

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



## HOUSE OF REPRESENTATIVES

299

HouseBill No. \_\_\_\_\_

Introduced by Representative VICTOR A. YAP

### EXPLANATORY NOTE

Radio frequency spectrum is a scarce public resource on which telecommunication operators develop their respective network to deliver services to customers. The amount of spectrum assigned to a telco has an impact on the cost to build capacity, overall network performance, ability to offer new multimedia services, and general customer experience of wireless services. Thus, it is imperative that spectrum be administered in the interest of the public, and in accordance with international agreements and conventions to which the Philippines is a party.

Assigning spectrum to service providers capable of efficiently and effectively using it to meet public demand is key to ensuring better wireless telecommunications, broadcast, and data transmission services in the country. To achieve this, under this bill, the function of radio spectrum management shall be a joint undertaking of the Department of Information and Communications Technology (DICT), for policy and planning aspects, and the National Telecommunications Commission (NTC), for regulatory matters, particularly spectrum allocation and assignment.

This bill mandates the NTC to make the spectrum allocation, assignment, reclassification, recall, and re-assignment transparent in order to ensure that the rights of all stakeholders are fully protected. The NTC and DICT are also tasked to establish a competitive bidding methodology for the assignment of spectrum.

Under this measure, the NTC shall assign spectrum to qualified entities for an initial period of not more than three years. On the last year, the NTC shall review the assignment to determine if it is being optimally used, and if there is a need to renew or increase, or decrease or recall the assigned spectrum. Subsequent renewals of spectrum assignment shall be for periods of up to five years, and would be again subject to review on the last year. This way, the use of spectrum would be treated as a privilege which may, after due process, be withdrawn any time when the greater good of the public demands it.

To ensure efficient and equitable distribution of spectrum, no entity may hold more than 25% of the licensed radio frequency spectrum in any given band. The sale, lease, transfer, usufruct and assignment of a license shall be prohibited, as well as mergers and acquisitions without prior approval of the NTC and the Philippine Competition Commission.

The use of spectrum shall be subject to reasonable spectrum user fees, based on the use and the amount of spectrum, the type of service being offered, and the economic classification and geographic coverage or scope of the spectrum used.

This measure ultimately aims to ensure proper allocation of spectrum that would promote the adoption of appropriate technologies, best practices, and the highest service standards.

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



VICTOR A. YAP  
Representative, 2nd District of Tarlac

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AN ACT

PROVIDING FOR POLICIES TO ENHANCE EFFICIENCY AND TRANSPARENCY IN  
THE ALLOCATION, ASSIGNMENT, AND MANAGEMENT OF THE RADIO  
FREQUENCY SPECTRUM AND FOR OTHER PURPOSES

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

1   **SECTION 1.** *Short Title.* – This Act shall be known as the “Philippine Spectrum Management  
2   Act.”

4   **SEC. 2.** *Declaration of Policy.* – The radio frequency spectrum is a scarce public resource that  
5   shall be administered in the public interest and in accordance with international agreements and  
6   conventions to which the Philippines is a party. To this end –

- 7                     (a) The government shall allocate the radio frequency spectrum to promote the adoption of  
8                         appropriate technologies, an interference-free environment, best practices, and the highest  
9                         service standards.  
10                    (b) The government shall assign spectrum to service providers capable of efficiently and  
11                         effectively using it to meet public demand for telecommunications and data transmission  
12                         services.  
13                    (c) The allocation and assignment of spectrum shall be done in a manner that promotes  
14                         transparency, competition, and universal service.  
15                    (d) The State recognizes that spectrum allocation and assignment bear significant economic  
16                         impact on multiple sectors, and therefore the state shall institute in this Act a spectrum  
17                         allocation and assignment process that is transparent and considers the inputs and needs of  
18                         various stakeholders, and properly allocates amongst stakeholders the responsibility for  
19                         spectrum management.  
20                    (e) The use of any portion of the radio frequency spectrum is a privilege conferred by the State  
21                         which may, after due process, be withdrawn any time when the greater good of the public  
22                         demands it.

