



SENATE

S. No. 45

'19 JUL -1 A11 :38

Introduced by Senator Ralph G. Recto

RECEIVED BY

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

Explanatory Note

Philippine telecommunication services have been besieged with persistent issues of poor quality and high prices attributed to a weak regulatory environment and a lack of real competition among the few players in the industry. The recent mergers and acquisitions consummated without the proper review of a duly established competition authority has allowed current and large players to strengthen their market share and encouraged vertical integration or the ownership or operation in all segments of the telecommunications value chain over the years.

Another major concern is that our existing policies and regulations were designed only for basic telecommunication services. Our current telecommunications regime is still governed by an outdated law, Republic Act No. 7925 or the Public Telecommunications Policy Act of 1995, passed at a time when the Internet and data services are not yet commercially available. As the Age of Internet and data services progressed at present, operations in all segments in the telecommunications industry still necessitate a number of requirements that was originally intended for basic telecommunication services. Even when entering the data transmission industry, securing a Certificate of Public Convenience and Necessity (CPCN), Provisional Authority (PA), and the Congressional grant of a franchise are still obligatory.

As this age transitions to a more decentralized, distributed and redundant data transmission regime, it is necessary to create a more relevant regulatory environment that will govern and focus on the Internet and data transmission services. This will further lower barriers and costs to entry of new players especially in certain segments which do not need stringent requirements. In particular, this bill removes the requirement for a Congressional franchise and CPCN/PA, except for international cable landing stations and national backbone network operators. The franchise and CPCN/PA will still apply to a network operator that installs and operates infrastructure on a nationwide scale, such as landing stations and backbone networks, which are considered "nationally significant" such that when these networks are compromised, the whole country is affected and may lose connectivity with the rest of the world.

Amid the removal of a Congressional franchise and CPCN/PA for certain segments, regulatory oversight remains as data transmission industry participants need to register with the NTC, stating the services offered and providing their schedule of rates. The NTC shall put in place a set of criteria for the qualification of data transmission industry participants, which are in accordance with the provisions of the bill, and which shall take into consideration national security concerns, especially for facilities handling data traffic direct from another country's domestic network, such as a cable landing station.

This bill also aims to adopt an open access model for regulating the data transmission industry, which promotes the following:

- Efficient and speedy authorization and registration of industry players;
- Technology-neutral framework;
- Fair and open competition;
- Mandated interconnection;
- Mandated transparency in pricing;
- Transparent and equitable spectrum management framework; and
- Infrastructure sharing and co-location.

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



RALPH G. RECTO

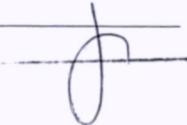
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Be it enacted by the Senate and House of Representatives of the Philippines in Congress assembled:

CHAPTER I

INTRODUCTORY PROVISIONS

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

5 SEC. 2. *Declaration of Policy.* – It is the policy of the state to narrow the digital divide in
6 the country by encouraging the development of data transmission infrastructure and removing any
7 barrier to competition in data transmission services.

8 Moreover, the State shall implement measures to require data transmission service providers
9 to adhere to telecommunications standards suitable to the needs and aspirations of the nation and
10 ensure that internet users enjoy the best quality of data transmission service. The state shall:

- 11 a. Promote the construction and development of reliable, affordable, open and accessible data
12 networks that transmit information at speed and quality comparable to the best in the world;
13 b. Create an entrepreneurial ecosystem where persons who wish to engage in the data
14 transmission industry can compete openly and freely in the spirit of fair competition and
15 permission-less innovation;
16 c. Encourage investment in the digital infrastructure of the country;
17 d. Adopt and ensure open access in the regulation of the data transmission industry;
18 e. Protect the public interest as it is affected by its ability to access data networks;
19 f. Establish a strong and independent regulatory body and system to ensure and enhance fair
20 competition in the data transmission industry;
21 g. Protect and promote the internet as an open platform enabling consumer choice, freedom
22 of expression, end-user control, competition and the freedom to innovate without

- 1 permission, and thereby encouraging the development of advanced telecommunications
2 capabilities and the removal of barriers to infrastructure investment; and
- 3 h. Encourage infrastructure sharing and co-location in order to promote network investment,
4 eliminate the uneconomic duplication of infrastructure facilities, and strengthen
5 competition.

