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CONGRESS OF THE PHILIPPINES
NINETEENTH CONGRESS
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}

SENATE

S. No. 2699*

(In substitution of Senate Bill Nos. 183, 814, 815,
864, 1213, 1380, 1383, 1611, 1845, 1876, and 2146,
taking into consideration House Bill 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, CAYETANO (A.), AND TOLENTINO 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:*

1

CHAPTER I

2

GENERAL PROVISIONS

3

SECTION 1. *Short Title.* – This Act shall be known

4

as the “Konektadong Pinoy Act”.

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

7 The State hereby adopts a policy to promote, develop,
8 and sustain new communication technologies and the best
9 quality of data transmission services at an affordable cost
10 and at standards consistent with the needs and aspirations
11 of the nation. The State shall implement measures to
12 ensure universal access to the internet, especially in
13 critical areas such as e-governance and the delivery of
14 basic services, education, health, trade, finance, disaster
15 preparedness, and public safety.

16 The State shall protect the public interest by ensuring
17 better quality of data transmission services, including internet
18 services, at an affordable cost, taking into account national
19 security concerns.

1 The State shall pursue an open-access policy
2 providing an open, accessible, and competitive
3 environment to all qualified participants in all segments of
4 the data transmission network. Further, the State shall
5 encourage investments in the digital infrastructure
6 development of the country by promoting the construction
7 and development of reliable, affordable, open, and
8 accessible data transmission networks comparable to the
9 best in the world. The State shall promote data
10 transmission infrastructure sharing and co-location to
11 eliminate the uneconomic duplication of these facilities in
12 the data transmission sector.

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

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

2 (a) *Access* refers to making facilities and/or services
3 available to another entity to provide data transmission
4 services. This includes, among others, access to: network
5 elements and associated facilities involving the connection
6 of equipment by fixed or non-fixed means or the physical
7 and logical linking of networks; passive infrastructure
8 including buildings, ducts, and masts, and active
9 infrastructure including software and operational, support
10 systems; data transmission networks; and access to virtual
11 network services;

12 (b) *Access list* refers to the list of digital
13 infrastructure and services to be determined jointly by the
14 Department of Information and Communications
15 Technology (DICT), the National Telecommunications
16 Commission (NTC), and the Philippine Competition
17 Commission (PCC) where access to such infrastructure and
18 services by another entity is necessary to offer data
19 transmission services competitively. The inclusion of

1 digital infrastructure and services in the list shall promote
2 competition, entry and expansion of new players, and
3 encourage the efficient use of and investment in digital
4 infrastructure;

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

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

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

1 (f) *Basic telephone service* refers to the local exchange
2 telephone service for residence and business
3 establishments provided via the circuit-switched telephone
4 network;

5 (g) *Core or backbone network* refers to the main line,
6 including international connection that ties networks,
7 delivers routes to exchange information among various
8 subnetworks, connects regional distribution networks, and,
9 in some instances, provides connectivity to other peer
10 networks;

11 (h) *Data transmission* refers to the process of sending
12 and receiving digital or digitized analog signals over a
13 communication medium to one (1) or more computing
14 networks, communication or electronic devices. It enables
15 the transfer and communication of devices in point-to-
16 point, point-to-multipoint, and multipoint-to-multipoint
17 environments. It includes the provision of Voice over
18 Internet protocol (VoIP) services but does not include the
19 provision of basic telephone services;

1 (i) *Data transmission industry participant (DTIP)*
2 refers to any entity engaged in the provision of data
3 transmission services as a form of economic activity. Public
4 telecommunications entities (PTEs) and value-added
5 services (VAS) providers as defined under Republic Act No.
6 7925 or the “Public Telecommunications Policy Act of the
7 Philippines”, and Satellite Systems Providers or Operators
8 (SSPOs) are considered DTIPs to the extent of their
9 businesses engaged in data transmission services,
10 excluding foreign government-controlled entities or state-
11 owned enterprises, except independent pension funds,
12 sovereign wealth funds, and multinational banks;

13 (j) *Dig Once Policy* refers to policies, rules, and
14 guidelines that promote coordinated efforts among DTIPs,
15 concerned government entities, and other relevant entities
16 to ensure that DTIPs can easily place and install cables
17 without repeated excavation in buried conduits, which
18 follow engineering standards, thereby substantially
19 minimizing deployment and operations costs;

1 (k) *Digital infrastructure* refers to both passive and
2 active infrastructure except broadcast and basic telephone
3 service;

4 (l) *Entity* refers to a natural or juridical person, sole
5 proprietorship, partnership, combination or association in
6 any form, whether incorporated or not, domestic or foreign,
7 including those owned or controlled by the government;

8 (m) *International gateway facility* refers to the
9 segment of data transmission that consists of any facility,
10 including submarine cables, that provides an interface to
11 send and receive data traffic between one country's
12 domestic network facilities and those in another country;

13 (n) *Last mile* refers to the segment of the data
14 transmission network that connects end-users, including
15 indoor/in-building networks;

16 (o) *Middle mile* refers to the segment of the data
17 transmission network that links the last mile to the core or
18 backbone network;

