or that the grantee has  
31 violated the provisions of this Act, it may, *motu proprio* or upon petition by any person,

1 subject to due process, recall the radio spectrum assignment of the data transmission  
2 industry participant or PTE. The NTC shall, where required and appropriate, work with  
3 the data transmission industry participant or PTE concerned to make appropriate  
4 measures to minimize the impact of such recall on active users of services utilizing the  
5 recalled spectrum. The foregoing notwithstanding, no frequency shall be recalled  
6 within eighteen (18) months of the awarding of a provisional authority or license or  
7 registration; and

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

25

26 **SEC. 8. Setting Performance Standards.** – The NTC shall:

27 (a) Mandate that, within one (1) year from the effectivity of this Act, all last mile  
28 providers shall provide a minimum download speed of 2 megabits per second or as  
29 mandated by the National Broadband, whichever is higher, for mobile broadband and  
30 for fixed wireless/broadband access;

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

1 (c) Regularly upgrade performance standards imposed on the data transmission  
2 industry to ensure that performance standards shall, at a minimum, be at par with  
3 service levels established in regional data network performance indices and aligned  
4 with international best practices. Such standards shall take into account speed, packet  
5 loss, jitter, and latency;

6 (d) Regularly review performance standards at least once a year and shall publish  
7 new performance standards at least thirty (30) days before they take effect. The  
8 publication of the results of the performance measurements shall be done in an open  
9 data format and made accessible to the general public;

10 (e) Any person, or the NTC itself, may, *motu proprio*, file a petition to penalize  
11 any data transmission industry participant for failure to deliver service according to  
12 the NTC's published performance standard and to require rectification of such  
13 noncompliance; and

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

16  
17 **SEC. 9. Arms-length Transactions and Transparency.** – The NTC shall:

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

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

1 consolidated manner. The data transmission industry participants shall keep a publicly  
2 accessible archive of their rates.

3

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

14

15 **SEC. 11. Technological Neutrality.** – The NTC shall ensure that the provisions  
16 of this Act apply, mutatis mutandis, to future technologies in data transmission.

17

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

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

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

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

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

10 The DICT shall coordinate and issue a policy with other relevant government  
11 agencies upon consultation with stakeholders to implement this provision. For  
12 purposes of data transmission, the NTC shall, in case of a dispute arising from an  
13 infrastructure sharing agreement: (1) mediate between a data transmission industry  
14 participant and an infrastructure owner, and (2) serve as the primary enforcer of this  
15 provision.

16 The DICT and the NTC shall promulgate policies, rules, and regulations to ensure  
17 that buildings, condominiums, villages, towns, and subdivisions are all built with  
18 facilities, such as cable entrances, ducts, and risers, that allow nondiscriminatory  
19 access to multiple data transmission industry players in order for them to provide  
20 service. They shall also promulgate policies, rules, and guidelines that will ensure a  
21 level-playing field and price nondiscrimination among data transmission industry  
22 participants and network facility and infrastructure owners.

23 The DICT and the NTC, in coordination with relevant government agencies, shall  
24 also ensure the disaster resiliency and ease of recovery and restoration of passive  
25 infrastructure, such as towers, poles, and utility corridors, from the effects of disasters  
26 by strictly enforcing compliance with internationally-accepted engineering standards  
27 and best practices, and relevant engineering codes and codes of practice.

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

32

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

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

6           Data transmission providers shall not impede the end user’s right to access and  
7 distribute information and content, use and provide applications and services and use  
8 terminal equipment of their choice, regardless of the end user’s or provider’s location  
9 or the location, origin or destination of the information, content, application or service  
10 via their data transmission service.

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

16           (b) Paid Prioritization. – A data transmission industry participant shall not engage  
17 in paid prioritization for monetary or other consideration except when allowed by the  
18 NTC after such participant demonstrates that the practice will provide significant  
19 public interest benefit and will not disadvantage content and applications that are not  
20 prioritized or harm the open nature of the internet;

21           (c) Throttling. – Providers of data transmission services shall treat all traffic  
22 equally when providing data access services without discrimination, restriction or  
23 interference, regardless of the sender and receiver, the content accessed or  
24 distributed, the applications or services used or provided, or the terminal equipment  
25 used.

