

Republic of the Philippines  
**HOUSE OF REPRESENTATIVES**  
Quezon City

**SEVENTEENTH CONGRESS**  
First Regular Session

**HOUSE BILL No. 3876**



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**Introduced by BAYAN MUNA Rep. CARLOS ISAGANI T. ZARATE**

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**AN ACT**  
**EXPANDING THE POWERS OF THE NATIONAL TELECOMMUNICATIONS**  
**COMMISSION CLASSIFYING SHORT MESSAGING SERVICE,**  
**AND INTERNET SERVICES AS UTILITIES IMBUED WITH PUBLIC INTEREST**  
**AND PROVIDING PENALTIES THEREOF, AMENDING REPUBLIC ACT 7925**  
**OTHERWISE KNOWN AS THE "PUBLIC TELECOMMUNICATIONS**  
**POLICY ACT OF THE PHILIPPINES" FOR ITS PURPOSE**

**EXPLANATORY NOTE**

Internet and SMS has been part of our daily lives, it now plays a crucial role in many aspects of society, from media and information, entertainment, education, governance and the economy. The "bayanihan" spirit has extended online where people send support for those affected by calamities and disaster, and government agencies use the internet for relevant alerts. As such the Philippines has been dubbed as the Text Capital, Social Media and even the BPO Capital of the World which shows a very high demand for the use of such services. United Nations Special Rapporteur on the Promotion And Protection Of The Right To Freedom Of Opinion And Expression Frank La Rue submitted a report to the UN Human Rights Council last May 2011 stating that "...internet access facilitates economic development and the enjoyment of a range of human rights, marginalized groups and developing States remain trapped in a disadvantaged situation, thereby perpetuating inequality both within and between States."

However with all the recognition that the Filipinos are SMS and internet savvy, there still lies the fact that the country has been lagging behind in terms of average internet speed and total internet penetration hovers around 35-40% only of the Philippine population, with majority of the activity coming from urban centers. In this crisis, the problem lies with the country's lack of infrastructure to deliver reliable internet connection as it was left to the hands of private telecommunications companies that would only construct facilities that would be financially-viable and the current Telecommunications Act, rendered the NTC as toothless when it comes to regulating internet and text messaging services, which is considered only as a "value-added service" and therefore is outside the jurisdiction of the Commission, notwithstanding the reality that it has been very long since the first connection of our country to the Internet in March 1994 which was only used by enthusiasts and educational institutions back then. The lack of spending of telecommunications investment by the private sector is

evident as it consists only 0.014 % of the GDP. While the sectors that provide relying internet and other telecommunication services such as Business process outsourcing (BPO), Information Technology Outsourcing (ITO), Knowledge process outsourcing (KPO) and other outsourcing industries have contributed USD 11 billion in export revenues, or an estimated 5.4% to the country's GDP in 2011.

While access to internet is now largely considered a human right, this right is hardly realized, ironically by a country that claims to be the freest in Asia. The country is experiencing a slow but expensive internet service. According to a study by Ookla<sup>1</sup>, an internet metrics provider, the Philippines has the second-slowest average download speed among 22 countries in Asia. As of May, the country's average download speed reached 3.64 Mbps, ranking 176th out of 202 nations around the world. It is eight times slower than the global average broadband download speed of 23.3 Mbps. Aggravating this slow internet service is the fact that we are paying more than our neighbors who are experiencing better internet services than ours, with the Philippines having an average user spending of \$18.19 per Mbps versus the global average of \$5.21 per Mbps.

It is by this plight of the public – the need for internet to be considered a basic necessity for living and therefore be subject to regulation -- that this bill was originally filed by Bayan Muna Reps. Neri Colmenares and Carlos Zarate during the 16<sup>th</sup> Congress.

This bill echoes the call of consumers that the government should lead the creation of a national telecommunications and internet infrastructure in order to interconnect the different islands of the country, which is a very monumental task and shall need government resources as it would cover areas unprofitable for the telecommunication companies to build its facilities. Moreover, it seeks to rationalize government regulation of the industry by clearly defining the powers of the National Telecommunications Commission through the formulation of provisions specific and categorical to the industry and increasing the fines to be imposed which is also allowed to be adjusted with inflation to ensure maximum compliance on the side of telecommunication companies and internet service providers.

In order to end our plight of experiencing slow internet at the mercy of private telecommunication networks, swift passage of this bill is sought.