1 (p) *Open access* refers to the system of allowing the
2 use of data transmission networks and associated facilities
3 subject to fair, reasonable, and non-discriminatory terms
4 in a transparent manner;

5 (q) *Passive infrastructure* refers to all types of non-
6 digital and non-electronic telecommunications
7 infrastructure or civil works, including but not limited to
8 telecommunications towers, poles, dark fiber cables, cable
9 entrances, ducts, utility corridors, and any other similar
10 infrastructure and facilities, either existing or to be
11 deployed in the future, that may be used to support data
12 transmission;

13 (r) *Radio frequency spectrum* or *Spectrum* refers to
14 the continuous range of electromagnetic wave frequencies
15 up to 3,000 gigahertz;

16 (s) *Satellite* refers to "communications satellites" or
17 earth-orbiting systems capable of receiving and relaying
18 signals to and from the ground to provide links for use in a
19 variety of Information and Communications Technology

1 (ICT) services, such as telephony, radio, television, or
2 broadband internet. For purposes of this Act, satellites
3 used exclusively for space/earth exploration are not
4 included;

5 (t) *Satellite-based technologies* refer to technologies
6 for the administration, deployment, or use of
7 communications satellites;

8 (u) *Satellite Systems Provider or Operator (SSPO)*
9 refers to providers or operators of satellite systems,
10 whether fixed or mobile, international or domestic, that are
11 duly authorized to provide satellite communications
12 services under the laws of their respective countries of
13 domicile;

14 (v) *Spectrum allocation* refers to an entry in the
15 National Radio Frequency Allocation Table (NRFAT) of a
16 given frequency band for its use by one (1) or more
17 telecommunications or data transmission service;

18 (w) *Spectrum assignment* refers to the authorization
19 given by the NTC for an entity to use specific frequencies

1 or channels under specified conditions. It includes
2 spectrum reassignment and joint use or co-use;

3 (x) *Spectrum recall* refers to the process by which the
4 State, through the NTC, reclaims spectrum assignment
5 previously granted to an entity;

6 (y) *Underserved areas* refer to areas that have
7 unreliable and inadequate ICT services, as may be defined
8 by the DICT;

9 (z) *Underutilized spectrum* refers to a spectrum
10 assigned to an entity that is not being utilized efficiently,
11 pursuant to the Spectrum Management Policy Framework
12 under Section 10 of this Act, and standards and
13 parameters determined by the NTC;

14 (aa) *Unserved areas* refer to areas that do not have
15 DTIPs and ICT services, as may be defined by the DICT;

16 (bb) *Unutilized spectrum* refers to a spectrum
17 assigned to an entity that is not being utilized, or is solely
18 being utilized for purposes not authorized by the Spectrum
19 Management Policy Framework under Section 10 of this

1 Act, and standards and parameters determined by the
2 NTC; and

3 (cc) *Voice over Internet Protocol (VoIP)* refers to the
4 provision of voice communication using Internet protocol
5 (IP) technology.

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

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

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

7 CHAPTER II

8 REGULATION OF THE DATA TRANSMISSION INDUSTRY

9 SEC. 6. *Department of Information and*
10 *Communications Technology.* – The DICT shall be the
11 primary policy, planning, coordinating, implementing, and
12 administrative entity of the Executive Branch of the
13 government that will plan, develop, and promote the
14 national ICT agenda in accordance with its mandate under
15 Republic Act No. 10844 or the “Department of Information
16 and Communications Technology Act of 2015”, and in
17 accordance with international agreements and conventions
18 to which the Philippines is a party. In line with this
19 mandate, the DICT shall be the highest policy-making

1 body on data transmission and connectivity matters and
2 shall have the following powers and functions:

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

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

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

13 (d) Formulate policies to govern the determination
14 of eligibility criteria for the registration of DTIPs by the
15 NTC;

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

18 (f) Pursue plans, programs, activities, or initiatives
19 necessary or desirable to incentivize DTIPs to invest in,

1 adopt, roll out, implement, establish, own, maintain,
2 operate, or utilize new and next-generation technologies,
3 giving priority to unserved or underserved areas. The
4 departmental plans, programs, activities, or initiatives
5 shall include, but not be limited to, effectively coordinating
6 with the Board of Investments (BOI), Philippine Economic
7 Zone Authority (PEZA), Fiscal Incentives Review Board
8 (FIRB), local government units (LGUs), and other
9 government agencies or instrumentalities, for the issuance
10 and implementation of policies for the grant of applicable
11 incentives and benefits;

12 (g) Develop a Spectrum Management Policy
13 Framework (SMPF), in coordination with the NTC and the
14 PCC and in consultation with relevant stakeholders,
15 within one (1) year from effectivity of the implementing
16 rules and regulations (IRR) of this Act, and regularly
17 update the same every four (4) years or as necessary;

18 (h) Define and identify areas that are underserved
19 and unserved by any existing DTIP, and update the same

1 as necessary: *Provided*, That areas near educational
2 institutions shall be prioritized;

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

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

7 The DICT may consult or coordinate with relevant
8 government departments, agencies, bureaus, or
9 instrumentalities, and LGUs in the formulation of its
10 policies and guidelines.