25   **SEC 3.** *Objectives.* – The objectives of this Act are, as follows:

- 26                    (a) Encourage the development and rapid deployment of new technology and improvement of  
27                         service standards to make wireless services in the Philippines competitive and at par with  
28                         global standards;  
29                    (b) Ensure better wireless telecommunications, broadcast, and data transmission services and  
30                         extend service coverage by preventing excessive concentration and consolidation of  
31                         spectrum licenses;

- 1                   (c) Recover a greater portion of the economic value of the radio frequency spectrum for the  
2                   public;  
3                   (d) Promote more efficient and effective use of radio spectrum; and  
4                   (e) Promote the entry and development of new players for telecommunications and data  
5                   services.

7                   **SEC. 4. Definitions.** – As used in this Act, the following terms are defined as follows:

- 9                   (a) “Allocation” refers to an entry in the National Radio Frequency Allocation Table (NRFAT)  
10                  of a given frequency band for the purpose of its use by one or more telecommunications or  
11                  data transmission services.
- 13                  (b) “Assignment” refers to an authorization given to a Licensee to use specific frequencies or  
14                  channels;
- 16                  (c) “Block” refers to a portion of the radio frequency spectrum allocated to a Licensee pursuant  
17                  to this Act.
- 19                  (d) “License” refers to a license to be granted pursuant to this Act to establish or use a radio  
20                  base station or install or use radio base station apparatus in the Philippines at frequencies  
21                  comprising a portion or several portions of the radio frequency spectrum;
- 23                  (e) “Licensee” refers to a natural or juridical person issued a License pursuant to this Act; and
- 25                  (f) “Material Interest” refers to any interest, whether direct or indirect, in any share which  
26                  carries, or any shares which together carry, more than twenty-five percent (25%) of the  
27                  votes entitled to be cast at a general meeting of a Licensee; or any share or shares in the case  
28                  where the consent of the holder of that share or those shares is required for the conduct of  
29                  any business of a Licensee; or the right to appoint or remove a majority of a Licensee’s  
30                  board of directors or trustees.

32                  **SEC. 5. Mandate for Spectrum Management.** – The function of radio spectrum management shall  
33                  be a joint undertaking of the Department of Information and Communications Technology or DICT,  
34                  for policy and planning aspects, and the National Telecommunications Commission or NTC, for  
35                  regulatory matters, in consultation with other key relevant government agencies and concerned  
36                  stakeholders.

- 38                  (a) Spectrum allocation and assignment shall be performed by the NTC strictly in accordance  
39                  with the recommendations of the Radio Frequency Consultative Committee (RFCC) to be  
40                  organized by the DICT. The RFCC shall be composed of:  
41                      i. The Secretary of the DICT, who shall also act as Chairman;  
42                      ii. The Commissioner of the NTC;  
43                      iii. The Commissioner of the Philippine Competition Commission (PCC);  
44                      iv. The Secretary of the Department of Science and Technology (DOST)  
45                      iv. The National Security Adviser  
46                      v. One representative each from the following private sector groups:  
47                          (a) Telecommunications entities’ associations;  
48                          (b) Broadcasters’ associations;  
49                          (c) Cable TV operators’ associations; and  
50                          (d) Telecommunications and data services consumer and advocacy groups.

1           The private sector groups shall nominate their representatives to the RFCC within  
2           forty-five (45) days from the effectivity of this Act, and every two (2) years  
3           thereafter. The private sector representatives shall be appointed by the President of  
4           the Philippines (Secretary of the DICT?) for a term of two years.  
5

