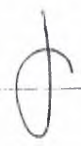


NINETEENTH CONGRESS OF THE)
REPUBLIC OF THE PHILIPPINES)
First Regular Session)

Senate
Office of the Secretary

'22 AUG 11 AIO :22

SENATE
S. No. 1125

RECEIVED BY 

Introduced by Senator Mark A. Villar

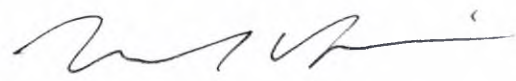
AN ACT
CREATING THE E-COMMERCE BUREAU, APPROPRIATING FUNDS
THEREFOR, AND FOR OTHER PURPOSES

EXPLANATORY NOTE

The COVID-19 pandemic has accelerated the growth of e-commerce in the Philippines. Due to community quarantines and social distancing measures, consumers and businesses have relied on the Internet to buy or sell goods and services or to transmit funds or data. This lead to a significant rise in the number of online consumers and merchants, goods and services, and even online frauds.

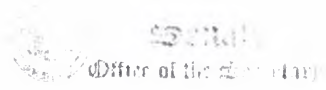
This bill seeks to support and maintain a robust e-commerce environment and build trust between online merchants and consumers through secure and reliable e-commerce platforms where goods, services, and digital products are transacted online with appropriate transparency and utmost efficiency.

Given the foregoing, prompt approval of this bill is earnestly sought and recommended.



MARK A. VILLAR

NINETEENTH CONGRESS OF THE)
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Introduced by Senator MARK A. VILLAR

AN ACT
CREATING THE E-COMMERCE BUREAU, APPROPRIATING FUNDS
THEREFOR, AND FOR OTHER PURPOSES

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

1 Section 1. *Short Title.* – This Act shall be known as the “E-Commerce Bureau
2 Act.”

3 Sec. 2. *Declaration of Policy.* – It is the policy of the State to:

4 a) Promote the growth of electronic commerce (e-commerce) in
5 the country by building mutual trust between online sellers and consumers.
6 The State recognizes the growth of the digital economy and the need to
7 ensure that all goods and services transacted digitally be in accordance with
8 specifications, and be reliable, secure, and accessible to all consumers for the
9 purpose of increasing the productivity and efficiency of businesses;

10 b) Ensure sustainable and fair e-commerce business practices
11 through transparent and appropriate information disclosure, the maintenance
12 and protection of data privacy rights, and an emphasis on the paramount
13 importance of product safety;

14 c) Provide meaningful access to effective mechanisms for the
15 resolution of any and all disputes involving e-commerce, including alternative
16 dispute resolution methods;

1 d) Strengthen and professionalize internet transaction protection
2 and law enforcement against persons defrauding consumers and merchants
3 dealing using internet; and

4 e) Formulate plans and programs relative to protection of
5 consumers and merchants engaged in internet transactions and enhance the
6 government's capacity to address fraudulent scheme using internet.

7 *Sec. 3. Definition of Terms.* – As used in this Act, the following term have the
8 meanings specified below:

9 a) *Consumer-to-consumer transactions* refer to isolated transactions of an
10 individual or group of individuals with another individual or group of
11 individuals, done for personal, family, or household purposes, and not
12 done in the ordinary course of business of any of the parties to the
13 transaction;

14 b) *Goods* refer to tangible products which are primarily for personal,
15 family, household, or agricultural purposes which include, but are not
16 limited to, food, drugs, cosmetics, and devices;

17 c) *Digital Platforms* refer to internet intermediaries or businesses such as,
18 but not limited to, e-marketplaces, online delivery enterprises,
19 transportation booking, tourism booking, entertainment website and
20 services, music products and services, social media, advertising,
21 education and learning products, health websites and applications,
22 labor services, among others, that match, connect, or facilitate
23 interactions and transactions by and between any two or more parties
24 to enable them to sell, exchange, share, or transact in any convenient
25 manner, goods, services, and digital products;

26 d) *Digital Products* refer to goods and services produced and supplied in
27 digital form such as, but not limited to, video, audio, applications,
28 digital games, and any and all other software that allows the consumer
29 to create, process, download, store, or access digital content, or allows
30 the sharing of the same, or any such other interaction with digital
31 content provided by other users of the service;