11 All non-internal policies and guidelines to be issued
12 by the DICT shall be subject to prior public consultations
13 or hearings.

14 *SEC. 7. National Telecommunications Commission. –*
15 The NTC, an attached agency of the DICT, shall be the
16 principal regulatory and adjudicatory body over the data
17 transmission sector and shall take the necessary measures
18 to implement the policies and objectives in this Act, and as

1 may be set forth by the DICT. In addition to its existing
2 functions, the NTC shall be responsible for the following:

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

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

8 (c) Formulate and implement an efficient and speedy
9 process in the qualification and registration of DTIPs in
10 line with relevant laws, policies, rules and regulations, and
11 government issuances;

12 (d) Issue rules and regulations, in consultation with
13 the DICT, on the development, use, and maintenance of
14 satellite-based technology;

15 (e) Issue rules and regulations, in consultation with
16 the PCC, that promote fair and open competition in
17 accordance with the principles and policies under Republic
18 Act No. 10667 or the "Philippine Competition Act", its IRR,
19 including guidelines and rules on DTIPs and/or access

1 providers with significant market power in all segments of
2 the data transmission network, allowing a wide variety of
3 physical networks and applications to interact seamlessly;

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

9 (g) Mandate access providers to provide access to
10 digital infrastructure and services contained in the access
11 list;

12 (h) Publish the list of registered DTIPs on its official
13 website and a publicly accessible site or location, update
14 the same at least once a year subject to relevant issuances
15 of the DICT, and provide this information to the DICT for
16 concurrent publication;

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

18 (j) Periodically review spectrum allocation, use, and
19 assignment every four (4) years, pursuant to the policies

1 and guiding principles contained in the SMPF, and
2 undertake measures such as, but not limited to, spectrum
3 recall and restacking to ensure the most efficient and
4 optimal use of spectrum in accordance with the SMPF;

5 (k) In coordination with the PCC, ensure that
6 spectrum assignment and spectrum recall do not result in
7 the concentration of spectrum resources which may harm
8 competition;

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

13 (m) Monitor, evaluate, and investigate the compliance
14 of DTIPs with the performance standards;

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

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

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

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

5 SEC. 8. *Registration.* – All segments of the data
6 transmission network shall be competitive and open and
7 all DTIPs shall be allowed to put up their own networks.
8 Notwithstanding the provisions of this Act or any other
9 law, the following procedure for registration and
10 certification shall apply to the data transmission industry:

11 (a) All DTIPs shall be required to register with the
12 NTC. The NTC shall promulgate a speedy and expeditious
13 administrative process for registration and apply its
14 eligibility criteria in line with the policies of the DICT.
15 DTIPs must meet the NTC criteria in registering as
16 industry participants in order to construct, operate, lease,
17 or own networks or facilities, including radio transmitting
18 and/or receiving stations for the provision of data
19 transmission services: *Provided,* That all DTIPs intending

1 to use spectrum resources shall secure authorization from
2 the NTC and be assigned or allowed access to such
3 spectrum in accordance with the provisions of this Act and
4 other pertinent laws.

5 Foreign entities who wish to enter the data
6 transmission industry shall be subject to the provisions of
7 Republic Act No. 7042 or the "Foreign Investments Act of
8 1991", as amended by Republic Act No. 11647,
9 Commonwealth Act No. 146 or the "Public Service Act", as
10 amended by Republic Act No. 11659, and other pertinent
11 laws and issuances; and

12 (b) Those seeking to operate an international gateway
13 facility or a core or backbone network shall secure
14 authorization from the NTC, which shall consider the
15 proposed route or rollout plan, as well as the manner of
16 construction, in the grant thereof.

17 SEC. 9. *Cybersecurity Certification.* – All DTIPs shall
18 adopt and comply with national and global best practices
19 and standards on cybersecurity and be subject to a

1 cybersecurity performance audit by the Cybersecurity
2 Bureau of the DICT. Within one (1) year from registration,
3 DTIPs shall secure a cybersecurity certification from a
4 third-party organization based on the prevailing
5 International Organization for Standardization (ISO)
6 standards on information security management or such
7 other minimum security standards identified by the DICT.

8 SEC. 10. *Spectrum Management Policy Framework.* –
9 An SMPF shall be formulated to ensure that the spectrum
10 is managed in a manner that ensures fair competition,
11 supports adaptability to technological advancements, and
12 maximizes the efficient use of this resource among all
13 registered DTIPs, in accordance with international
14 conventions, standards, and developments, and other
15 pertinent laws. The SMPF shall contain the national
16 policies and guiding principles to govern the management
17 of spectrum, including, among others, spectrum valuation
18 and pricing, spectrum allocation, and spectrum assignment
19 for public, private, and government use.

