

SEVENTEENTH CONGRESS
OF THE REPUBLIC OF THE PHILIPPINES
First Regular Session

HOUSE OF REPRESENTATIVES

House Bill No. **3058**

HOUSE OF REPRESENTATIVES	
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Introduced by Representative Victor A. Yap

EXPLANATORY NOTE

Network Service Providers now offer simultaneous voice, video, and data services thus creating a convergence of technology that has helped to push the Philippines forward in Business Process Outsourcing, Information Technology services, and general public services. To optimize our networks however, and to provide much needed reforms to the industry, it is necessary to calibrate the policy environment in order to realize cost reduction, increased service offerings, and encourage investment.

Presently, the extant regulatory regime inhibits the full realization by the industry of the array of technological advances available. Republic Act 7925, as well as Executive Order 436, are insufficient to govern the cable television, Internet and other multi-media services that have evolved. Indubitably, greater regulation brings with it the stability and predictability which engender an ideal environment for foreign direct investment, expansion of existing services, and the establishment of new ones.

According to a 2014 Department of Transportation and Communications (DOTC) report weak infrastructure, limited broadband access, and insufficient regulatory powers from the government all inhibit full, inclusive growth of ICT development in the Philippines. This bill can directly address these concerns by providing the necessary policy environment to provide impetus to resolve infrastructure and access through investment.

This bill supports the Department of Science and Technology's (DOST) Philippine Digital Strategy aimed at:

"A digitally empowered, innovative, globally competitive and prosperous society where everyone has reliable, affordable and secure information access in the Philippines. A government that practices accountability and excellence to provide responsive online citizen-centered services. A thriving knowledge economy through public-private partnership."

To achieve this, the measure unfetters the industry from regulatory binds while sustaining constitutional limitations on foreign ownership.

To be sure, the urgent passage of this bill is sought.


VICTOR A. YAP
Representative, 2nd District of Tarlac

HOUSE OF REPRESENTATIVES

House Bill No. 3053

Introduced by Representative Victor A. Yap

AN ACT
TO ESTABLISH STRUCTURAL REFORMS IN THE INFORMATION AND
COMMUNICATIONS SECTOR TO PROMOTE DEVELOPMENT, DELIVERY AND USE
OF CONVERGENT SERVICES

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

1 **SECTION 1. *Short Title.*** – This Act shall be known as the "Convergence Policy Act
2 of the Philippines of 2016".

3
4 **SECTION 2. *Scope and Limitations.*** – This Act shall apply to application services
5 and network services as defined herein. It does not deal with the regulation of the content
6 provided by such services.

7
8 **SECTION 3. *Definitions.*** - For purposes of this Act, the following terms shall
9 mean:

10 (a) **Convergence** - the integration of two or more communications services in one common
11 network; technologies moving together towards a common point and elimination of
12 differences between the provisioning of video, audio and data, using digital and other
13 emerging technologies; the coming together of two or more disparate disciplines or
14 technologies; the ability of different network platforms to carry any and all kinds of
15 services, and the coming together of consumer devices such as, but not limited to the
16 telephone, television and, personal computer.

17 (b) **Audio communication services** - services provided through the transmission and
18 reception of sound signals including voice.

19 (c) **Data communication services** - services provided through the transmission and
20 reception of fixed images and or texts, including alphanumeric and special characters
21 using wire or wireless means.

22 (d) **Network** - a physical infrastructure comprising of two or more sets of modes and links
23 capable of connecting two or more defined points.

- 1
- 2 (e) **Network Service** - a service that provides connectivity between and among application
- 3 service providers and end-users.
- 4 (f) **Application Service** - a service that provides audio, video, data, or any combination or
- 5 enhancements thereof that are captured, processed, stored and communicated through
- 6 electronic means.
- 7 (g) **Closed-user group** - a lawfully organized group of individuals having its own
- 8 communication network within a limited contiguous geographical area such as a building,
- 9 residential subdivision, industrial park, economic zone, commercial complex and unserved
- 10 barangays.
- 11

12 **SECTION 4. Declaration of National Policies.** - The development and delivery of

13 application services converged through a single network shall be pursued in accordance with

14 the following national policies:

