

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



'22 AUG 18 P5:09

**SENATE**

S. No. 1213

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**Introduced by SENATOR RAMON BONG REVILLA, JR.**

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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**

The Philippines has improved exponentially in terms of telecommunication infrastructure brought about by the rapid technological evolution for the past few years. This technological evolution has been felt in almost all facets of life. The mobile phone has taken over the world, becoming an all in one device that we almost cannot live without in today's world. The internet has been a bridge for nations to connect and communicate across the globe, almost no corner is considered far nowadays through the wonders of technology.

A major factor in telecommunications is the transmission of data. As the Philippines struggles with the limitations of its infrastructure and resources, it is necessary to permit open access, which allows every option that will aid the improvement of data transmission in our country. This measure seeks to establish a regulatory framework that would encourage competition, mandate interconnection of networks, and promote infrastructure sharing.

This measure likewise aims to increase the powers of the National Telecommunications Commission, granting it authority to promote a conducive environment for data networks and associated industries to thrive and innovate which would redound to the benefit of Filipinos through increased information access.

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

  
**RAMON BONG REVILLA, JR.**

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

1 Section 1. *Title.* - This Act shall be known as the "Open Access in Data  
2 *Transmission Act of 2022*".

3 Sec. 2. *Declaration of Policy.* - It is hereby declared the policy of the State:

4 (a) To ensure and accelerate the narrowing of the digital divide in the country;

5 (b) To ensure that reliable, affordable, open, and accessible data networks  
6 transmit information at speeds, and with quality comparable to the best in the  
7 world and alignment with modern global practices;

8 (c) To create an entrepreneurial ecosystem where persons who wish to engage  
9 in the data transmission industry compete openly and freely in the spirit of fair  
10 competition and permissionless innovation;

11 (d) To encourage investment in the digital infrastructure of the country;

12 (e) To protect the public interest as it is affected by its ability to access data networks;

13 (f) To adopt the core values of the Open Access approach to building the country's  
14 data infrastructure, namely:

15 (i) Adoption of a technology-neutral framework that encourages innovative,  
16 low-cost delivery users;

17 (ii) Fair and open competition at all multiple layers of the data transmission  
18 network, allowing a wide variety of physical networks and application to  
19 interact in an open architecture;

1 (iii) Transparency to ensure fair trading within and between layers that allows  
2 clear, comparative information on market prices and services;

3 (iv) The creation of circumstances where everyone can connect to everyone  
4 else at the various layers and interfaces, such that entities of any size may  
5 freely enter and exit the market, and dominance by any single player or group  
6 of players is avoided;

7 (v) Devolved and distributed local solutions rather than centralized ones  
8 encouraging services that are closer to the user.

9 (g) To establish a strong and independent regulatory body and system to ensure fair  
10 competition and enhance the competitive operation of the data transmission sector;  
11 and

12 (h) To 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 *Sec. 3. Definition of Terms.* - As used in this Act, the following terms shall mean:

18 a) *Core/Backbone network* - the main line (or connection) that tries networks; delivers  
19 routes to exchange information among various sub-networks, connects regional  
20 distribution and, in some instances, provides connectivity to other peer networks.

21 (b) *Data transmission* - the process of sending digital or analog data over a  
22 communication medium to one or more computing network/s, communication or  
23 electronic device/s. It enables the transfer and communication of devices in a point-  
24 to-point, point-to-multipoint, and multipoint-to-multipoint environment.

25 (c) *International gateway/landing* -segment of data transmission that consists of any  
26 facility that provides an interface to send and receive data traffic between one  
27 country's domestic network facilities and those in another country.

28 (d) *Last mile* - segment of data transmission from the network to the end-users

29 (e) *Middle mile* - segment of data transmission that carries data from the back-haul  
30 network to the nearest aggregation point, then from the aggregation point to the  
31 nearest point of presence (PoP).

32 (f) *National Telecommunications Commission (NTC)* - the entity defined and created  
33 by the Public Telecommunications Policy Act (Republic Act No. 7925, as amended).

1 (g) *Open Access* - the system of allowing data transmission participant the use of data  
2 transmission and/or distribution system, and associated facilities subject to fair,  
3 reasonable and non-discriminatory terms in a transparent market.

4 (h) *Paid prioritization* - the management of a data transmission participant to directly  
5 or indirectly favor some traffic over other traffic, including through use of techniques  
6 such as traffic shaping, prioritization, resource reservation, zero-rating, or other  
7 forms of preferential traffic management, either: (1) in exchange for consideration  
8 (monetary or otherwise) from a third party, or (2) to benefit an affiliated entity.

9

## 10 **CHAPTER II**

### 11 **DEFINITION, ORGANIZATION AND OPERATION OF THE DATA**

#### 12 **TRANSMISSION INDUSTRY**

13 Sec. 4. *Scope*. - This applies to all persons wishing to participate in the data  
14 transmission industry. For this purpose, any person or entity whose business is  
15 substantially with the transmission of data shall be governed by the provisions of this  
16 Act.