- 1 e) *E-commerce Philippine Trustmark* refers to the mark approved by the
2 E-commerce Bureau signifying the legitimacy and verified status of an
3 online merchant and provides for consumer protection in online or e-
4 commerce transactions and, whenever applicable, accountability in
5 case of consumer complaints;
- 6 f) *E-commerce or Online Transactions* refers to an exchange or transfer
7 of goods and services using the internet;
- 8 g) *E-Marketplace* refers to a digital platform such as, but not limited to,
9 eBay, Amazon, Shopee, Lazada, Carousell, Facebook Marketplace,
10 among others, whose business is to connect online consumers and
11 online merchants, facilitating the exchange of information regarding
12 products or services for the purpose of entering into an e-commerce
13 transaction such as the purchase of goods and services, tangible or
14 intangible, and which may or may not provide information or services
15 about payments and logistics;
- 16 h) *E-Retailer* refers to a natural or juridical person engaged in selling
17 products or services, tangible or intangible, directly to online
18 consumers through his own website or any other digital platform;
- 19 i) *Interoperability* refers to the ability of the digital product to function
20 with hardware or software different from those with which the digital
21 product of the same type is normally used;
- 22 j) *Online Delivery Service* refers to the delivery of food and parcels, or
23 any other item, contracted through a digital platform which may be an
24 application, website, webpage, social media account, or any similar
25 means, operated by an online delivery service platform; and
- 26 k) *Online Merchant* refers to any natural or juridical person selling or
27 manufacturing, or otherwise offers for sale or manufacture, any goods
28 or digital products in the ordinary course of business, either through an
29 e-marketplace, social media, website, application, or via any digital
30 platform over the Internet.

31 Sec. 4. *E-Commerce Bureau*. – The E-Commerce Division created through DTI
32 Department Order No. 09-16 in accordance with Section 29 of Republic Act No. 8792

1 or the "*Electronic Commerce Act of 2000*" is hereby abolished, and an E-Commerce
2 Bureau under the Department of Trade and Industry (DTI) is hereby created.

3 *Sec. 5. Authority and Jurisdiction of the Bureau.* - For purposes of this Act,
4 the E-Commerce Bureau shall have jurisdiction to the sale or exchange of goods,
5 services, or digital products during trade or business whether between business,
6 households, individuals, and other public or private organizations, conducted over
7 the internet, except consumer-to-consumer internet transactions.

8 *Sec. 6. Functions of the Bureau.* – The E-Commerce Bureau shall perform the
9 following functions:

- 10 a) Implement, monitor, and ensure compliance of the provisions of this
11 Act;
- 12 b) Mandate entities engaged in e-commerce to register with the Online
13 Business Registry;
- 14 c) Formulate policies, plans, and programs to ensure the robust and
15 dynamic development of e-commerce;
- 16 d) Identify regulatory gaps affecting the e-commerce sector that are not
17 sufficiently addressed by this Act or by existing laws or regulations,
18 and recommend appropriate executive or legislative measures that
19 foster the growth of the sector;
- 20 e) Act as a virtual one-stop shop tasked to receive and address consumer
21 complaints or unresolved internet transactions between parties,
22 facilitate the speedy resolution of consumer complaints by the
23 respective government agency having jurisdiction over the same, and
24 track complaints referred to or initiated by it *motu proprio* to ensure
25 the speedy and appropriate action by the agency to which such
26 matters pertain or otherwise have been referred to;
- 27 f) Coordinate with, or petition whenever appropriate, any entity,
28 government agency, or instrumentality to act on any matter related to
29 e-commerce consumer complaints;

1 g) Monitor internet market behavior, consult with stakeholders and
2 concerned agencies to better understand e-commerce transactions,
3 and prepare and conduct periodic studies on the same; and

4 h) Collaborate with the various departments of the national government
5 and the local government units (LGUs) in the implementation of
6 projects and programs promoting e-commerce, including information
7 and education, as well as in ensuring a policy regime that is proactive.

8 *Sec. 7. Composition of the Bureau.* – The Bureau shall be headed by a
9 Director who must have sufficient knowledge and background in e-commerce and
10 online transactions, and all the laws and processes related thereto. The Director
11 shall be assisted by three (3) Assistant Directors: for policy and administration, for
12 enforcement, and for operations.