- 15 a. To enhance the vital role of communications and information in nation building and
- 16 to the economic development and security of the Philippines;
- 17 b. To respond to technological advances that made possible the provisioning of
- 18 applications communications services converged through a single network thus
- 19 allowing a more efficient utilization of network facilities;
- 20 c. To promote the development and use of increased bandwidth, transmission capacity,
- 21 and advanced communication networks;
- 22 d. To facilitate, contribute and expedite the goal of the government in achieving
- 23 universal access and thus strengthen the economic, educational and cultural, social
- 24 and political fabric of the Philippines;
- 25 e. To attract investments in the building of telecommunications infrastructures and in
- 26 the provisioning of application services subject to laws on foreign ownership
- 27 limitations; and
- 28 f. To provide applications services users the effective power to choose among
- 29 convergent applications services providers.
- 30

31 **SECTION 5. Policy Objectives.**— Pursuant to the above national policies, this Act is

32 enacted to address certain legal and regulatory issues arising from the technological advances

33 rendering possible the delivery of all kinds of applications services through a single network,

34 including but not limited to, the ownership and management of application service providers

35 and network service providers, the need for a legislative franchise and other governmental

36 authorizations, consumer rights, fair competition, rights and obligations of service providers,

37 and powers of concerned government agencies.

38

1 **SECTION 6. *Ownership and Management.*** - Application Service Providers shall
2 be subject to rules and restrictions on foreign ownership, control and operation as provided
3 under the Constitution and existing laws. In any case where different rules and restrictions
4 apply to the individual communications services converged, that which is most restrictive on
5 foreign ownership, control and operation shall apply.
6

7 Network Service Providers shall be open to ownership, control and operation by
8 citizens of the Philippines and by corporations or cooperatives organized under Philippine
9 laws at least sixty percent (60%) of the capital of which is owned and controlled by citizens
10 of the Philippines.
11

12 Persons or entities acting both as Applications Service Providers and Network
13 Service Providers shall be subject to rules and restrictions on foreign ownership, control and
14 operation as provided under the Constitution, this Act and other existing laws. In any case
15 where different rules and restrictions apply to the individual Applications Services converged
16 and to those provided under this Act in the case of Network Services, that which is most
17 restrictive on foreign ownership, control and operation shall apply.
18

19 The participation of foreign nationals in the governing body of any Applications
20 Service Provider and/or Network Service Provider shall be limited to their proportionate
21 share in its capital.
22

23 **SECTION. 7. *Franchise and Other Government Authorizations.*** - All Network
24 Service Providers that shall operate on a nation-wide or region-wide basis shall obtain a
25 legislative franchise, while all other Network Service Providers shall obtain a local franchise
26 only from the appropriate local government units wherein they shall operate: Provided, that
27 all Network Service Providers shall also secure all such certificates, permits, licenses and
28 authorizations as may be required by the National Telecommunications Commission and
29 other relevant agencies under such rules and regulations existing and/or to be issued by such
30 agencies.
31

32 **SECTION. 8. *Lease of Facilities.*** - All network service providers may lease or
33 sublease capacity to applications service providers other network access service providers.
34

35 **SECTION. 9. *Non-Discriminatory Service.*** - All network service providers shall
36 provide their services to all application service providers and other network service
37 providers in a non-discriminatory manner.

1 **SECTION. 10. Rates and Tariffs.** - Network services and applications services shall
2 be individually priced. The aggregate price of two or more converged applications services
3 shall be less than the sum of the individual prices of the applications services availed of.
4 Prices shall be based on the prevailing cost of providing the service/s.

5
6 An entity providing both network service and application services shall maintain a
7 separate book of accounts for each service.

8
9 Any entity providing network service shall apply uniform rates to all applications
10 service providers, including those affiliated with such entity, and to all other network service
11 providers.

12
13 The Commission shall establish rates and tariffs, which are fair and reasonable and
14 which provide for fair and just competition for regulated services.

15
16 The Commission shall exempt, pursuant to an application, any specific convergent
17 applications service and network service from its rate or tariff regulations if the service has
18 sufficient competition to ensure fair and reasonable rates or tariffs. The Commission shall,
19 however, retain its residual powers to regulate rates or tariffs when ruinous competition results
20 or when a monopoly or a cartel or combination in restraint of free competition exists and the
21 rates or tariffs are distorted or unable to function freely and the public is adversely affected. In
22 such cases, the Commission shall either establish a floor or ceiling on the rates or tariffs.

