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and 2146, taking in consideration H. No. 6)

Prepared and submitted jointly by the Committees on Science and Technology; Public Services; and Finance with Senators Marcos, Gatchalian, Poe, Revilla Jr., Zubiri, Villanueva, Tulfo, Lapid, Estrada, Legarda, and A. Cayetano as authors thereof

AN ACT
ESTABLISHING A COMPREHENSIVE AND INCLUSIVE DATA
TRANSMISSION AND CONNECTIVITY FRAMEWORK FOR THE PHILIPPINES

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

CHAPTER I
GENERAL PROVISIONS

Section 1. *Short Title.* – This Act shall be known as the "*Konektadong Pinoy Act*".

Sec. 2. *Declaration of Policy.* – The State recognizes the role of digital inclusivity in nation-building and the necessity of narrowing the digital divide in the country by encouraging the development of data transmission infrastructure and removing any barrier to competition in data transmission services in the telecommunications sector.

The State hereby adopts a policy to promote, develop, and sustain new communication technologies and the best quality of data transmission services at an

1 affordable cost and at standards consistent with the needs and aspirations of the
2 nation. The State shall implement measures to ensure universal access to the internet,
3 especially in critical areas such as e-governance and the delivery of basic services,
4 education, health, trade, finance, disaster preparedness, and public safety.

5 It is further declared that the State shall protect the public interest by ensuring
6 better quality of data transmission services, including internet services, at an
7 affordable cost, taking into account national security concerns.

8 The State shall pursue an open access policy providing an open, accessible,
9 and competitive environment to all qualified participants in all segments of the data
10 transmission network. Further, the State shall encourage investments in the digital
11 infrastructure development of the country by promoting the construction and
12 development of reliable, affordable, open and accessible data transmission networks
13 that are comparable to the best in the world. The State shall also promote data
14 transmission infrastructure sharing and co-location to eliminate the uneconomic
15 duplication of these facilities in the Data Transmission sector.

16 The State shall ensure efficient and transparent management of the radio
17 frequency spectrum to optimize its utilization and prevent monopolistic control,
18 thereby fostering fair competition and equitable access to data transmission services
19 for all Filipino citizens.

20 **Sec. 3. Definition of Terms.** – As used in this Act:

21 (a) *Access* refers to making available facilities and/or services to another entity
22 to provide data transmission services. This includes, among others, access to network
23 elements and associated facilities involving the connection of equipment by fixed or
24 non-fixed means or the physical and logical linking of networks; access to passive
25 infrastructure including buildings, ducts, and masts, and active infrastructure including
26 software and operational support systems; access to data transmission networks; and
27 access to virtual network services;

28 (b) *Access List* refers to the list of digital infrastructure and services to be
29 determined jointly by the Department of Information and Communications Technology
30 (DICT), the National Telecommunications Commission (NTC), and the Philippine

1 Competition Commission (PCC) where access to such infrastructure and services by
2 another entity is necessary for it to offer data transmission services competitively. The
3 inclusion of digital infrastructure and services in the list shall promote competition,
4 entry and expansion of new players, and encourage the efficient use of and investment
5 in digital infrastructure;

6 (c) *Access Provider* refers to an entity that owns, leases, or operates digital
7 infrastructure and services contained in the access list;

8 (d) *Access Seeker* refers to a data transmission industry participant requesting
9 access from an access provider to digital infrastructure and services contained in the
10 access list;

11 (e) *Active Infrastructure* refers to the active elements of wireless networks such
12 as antennas, antenna systems, transmitters/receivers, transmission systems, radio
13 frequency modules, channel elements, and other radio-communications systems and
14 electronic infrastructure and facilities, either existing or to be deployed in the future,
15 that may be used to support data transmission;

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

19 (g) *Core or Backbone Network* refers to the main line, including international
20 connection, that ties networks, delivers routes to exchange information among various
21 subnetworks, connects regional distribution networks, and, in some instances,
22 provides connectivity to other peer networks;

23 (h) *Data transmission* refers to the process of sending and receiving digital or
24 digitized analog signals over a communication medium to one or more computing
25 networks, communication or electronic devices. It enables the transfer and
26 communication of devices in point-to-point, point-to-multipoint and multipoint-to-
27 multipoint environments. Data transmission includes the provision of voice over
28 Internet protocol (VoIP) services but does not include the provision of basic telephone
29 services;

1 (i) *Data transmission industry participant (DTIP)* refers to any entity engaged
2 in the provision of data transmission services as a form of economic activity. Public
3 telecommunications entities (PTEs) and value-added services (VAS) providers as
4 defined under Republic Act No. 7925, or the "Public Telecommunications Policy Act of
5 the Philippines", and Satellite Systems Providers or Operators (SSPOs) are considered
6 DTIPs to the extent of their businesses engaged in data transmission services;

7 (k) *Dig Once Policy* refers to policies, rules, and guidelines that promote
8 coordinated efforts among DTIPs, concerned government entities, and other relevant
9 entities to ensure that DTIPs can easily place and install cables without repeated
10 excavation in buried conduits, which follow engineering standards, thereby
11 substantially minimizing deployment and operations costs;

12 (l) *Digital infrastructure* refers to both passive and active infrastructure;

13 (m) *Entity* refers to any person, natural or juridical, sole proprietorship,
14 partnership, combination or association in any form, whether incorporated or not,
15 domestic or foreign, including those owned or controlled by the government;

16 (n) *International gateway facility* refers to the segment of data transmission
17 that consists of any facility, including submarine cables, that provides an interface to
18 send and receive data traffic between one country's domestic network facilities and
19 those in another country;