13 The Director and all assistant Directors shall be appointed by the President,
14 upon the recommendation of the DTI Secretary, and must be career executive
15 service officers with at least five (5) years of government service and such relevant
16 experience in e-commerce development.

17 *Sec. 8. Online Business Registry (OBR).* – Within a period of one (1) year
18 from the effectivity of this Act, the Bureau shall, in coordination with the Department
19 of Information and Communications Technology (DICT), establish, maintain, and
20 manage an Online Business Registry (OBR) which shall provide consumers access to
21 data and information of e-marketplaces, e-retailers, online merchants, and such
22 other digital platforms engaged in the sale of goods, services, and digital products
23 for purposes of verifying their existence, confirming their identity, and other such
24 relevant or needed information.

25 *Sec. 9. Regulatory Jurisdiction of the DTI.* – For purposes of this Act, the DTI
26 shall exercise primary regulatory jurisdiction over e-marketplaces, e-retailers, online
27 merchants, and other digital platforms that sell or allow the sale or exchange of
28 goods, services or digital products, and are purposely availing of the Philippine
29 market.

1 Sec. 10. *Authority to Issue Take-Down Order.* – Whenever the Bureau finds,
2 by its own initiative or upon petition of a consumer or other concerned party, that
3 the online sale of goods, services, or digital products is violative of this Act, the
4 “*Consumer Act of the Philippines*”, or any other related laws, the DTI Secretary, in
5 order to abate any further violations, shall have the power to:

6 a) Impose an order, as a form of penalty, directing that the violative
7 online product listing, webpage, business page, application, social
8 media post, profile, website or when applicable, any platform of the
9 online merchant or e-retailer related to the illegal product, be taken
10 down, or the same be made inaccessible in the Philippines, whether
11 temporarily or permanently; and

12 b) Issue an advisory that no entity shall process any payments made to
13 any violating entity to ensure that the latter shall be rendered
14 commercially inoperative.

15 The DTI Secretary may immediately issue a provisional take-down order to
16 prevent grave and irreparable injury to the public, when the following conditions are
17 present:

18 a) When the DTI Secretary finds that a good, service, or digital product is
19 imminently injurious, unsafe, or dangerous; or

20 b) When the seller under investigation has been previously penalized
21 under this section.

22 Whenever the DTI Secretary orders the immediate take-down, recall, ban, or
23 seizure of an illegal product from public online sale or distribution, the seller,
24 distributor, manufacturer, or producer thereof shall be given an opportunity to be
25 heard within forty-eight (48) hours from the issuance of such order.

26 The take-down order, whether imposed as a penalty or provisionally granted,
27 shall be directed against the e-retailer, online merchant, or the owner or operator of
28 the e-marketplace or digital platform. Copies of the order shall likewise be served on
29 entities whose cooperation would be required for its enforcement such as but not
30 limited to the duly registered internet service provider involved, related payment
31 gateways, and other government agencies.

1 The DTI Secretary may revoke the take-down order after hearing the
2 explanation submitted by the seller, distributor, manufacturer, or producer, in which
3 case the order revoking the take down order shall serve on the entities mentioned
4 and in the same manner stated in the preceding paragraphs.

5 Sec. 11. *Referral of Complaints.* – The Bureau shall refer any complaint it
6 receives involving violation of other laws omitted during an online or e-commerce
7 transaction to the appropriate regulatory authority for action. The Bureau shall track
8 the complaints or referrals made to other authorities and coordinate with them to
9 ensure that matters are duly resolved in accordance with Republic Act No. 11032,
10 otherwise known as the “*Ease of Doing Business and Efficient Government Service*
11 *Delivery Act of 2018.*”

12 Sec. 12. *Online Dispute Resolution.* – The DTI shall develop an Online Dispute
13 Resolution (ODR) platform which is a single point of entry for parties to e-commerce
14 transactions that are seeking out-of-court resolution of disputes when the platforms
15 or merchant fail to resolve or assist consumers with their concerns.