- 6           (b) Within sixty (60) days from the creation of the RFCC, the RFCC and the NTC shall jointly  
7           promulgate a Memorandum Circular to cover the following:  
8           i. The definition of, and criteria for determining, efficient and effective spectrum use;  
9           ii. The procedure for:  
10           a. review, allocation, assignment, recall, and re-assignment of the radio spectrum,  
11           and the reclassification of spectrum from one classification to another (i.e., broadcast  
12           to telecom, and vice versa) which shall incorporate the Transparency Rule set forth  
13           in Section 6 of this Act;  
14           b. determining license-exempt spectrum, spectrum-sharing techniques, and  
15           dynamic spectrum access (DSA) bands; and  
16           c. for determining the spectrum for review;  
17           iii. Appropriate measures to minimize the impact of recall and re-assignment on active  
18           users of services utilizing the recalled or re-assigned spectrum  
19           iv. The procedure on how to calculate the reasonable spectrum users' fees and the amount  
20           to be paid for the use of the spectrum  
21           v. The determination of situations where the demand for a particular radio frequency  
22           band exceeds availability and the manner by which spectrum shall be subject to open  
23           tender in case the demand for a specific band of radio frequencies exceeds availability.  
24
- 25           (c) The RFCC shall promote policies for the proper management of radio spectrum in order to  
26           assure its availability for all existing and potential competitors in the market, for all present  
27           and future telecommunications, data transmission, and broadcast services.  
28
- 29           (d) The DOST shall support the DICT and NTC in carrying out their spectrum management  
30           functions by conducting spectrum monitoring, research, and analysis;  
31
- 32           (e) The NTC shall be responsible for other aspects of spectrum management, including:  
33           i. Verification of the correct use of frequency assignment and of station characteristics;  
34           ii. Spectrum monitoring, inspection, investigation and elimination of interference;  
35           iii. Gathering and reporting of data for quantitative estimation of spectrum utilization  
36           factors such as ambient radio noise, emission parameters, etc., and for local and  
37           international reporting;  
38           iv. Promulgation of regulations for consumer protection against misuse of a  
39           telecommunications entity's monopoly, quasi-monopolistic or oligopolistic powers by  
40           investigation of complaints and exacting compliance with service standards from such  
41           entity;  
42           v. Recommendation to the RFCC of the allocation of spectrum for a particular purpose or  
43           use, in accordance with the international conventions to which the Philippines is a  
44           party;  
45           vi. In the exercise of its regulatory powers, impose fines against Public  
46           Telecommunications Entities (PTEs), data transmission providers, and broadcasting  
47           companies within the scope of its regulation, which are found to have violated,  
48           violating or [those which] have failed or are failing to comply with the terms and  
49           conditions of this Act, any certificate, or any order, decision, regulation or required  
50           performance standards of the NTC.  
51

1       **SEC. 6. Transparency Policy.** – The NTC shall make the spectrum allocation, assignment,  
2 reclassification, recall, and re-assignment transparent in order to ensure that the rights of all  
3 stakeholders are fully protected.

- 4
- 5       (a) The NTC shall publish and make available in print and online formats the National Radio  
6 Frequency Allocation Table (NRFAT), indicating therein the purpose or use to which each  
7 frequency band is allocated. For frequency bands allocated for public use, the NTC shall  
8 likewise make available in print and online formats the frequency band, frequency range in  
9 each band, the services and/or technology the frequency band is used for, the total  
10 assignable channels/bandwidth in a particular frequency band, the name of the person and/or  
11 entity to whom each particular frequency is assigned, the bandwidth assigned to a person  
12 and/or entity from a particular frequency band, as well as the date each bandwidth  
13 assignment was made. The NRFAT and updated radio spectrum use information shall be  
14 made available on the NTC's website and to any person who requests the same, upon  
15 written request. The NRFAT shall be updated at least once every quarter to reflect changes  
16 in allocation and assignments.
- 17
- 18       (b) The NTC shall publish the results of the review of spectrum assignment and use on its  
19 website.
- 20
- 21       (c) The NTC shall be responsible for responding to Requests for Information (RFOIs) relative  
22 to spectrum. The NTC shall be responsive and transparent in replying to RFOIs on  
23 spectrum, including requests for information on spectrum assignments, which is hereby  
24 declared as public information available to all.
- 25
- 26       (d) All proposed allocation of spectrum, requests for new spectrum assignments, changes in  
27 spectrum assignment, and requests for approval of spectrum co-use between entities,  
28 whether initiated by an interested private party or by the NTC, shall be submitted to the  
29 RFCC for its review and recommendation. All applications for such actions, including those  
30 initiated by the NTC *motu proprio* shall –
- 31           i. Be published in a newspaper of general circulation at least once a week for  
32 three consecutive weeks  
33           ii. Posted in a publicly accessible place within the premises of the NTC.  
34           iii. Subjected to at least one (1) public hearing to be held within seven (7) days  
35 from the completion of publication.