20 (o) *Last mile* refers to the segment of the data transmission network that
21 connects end-users, including indoor/in-building networks;

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

24 (q) *Open access* refers to the system of allowing the use of data transmission
25 networks and associated facilities subject to fair, reasonable, and non-discriminatory
26 terms in a transparent manner;

27 (r) *Passive infrastructure* refers to all types of non-digital and non-electronic
28 telecommunications infrastructure or civil works, including but not limited to
29 telecommunications towers, poles, dark fiber cables, cable entrances, ducts, utility

1 corridors, and any other similar infrastructure and facilities, either existing or to be
2 deployed in the future, that may be used to support data transmission;

3 (s) *Radio frequency spectrum or Spectrum* refers to the continuous range of
4 electromagnetic wave frequencies up to 3,000 gigahertz;

5 (t) *Satellite* refers to "communications satellites" or earth-orbiting systems
6 capable of receiving and relaying signals to and from the ground to provide links for
7 use in the provision of a variety of Information and Communications Technology (ICT)
8 services, such as telephony, radio, television, or broadband internet. For purposes of
9 this Act, satellites used exclusively for space/earth exploration are not included;

10 (u) *Satellite-based technologies* refer to technologies for the administration,
11 deployment, or use of communications satellites;

12 (v) *Satellite Systems Provider or Operator (SSPO)* refers to providers or
13 operators of satellite systems, whether fixed or mobile, international or domestic, that
14 are duly authorized to engage in the provision of satellite communications services
15 under the laws of their respective countries of domicile;

16 (w) *Spectrum allocation* refers to an entry in the National Radio Frequency
17 Table (NRFAT) of a given frequency band for its use by one or more
18 telecommunications or data transmission services;

19 (x) *Spectrum assignment* refers to the authorization given by the NTC for an
20 entity to use specific frequencies or channels under specified conditions. This term
21 shall include spectrum reassignment and joint use or co-use;

22 (y) *Spectrum recall* refers to the process by which the State, through the NTC,
23 reclaims spectrum assignment previously granted to an entity;

24 (z) *Underserved areas* refer to areas that have unreliable and inadequate ICT
25 services, as may be defined by the DICT;

26 (aa) *Underutilized spectrum* refers to spectrum assigned to an entity that is not
27 being utilized efficiently, pursuant to the Spectrum Management Policy Framework
28 under Section 10 of this Act, and standards and parameters as determined by the
29 NTC;

1 (bb) *Unservd areas* refer to areas that do not have DTIPs and ICT services,
2 as may be defined by the DICT;

3 (cc) *Unutilized spectrum* refers to spectrum assigned to an entity that is not
4 being utilized, or is solely being utilized for unauthorized purposes pursuant to the
5 Spectrum Management Policy Framework under Section 10 of this Act, and standards
6 and parameters as determined by the NTC; and

7 (dd) *Voice over Internet Protocol (VoIP)* refers to the provision of voice
8 communication using Internet protocol (IP) technology.

9 **Section 4. Scope.** – This Act shall apply to all DTIPs including, but not limited
10 to, VoIP service providers, internet service providers (ISPs), and SSPOs. DTIPs that
11 are principally engaged in the provision of basic telephone services, such as
12 international carriers, interexchange carriers, local exchange operators, and mobile
13 radio services providers, as defined in RA No. 7925, and which also provide data
14 transmission services, shall likewise be subject to the provisions of this Act with
15 respect to the data transmission services they provide and the linkage of their
16 networks extended to DTIPs.

17 Access providers shall likewise comply with the relevant provisions herein and
18 the policies, rules and regulations issued under this Act.

19 **Sec. 5. Segments of the Data Transmission Network.** – The data
20 transmission network shall be divided into segments, which include: (a) international
21 gateway facilities; (b) core or backbone network; (c) middle mile; (d) last mile; and
22 any other segment as may be defined by the DICT.

23 CHAPTER II

24 REGULATION OF THE DATA TRANSMISSION INDUSTRY

25 **Sec. 6. Department of Information and Communications Technology.**
26 – The DICT shall be the primary policy, planning, coordinating, implementing, and
27 administrative entity of the Executive Branch of the government that will plan,
28 develop, and promote the national ICT agenda in accordance with its mandate under
29 Republic Act No. 10844, or the “Department of Information and Communications
30 Technology Act of 2015”, and in accordance with international agreements and

1 conventions to which the Philippines is a party. In line with this mandate, the DICT
2 shall be the highest policy-making body on data transmission and connectivity matters
3 and shall have the following powers and functions:

4 (a) Formulate plans and policies to implement an open access approach for the
5 promotion of investment and healthy competition and the regulation of the data
6 transmission sector;

7 (b) Ensure the adoption of technology-neutral policies that allow DTIPs to use
8 any available technology to provide service;

9 (c) Assist the PCC in promulgating policies governing DTIPs and/or access
10 providers with significant market power;

11 (d) Formulate policies to govern the determination of eligibility criteria for the
12 registration of DTIPs by the NTC;

13 (e) Pursue policies, in coordination with the NTC, to secure necessary orbital
14 slots for Philippine satellites;

15 (f) Pursue plans, programs, activities, or initiatives as may be necessary or
16 desirable to incentivize DTIPs to invest in, adopt, roll out, implement, establish, own,
17 maintain, operate or utilize new and next generation technologies. The departmental
18 plans, programs, activities, or initiatives shall include, but not be limited to, effectively
19 coordinating with the Board of Investments (BOI), Philippine Economic Zone Authority
20 (PEZA), Fiscal Incentives Review Board (FIRB), local government units (LGUs), and
21 other concerned government agencies or instrumentalities, for the issuance and
22 implementation of policies for the grant of applicable incentives and benefits;

23 (g) Develop a Spectrum Management Policy Framework (SMPF), in coordination
24 with the NTC and the PCC and in consultation with relevant stakeholders, within one
25 (1) year from effectivity of the IRR of this Act, and regularly update the same every
26 four (4) years or as necessary;

27 (h) Define and identify areas that are underserved and unserved by any existing
28 DTIP, and update the same as necessary;

29 (i) Recommend performance standards for DTIPs to NTC; and

1 (j) Promulgate such other policies or guidelines necessary to achieve the
2 objectives of this Act.