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

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

15 (a) Methodologies for spectrum valuation and pricing;

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

1 (c) Processes for joint use or co-use application
2 designed to promote collaborative and equitable access to
3 spectrum resources, requiring detailed submissions to be
4 made transparent, including the nature of joint use or
5 co-use, parties involved, and the rationale for application;

6 (d) Rules and procedures for spectrum recall,
7 ensuring systematic reevaluation and reassignment where
8 necessary, after consultations with affected licensees and
9 stakeholders. The SMPF shall be designed to facilitate the
10 transition, reallocation, and reassignment of spectrum
11 bands and licenses, aligning with evolving sector needs and
12 efficient spectrum use;

13 (e) The determination of unutilized or underutilized
14 spectrum and the procedures for spectrum recall: *Provided,*
15 That all spectrum determined to be unutilized or
16 underutilized shall be subject to such spectrum recall
17 procedures by the NTC within one (1) year from effectivity
18 of the SMPF;

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

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

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

12 (i) The authority for the NTC to *motu proprio* or upon
13 complaint/petition by any interested party, recall the
14 spectrum assignment of a DTIP if it finds after due
15 process, that such DTIP has unutilized or underutilized
16 spectrum pursuant to the provisions of this Act and other
17 pertinent issuances, or that the DTIP has not complied
18 with its obligations in relation to the spectrum assignment.
19 The NTC shall, when required and appropriate, work with

1 the DTIP concerned to minimize the impact of such recall
2 on active users of services utilizing the recalled spectrum.
3 The foregoing notwithstanding, no frequency shall be
4 recalled within eighteen (18) months from the award of a
5 provisional authority (PA), license, or registration; and

6 (j) A requirement for entities requesting for the
7 assignment of spectrum or a joint use of spectrum to notify
8 the PCC and for the NTC to submit any and all documents
9 required by the PCC to undertake a competitive analysis
10 within a period of five (5) calendar days. The PCC may
11 intervene in the assignment process. It shall publish the
12 results of its analysis and furnish a copy thereof to the
13 NTC.

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

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

4 SEC. 11. *Arms-Length Transactions and*
5 *Transparency.* – The NTC shall publish a registry of all
6 DTIPs on its website within three (3) months from the
7 effectivity of the IRR of this Act, and regularly update the
8 same at least once a year.

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

1 The initial publication of such spectrum use
2 information shall be made within three (3) months from
3 the effectivity of the IRR of this Act, and once every two (2)
4 years thereafter or more frequently as necessary when (a)
5 national security so requires; (b) the government deems it
6 necessary and essential to the interest of the country; and
7 (c) the Philippines has a regional and/or international
8 commitment as a member signatory to bilateral or
9 multilateral agreements.

10 All DTIPs shall file an annual report with the NTC
11 and include therein a fair and accurate statement
12 regarding their market prices and services. The annual
13 report shall include technical and financial reports of the
14 entity which shall contain, among others, investments
15 made, network roll-out reach, and all costs and charges
16 relevant to the data transmission network segment where
17 the participants operate.

18 Each DTIP at each segment shall submit a copy of its
19 rates to the NTC and the PCC at least once a year. The

1 rates, including a historical record, shall be published in a
2 consolidated manner. The DTIPs shall keep a publicly
3 accessible archive of their rates.

4 SEC. 12. *Access.* – Access providers shall grant access
5 to digital infrastructure and services contained in the
6 access list in an open, fair, reasonable, and non-
7 discriminatory basis, subject to the technical feasibility of
8 the access seeker's request: *Provided*, That there shall be
9 public consultation with access providers prior to the
10 inclusion of their digital infrastructure and services in the
11 access list.

12 As used in this Act, non-discriminatory basis means
13 access providers shall grant access on equal terms and
14 conditions in similar circumstances, and provide
15 information to third parties under the same conditions as
16 it provides to itself or to its subsidiaries.

17 The access list shall be issued by the DICT, the NTC,
18 and the PCC within three (3) months from the effectivity of

1 the IRR of this Act, and shall be reviewed and updated as
2 necessary.

3 SEC. 13. *Reference Access Offer.* – Access providers
4 shall publish a Reference Access Offer (RAO) that contains
5 the relevant information, terms, conditions, and rates for
6 the provision of access to digital infrastructure and
7 services contained in the access list. The RAO of an access
8 provider designated to have significant market power by
9 the PCC, in consultation with the NTC, shall be submitted
10 to and approved by the NTC prior to publication. For other
11 access providers, the NTC shall be furnished a copy of the
12 RAO prior to its publication.

13 The RAO shall be comprehensive, complete, modular,
14 and detailed as to allow access seekers to consider the offer
15 without need for negotiations or requests for additional
16 information.

17 Disputes concerning access to digital infrastructure
18 and services contained in the access list may be appealed
19 to the NTC for adjudication. The NTC shall decide on such

1 dispute within sixty (60) calendar days from receipt of the
2 petition.

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

5 SEC. 14. *Direct Access to Satellite Systems.* – Duly
6 registered DTIPs may deploy satellite technology and use
7 associated spectrum in any or all segments of their
8 broadband network without the need for a lease or rent
9 capacity from PTEs, or an application with the NTC to use
10 the spectrum for this purpose.