6 **SEC. 3. *Definition of Terms.*** – As used in this Act, the following terms shall mean:

- 7 a. *Basic Telephone Service* refers to the local exchange telephone service for residence and
8 business establishments provided via the circuit switched telephone network;
- 9 b. *Cellular Mobile Telephone Service (CMTS)* refers to the wide area mobile radio telephone
10 system with its own switch, base stations and transmission facilities capable of providing
11 high capacity mobile telecommunications by utilizing radio frequencies;
- 12 c. *Content* refers to, among others, texts, images, audios, videos, and animations that are
13 carried over the broadband or internet network;
- 14 d. *Core/Backbone Network* refers to the main line or connection including international
15 connection that ties networks, delivers routes to exchange information among various sub-
16 networks, connects regional distribution networks, and in some instances, provides
17 connectivity to other peer networks;
- 18 e. *Data Transmission* refers to the process of sending digital or digitized analog signal over
19 a communication medium to one or more computing networks, communication or
20 electronic device. It enables the transfer and communication of devices in a point-to-point,
21 point-to-multipoint and multipoint-to-multipoint environment. The term data transmission
22 includes the provision of Voice over Internet Protocol (VoIP) services but does not include
23 the provision of Basic Telephone Services;
- 24 f. *Data Transmission Industry Participant* refers to any person, firm, partnership or
25 corporation, government or private, engaged in the provision of data transmission services
26 to the public. This includes public telecommunications entities (PTEs) as defined under
27 Republic Act No. 7925, otherwise known as the *Public Telecommunications Policy Act of*
28 *the Philippines*, that offer data transmission services;
- 29 g. *International Cable Landing Station* refers to a segment of data transmission that consists
30 of any facility that terminates an international submarine cable, and which provides an
31 interface to send and receive data traffic between one country's domestic network facilities
32 and those in another country;
- 33 h. *Open Access* refers to the system of allowing the use of data transmission and/or
34 distribution systems and associated facilities subject to fair, reasonable, and non-
35 discriminatory terms in a transparent market;
- 36 i. *Paid Prioritization* refers to the management of a data transmission network to directly or
37 indirectly favor some traffic over other traffic, through the use of techniques such as, traffic

1 shaping, prioritization, resource reservation, zero-rating, or other forms of preferential
2 traffic management, either:

- 3 1. in exchange for consideration, monetary or otherwise, from a third party, or
 - 4 2. to benefit an affiliated entity;
- 5 j. *Voice over Internet Protocol (VoIP) Service* refers to the provision of voice communication
6 using Internet Protocol (IP) technology.

7 CHAPTER II

8 ORGANIZATION AND OPERATION OF THE DATA TRANSMISSION INDUSTRY

9 **Sec. 4. Scope.** – This Act applies to all duly qualified persons who participate in the data
10 transmission industry subject to domestic regulations and existing laws. For this purpose, any
11 person or entity whose business deals substantially with the transmission of data, including VoIP
12 service provider, Internet Service Providers (ISPs), and Data Center service providers, shall be
13 governed by the provisions of this Act. PTEs principally engaged in the provision of basic
14 telephone services, such as international carrier, inter-exchange carrier, local exchange operator,
15 and mobile radio services provider, as these entities are defined in Republic Act No. 7925, which
16 also provide data transmission services, shall likewise be subject to the provisions of this Act with
17 respect to the data transmission services they provide and the interconnection to their networks
18 that they extend to data transmission industry participants.

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

- 22 a. All data transmission industry participants shall be required to register with the National
23 Telecommunications Commission (NTC). The NTC shall promulgate a speedy
24 and expeditious administrative process for registration and shall, in coordination with
25 Department of Information and Communications Technology (DICT), develop a set of
26 criteria for qualifying data transmission industry participants that will encourage the widest
27 possible participation of as many industry players as possible who will offer data
28 transmission services to end users in different parts of the country. The qualification
29 requirements for data transmission industry participants shall also take national security
30 concerns into consideration, particularly for facilities that interface directly with another
31 country's domestic network;
- 32 b. A data transmission industry participant shall not be required to secure a Congressional
33 franchise and/or a Certificate of Public Convenience and Necessity (CPCN) in order to
34 construct, install, operate, lease, or own networks and facilities except if (a) it owns and
35 operates an international cable landing station; or (b) it provides a nationwide backbone
36 network, offering services as a carrier's carrier. For purposes of this law, the term

1 nationwide means that the backbone network provides coverage for 80% of all
2 municipalities and 100% of chartered cities in the Philippines;

- 3 c. Data transmission industry participants shall likewise be required to comply with national
4 and global best practices and standards on cybersecurity and shall be subject to a network
5 audit by the Cybersecurity bureau of the DICT. Data transmission industry participants
6 shall, after three (3) years of operation, be required to secure a cybersecurity certification
7 from a third-party organization based on the prevailing ISO standards on information
8 security management.