3 As may be necessary, the DICT may consult or coordinate with relevant
4 government departments, agencies, bureaus or instrumentalities, and LGUs, in the
5 formulation of its policies and guidelines.

6 All policies and guidelines to be issued by the DICT, which are not internal,
7 shall be subject to prior public consultations or hearings.

8 **Sec. 7. National Telecommunications Commission.** – The NTC, an
9 attached agency of the DICT, shall be the principal regulatory and adjudicatory body
10 over the data transmission sector and shall take the necessary measures to implement
11 the policies and objectives in this Act, and as may be set forth by the DICT. In addition
12 to its existing functions, the NTC shall be responsible for the following:

13 (a) Ensure that the data transmission sector remains open and accessible to
14 all qualified participants;

15 (b) Formulate eligibility criteria for the registration of DTIPs within one (1)
16 month from the effectivity of the IRR of this Act;

17 (c) Formulate and implement an efficient and speedy process in the
18 qualification and registration of DTIPs in line with relevant laws, policies, rules and
19 regulations, and government issuances;

20 (d) In consultation with the DICT, issue rules and regulations on the
21 development, use, and maintenance of satellite-based technology;

22 (e) Assist the PCC in issuing rules and regulations that promote fair and open
23 competition in accordance with the principles and policies under Republic Act No.
24 10667 or the "Philippine Competition Act", its IRR, including guidelines and rules on
25 DTIPs and/or access providers with significant market power in all segments of the
26 data transmission network, allowing a wide variety of physical networks and
27 applications to interact seamlessly;

28 (f) Mandate transparency in pricing and the regular publication of updated
29 pricing information to ensure fair trading within and between each data transmission
30 segment to allow clear, comparative information on market prices and services;

1 (g) Mandate access providers to provide access to digital infrastructure and
2 services contained in the access list;

3 (h) Publish the list of registered DTIPs on its official website and a publicly-
4 accessible site or location, and update the same at least once a year subject to relevant
5 issuances of the DICT, and provide this information to the DICT for concurrent
6 publication;

7 (i) Implement the SMPF developed by the DICT;

8 (j) Periodically review spectrum allocation, use, and assignment every four (4)
9 years pursuant to the policies and guiding principles contained in the SMPF, and
10 undertake measures such as, but not limited to, spectrum recall and restacking to
11 ensure the most efficient and optimal use of spectrum in accordance with the SMPF;

12 (k) In coordination with the PCC, ensure that spectrum assignment and
13 spectrum recall do not result in the concentration of spectrum resources which may
14 harm competition;

15 (l) Determine and set performance standards for DTIPs within six (6) months
16 from the effectivity of the IRR of this Act, and periodically update such standards as
17 necessary;

18 (m) Monitor, evaluate, and investigate the compliance of DTIPs with the
19 performance standards it has set;

20 (n) Charge reasonable fees to defray administrative costs of services it renders;

21 (o) Collect the necessary Supervision and Regulation Fee (SRF) and Spectrum
22 User Fee (SUF), and other relevant fees as provided by law;

23 (p) Impose the applicable administrative penalties for violations of this Act; and

24 (q) Perform such other functions as may be necessary to achieve the objectives
25 of this Act.

26 **Sec. 8. Registration.** – All segments of the data transmission network shall
27 be competitive and open and all DTIPs shall be allowed to put up their own networks.
28 Notwithstanding the provisions of this Act or any other law, the following registration
29 and certification shall apply to data transmission industry:

1 (a) DTIPs shall not be required to secure a legislative franchise or a Certificate
2 of Public Convenience and Necessity (CPCN) but must meet the criteria set by the NTC
3 in registering as industry participants in order to construct, operate, lease or own
4 networks or facilities: *Provided*, That all DTIPs intending to use spectrum resources
5 shall secure authorization from the NTC and shall be assigned or allowed access to
6 such spectrum in accordance with the provisions of this Act and other pertinent laws;

7 (b) All DTIPs shall be required to register with the NTC. The NTC shall
8 promulgate a speedy and expeditious process for registration and shall apply the
9 eligibility criteria it formulated in line with the policies developed by the DICT.

10 Foreign entities who wish to enter the data transmission industry shall be
11 subject to the provisions of Republic Act No. 7042 or the "Foreign Investments Act
12 of 1991", as amended by Republic Act No. 11647, Commonwealth Act No. 146 or the
13 "Public Service Act", as amended by Republic Act No. 11659, and other pertinent
14 laws and issuances; and

15 (c) Those seeking to operate an international gateway facility or a core or
16 backbone network shall secure authorization from the NTC. In granting such
17 authorization, the NTC shall consider the proposed route or rollout plan, as well as the
18 manner of construction thereof.