23
24 **SECTION. 11. Equity of Treatment.** - Any advantage, favor, privilege, exemption,
25 or immunity granted under existing franchises, or may hereafter be granted, shall *ipso facto*
26 become part of franchises covered under this Act and shall be accorded to the grantees of
27 such franchises insofar as such are relevant and applicable: Provided, however, that the
28 foregoing shall neither apply to nor affect provisions of franchises concerning territory
29 covered by the franchise, the life span of the franchise, or the type or service authorized by
30 the franchise.

31
32 **SECTION. 12. Rights of User.** - Users' rights shall be recognized including the
33 following:

34 a. Right to change from one convergent applications service provider or network
35 service provider to another.

36 b. Right to provide accessory facilities to their customer premises equipment (CPE) in
37 addition to the facilities provided by the service provider under this Act, to enable
38 him to access competitive convergent communication services.

- c. Right to form closed-user groups and to connect their networks with any duly authorized network service providers operating therein as subscribers there to.
- d. Right to non-discriminatory, reliable, and efficient services conforming to the minimum standards prescribed by the Commission.
- e. Right to choose and pay only for the service(s) availed of.
- f. Right to regular, timely, and accurate billing and courteous and efficient service.
- g. Right to thorough and fair investigation and prompt resolution by the Commission of any service-related complaint.

SECTION. 13. *Rights of Service Providers.* - Service Providers shall have the following rights:

- a. Right to prompt resolution by the Commission of any petition for service rates adjustments.
- b. Right to demand its users the connection of only typed approved CPEs by the NTC or duly recognized NTC accreditation bodies.
- c. Right to prompt interconnection in a non-discriminatory manner at just and reasonable rates and conditions, and prompt resolution of any disputes pertaining thereto.

SECTION. 14. *Department of Information and Communications Technology (DICT).* - The Department, in addition to its existing powers, functions and responsibilities, and in coordination with other concerned agencies, shall pursuant to this Act:

- a. Ensure that the policies and objectives of this Act are fully adhered to;
- b. Recommend incentives to convergent applications services providers and network service providers in unserved areas, educational institutions, libraries, social-service agencies, tourist destinations such as national parks, and underserved rural areas; and
- c. Promote the development and transfer of technologies that allow convergence of applications services.

SECTION. 15. *National Telecommunications Commission (NTC).* - The Commission in addition to its existing powers, functions and responsibilities, shall, pursuant to this Act:

- a. Ensure that all entities provide services in a non-discriminatory manner.
- b. Ensure the interconnection and inter-operability of all networks.
- c. Formulate and implement a numbering or addressing system to facilitate access to communication services.
- d. Formulate and implement rules to prevent unfair competition and trade practices.

- 1 e. Formulate and implement rules and regulations and procedures to act upon
2 application for exemption from regulation of rates and tariffs.
- 3 f. Require the submission by the network service providers and application service
4 providers of periodic reports of finances and operations.
- 5 g. Prescribe and collect fees and charges to cover reasonable costs and expenses for
6 the regulation and supervision of network service providers and application service
7 providers.
- 8 h. Formulate and implement rules and regulations and procedures to protect the
9 rights of the service providers and users.
- 10 i. Formulate and implement rules, regulations, and procedures for the prompt
11 issuance of authorizations, certificates, licenses and permits for the provision of
12 services under this Act.
- 13 j. Promulgate the schedule of fines and penalties to be issued for violations of any
14 provision of this Act.
- 15

16 **SECTION. 16. *Sanctions.*** - Failure to comply with any provision of this Act shall
17 be dealt with in accordance with the schedule of fines and penalties to be promulgated and
18 issued by the NTC.

19

20 **SECTION. 17. *Separability Clause.*** - Any portion or provisions of this Act that may
21 be declared unconstitutional or invalid shall not have the effect of nullifying other portions or
22 provision hereof as long as such remaining portions or provisions can still subsist and be
23 given effect in their entirety.

24

25 **SECTION. 18. *Repealing Clause.*** - All laws, ordinances, rules, regulations and other
26 issuances or parts thereof, which are inconsistent with this Act are hereby repealed or
27 modified. Nothing in this Act shall be construed as to exempt an entity from a provision of
28 any law relevant to any of services converged in its business by reason solely of the fact that
29 such service is not being offered as a separate service but as service converged with another.

30

31 **SECTION. 19. *Effectivity.*** - This Act shall take effect fifteen (15) days from the date
32 of its publication in the Official Gazette or in at least two (2) newspapers of general
33 circulation.

34

35 *Approved,*