9 CHAPTER III

10 REGULATION OF THE DATA TRANSMISSION INDUSTRY

11 **SEC. 6. *Open Access Approach to Regulation of the Data Transmission Industry.*** – The
12 NTC shall adopt and ensure that the data transmission industry remains open and accessible to all
13 qualified participants. Specifically, it shall:

- 14 a. Implement an efficient and speedy administrative process in the authorization and
15 registration of data transmission sector participants;
- 16 b. Adopt a technology-neutral framework that allows data transmission industry participants
17 to use any available technology to provide service;
- 18 c. Promote fair and open competition in all the segments of the data transmission network,
19 allowing a wide variety of physical networks and applications to interact in an open
20 architecture;
- 21 d. Mandate transparency in pricing and the publication of pricing information to ensure fair
22 trading within and between each data transmission segment so as to allow clear,
23 comparative information on market prices and services;
- 24 e. Mandate interconnection so that data transmission industry participants can connect to each
25 other at the various segments and interfaces, such that, entities of any size may freely enter
26 and exit the market, and dominance by any single player or group of players is avoided;
- 27 f. Promulgate policies that will encourage distributed local solutions rather than centralized
28 ones, encouraging services that are closer to the user;
- 29 g. Publish the list of registered data transmission industry participants at least once a year;
- 30 h. Promulgate, together with the Philippine Competition Commission (PCC), rules defining
31 and regulating entities with substantial market power; and
- 32 i. Publish a spectrum management framework to be developed together with the DICT and
33 the PCC.

34 **SEC. 7. *Spectrum Allocation and Assignment.*** – The NTC shall maximize the allocation and
35 assignment of finite radio spectrum resources used in the transmission of data by ensuring that
36 spectrum is made available for the use of all registered data transmission industry participants. To
37 this end:

1 a. The procedure for radio spectrum allocation, re-allocation, assignment, re-assignment, re-
2 classification, joint use or co-use, and recall shall be made transparent to the public. All
3 applications, including letter-requests, allocation, re-allocation, assignment, re-
4 assignment, re-classification, joint use or co-use, and recall shall be posted in the NTC's
5 website and in a conspicuous place in the offices of the NTC for at least three (3)
6 consecutive months. The notice shall specifically indicate the names of the applicants for
7 spectrum allocation, re-allocation, assignment, re-assignment, re-classification, joint use
8 or co-use, and recall including where the NTC itself is the proponent of any such action,
9 the affected spectrum, and the applicant's or NTC's reasons for the proposed spectrum
10 allocation, re-allocation, assignment, re-assignment, re-classification, joint use or co-use,
11 and recall. The NTC shall not allocate, reallocate, assign, reassign, reclassify, allow joint
12 use or co-use, or recall any radio frequency band or bands without conducting at least one
13 (1) public hearing and allowing public comment for a period of fifteen (15) days from the
14 date of the public hearing, prior to approval and/or disapproval of the same. This applies
15 to all spectrum, whether used for data transmission or not;

16 b. All radio spectrum, radio frequency allocation, re-allocation, assignment, re-assignment,
17 re-classification, joint use or co-use, and recall decisions of the NTC shall be published in
18 the NTC's website and in a conspicuous place in the offices of the NTC for at least three
19 (3) consecutive months. The recall of frequency for purposes of free public use shall be
20 given priority.