19 **Sec. 9. *Cybersecurity Certification.*** – All DTIPs shall be required to adopt
20 and comply with national and global best practices and standards on cybersecurity
21 and shall be subject to a cybersecurity performance audit by the Cybersecurity Bureau
22 of the DICT. Data transmission industry participants shall, within three (3) years from
23 registration, be required to secure a cybersecurity certification from a third-party
24 organization based on the prevailing International Organization for Standardization
25 (ISO) standards on information security management or such other minimum security
26 standards identified by the DICT.

27 **Sec. 10. *Spectrum Management Policy Framework.*** – A Spectrum
28 Management Policy Framework shall be formulated to ensure that the spectrum is
29 managed in a manner that ensures fair competition, supports adaptability to
30 technological advancements, and maximizes the efficient use of this resource among

1 all registered DTIPs. The SMPF shall contain the national policies and guiding principles
2 to govern the management of spectrum, which include, among others, spectrum
3 valuation and pricing, spectrum allocation and spectrum assignment for public, private
4 and government use.

5 Within three (3) months from the effectivity of the IRR of this Act, the NTC
6 shall initiate and complete a review of the existing spectrum allocations and
7 assignments, in coordination with the DICT. Upon completion of the review, the NTC
8 shall provide the DICT with recommendations aimed at enhancing the efficiency and
9 optimization of spectrum management, which shall serve as a basis for the
10 development of the SMPF. The SMPF shall be promulgated by the DICT, in
11 coordination with the NTC and the PCC, within one (1) year from effectivity of the IRR
12 of this Act, and shall be reviewed annually and updated every four (4) years or as
13 necessary.

14 The SMPF shall include, as a minimum, policies on the following:

15 (a) Methodologies for spectrum valuation and pricing;

16 (b) Procedures for spectrum assignment, ensuring the efficient and optimal
17 use of this finite resource, including defined validity periods and corresponding
18 obligations for spectrum grantees;

19 (c) Processes for joint use or co-use application designed to promote
20 collaborative and equitable access to spectrum resources, requiring detailed
21 submissions to be made transparent, including the nature of joint use or co-use,
22 parties involved, and the rationale for application;

23 (d) Rules and procedures for spectrum recall ensuring systematic reevaluation
24 and reassignment where necessary, following consultations with affected licensees
25 and stakeholders. The SMPF shall be designed to facilitate the transition, reallocation,
26 and reassignment of spectrum bands and licenses, aligning with evolving sector needs
27 and efficient spectrum use;

28 (e) The determination of unutilized or underutilized spectrum and the
29 procedures for spectrum recall thereof: *Provided*, That all spectrum determined to be

1 unutilized or underutilized shall be subject to such spectrum recall procedures by the
2 NTC within one (1) year from effectivity of the SMPF;

3 (f) A mandate for the NTC to publish decisions related to spectrum
4 assignments, joint use and co-use applications, and spectrum recalls on its website
5 for public access and to maintain an archive for future reference;

6 (g) A mandate for the NTC to act promptly on applications of DTIPs for permits
7 to import equipment. Any application for a permit to import equipment that is not
8 acted on by the NTC within seven (7) days shall be deemed approved;

9 (h) Reserved frequencies for government use such as those for emergency and
10 national security purposes;

11 (i) The authority for the NTC to *motu proprio* or upon petition by any interested
12 party, subject to due process, recall the spectrum assignment of a DTIP if it finds on
13 its initiative or upon complaint that such DTIP has unutilized or underutilized spectrum
14 pursuant to the provisions of this Act and other pertinent issuances, or that the DTIP
15 has not complied with its obligations in relation to the spectrum assignment. The NTC
16 shall, where required and appropriate, work with the DTIP concerned to take
17 appropriate measures to minimize the impact of such recall on active users of services
18 utilizing the recalled spectrum. The foregoing notwithstanding, no frequency shall be
19 recalled within eighteen (18) months of the awarding of a provisional authority (PA),
20 license or registration; and

21 (j) A requirement for entities requesting for an assignment of spectrum or a
22 joint use of spectrum to serve notice to the PCC and to secure a no-objection notice
23 from the PCC. The PCC shall issue a decision on the request for a no-objection notice
24 within thirty (30) calendar days upon its receipt of pertinent information necessary for
25 the review and issuance of the notice: *Provided*, That the PCC may extend such period
26 for an additional ten (10) calendar days upon notification of the NTC and the
27 concerned party or parties to a spectrum assignment; *Provided, further*, That when
28 the periods herein prescribed have expired and no decision has been promulgated for
29 whatever reason, the no-objection notice shall be deemed issued.

1 Paragraphs (b), (c), (d), (e) and (j) herein shall not apply to applications for
2 frequency assignments for fixed point-to-point radio links, and Wi-Fi subject to
3 guidelines to be issued by the DICT.

4 The NTC shall promulgate rules and regulations within three (3) months
5 from the effectivity of the SMPF in order to effectively implement the same.

6 **Sec. 11. Arms-Length Transactions and Transparency.** – A registry of all
7 DTIPs must be published by the NTC on its website within three (3) months from the
8 effectivity of the IRR of this Act, and shall regularly be updated at least once a year.

9 All aspects of spectrum use information, including the NRFAT shall be regularly
10 reviewed, updated, published, and made available in print and online formats by the
11 NTC. This information shall also include the purpose or use to which each frequency
12 band is allocated, and for frequency bands allocated for public use, the persons and/or
13 entities to whom each particular frequency is assigned. The NRFAT and updated radio
14 frequency spectrum use information shall be made available on the NTC’s website and
15 to any entity who requests the same upon written request.