11 Prior authorization of either the DICT, for broadband
12 networks, or the NTC, for broadcast providers and for
13 services that do not involve broadband networks, shall not
14 be required for direct access to satellite systems under this
15 provision: *Provided*, That the terms and conditions, which
16 include levels of access to any international fixed or mobile
17 satellite system, shall be submitted by the DTIPs to the
18 DICT or NTC, as applicable, for record purposes.

1 SEC. 15. *Performance Standards and Monitoring for*
2 *the Data Transmission Industry.* – Within six (6) months
3 from the effectivity of the IRR of this Act, the NTC shall
4 publish performance standards for all DTIPs, taking into
5 account such quality of service parameters as speed,
6 packet loss, jitter, and latency, among others. These
7 performance standards shall be regularly updated to
8 ensure that they shall, at a minimum, be at par with
9 service levels established in regional data transmission
10 network performance indices and aligned with
11 international best practices. The performance standards
12 shall be reviewed at least once a year and updated as
13 necessary. New performance standards shall take effect at
14 least thirty (30) days after publication.

15 The NTC shall monitor and measure the performance
16 of the DTIPs based on these standards on a quarterly basis
17 and publish the results thereof on the NTC website
18 quarterly. The NTC may engage the services of an
19 independent third-party monitoring firm to monitor the
20 performance of DTIPs.

1 The DTIPs shall comply with the performance
2 standards set by the NTC, within six (6) months from its
3 initial publication.

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

9 SEC. 16. *Infrastructure Sharing and Co-location.* – (1)
10 The DICT shall, taking into account the digital
11 infrastructure and services contained in the access list,
12 promulgate policies to ensure that passive infrastructure,
13 whether existing now or in the future, necessary for or
14 capable of supporting data transmission networks or
15 services are:

16 (a) Made available for co-location and co-use by
17 the passive infrastructure owner, lessor, or operator
18 (PIOLO) on an open, fair, reasonable, and
19 non-discriminatory basis subject to the technical

1 feasibility of the request: *Provided*, That the provision
2 of access to government-owned and -operated facilities
3 and support infrastructure to access seekers for the
4 purpose of offering data transmission services shall be
5 mandatory, unless special circumstances, such as but
6 not limited to national security concerns, exist;

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

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

17 The DICT, in coordination with other relevant
18 government agencies, shall issue policies to carry out
19 paragraphs (a) to (c) upon consultation with stakeholders.

1 For purposes of data transmission, the NTC shall, in case
2 of a dispute arising from an infrastructure sharing
3 agreement: (1) mediate between a DTIP and a PILOLO, and
4 (2) serve as the primary enforcer of this provision.

5 (2) The DICT, the PCC, the Department of Public
6 Works and Highways (DPWH), the Department of
7 Transportation (DOTr), the Department of Human
8 Settlements and Urban Development (DHSUD), and other
9 relevant government agencies shall jointly promulgate
10 policies, rules, and regulations to ensure that buildings,
11 condominiums, villages, towns, and subdivisions are built
12 with facilities, such as cable entrances, ducts, and risers,
13 that allow non-discriminatory access to multiple DTIPs for
14 them to provide service. They shall also promulgate
15 policies, rules, and guidelines that will ensure a level
16 playing field and price non-discrimination among DTIPs
17 and network facility and infrastructure owners.

18 (3) The NTC, in coordination with relevant
19 government agencies such as the Office of Civil Defense,

1 shall ensure the disaster resiliency and ease of recovery
2 and restoration of passive infrastructure, such as towers,
3 poles, and utility corridors, from the effects of disasters by
4 strictly enforcing compliance with internationally accepted
5 engineering standards and best practices, relevant
6 engineering codes, and other codes of practice.

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

1 SEC. 17. *Dig Once Policy*. – The DICT and the DPWH,
2 in collaboration with the NTC, the National Electrification
3 Administration (NEA), the Department of Interior and
4 Local Government (DILG), the LGUs, private entities, and
5 other relevant government agencies, shall jointly develop
6 and issue a Dig Once Policy for the planning, relocation,
7 installation, or improvement of conduit for data
8 transmission services within the right-of-way; in
9 conjunction with any current or planned construction,
10 including, but not limited to, highways, bridges, and
11 elevated and subterranean railways. To the extent
12 necessary, the DPWH shall, in collaboration with the
13 DICT, the NTC, the NEA, the DILG, the LGUs, private
14 entities, and other relevant government agencies, evaluate
15 pricing requirements, engineering and design standards,
16 procedures, and criteria for contracts or lease agreements
17 with private entities, and, provide for allocation of risk,
18 costs, and any revenue generated.

19 Such policy shall ensure that passive infrastructure
20 is, as far as possible, deployed together with roadworks,

1 pipe-laying, and other infrastructure development by both
2 government and private entities including but not limited
3 to multi-dwelling infrastructure, tourist spots and
4 buildings, and high-density areas.