*Approved,*

  
**Rep. CARLOS ISAGANI T. ZARATE**  
*Bayan Muna Party-List*

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<sup>1</sup> <http://www.businessmirror.com.ph/phls-slow-but-expensive-internet-service/>

Republic of the Philippines  
HOUSE OF REPRESENTATIVES  
Quezon City

SEVENTEENTH CONGRESS  
First Regular Session

HOUSE BILL No. **3876**

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Introduced by BAYAN MUNA Rep. CARLOS ISAGANI T. ZARATE

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AN ACT  
EXPANDING THE POWERS OF THE NATIONAL TELECOMMUNICATIONS  
COMMISSION CLASSIFYING SHORT MESSAGING SERVICE,  
AND INTERNET SERVICES AS UTILITIES IMBUED WITH PUBLIC INTEREST  
AND PROVIDING PENALTIES THEREOF, AMENDING REPUBLIC ACT 7925  
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POLICY ACT OF THE PHILIPPINES" FOR ITS PURPOSE

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

**SECTION 1 – CLASSIFICATION OF SMS AND INTERNET UNDER NTC’S REGULATION.** Section 3 of Republic Act 7925, otherwise known as the “Public Telecommunications Policy Act” is hereby amended to read as follows:

**Section 3. Definitions and Interpretations.** - For purposes of this Act, the following terms shall be used:

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(c) **Short messaging services** – is a text messaging component of mobile communication systems that are transmitted to and from a mobile phone, fax machine and/or IP address.

(d) **Internet** – a communication network that allows connection among computers and devices worldwide via the internet protocol (IP).

(e) **Internet service provider** – an entity that provides internet access through existing network infrastructure including but not limited to telephone lines, cell sites, Ethernet, satellite, cable television lines, and radio frequency; or through new technologies delivering internet services that may emerge after the passage of this act.

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**Furthermore, the NTC is mandated to adopt standardized definitions the International Telecommunications Union (ITU), the Internet Engineering Task Force (IETF), the World Wide Web Consortium (WWWC), and the Internet Corporation for Assigned Numbers and Names (ICANN), and other international and transnational agencies governing the development, use, and standardization of information and communications technology and the Internet.**

**SECTION 2. INTRODUCTION OF PENALTIES.** Section 5 of Republic Act 7925, otherwise known as the “Public Telecommunications Policy Act” is hereby amended to read as follows:

**Section 5. *Responsibilities of the National Telecommunications Commission.*** - The National Telecommunications Commission (Commission) shall be the principal administrator of this Act and as such shall take the necessary measures to implement the policies and objectives set forth in this Act. Accordingly, in addition to its existing functions, the Commission shall be responsible for the following:

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**(h) In exercise of its regulatory powers, the Commission shall be given the power to impose fines against telecommunication service providers within the scope of its regulation that is found violating or failing to comply with the terms and conditions of any certificate or any orders, decisions or regulations of the Commission shall be subject to a fine amounting to the total actual loss or overcharging as determined by the Commission for every day during which such default or violation continues; and the Commission is hereby authorized and empowered to impose such fine, after due notice and hearing. The erring service providers are also mandated to refund to consumers the charges they erroneously imposed to their subscribers.**

**SECTION 3. *Development of a National Telecommunications Network.*** – Section 6 of of Republic Act 7925, otherwise known as the “Public Telecommunications Policy Act” is hereby amended to read as follows:

**Section 6. *Responsibilities of and Limitations to Department Powers.*** - The Department of Transportation and Communications (Department) shall not exercise any power which will tend to influence or effect a review or a modification of the Commission's quasi-judicial functions.

In coordination with the Commission, however, the Department shall, in accordance with the policies enunciated in this Act, be responsible for:

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- a.) In coordination with the Department of Science and Technology and other related agencies, they are given the mandate to develop a National Telecommunications and Internet Infrastructure in order to provide a nationwide network that would provide interconnection among different government offices and Local Government Units. All internet service providers shall be required to connect to the said infrastructure.**

**SECTION 4. *Repealing Clause.*** - All laws, orders, issuances, rules and regulations or part thereof inconsistent with the provisions of this Act are hereby repealed, amended or modified accordingly.

**SECTION 5. *Effectivity Clause.*** - This Act shall take effect within fifteen (15) days after its publication in the *Official Gazette* or in at least two (2) newspapers of general circulation, whichever comes earlier.

*Approved,*