16 The initial publication of such spectrum use information must be made within
17 three (3) months from the effectivity of the IRR of this Act, and then once every two
18 (2) years thereafter or more frequently as necessary where (i) national security so
19 requires; (ii) the government deems it necessary and essential to the interest of the
20 country; and (iii) the Philippines has a regional and/or international commitment as a
21 member signatory to bilateral or multilateral agreements duly entered into by
22 governments.

23 All DTIPs shall be required to file an annual report with the NTC and include
24 therein a fair and accurate statement regarding their market prices and their services.
25 The annual report shall include technical and financial reports of the entity which shall
26 contain, among others, investments made, network roll-out reach and all costs and
27 charges relevant to the data transmission network segment where the participants
28 operate.

29 Each DTIP at each segment shall submit a copy of their rates to the NTC and
30 the PCC at least once a year. The rates shall be published, including a historical record,

1 in a consolidated manner. The DTIPs shall keep a publicly accessible archive of their
2 rates.

3 **Sec. 12. Access.** – Access providers shall grant access to digital infrastructure
4 and services contained in the access list in an open, fair, reasonable, and non-
5 discriminatory basis, subject to the technical feasibility of the access seeker’s request.

6 Non-discriminatory basis shall mean that access providers shall grant access on
7 equal terms and conditions in similar circumstances, and shall provide information to
8 third parties under the same conditions as it provides to itself or to its subsidiaries.

9 The access list shall be issued by the DICT, the NTC, and the PCC within three
10 (3) months from the effectivity of the IRR of this Act, and shall be reviewed and
11 updated as necessary.

12 **Sec. 13. Reference Access Offer.** – Access providers shall publish a
13 Reference Access Offer (RAO) that contains the relevant information, terms,
14 conditions and rates for the provision of access to digital infrastructure and services
15 contained in the access list. The RAO of an access provider designated to have
16 significant market power by the PCC, in consultation with the NTC, shall be submitted
17 to and approved by the NTC prior to publication. For other access providers, the NTC
18 shall be furnished a copy of the RAO prior to the publication thereof.

19 The RAO shall be comprehensive, complete, modular, and detailed such that it
20 allows access seekers to consider the offer without need for negotiations or requests
21 for additional information.

22 Disputes concerning access to digital infrastructure and services contained in
23 the access list may be appealed to the NTC for adjudication. The NTC shall decide on
24 such dispute within sixty (60) calendar days from receipt of the petition.

25 Access providers shall publish their RAO within sixty (60) days from the
26 effectivity of the IRR of this Act.

27 **Sec. 14. Direct Access to Satellite Systems.** – Duly registered DTIPs are
28 allowed to deploy satellite technology and use associated spectrum in any or all
29 segments of their broadband network without the need to go through lease or rent

1 capacity for such from PTEs, and apply with the NTC for permission to use spectrum
2 for this purpose.

3 Prior authorization of either the DICT, for broadband networks, or the NTC, for
4 broadcast providers and for services that do not involve broadband networks, shall
5 not be required for direct access to satellite systems under this provision: *Provided,*
6 That the terms and conditions, which include levels of access to any international fixed
7 or mobile satellite system, shall be submitted by the DTIPs to the DICT or NTC, as
8 applicable, for record purposes.

9 **Sec. 15. Performance Standards and Monitoring for the Data**
10 **Transmission Industry.** – Within six (6) months from the effectivity of the IRR of
11 this Act, the NTC shall publish performance standards for all DTIPs. These
12 performance standards shall be regularly updated to ensure that they shall, at a
13 minimum, be at par with service levels established in regional data transmission
14 network performance indices and aligned with international best practices. Such
15 standards shall take into account quality of service parameters such as, but not limited
16 to speed, packet loss, jitter, and latency, or as determined by the NTC. A Regular
17 review of the performance standards shall be undertaken at least once a year and
18 updated as necessary. New performance standards shall be published at least thirty
19 (30) days before they take effect.

20 The performance of the DTIPs based on these standards shall be monitored
21 and measured by the NTC on a quarterly basis. The results shall also be published on
22 the NTC website quarterly. The NTC may engage the services of an independent third-
23 party monitoring firm to monitor the performance of DTIPs.

24 DTIPs shall comply with the performance standards set by the NTC, within six
25 (6) months from its initial publication.

26 The NTC may, *motu proprio* or upon petition by any interested party, and after
27 due process, penalize any DTIP for failure to comply with the performance standards
28 promulgated by the NTC and to require rectification of such noncompliance.

29 **Sec. 16. Infrastructure Sharing and Co-location.** – (1) The DICT shall,
30 taking into account the digital infrastructure and services contained in the access list,

1 promulgate policies to ensure that passive infrastructure, whether existing or built in
2 the future, necessary for or capable of supporting data transmission networks or
3 services are:

4 (a) made available for co-location and co-use by the passive infrastructure
5 owner, lesser, operator (PIOLO) on an open, fair, reasonable and non-discriminatory
6 basis subject to the technical feasibility of the request: *Provided*, That the provision
7 of access to government-owned and -operated facilities and support infrastructure to
8 access seekers for the purpose of offering data transmission services shall be
9 mandatory, unless special circumstances, such as but not limited to national security
10 concerns, exist;

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

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

18 The DICT, in coordination with other relevant government agencies, shall issue
19 policies to carry out paragraphs (a) to (c) upon consultation with stakeholders. For
20 purposes of data transmission, the NTC shall, in case of a dispute arising from an
21 infrastructure sharing agreement: (1) mediate between a DTIP and a PIOLO, and (2)
22 serve as the primary enforcer of this provision.