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

1 The DICT and the DPWH shall jointly develop model
2 Dig Once policies for potential adoption by provincial and
3 municipal governments with respect to construction or
4 other improvements to highways, roads, and any other
5 rights-of-way under the LGU's jurisdiction. They shall seek
6 inputs from the Union of Local Authorities in the
7 Philippines, the League of Municipalities of the
8 Philippines, the League of Cities of the Philippines, the
9 League of Provinces of the Philippines, and other
10 stakeholders in developing these model policies.

11 SEC. 18. *Fair Competition.* – The PCC and the NTC
12 shall ensure that the principles and policies under
13 Republic Act No. 10667 are strictly adhered to in the data
14 transmission industry. The PCC and the NTC shall ensure
15 that all industry players observe fair, reasonable, and non-
16 discriminatory treatment in all their dealings, and that
17 barriers to entry are eliminated to make the industry
18 highly competitive. To this end, within thirty (30) days
19 from the effectivity of this Act, the PCC and the NTC shall
20 enter into an agreement to foster and develop interagency

1 cooperation mechanisms, including information-sharing
2 tools, that will guide them in the performance of their
3 respective mandates, the promotion of fair competition in
4 the data transmission industry, and the effective
5 performance of their obligations under this Act.

6 SEC. 19. *Technological Neutrality.* – The DICT and
7 the NTC shall ensure that the provisions of this law apply,
8 *mutatis mutandis*, to future technologies in data
9 transmission.

10 CHAPTER III

11 PENAL PROVISIONS

12 SEC. 20. *Prohibited Acts.* –

13 (a) Refusal to Plug and Play. – No access provider
14 shall refuse access to digital infrastructure in the access
15 list, except in cases of failure to pay open market fees for
16 the access to the service and exposure to security risks
17 detrimental to its technical operations as confirmed by the
18 DICT;

1 (b) Refusal to Give Information. – No access provider
2 shall refuse or fail to make available to suppliers of data
3 transmission services, on a timely basis, the technical
4 information about its digital infrastructure and services in
5 the access list and commercially relevant information that
6 are necessary for the efficient provision of these
7 infrastructure and services;

8 (c) False information and material misrepresentation. –
9 No DTIPs shall supply false or incorrect information or
10 commit material misrepresentation in relation to its
11 compliance with the provisions of this Act. This prohibition
12 shall also cover false advertising by DTIPs as to the
13 products and services offered, without prejudice to the
14 provisions of Republic Act No. 7394 or the “Consumer Act
15 of the Philippines”; and

16 (d) Anti-competitive Cross-subsidization. – The NTC
17 shall require separate books of accounts between different
18 data transmission segments to allow identification of costs
19 and revenues for each segment. Any violation of this

1 provision shall result in a presumption of anti-competitive
2 cross-subsidization, which shall then be referred to the
3 PCC for proper determination and action, in accordance
4 with the provisions of Republic Act No. 10667. Nothing
5 herein shall prevent interconnecting networks from
6 charging the appropriate cost-based compensation for the
7 use of interconnection facilities.

8 SEC. 21. *Administrative Penalties.* – (1) The NTC
9 shall require DTIPs providing data transmission services
10 to comply with prescribed performance standards and
11 impose penalties, after due notice and hearing, for failure
12 to comply with such performance standards:

13 (a) Any DTIP who fails to comply with the minimum
14 performance standards set by the NTC shall pay a fine of
15 at least Five thousand pesos (P5,000.00) but not exceeding
16 Two million pesos (P2,000,000.00) per day of such default
17 or violation, until the participant fully complies: *Provided,*
18 That if the DTIP has a gross annual income not exceeding
19 Ten million pesos (P10,000,000.00), the imposable penalty

1 shall be equivalent to one percent (1%) to two percent (2%)
2 of its gross annual income; and

3 (b) An entity who fails to substantially comply with
4 the NTC's performance standards for three (3) consecutive
5 years shall, subject to due process, be removed from the
6 registry of DTIPs and prohibited from rendering data
7 transmission services;

8 (2) A DTIP who fails to secure a cybersecurity
9 certification in accordance with Section 9 of this Act shall
10 be issued a suspension order of its operations until the
11 DTIP is able to secure the required cybersecurity
12 certification: *Provided*, That if the DTIP fails to comply
13 with the cybersecurity certification requirement within six
14 (6) months from the issuance of such order, it shall, subject
15 to due process, be removed from the registry of DTIPs and
16 prohibited from rendering data transmission services;

17 (3) An entity who engages in the prohibited acts
18 under Section 20 of this Act shall suffer a fine of at least
19 Three hundred thousand pesos (P300,000.00) but not

1 exceeding Five million pesos (P5,000,000.00): *Provided*,
2 That if the DTIP has a gross annual income not exceeding
3 Ten million pesos (P10,000,000.00), the imposable penalty
4 shall be equivalent to one percent (1%) to two percent (2%)
5 of its gross annual income. In cases of anti-competitive
6 cross-subsidization, the imposable penalties shall be those
7 provided under Republic Act No.10667;

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

12 (5) A DTIP who commits any other violation of this
13 Act that is not specifically prohibited under Section 20
14 shall be penalized with a fine of at least Fifty thousand
15 pesos (P50,000.00) but not exceeding Two million pesos
16 (P2,000,000.00).