36       Thereafter, the RFCC shall, within seven (7) days from the last public hearing, submit its  
37 recommendation on the proposed action to the NTC, for the implementation of the NTC.  
38 The NTC shall publish all decisions on spectrum permits, allocations, re-allocations,  
39 assignments, re-assignments, and co-use in a newspaper of general circulation and in a  
40 prominent place within the premises of the NTC. The decision shall become effective  
41 within 15 days from publication if no appeal is received therefrom. Any appeal shall be  
42 addressed to the NTC Commission en banc, which shall dispose of the same in a quasi-  
43 judicial proceeding.

44

45       The recall of frequency for purposes of free public use shall be given priority.

46

47       The immediately preceding paragraphs shall not apply to applications for frequency  
48 assignments for fixed point-to-point radio links, Wi-Fi, and satellite networks, and another  
49 spectrum declared to be license-exempt.

- 50
- 51       (e) Any proposal of the NTC to reclassify, recall, and/or re-assign spectrum shall likewise be  
52 published and subjected to public hearing by the NTC in the manner stated in Section 6 (c)  
53 above, and shall likewise require the recommendation of the RFCC, without prejudice to the

1 conduct of quasi-judicial recall proceedings where spectrum is being recalled from a current  
2 assignee.

3  
4 (f) The NTC shall not issue a test or demonstration permit or allow joint use or co-use on a  
5 spectrum assigned to an entity other than the applicant of the test, demonstration or co-use  
6 permit. The NTC shall require the applicant for a test, demonstration or co-use permit on a  
7 spectrum assigned to another entity to submit the written consent of the spectrum's assignee  
8 on record.

9  
10 (g) The NTC shall promptly act on applications for permits to import equipment. Any  
11 application for permit to import equipment that is not acted on by the NTC within seven (7)  
12 days shall be deemed approved.

13  
14 (h) If the NTC finds, on its own initiative or upon complaint, that any right, license or radio  
15 spectrum assignment to any entity has not been used despite the lapse of an initial  
16 authorization, or is no longer in use, or is not being maximized by the user thereof, or that  
17 the grantee has violated the provisions of this Act, it may, *motu proprio* or upon petition by  
18 any person, and subject at all time to due process and securing the recommendation of the  
19 RFCC, initiate the recall of the radio spectrum assignment of a Licensee. The NTC shall,  
20 where required and appropriate, make provisions for substitute frequency to address the  
21 needs of active users of the spectrum recalled from the data transmission industry participant  
22 or PTE.

23  
24 **SEC. 7. Spectrum Management Plan.** – The RFCC shall meet annually to develop a spectrum  
25 management plan for the Philippines considering, among others:

26 (a) Recommendations of the ITU and other bodies as required by international conventions to  
27 which the Philippines is a part;

28 (b) Public revenue generated from the radio frequency spectrum;

29 (c) Future spectrum requirements for public and private use;

30 (d) Spectrum allocation measures necessary to accommodate those uses; and

31 (e) Measures necessary to promote the efficient use of spectrum and that the allocation, re-  
32 allocation, assignment, re-assignment, re-classification, joint use or co-use, and recall of  
33 spectrum does not result in the concentration of spectrum resources which promote,  
34 establish, or perpetuate the significant market power of PTEs or of only a limited number of  
35 participants.

36 The Secretary of the DICT and the Commissioner of the National NTC shall lead these planning  
37 sessions and ensure that the spectrum management plan receives public exposure and incorporates  
38 stakeholder input gathered through public hearings and consultations.