23 (2) The DICT, the PCC, the Department of Public Works and Highways (DPWH),
24 the Department of Transportation (DOTr), the Department of Human Settlements and
25 Urban Development (DHSUD), and other relevant government agencies shall jointly
26 promulgate policies, rules, and regulations to ensure that buildings, condominiums,
27 villages, towns, and subdivisions are built with facilities, such as cable entrances,
28 ducts, and risers, that allow non-discriminatory access to multiple DTIPs for them to
29 provide service. They shall also promulgate policies, rules, and guidelines that will

1 ensure a level playing field and price nondiscrimination among DTIPs and network
2 facility and infrastructure owners.

3 (3) The NTC, in coordination with relevant government agencies such as the
4 Office of Civil Defense, shall ensure the disaster resiliency and ease of recovery and
5 restoration of passive infrastructure, such as towers, poles, and utility corridors, from
6 the effects of disasters by strictly enforcing compliance with internationally-accepted
7 engineering standards and best practices, and relevant engineering codes and other
8 codes of practice.

9 (4) The DICT and the NTC shall jointly maintain and update a centralized
10 database of data transmission infrastructure, including passive infrastructure used to
11 support data transmission. The database, to be updated annually, shall include the
12 exact location, ownership, technical specifications, and other relevant information
13 about the facility. Access to the information contained in the database may be
14 requested from the DICT or the NTC subject to guidelines to be issued by the DICT.
15 DTIPs shall be required to submit a list of the information to be contained in such a
16 database subject to the IRR or other guidelines or rules to be issued by the DICT or
17 the NTC.

18 **Sec. 17. Dig Once Policy.** – The DICT and the DPWH, in collaboration with
19 the NTC, the National Electrification Administration (NEA), the Department of Interior
20 and Local Government (DILG), the LGUs, private entities, and other relevant
21 government agencies, shall jointly develop and issue a Dig Once Policy for the
22 planning, relocation, installation, or improvement of conduit for data transmission
23 services within the right-of-way in conjunction with any current or planned
24 construction, including, but not limited to, highways, bridges and elevated and
25 subterranean railways. To the extent necessary, the DPWH shall, in collaboration with
26 the DICT, the NTC, the NEA, the DILG, the LGUs, private entities, and other relevant
27 government agencies, evaluate engineering and design standards, procedures, and
28 criteria for contracts or lease agreements with private entities, and pricing
29 requirements, and provide for allocation of risk, costs, and any revenue generated.

1 Such policy shall ensure that passive infrastructure is, as far as possible,
2 deployed together with roadworks, pipe-laying, and other infrastructure development
3 by both government and private entities including but not limited to multi-dwelling
4 infrastructure, tourist spots and buildings, and high-density areas.

5 In the absence of any planned excavations by the DPWH within the timeframe
6 necessary for a timely rollout of infrastructure projects, the implementation of the Dig
7 Once policy shall in no way preclude any entity from independently undertaking
8 installation, or improvement of conduit for data transmission services; *Provided*, That
9 such activities comply with relevant laws, regulations, and safety standards, and do
10 not unduly interfere with ongoing projects or endanger public safety. *Provided*,
11 *further*, That the party conducting independent excavation activities must disseminate
12 information about a proposed underground facility in a manner that is accessible to
13 all parties who may be interested in installing a broadband conduit in the area of the
14 proposed underground facility.

15 The DICT and the DPWH shall jointly develop model Dig Once policies for
16 potential adoption by provincial and municipal governments with respect to
17 construction or other improvements to highways, roads, and any other rights-of-way
18 under the LGU's jurisdiction. They shall seek inputs from the Union of Local Authorities
19 in the Philippines, League of Municipalities of the Philippines, League of Cities of the
20 Philippines, League of Provinces of the Philippines and stakeholders in developing
21 these model policies.

22 **Sec. 18. Fair Competition.** – The PCC and the NTC shall ensure that the
23 principles and policies enshrined under the Philippine Competition Act are strictly
24 adhered to in the data transmission industry. The PCC and the NTC shall ensure that
25 all industry players observe fair, reasonable, and non-discriminatory treatment in all
26 their dealings, and that barriers to entry are eliminated to make the industry highly
27 competitive. To this end, within thirty (30) days from the effectivity of this Act, the
28 PCC and the NTC shall enter into an agreement to foster and develop interagency
29 cooperation mechanisms, including information-sharing tools, that will guide them in
30 the performance of their respective mandates, and in the promotion of fair competition

1 in the data transmission industry, and in the effective performance of their obligations
2 under this Act.

3 **Sec. 19. *Technological Neutrality.*** – The DICT and the NTC shall ensure
4 that the provisions of this law apply, *mutatis mutandis*, to future technologies in data
5 transmission.

6 **CHAPTER III**

7 **PENAL PROVISIONS**

8 **Sec. 20. *Prohibited Acts.*** -The following acts are prohibited:

9 (a) *Refusal to Plug and Play.* - Any access provider shall not refuse access to
10 digital infrastructure in the access list, except in cases of failure to pay open market
11 fees for the access to the service and exposure to security risks detrimental to its
12 technical operations as confirmed by the DICT;

13 (b) *Refusal to Give Information.* - It shall be prohibited for any access provider,
14 to refuse or fail to make available to suppliers of data transmission services, on a
15 timely basis, the technical information about its digital infrastructure and services in
16 the access list and commercially relevant information that are necessary for the
17 efficient provision of these infrastructure and services;