21 The immediately preceding paragraphs (a) and (b) shall not apply to applications
22 for frequency assignments for fixed point-to-point radio links, Wi-Fi and satellite
23 networks;

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

1 believes that any one or more of the NTC's decisions for the assignment of radio spectrum,
2 whether past or present, will promote the dominance of any entity and hinder competition
3 may file a complaint before the PCC to determine the dominance of a data transmission
4 industry participant and act on anti-competitive conduct in accordance with its mandate
5 under Republic Act No. 10667, otherwise known as the *Philippine Competition Act*;

- 6 d. The NTC shall promptly act on applications of data transmission industry participants for
7 permits to import equipment. Any application for permit to import equipment that is not
8 acted on by the NTC within seven (7) days shall be deemed approved; and
- 9 e. If the NTC finds, on its own initiative or upon complaint, that any right, license or radio
10 spectrum assignment to any data transmission industry participant or PTE is not being used,
11 or is not being maximized by the user thereof, or that the grantee has violated the provisions
12 of this Act, it may, *motu proprio* or upon petition by any person, subject to due process,
13 recall the radio spectrum assignment of the data transmission industry participant or PTE.
14 The NTC shall, where required and appropriate, make provisions for substitute frequency
15 to address the needs of active users of the spectrum recalled from the data transmission
16 industry participant or PTE.

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

- 18 a. Mandate that, within one (1) year from the effectivity of this Act, all last mile providers
19 shall provide a minimum download speed of two megabits per second (2 Mbps) or as
20 mandated by the National Broadband Plan, whichever is higher, for mobile broadband and
21 for fixed and fixed wireless/broadband access;
- 22 b. In coordination with the DICT, prescribe performance standards after public consultation
23 and hearings within six (6) months from the effectivity of this Act;
- 24 c. Upgrade performance standards imposed on the data transmission industry regularly to
25 ensure that performance standards shall, at a minimum, be at par with service levels
26 established in regional data network performance indices and aligned with international
27 best practices. Such standards shall take into account speed, packet loss, jitter, and latency;
- 28 d. Regularly review performance standards at least once a year and publish new performance
29 standards at least thirty (30) days before they take effect. The publication of the results of
30 the performance measurements shall be done in an open data format accessible to the
31 general public;
- 32 e. Any person, or the NTC itself may, *motu proprio*, file a petition to penalize any data
33 transmission industry participant for failure to deliver service according to the NTC's
34 published performance standard and to require rectification of such non-compliance; and
- 35 f. Measure the performance of the data industry participants, furnish a copy of the raw data
36 of the measurements to the DICT, and publish the results of its measurements in its website.

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

- 1 a. Publish and make available in print and online formats all aspects of spectrum use
2 information, including the National Radio Frequency Allocation Table (NRFAT),
3 indicating therein the purpose or use to which each frequency band is allocated, and, for
4 frequency bands allocated for public use, the persons and/or entities to whom each
5 particular frequency is assigned. The NRFAT and updated radio spectrum use information
6 shall be made available on the NTC's website and to any person who requests the same,
7 upon written request; and
- 8 b. Promulgate rules requiring all data transmission industry participants to file an annual
9 report and include therein a fair and accurate statement regarding their market prices and
10 their services. The annual report shall include all costs and charges relevant to the data
11 transmission network segment where the participants operate. The rates shall be made
12 available online, in print, and in any other viable venues to the public. Any person can file
13 a complaint pertaining to these rates within thirty (30) days of posting. Each player at each
14 segment shall submit a copy of their rates to the NTC and the PCC. The rates will be
15 published, including a historical record, in a consolidated manner. The data transmission
16 industry participants are required to keep a publicly accessible archive of their rates.

17 **SEC 10. *Fair Competition.*** – The PCC and the NTC shall ensure that the principles and
18 policies enshrined under Republic Act No. 10667, are strictly adhered to in the data transmission
19 industry. The PCC and NTC shall ensure that all industry players shall observe fair, reasonable
20 and non-discriminatory treatment in all their dealings, and that barriers to entry are eliminated to
21 make the industry highly competitive. To this end, the PCC and NTC shall foster and develop
22 interagency cooperation mechanisms, including information-sharing tools, that will guide them in
23 the performance of their respective mandates, and in the promotion of fair competition in the data
24 transmission industry.

25 **SEC 11. *Technological Neutrality.*** – The NTC shall promulgate the necessary rules and
26 regulations to ensure that the provisions of this law apply, *mutatis mutandis*, to future technologies
27 in data transmission.

28 **SEC. 12. *Expedited Processing.*** – In all instances where a participant in the data transmission
29 industry shall require a form, certificate, or request from any government agency or local
30 government unit (LGU), there should be no more than two (2) public officers involved in
31 processing the form, certificate, or request.