39  
40 **SEC. 8. National Security Review.** –

41 (a) The National Security Adviser and/or the Department of National Defense may, *motu proprio*  
42 or upon petition by any person, initiate a review of any allocation, re-allocation, assignment,  
43 re-assignment, re-classification, joint use or co-use, and recall of spectrum for reasons of  
44 national security. The DND shall have a period of thirty (30) working-days upon formal  
45 issuance of a notice of review to submit a petition for a review to the RFCC, citing the  
46 reasons therefor. A review conducted for reasons of national security shall not require  
47 publication and notice; however, any decision on the allocation, re-allocation, assignment,

1 re-assignment, re-classification, joint use or co-use, and recall shall be required to undergo  
2 the same publication requirement in Section 6 above.  
3

4 **SEC. 9. Auctions.** – The NTC and DICT shall establish a competitive bidding methodology for the  
5 assignment of Blocks pursuant to this Act. This methodology shall include safeguards to protect the  
6 public interest as well as measures to promote the stated objectives of this Act. Thus, the NTC and  
7 DICT, with the recommendations of the RFCC, shall:

- 8 (a) Consider alternative payment schedules and methods of calculation, including lump sums or  
9 guaranteed installment payments, with or without royalty payments, or other schedules or  
10 methods that promote the objectives of this Act, and combinations of such schedules and  
11 methods;  
12
- 13 (b) Include performance requirements, such as appropriate deadlines and penalties for  
14 performance failures, to ensure prompt delivery of services to the public, prevent  
15 stockpiling or warehousing of spectrum, and promote investment in and rapid deployment  
16 of new technologies and services;  
17
- 18 (c) Prescribe methods for allocation and assignment that promote an equitable distribution of  
19 licenses and services among geographical areas, economic opportunity for a wide variety of  
20 applicants, including small businesses, and businesses owned by members of minority  
21 groups and women, and investment in and rapid deployment of new technologies and  
22 services; and  
23
- 24 (d) Require such transfer disclosures and anti-trafficking restrictions and payment schedules as  
25 may be necessary to prevent unjust enrichment as a result of the methods employed to issue  
26 licenses.  
27

28 **SEC. 10. Validity of Licenses for the Use of the Radio Frequency Spectrum. –**

- 29 (a) The allocation and assignment of spectrum, as embodied in the NRFAT, shall be subject to  
30 annual review. The NRFAT shall be updated quarterly and published in a newspaper of  
31 general circulation annually.  
32
- 33 (b) The NTC may allocate and assign spectrum either on a national or regional basis.  
34
- 35 (c) The NTC shall assign spectrum to qualified entities for an initial period of not more than  
36 three (3) years from the date of assignment. On the last year of the initial three-year period,  
37 the NTC shall review the assignment to determine if the assigned spectrum is being  
38 optimally used, and renew or increase, upon the request of the grantee, decrease or recall the  
39 same, as necessary. In the event the NTC finds that the assigned spectrum needs to be  
40 decreased or recalled, it shall initiate recall proceedings. Subsequent renewals of spectrum  
41 assignment shall be for periods of up to five (5) years. The NTC shall, on the last year of  
42 every 5-year term, review the use of spectrum and take the necessary action to ensure its  
43 optimal use.  
44
- 45 (d) The NTC shall conduct an annual inspection of the facilities of all licensed holders of  
46 spectrum to determine compliance with their provisional authorities. The inspection shall  
47 include an audit of the number of subscribers using the spectrum in order to determine if,  
48 vis-à-vis the total amount of bandwidth held by the Licensee for the use of spectrum for a  
49 particular service, the spectrum is being used adequately, effectively, and efficiently. Where  
50 the NTC finds that frequency is unused or under-utilized, it shall initiate the appropriate  
51 show-cause and/or recall proceedings against the Licensee.  
52

1  
2 **SEC. 11. Prohibition on Sale, Lease, Transfer, Usufruct and Assignment.** – A Licensee shall not  
3 lease, transfer, grant the usufruct of, sell, nor assign a License issued pursuant to this Act, or the  
4 rights and privileges acquired there under, to any person, firm, company, corporation, or other  
5 commercial or legal entity.  
6