18 (c) *False information and material misrepresentation.* – The supply of false or
19 incorrect information by any DTIP in compliance with the provisions of this Act shall
20 be prohibited. Any material misrepresentation committed by a DTIP pursuant to the
21 provisions of this Act shall likewise be prohibited. This prohibition shall also cover false
22 advertising by DTIPs as to the products and services they offer, without prejudice to
23 the provisions of Republic Act No. 7394 or the “Consumer Act of the Philippines”; and

24 (d) *Anti-competitive Cross-subsidization.* – The NTC shall require separate
25 books of accounts between different data transmission segments to allow
26 identification of costs and revenues for each segment. Any violation of this provision
27 shall result in a presumption of anti-competitive cross-subsidization, which shall then
28 be referred to the PCC for proper determination and action, in accordance with the
29 provisions of RA No. 10667. Nothing herein shall prevent interconnecting networks

1 from charging the appropriate cost-based compensation for the use of interconnection
2 facilities.

3 **Sec. 21. Administrative Penalties.** – (1) The NTC shall require DTIPs
4 providing data transmission services to comply with prescribed performance standards
5 and shall impose penalties, after due notice and hearing, for failure to comply with
6 such performance standards:

7 (a) Any DTIP who fails to comply with the minimum performance standards set
8 by the NTC shall be imposed of a fine at least One hundred thousand pesos
9 (Php100,000.00) but exceeding Five million pesos (Php5,000,000.00) per day for
10 every day during which such default or violation continues, until the participant fully
11 complies: *Provided*, That if the data transmission industry participant has a gross
12 annual income not exceeding Ten million pesos (Php10,000,000.00), the penalty that
13 may be imposed shall be equivalent to one percent (1%) to two percent (2%) of its
14 gross annual income; and

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

19 (2) A DTIP who fails to secure a cybersecurity certification in accordance with
20 Section 9 of this Act shall be issued a suspension order from operating until such time
21 that the DTIP is able to secure the required cybersecurity certification: *Provided*, That
22 upon the lapse of six (6) months from the issuance of such order and the DTIP has
23 not yet complied with the cybersecurity certification requirement, the DTIP shall,
24 subject to due process, be removed from the registry of DTIPs and shall be prohibited
25 from rendering data transmission services;

26 (3) An entity who engages in the prohibited acts under Section 20 of this Act
27 shall suffer a fine of at least Three hundred thousand pesos (Php300,000.00) but not
28 exceeding Five million pesos (Php5,000,000.00): *Provided*, That if the DTIP has a
29 gross annual income not exceeding Ten million pesos (Php10,000,000.00), the penalty
30 that may be imposed shall be equivalent to one percent (1%) to two percent (2%) of

1 its gross annual income. In cases of anti-competitive cross-subsidization, the
2 impossible penalties are those provided under RA No.10667;

3 (4) A DTIP who commits at least three (3) violations of this Act shall forfeit all
4 certificates, licenses, authorizations, rights, and awards issued to it in relation to its
5 participation in the data transmission industry; and

6 (5) Other violations of this Act committed by a DTIP not specifically prohibited
7 under Section 20 shall be penalized by a fine of at least Fifty thousand pesos
8 (Php50,000.00) but not exceeding Two million pesos (Php2,000,000.00).

9 **Sec. 22. Adjustment of Fines.** – The administrative fines imposed under this
10 Act shall be adjusted by the NTC, year-on-year, considering the prevailing cost of
11 money based on the current consumer price index, and subject to publication of such
12 adjustments.

13 **Sec. 23. Liability of Public Officers and Employees.** – Without prejudice
14 to the provisions of Republic Act No. 3019 or the "Anti-Graft and Corrupt Practices
15 Act", and other penal laws, a public officer or employee who, in bad faith or with gross
16 negligence, fails to comply with the provisions of this Act, shall be penalized with
17 imprisonment of not less than two (2) years but not more than four (4) years or a fine
18 of at least one hundred thousand pesos (Php100,000.00) but not exceeding two
19 million pesos (Php2,000,000.00), or both, at the discretion of the court.

20 No liability shall lie against any public officer or employee for having committed
21 acts in the regular performance of their duties in good faith.

22 **Sec. 24. Liability of Private Individuals.** – Any violation of this Act by a
23 juridical entity shall be without prejudice to any civil or criminal liability an erring
24 official or employee of such juridical entity may incur.

25 **CHAPTER IV**

26 **RIGHTS OF DATA TRANSMISSION SERVICE USERS AND** 27 **RESPONSIBILITIES OF DATA TRANSMISSION SERVICE PROVIDERS**

28 **Sec. 25. Rights of Users.** -The user of data transmission services shall have
29 the following basic rights:

1 (a) To be entitled to data transmission services which is non-discriminatory,
2 reliable, and conforming with minimum standards set by the NTC

3 (b) To be rendered data transmission services within thirty (30) calendar days
4 from application for service;

5 (c) To receive regular, timely and accurate billing, and be accorded with
6 courteous and efficient service at business offices and by company personnel;

7 (d) To be provided with timely correction of errors in billing and immediate
8 rebates or refunds by the data transmission service provider without the need for
9 demand by the user; and

10 (e) To be accorded with thorough and prompt investigation of, and action upon
11 complaints. The data transmission service provider shall endeavor to allow complaints
12 to be received by any means convenient to the end user, including voice calls, post,
13 short messaging service (SMS), multimedia messages (MMS), instant messaging
14 applications, and other means of online communication, and shall keep a record of all
15 complaints received and the action taken to address the complaints.