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

1 **SEC. 13. Infrastructure Sharing and Co-Location.** – The DICT and NTC shall promulgate
2 policies, rules, and regulations to ensure that a data transmission network’s active facilities and
3 support infrastructure available through data transmission networks or networks of public utilities,
4 such as, but not limited to, towers, poles, ducts, entrance cables, risers, dark fiber, and utility
5 corridors are:

- 6 (a) Mandatory for open access and made available for co-location and co-use by the owner
7 of network facilities, equipment, and infrastructure on an open, fair, and non-
8 discriminatory basis to any access seeker’s network facilities, in any segment, subject to
9 the technical feasibility of the access seeker’s request and the network facility and
10 infrastructure owner’s standard published offer terms, conditions, and rates: *Provided,*
11 That the provision of access to government-owned and -operated facilities and support
12 infrastructure to access seekers for the purpose of offering data transmission services
13 shall be mandatory, unless special circumstances, such as but not limited to national
14 security concerns, exist;
- 15 (b) Built not only in the city centers, but most especially in the remote, unserved, and
16 underserved areas in order to extend data transmission services by both the existing and
17 new players throughout the country;
- 18 (c) As far as possible, deployed together with roadworks, pipe-laying, and other
19 infrastructure development by both government and private entities; and
- 20 (d) Propagated in the most cost-efficient and timely manner through various means,
21 including, among others, encouraging the operation of independent entities that build and
22 operate towers, dark fiber, and utility corridors, among other infrastructure that help
23 facilitate data transmission network deployment.

24 The DICT and NTC shall promulgate policies, rules, and regulations to ensure that buildings,
25 condominiums, villages, towns, and subdivisions are all built with facilities, such as cable
26 entrances, ducts, and risers, that allow non-discriminatory access to multiple data transmission
27 industry players in order for them to provide service.

28 The DICT and NTC shall also promulgate policies, rules, and guidelines that will ensure a
29 level-playing field and price non-discrimination among data transmission industry participants and
30 network facility and infrastructure owners.

31 The DICT and NTC shall coordinate and issue a policy with other government agencies, as
32 necessary, including but not limited to the Department of Public Works and Highways (DPWH),
33 Metropolitan Waterworks and Sewerage System (MWSS), the Metropolitan Manila Development
34 Authority (MMDA), the National Electrification Administration (NEA), and the Housing and
35 Land Use Regulatory Board (HLURB), and private entities concerned to implement this provision.

36 The DICT and NTC shall also ensure the disaster resiliency and ease of recovery and
37 restoration of support infrastructure, such as towers, poles, and utility corridors, from the effects

1 of disasters by strictly enforcing compliance with internationally-accepted engineering standards
2 and best practices, and relevant engineering codes and codes of practice.

3 **CHAPTER IV**
4 **PROHIBITED ACTS**

5 **SEC. 14. *Prohibited Acts.*** – The following acts shall be prohibited:

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

9 Data transmission industry participant shall not impede the end-user's right to
10 access and distribute information and content, use and provide applications and services
11 and use terminal equipment of their choice, regardless of the end-user's or provider's
12 location or the location, origin or destination of the information, content, application or
13 service, via their data transmission service. Agreements between data transmission
14 providers of data services and end-users on commercial and technical conditions and the
15 characteristics of data access services such as price, data volume or speed, and any
16 commercial practices conducted by providers of internet access services, shall not limit the
17 exercise of the rights of end-users laid down in the preceding paragraph;

18 b. *Paid prioritization* – A data transmission industry participant, shall not engage in paid
19 prioritization for monetary or other consideration except when allowed by the NTC after
20 such participant demonstrates that the practice would provide significant public interest
21 benefit and will not disadvantage content and applications that are not prioritized nor harm
22 the open nature of the Internet;

23 c. *Throttling* – Data transmission industry participants shall treat all traffic equally when
24 providing data access services without discrimination, restriction or interference,
25 regardless of the sender and receiver, the content accessed or distributed, the applications
26 or services used or provided, or the terminal equipment used.