17 SEC. 22. *Adjustment of Fines.* – The administrative
18 fines imposed under this Act shall be adjusted by the NTC
19 annually, considering the prevailing cost of money based

1 on the current consumer price index, and subject to the
2 publication of such adjustments.

3 SEC. 23. *Liability of Public Officers and Employees.* –
4 Without prejudice to the provisions of Republic Act
5 No. 3019 or the “Anti-Graft and Corrupt Practices Act”,
6 and other penal laws, a public officer or employee who, in
7 bad faith or with gross negligence, fails to comply with the
8 provisions of this Act, shall be penalized with
9 imprisonment of not less than two (2) years but not more
10 than four (4) years, a fine of at least One hundred
11 thousand pesos (P100,000.00) but not exceeding Two
12 million pesos (P2,000,000.00), or both, at the discretion of
13 the court.

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

17 SEC. 24. *Corporate Liability.* – The liability imposed
18 on a juridical entity for any violation of this Act shall be

1 without prejudice to the civil or criminal liability of its
2 responsible officers or employees.

3 CHAPTER IV

4 RIGHTS OF DATA TRANSMISSION SERVICE USERS AND 5 RESPONSIBILITIES OF DATA TRANSMISSION 6 SERVICE PROVIDERS

7 SEC. 25. *Rights of Users.* - The user of data
8 transmission services shall have the following basic rights:

9 (a) To be entitled to data transmission services which
10 are non-discriminatory, reliable, and compliant with the
11 minimum standards set by the NTC. In times of national
12 emergencies or other disasters or calamities, the NTC shall
13 ensure that DTIPs provide continuous and uninterrupted
14 service to agencies and institutions providing aid,
15 treatment, and assistance to affected persons;

16 (b) To be rendered data transmission services within
17 thirty (30) calendar days from application therefor;

18 (c) For student users enrolled in any public or private
19 educational institutions, to be provided appropriate

1 discount as part of the DTIP's corporate social
2 responsibility;

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

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

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

1 Subject to the filing of a formal request to the data
2 service provider, a user may request the immediate
3 termination of service without the imposition of fees or
4 penalties, and with the refund of any fee or charge already
5 paid, should a data service provider not consistently
6 comply with paragraphs (a), (d), and (e) of this section or
7 any other minimum performance standards set by the
8 NTC.

9 CHAPTER V

10 MISCELLANEOUS PROVISIONS

11 SEC. 26. *Expedited Processing.* – In all instances
12 where a DTIP requires a form, certificate, or request from
13 any government agency or LGU, at least two (2) public
14 officers shall be involved in processing such form,
15 certificate, or request.

16 Processing fees and certifications required for the
17 deployment of any segment of data transmission networks
18 shall be limited to those identified by the DICT. The DICT
19 shall coordinate with the concerned national government

1 agencies and LGUs, and conduct the necessary
2 consultations with civil society organizations and other
3 stakeholder groups, for the formulation of policies and
4 implementing rules to minimize the administrative burden
5 of permitting and certification processes.

6 In processing permits for the construction,
7 installation, repair, operation, and maintenance of data
8 transmission infrastructure, Executive Order No. 32 shall
9 apply.

10 SEC. 27. *Prohibition on the Issuance of Preliminary*
11 *Injunctions and Preliminary Mandatory Injunctions.* –
12 Except for the Court of Appeals and the Supreme Court, no
13 other court shall issue a preliminary injunction or
14 preliminary mandatory injunction against the NTC in the
15 exercise of its duties or functions pursuant this Act:
16 *Provided,* That this prohibition shall apply in all cases,
17 disputes, or controversies instituted by a private party,
18 including, but not limited to, cases filed by entities or those
19 claiming to have rights through such entities: *Provided,*

1 *further*, That this prohibition shall not apply when the
2 matter is of extreme urgency involving a constitutional
3 issue, such that the non-issuance of an injunction will
4 result in grave injustice and irreparable injury to the
5 public: *Provided, furthermore*, That the applicant shall file
6 a bond, in an amount to be fixed by the court, but in no
7 case exceeding twenty percent (20%) of the imposable fines
8 provided under Section 20 of this Act: *Provided, finally*,
9 That in case of a decision by the Court that the applicant
10 was not entitled to the relief applied for, the bond shall
11 accrue in favor of the NTC.

12 Any preliminary injunction or preliminary mandatory
13 injunction issued in violation of this section shall be void
14 and of no force and effect. Any judge who violates this
15 section shall be penalized with suspension of at least one
16 (1) year without pay in addition to other criminal, civil or
17 administrative penalties.

18 SEC. 28. *Accountability of Public Officers.* – Public
19 officers, employees, and agents of government agencies

1 tasked to implement the provisions of this Act shall not be
2 subject to any civil action in connection with any act done
3 or omitted by them in the regular performance of their
4 duties, except for those actions and omissions done in
5 evident bad faith or with gross negligence.