7 **SEC. 12. Mergers and Acquisitions.** – A Licensee shall not merge with any person, firm, company,  
8 corporation or entity, nor shall a Material Interest in a Licensee be transferred, whether as a whole  
9 or in parts, and whether simultaneously or contemporaneously, to any such person, firm, company,  
10 corporation or entity, without the prior approval of the RFCC, the NTC, and PCC in separate  
11 proceedings in accordance with law.  
12

13 **SEC. 13. Efficient and Equitable Distribution of Spectrum.** –  
14

- 15 (a) No entity or group of entities sharing a Material Interest in each other, may hold more than  
16 25% of the licensed radio frequency spectrum in any given band.  
17
- 18 (b) Where the demand for a particular frequency exceeds supply, or the NTC deems it necessary  
19 to introduce competition, the NTC shall conduct an open tender. It shall define and  
20 determine the process for an open tender, taking into account the need to grant new  
21 Provisional Authorities or CPCNs to new entrants, if any.  
22
- 23 (c) The NTC shall not assign or re-assign any frequency that has been recalled or voluntarily  
24 returned, either as a result of the NTC's annual inspection or review or the transfer of assets  
25 of an entity to another entity due to sales or acquisition, or whose use has been reclassified  
26 by the NTC from broadcast to telecommunications or vice-versa, without either (i) going  
27 through the procedure stated in Sec. 6 of this Act, or (ii) being made subject to open tender  
28 under Sec. 9. No co-use shall be authorized or permitted in violation of this section.  
29
- 30 (d) The NTC, in accordance with the recommendations of the RFCC, shall in accordance with  
31 global best practice, issue rules and regulations governing shared spectrum use. The NTC  
32 and the DICT shall likewise continuously explore and consider the adoption and application  
33 of emerging spectrum management practices, such as dynamic spectrum allocation, in order  
34 to make spectrum management more effective and efficient for the benefit of consumers.  
35

36 **SEC. 14. Spectrum User Fees.** – The use of spectrum shall be subject to reasonable spectrum user  
37 fees, based on the use of the spectrum, the amount of spectrum used, the type of service being  
38 offered, and the economic classification and geographic coverage or scope of the areas covered by  
39 the stations licensed to use the spectrum. The NTC shall balance its revenue-raising objectives for  
40 spectrum against the need to make spectrum accessible to as wide a number of industry participants  
41 as possible. It shall regularly publish the schedule of rates for spectrum.  
42

43 **SEC. 15. Obligations of a Licensee.** – Every Licensee shall be bound by the following obligations:  
44

- 45 (a) Observe the spectrum caps stated in this Act;  
46
- 47 (b) Utilize assigned spectrum optimally to provide telecommunications, broadcast, and data  
48 transmission services to the public;  
49
- 50 (c) Comply with this Act, its implementing rules and regulations, and all other applicable  
51 administrative issuances;  
52
- 53 (d) Pay the lawful fees, charges, and taxes due the national government in connection with  
54 Licenses issued pursuant to this Act; and  
55

1       (e) Obtain prior approval from the RFCC, NTC, and PCC prior to any merger, acquisition, or  
2       transfer of Material Interest in a Licensee.

3

4       **SEC. 16. Implementing Rules and Regulations.** – The Secretary of Information and  
5       Communications Technology, upon the recommendation of the RFCC, NTC, PCC, DOST, and  
6       National Security Adviser, shall issue the Implementing Rules and Regulations for the effective  
7       implementation of this Act, within sixty (60) days from the approval thereof.

8

9       **SEC. 17. Separability Clause.** – If any provision of this Act is declared unconstitutional or invalid  
10      by a court of competent jurisdiction, the remaining provisions not affected thereby shall continue to  
11      be in full force and effect.

12

13      **SEC. 18. Repealing Clause.** – Republic Act 3846, as well as all other laws, decrees, executive  
14      orders, department or memorandum orders and other administrative issuances or parts thereof of  
15      which are inconsistent with the provisions of this Act, are hereby modified, superseded, or repealed  
16      accordingly.

17

18      **Section 19. Effectivity.** This Act shall take effect fifteen (15) days after publication in the *Official*  
19      *Gazette* or in at least two (2) newspapers of general circulation.

20

21

22      Approved,