27 It shall be prohibited for a data transmission industry participant to hinder or slow
28 down services or applications or access to specific sites on the internet except where (a)
29 access to such sites, services or applications are prohibited by law; (b) it is necessary to
30 preserve the integrity and security of the provider and the equipment of the end-user:
31 *Provided*, That if the breach of integrity or security is caused by the equipment of the end-
32 user, the provider has to notify the end-user first and provide the end-user sufficient time
33 to rectify the situation; or (c) it is necessary to block the transmission of unwanted
34 communications to an end-user, on the application or complaint of the end-user or the data
35 transmission industry participant, and upon lawful order of the court;

36 d. *Refusal to give information* - It shall be prohibited for any data transmission industry
37 participant, including PTEs with regard to its network and facilities, to refuse or fail to

1 make available, on a timely basis, to suppliers of data transmission services, technical
2 information about its essential facilities or network facilities and commercially relevant
3 information that are necessary for them to provide services; and

- 4 e. *Anti-competitive cross-subsidization* - The NTC shall require separate books of account
5 between different data transmission segments in order to allow identification of costs and
6 revenues for each segment. Any violation of this provision shall give rise to a presumption
7 of anti-competitive cross-subsidization, which shall then be referred to the PCC for proper
8 determination and action, in accordance with the provisions of Republic Act No. 10667.
9 Nothing herein shall prevent interconnecting networks from charging the appropriate cost-
10 based compensation for the use of interconnecting facilities.

11 CHAPTER V

12 PENALTIES

13 **SEC. 15. *Administrative Penalties.*** – The NTC shall require data transmission industry
14 participants and PTEs providing data transmission services to comply with the prescribed
15 performance standards and shall impose penalties for failure to comply with such performance
16 standards.

- 17 a. Any data transmission industry participant that engages in the prohibited acts under Section
18 14 of this Act or fails to comply with the obligations under Section 8 of this Act shall suffer
19 a minimum penalty of a fine of not less than Three Hundred Thousand Pesos (P300,000.00)
20 but not more than Five Million Pesos (P5,000,000.00) for every day that the violation
21 continues until the participant fully complies: *Provided, That*, if the data transmission
22 industry participant has a gross annual income not exceeding Ten Million Pesos
23 (P10,000,000.00), the penalty that may be imposed shall be equivalent to one percent (1%)
24 to two percent (2%) of its gross annual income. In cases of anti-competitive cross-
25 subsidization, which is prohibited under Section 14 (e) of this Act, the imposable penalties
26 are those provided for under Republic Act No. 10667. The NTC is hereby authorized and
27 empowered to impose such fine, after due notice and hearing.
- 28 b. An entity who fails to substantially comply with the NTC's performance standards for three
29 (3) consecutive years shall, subject to due process, be removed from the registry of
30 registered data transmission industry participants and shall be prohibited from rendering
31 data transmission services.
- 32 c. A data transmission industry participant violating any provision of this Act shall forfeit all
33 certificates, licenses, authorizations, rights, and awards issued to it in relation to its
34 participation in the data transmission industry.
- 35 d. Any other violations of this Act shall be sanctioned with a fine of not less than Fifty
36 Thousand Pesos (P50,000.00) but not more than Two Million Pesos (P2,000,000.00).

1 Committee on Science and Technology and the Chairperson of the House of Representatives
2 Committee on Information and Communications Technology, who shall Chair the Oversight
3 Committee in the order specified herein: *Provided*, That, two (2) members of each chambers'
4 nominees shall come from the ranks of the minority party or bloc.

5 The Chairperson of the Senate Committee on Science and Technology and the Chairperson
6 of the House of Representatives Committee on Information and Communications Technology shall
7 act as co-Chairpersons of the JCOCOADT. The ranking minority members nominated by both the
8 Senate and the House of Representatives shall act as Vice Co-Chairpersons.

9 The Secretariat of the JCOCOADT shall come from the existing Secretariat personnel of
10 the Senate Committee on Science and Technology and the House of Representatives Committee
11 on Information and Communications Technology. The JCOCOADT shall have its own
12 independent counsel.

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

17 **SEC. 19. *Implementing Rules and Regulations.*** — Within sixty (60) days from the
18 effectivity of this Act, the DICT, in coordination with the NTC and the PCC, shall promulgate the
19 necessary rules and regulations for the effective implementation of this Act.

20 **SEC. 20. *Separability Clause.*** — Should any provision herein be declared
21 unconstitutional, the same shall not affect the validity of the other provisions of this Act.

22 **SEC. 21. *Repealing Clause.*** — All laws, decrees, orders, rules, and regulations or other
23 issuances or parts inconsistent with the provisions of this Act are hereby repealed or modified
24 accordingly.

25 **SEC. 22. *Effectivity.*** — This Act shall take effect fifteen (15) days after its publication in
26 the *Official Gazette* or in at least two (2) national newspapers of general circulation.

Approved,