17 Sec. 5. *Segments*. - The data transmission industry shall be divided into four  
18 segments: (a) International Gateway/Landing, (b) Core/Backbone Network, (c) Middle  
19 Mile, and (d) Last Mile.

20 All four segments, involving businesses affected with public interest, shall be  
21 competitive and open. Any law to the contrary notwithstanding, participants in any of  
22 the four segments shall not be required to secure any other license, approval,  
23 franchise, or certificate other than those expressly provided for in this Act.

24 A participant in any of the four segments shall, before it operates, secure from  
25 the NTC a Certificate of Compliance certifying that it has completed all that is required  
26 of it under this Act, and that it has obtained all the necessary business permits and  
27 health safety, and environmental clearances from the appropriate government  
28 agencies under existing laws.

29

## 30 **CHAPTER III**

### 31 **REGULATION OF THE DATA TRANSMISSION INDUSTRY**

32 Sec. 6. *Additional Powers and Functions of the NTC*. - The NTC shall have the  
33 additional powers and functions:

1 (a) Resource Allocations. - The NTC shall, upon due consultation on how to  
2 maximize their return for the allocation of finite resources used in the transmission of  
3 data, promulgate such rules and regulations by which it may obtain maximum value  
4 for every technological wave under its management.

5 (b) Setting Performance Standards. - The NTC shall set and measure reporting  
6 and performance standards shall take into account speed, packet loss, jitter, and  
7 latency. The NTC shall regularly polish the results of these measurements in an open  
8 data format accessible to the general public.

9 (c) Recovery of Resources. - If the NTC finds, on its own initiative or upon  
10 complaint, that any right, license, or franchise granted to any data transmission  
11 industry participant is not being used in accordance with the covenants it requires of  
12 the person developing that resource, and upon due hearing it may revoke the license  
13 without the need of compensation, franchise, or right, and set the same for acquisition  
14 by any qualified party, at auction.

15 *Sec. 7. Prohibited Acts. -*

16 (a) Plug and Play. - Any person engaged in the data transmission industry,  
17 insofar such person is so engaged, shall not refuse access to infrastructure to any  
18 person also engaged in the data transmission industry, except for failure to pay open  
19 market fees for the access to the service.

20 *Sec. 8. Arms-length Transactions and Transparency. -* The NTC shall  
21 promulgate rules requiring all data transmission industry participants to include in their  
22 annual report a fair and accurate statement regarding their market prices and their  
23 services.

24 *Sec. 9. Fair competition. -* (a) The Philippine Competition Commission (PCC)  
25 and the NTC shall ensure that for those providing services at any given layer, there  
26 are at least two significant providers; and (b) when there are less than four (4)  
27 significant providers of any particular service, the PCC and the OFC should scrutinize  
28 any act made by the remaining providers for anti-competitive behaviour under the  
29 Philippine Competition Act.

30  
31 **CHAPTER VI**  
32 **PENALTIES**

1           Sec. 10. *Administrative Penalties.* - A data transmission industry participant  
2 violating any provision of this Act shall forfeit all certificates, licenses, rights, and  
3 awards issued to it that enables its participation in the data transmission industry.

4           Sec. 11. *Adjustment for Inflation.* - The fines mentioned herein shall be  
5 adjusted, year-on-year, according to the prevailing Consumer Price Index.

6

7

## CHAPTER VII

8

### FINAL PROVISIONS

9           Sec. 12. *Technological Neutrality.* - The NTC shall promulgate the necessary  
10 rules and regulations to ensure that the provisions of this law apply, *mutatis mutandis*,  
11 to ensure that the provisions herein apply to future technologies in data transmission.

12           Sec. 13. *Expedited Processing.* - In all instances where a participant in the data  
13 transmission industry shall require a form, certificate, or request, there should be no  
14 more than two (2) public officers involved in processing the form, certificate, or  
15 request.

16           Sec. 14. *Implementing Rules and Regulations.* - Within sixty (60) days from the  
17 effectivity of this Act, the NTC shall promulgate the necessary rules and regulations  
18 for the effective implementation of this Act.

19           Sec. 15. *Separability Clause.* - Should any provision herein be declared  
20 unconstitutional, the same shall not affect the validity of the other provision of this  
21 Act.

22           Sec. 16. *Repealing Clause.* - All laws, decrees, orders, rules, and regulations or  
23 other issuances or parts inconsistent with the provisions of this Act are hereby  
24 repealed or modified accordingly.

25           Sec. 17. *Effectivity.* - This Act shall take effect fifteen (15) days after its  
26 publication in the Official Gazette or in any two (2) newspapers of general circulation  
27 in the Philippines

*Approved,*