6 SEC. 29. *Indemnity.* – Public officers, employees, and
7 agents of government agencies shall be indemnified for
8 liabilities, losses, claims, demands, damages, deficiencies,
9 costs, and expenses of whatever kind and nature that may
10 arise in connection with the exercise of their powers and
11 performance of their duties and functions in the
12 implementation of the provisions of this Act, unless their
13 actions are found to be in willful violation of this Act, or
14 performed in bad faith or with gross negligence.

15 CHAPTER VI
16 FINAL PROVISIONS

17 SEC. 30. *Transitory Clause.* – Existing franchises,
18 certificates, and authorizations affected by relevant
19 provisions of this Act shall be treated as follows:

1 (a) Existing legislative franchises for the provision of
2 telecommunication services shall remain valid and
3 effective in accordance with their respective terms, insofar
4 as they do not constitute the provision of data transmission
5 services. Obligations and privileges with respect to the
6 provision of data transmission services shall be governed
7 by the provisions of this Act, its IRR, and relevant
8 issuances;

9 (b) PAs, CPCNs, or certificates of registration issued
10 by the NTC with respect to the provision of data
11 transmission services prior to the effectivity of this Act
12 shall be deemed valid without the necessity of revalidation
13 or reissuance. Until the expiration of such certificates,
14 these shall be deemed compliant with the qualification
15 requirements for DTIPs under Section 8 of this Act and
16 other pertinent regulations issued pursuant thereto;

17 (c) Prior to the issuance of the IRR of this Act and
18 relevant issuances on the process for the qualification and
19 the registration of DTIPs, the authorization process for

1 DTIPs shall be governed by the prevailing rules and
2 guidelines of the NTC. Upon the effectivity of the IRR and
3 other relevant issuances, the NTC rules and guidelines
4 governing the authorization process for DTIPs prior to the
5 effectivity of the IRR of this Act shall be superseded and
6 will no longer be in effect;

7 (d) All spectrum assignments validly subsisting upon
8 the effectivity of this Act shall remain effective: *Provided,*
9 That they shall be subject to the SMPF and its
10 corresponding guidelines, rules, and regulations and the
11 provisions of this Act and its IRR upon their effectivity;
12 and

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

1 SEC. 31. *Implementing Rules and Regulations.* –
2 Within ninety (90) days from the effectivity of this Act, the
3 DICT, in coordination with the NTC, the PCC, the DPWH,
4 the DOTr, the DILG and the National Economic and
5 Development Authority (NEDA), and upon consultation
6 with relevant stakeholders, shall promulgate the necessary
7 rules and regulations for the effective implementation of
8 this Act.

9 SEC. 32. *Joint Congressional Oversight Committee on*
10 *Open Access in Data Transmission.* – There shall be
11 created a Joint Congressional Oversight Committee on
12 Open Access in Data Transmission (JCOCOADT) which
13 shall monitor and ensure the effective implementation of
14 this Act.

15 The JCOCOADT shall be composed of five (5)
16 members from the Senate and five (5) members from the
17 House of Representatives, including the Chairperson of the
18 Senate Committee on Science and Technology and the
19 Chairperson of the House of Representatives Committee on

1 Information and Communications Technology: *Provided*,
2 That two (2) members from each chamber shall come from
3 the minority.

4 The Chairperson of the Senate Committee on Science
5 and Technology and the Chairperson of the House of
6 Representatives Committee on Information and
7 Communications Technology shall act as co-Chairpersons
8 of the JCOCOACT. The ranking minority members
9 nominated by both the Senate and the House of
10 Representatives shall act as co-Vice Chairpersons. The
11 Secretariat of the JCOCOACT shall come from the existing
12 Secretariat personnel of the Committee on Science and
13 Technology of the Senate and the Committee on
14 Information and Communications Technology of the House
15 of Representatives. The JCOCOACT shall have its own
16 independent counsel.

17 The JCOCOACT shall exist for a period not exceeding
18 five (5) years from the effectivity of this Act. Thereafter, its
19 oversight functions shall be exercised by the Senate

1 Committee on Science and Technology and the House of
2 Representatives Committee on Information and
3 Communications Technology, acting separately.

4 SEC. 33. *Separability Clause.* – If any provision of
5 this Act is declared unconstitutional, the remainder thereof
6 not otherwise affected shall remain in full force and effect.

7 SEC. 34. *Repealing Clause.* – Section 1 of Act No.
8 3846 or the “Radio Control Act”, and Section 7, the first
9 sentence of the first paragraph of Section 11, the first
10 paragraph of Section 16, and Section 23 of Republic Act
11 No. 7925 or the “Public Telecommunications Policy Act of
12 the Philippines”, insofar as they apply to DTIPs, are
13 hereby expressly repealed. All other laws, presidential
14 decrees, executive orders, letters of instruction,
15 proclamations, or administrative regulations that are
16 inconsistent with the provisions of this Act are hereby
17 repealed, amended or modified accordingly.

1 SEC. 35. *Effectivity.* – This Act shall take effect fifteen
2 (15) days after its publication in the *Official Gazette* or a
3 newspaper of general circulation.

Approved,