26           It shall be prohibited for a data transmission industry participant to hinder or  
27 slow down services or applications or access to specific sites in the internet except  
28 where (1) access to such sites, services or applications are prohibited by law; (2) it is  
29 necessary to preserve the integrity and security of the network and service of the  
30 provider or the equipment of the end user: *Provided*, That if the breach of integrity or  
31 security is caused by the equipment of the end user, the provider has to notify the  
32 end user first and give the former sufficient time to rectify the situation; and (3) it is

1 necessary to block the transmission of unwanted communications such as spam and  
2 child pornographic materials upon the complaint of the end user or the data  
3 transmission industry participant;

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

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

18

19 **SEC. 14. Administrative Penalties.** – The NTC shall require data transmission  
20 industry participants and PTEs providing data transmission services to comply with  
21 prescribed performance standards and shall impose penalties for failure to comply  
22 with such performance standards.

23 (a) Any data transmission industry participant who fails to comply with the  
24 minimum service standards set by the NTC shall be imposed a minimum penalty of a  
25 fine of not less than one hundred thousand pesos (P100,000.00) but not more than  
26 five million pesos (P5,000,000.00) per day for every day during which such default or  
27 violation continues, until the participant fully complies: *Provided,* That if the data  
28 transmission industry participant has a gross annual income not exceeding ten million  
29 pesos (P10,000,000.00), the penalty that may be imposed shall be equivalent to one  
30 percent (1%) to two percent (2%) of its gross annual income. The NTC is hereby  
31 authorized and empowered to impose such fine, after due notice and hearing.

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

5 (c) Any data transmission industry participant who engages in the prohibited acts  
6 under Section 12 of this Act or fails to comply with the performance standards set by  
7 the NTC shall suffer a minimum penalty of a fine of not less than three hundred  
8 thousand pesos (P300,000.00) but not more than five million pesos (P5,000,000.00)  
9 for every day that the violation continues until the participant fully complies: *Provided,*  
10 That if the data transmission industry participant has a gross annual income not  
11 exceeding ten million pesos (P10,000,000.00), the penalty that may be imposed  
12 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  
14 those provided under Republic Act No. 10667.

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

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

21  
22 **SEC. 15. Adjustment for Inflation.** – The fines imposed under this Act shall  
23 be adjusted by the NTC, year-on-year, considering the prevailing cost of money based  
24 on the current consumer price index, and subject to publication of such adjustments.

25  
26 **SEC. 16. Rights of End Users.** – The user of data transmission services shall  
27 have the following basic rights:

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

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



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

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

6 (e) Thorough and prompt investigation of, and action upon complaints. The data  
7 transmission service provider shall endeavor to allow complaints to be received by any  
8 means convenient to the end user, including voice calls, post, short messaging service  
9 (SMS), multimedia messages (MMS) and online communication, and shall keep a  
10 record of all complaints received and the action taken to address the complaints.

11 Subject to the filing of a formal request to the data service provider, a user may  
12 request the immediate termination of service without the imposition of fees or  
13 penalties, and with the refund of any fee or charge already paid by the user, should a  
14 data service provider not consistently comply with preceding paragraphs (a), (d), and  
15 (e) of this section, or any other minimum performance standards set by the NTC.

16  
17 **SEC. 17. Expedited Processing.** – In all instances where a participant in the  
18 data transmission industry shall require a form, certificate, or request from any  
19 government agency or local government unit (LGU), there should be no more than  
20 two (2) public officers involved in processing the form, certificate, or request.

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

27  
28 **SEC. 18. Implementing Rules and Regulations.** – Within sixty (60) days  
29 from the effectivity of this Act, the NTC shall promulgate the necessary rules and  
30 regulations for the effective implementation of this Act.

31

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

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

14           The Chairperson of the Senate Committee on Science and Technology and the  
15 Chairperson of the House of Representatives Committee on Information and  
16 Communications Technology shall act as co-Chairpersons of the JCOCOADT. The  
17 ranking minority members nominated by both the Senate and the House of  
18 Representatives shall act as co-Vice Chairpersons. The Secretariat of the JCOCOADT  
19 shall come from the existing Secretariat personnel of the Committee on Science and  
20 Technology of the Senate and the Committee on Information and Communications  
21 Technology of the House of Representatives. The JCOCOADT shall have its own  
22 independent counsel.

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

27  
28           **SEC. 20. Separability Clause.** – Should any provision herein be declared  
29 unconstitutional, the other provisions not affected shall remain in full force and effect.

1       **SEC. 21. Repealing Clause.** – All laws, decrees, orders, rules and regulations  
2 or other issuances or parts inconsistent with the provisions of this Act are hereby  
3 repealed, amended, or modified accordingly.

4  
5       **SEC. 22. Effectivity.** – This Act shall take effect fifteen (15) days after its  
6 publication in the *Official Gazette* or in any newspaper of general circulation in the  
7 Philippines.

Approved,