- 16 a) The ODR shall be an interactive website accessible electronically and
17 free of charge. The DTI, through the Bureau, shall be responsible for
18 its operation, including its maintenance, funding, and data security.
19 The ODR platform must be user-friendly, easily accessible, and data
20 privacy compliant.
- 21 b) The DTI shall establish a network of ODR contact points from different
22 government agencies involved in consumer complaints as specified in
23 Republic Act No. 7394, otherwise known as the “*Consumer Act of the*
24 *Philippines*”, including the Department of Agriculture (DA), Department
25 of Tourism (DOT), and the Department of Health (DOH), among
26 others. The Intellectual Property Office of the Philippines (IPO) shall
27 also be part of the ODR network.
- 28 c) Each agency shall have a designated ODR contact point whose name
29 and contact information are to be submitted to the DTI. The head of
30 the agency shall confer responsibility to the respective ODR contact
31 points to ensure that timely and competent support is provided to the

1 resolution of complaints and disputes submitted through the ODR
2 platform.

3 d) The ODR platform shall have the following functions:

4 (i) Provide an electronic form where alternative dispute resolution
5 entities shall transmit the information;

6 (ii) Provide a feedback system that will allow parties to express
7 their views on the efficiency of the ODR platform and on the
8 response of the entity handling their dispute; and

9 (iii) Make available to the public, general information on alternative
10 dispute resolution as a means of out-of-court dispute resolution
11 and the entities which are competent to deal with such disputes.

12 e) The DTI shall ensure that the information on the website is accurate
13 and up to date.

14 f) Online e-commerce platforms and online merchants shall provide on
15 their websites an electronic link to the DTI-ODR platform on their
16 homepage.

17 *Sec. 13. E-commerce Philippine Trustmark.* – To provide assurance of safety
18 and security in transactions over the internet, an E-commerce Philippine Trustmark
19 shall be developed for online merchants.

20 a) A Trustmark and Trustmark Portal shall be created which shall be
21 administered and managed by the DTI.

22 b) A Trustmark on the website of an online merchant signifies that the
23 company is committed to guarantee honesty, fairness, and integrity in
24 dealing with its customers, and is committed to refrain from engaging in
25 any illegal, fraudulent, unethical, or unfair business practices.

26 c) In case of a complaint involving the purchase of their products or services,
27 online merchants with the Trustmark shall give consumers the option of
28 filing claims through the Trustmark portal, if the online merchant's
29 customer care service has not been able to resolve the issue.

30 d) The Trustmark shall be considered an official document for purposes of
31 the crime of falsification as defined under the Revised Penal Code and
32 other related laws. Any E-marketplace, e-retailer, online merchants, or e-

1 commerce digital platform that is found guilty of falsifying or forging the
2 E-commerce Philippine Trustmark, shall be subjected to a take-down order
3 in accordance with Section 10 of this Act.

4 Sec. 13. *Appropriations.* – The amount of Fifty Million Pesos
5 (PhP50,000,000.00) for the initial operation of the Bureau is hereby appropriated out
6 of any funds in the National Treasury not otherwise appropriated. Thereafter, such
7 sum as may be necessary for the continued implementation of this Act shall be
8 included in the annual General Appropriations Act.

9 Sec. 20. *Implementing Agencies, Rules, and Regulations.* – Within sixty (60)
10 days from the promulgation of this Act, the necessary rules and regulations shall be
11 formulated and issued by the DTI, in consultation with the DICT, IPO, DOH the Food
12 and Drug Administration (FDA), and other relevant government agencies providing
13 guidelines hereof including the rights and obligations of consumers, e-retailers, e-
14 market places, online delivery partners, online merchants and online delivery service
15 platforms involved in internet transactions.

16 Sec. 21. *Jurisdiction of Other Agencies.* – Other agencies shall continue to
17 exercise the powers and duties provided to them under existing laws, unless
18 repealed or modified accordingly.

19 Sec. 22. *Separability Clause.* – If any provision of this Act is declared
20 unconstitutional or invalid, other parts or provisions hereof not affected thereby shall
21 continue to be in full force and effect.

22 Sec. 23. *Repealing Clause.* – All laws, presidential decrees, executive orders,
23 issuances, proclamations, rules and regulations, or any part thereof, which are
24 inconsistent with the provisions of this Act are hereby repealed or modified
25 accordingly.

26 Sec. 24. *Effectivity.* – This Act shall take effect after fifteen (15) days
27 following its publication in the Official Gazette or in a newspaper of general
28 circulation.

Approved,