16 Subject to the filing of a formal request to the data service provider, a user
17 may request the immediate termination of service without the imposition of fees or
18 penalties, and with the refund of any fee or charge already paid by the user, should a
19 data service provider not consistently comply with paragraphs (a), (d), and (e) of this
20 Section or any other minimum performance standards set by the NTC.

21 CHAPTER V

22 MISCELLANEOUS PROVISIONS

23 **Sec. 26. Expedited Processing.** – In all instances where a DTIP shall require
24 a form, certificate, or request from any government agency or local government unit
25 (LGU), there should be at least two (2) public officers involved in processing the form,
26 certificate, or request.

27 Processing fees and certifications required for the deployment of any segment
28 of data transmission networks shall be limited to those identified by the DICT. The
29 DICT shall coordinate with the concerned national government agencies and LGUs,
30 and conduct the necessary consultations with civil society organizations and other

1 stakeholder groups, for the formulation of the policies and implementing rules to
2 minimize the administrative burden of permitting and certification processes.

3 In processing permits for the construction, installation, repair, operation, and
4 maintenance of data transmission infrastructure, Executive Order No. 32 shall apply.

5 **Sec. 27. Prohibition on the Issuance of Temporary Restraining Orders,**
6 **Preliminary Injunctions and Preliminary Mandatory Injunctions.** — Except
7 for the Court of Appeals and the Supreme Court, no other court shall issue any
8 temporary restraining order, preliminary injunction or preliminary mandatory
9 injunction against the NTC in the exercise of its duties or functions pursuant this Act:
10 *Provided, That, this prohibition shall apply in all cases, disputes or controversies*
11 *instituted by a private party, including, but not limited to, cases filed by entities or*
12 *those claiming to have rights through such entities: *Provided, further, That this**
13 *prohibition shall not apply when the matter is of extreme urgency involving a*
14 *constitutional issue, such that the non-issuance of a temporary restraining order will*
15 *result in grave injustice and irreparable injury to the public: *Provided, furthermore,**
16 *That the applicant shall file a bond, in an amount to be fixed by the court, but in no*
17 *case shall it exceed twenty percent (20%) of the imposable fines provided for under*
18 *Section 20 of this Act: *Provided, finally, That in the event that the court decides that**
19 *the applicant was not entitled to the relief applied for, the bond shall accrue in favor*
20 *of the NTC.*

21 Any temporary restraining order, preliminary injunction or preliminary
22 mandatory injunction issued in violation of this section is void and of no force and
23 effect. Any judge who violates this Section shall be penalized by suspension of at least
24 one (1) year without pay in addition to other criminal, civil or administrative penalties.

25 **Sec. 28. Immunity from Suit.** – Public officers, employees and agents of
26 government agencies tasked to implement the provisions of this Act shall not be
27 subject to any action, claim or demand in connection with any act done or omitted by
28 them in the regular performance of their duties except for those actions and omissions
29 done in evident bad faith or with gross negligence.

1 (d) All spectrum assignments validly subsisting upon the effectivity of this Act shall
2 remain effective: *Provided*, That they shall be subject to the SMPF and its
3 corresponding guidelines, rules and regulations and the provisions of this Act
4 and its IRR upon their effectivity; and

5 (e) All existing agreements granting entities access to digital infrastructure and
6 services, as well as existing agreements on infrastructure sharing and co-
7 location, shall remain valid upon the effectivity of this Act: *Provided*, That their
8 terms and conditions shall be subject to the provisions of this Act and its IRR
9 upon their effectivity.

10 **Sec. 31. Implementing Rules and Regulations.** – Within ninety (90) days
11 from the effectivity of this Act, the DICT, in coordination with the NTC, the PCC, the
12 DPWH, the DOTr, the DILG and the National Economic and Development Authority
13 (NEDA), and upon consultation with relevant stakeholders, shall promulgate the
14 necessary rules and regulations for the effective implementation of this Act.

15 **Sec. 32. Joint Congressional Oversight Committee on Open Access in**
16 **Data Transmission.** – There shall be created a Joint Congressional Oversight
17 Committee on Open Access in Data Transmission (JCOCOADT) which shall monitor
18 and ensure the effective implementation of this Act.

19 The JCOCOADT shall be composed of five (5) members from the Senate and
20 five (5) members from the House of Representatives, including the Chairperson of the
21 Senate Committee on Science and Technology and the Chairperson of the House of
22 Representatives Committee on Information and Communications Technology:
23 *Provided*, That two (2) members from each chamber shall come from the minority.

24 The Chairperson of the Senate Committee on Science and Technology and the
25 Chairperson of the House of Representatives Committee on Information and
26 Communications Technology shall act as co-Chairpersons of the JCOCOADT. The
27 ranking minority members nominated by both the Senate and the House of
28 Representatives shall act as co-Vice Chairpersons. The Secretariat of the JCOCOADT
29 shall come from the existing Secretariat personnel of the Committee on Science and
30 Technology of the Senate and the Committee on Information and Communications

1 Technology of the House of Representatives. The JCOCOADT shall have its own
2 independent counsel.

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

7 **Sec. 33. *Separability Clause.*** – If any provision of this Act is declared
8 unconstitutional, the remainder thereof not otherwise affected shall remain in full force
9 and effect.

10 **Sec. 34. *Repealing Clause.*** – All laws, presidential decrees, executive orders,
11 letters of instruction, proclamations or administrative regulations that are inconsistent
12 with the provisions of this Act are hereby repealed, amended or modified accordingly.

13 **Sec. 35. *Effectivity Clause.*** – This Act shall take effect after fifteen (15) days
14 following its publication in the Official Gazette or in a newspaper of general circulation.

15 Approved,