

Republic of the Philippines
HOUSE OF REPRESENTATIVES
Quezon City

Eighteenth Congress
First Regular Session



HOUSE BILL NO. **312**

Introduced by **Representative JOEY SARTE SALCEDA**

AN ACT
DECLARING THE POOR INTERNET SPEED AND CONNECTIVITY
IN THE COUNTRY AS A NATIONAL EMERGENCY, AND GRANTING
PRESIDENT RODRIGO ROA DUTERTE EMERGENCY POWERS
AND PRESCRIBING URGENT MEASURES NECESSARY AND
PROPER TO EFFECTIVELY ADDRESS SUCH PREDICAMENT,
AND FOR OTHER PURPOSES

EXPLANATORY NOTE

Among Asia-Pacific countries, the Philippines has remained the cellar-staying laggard in terms of internet speed and affordability. Akamai Technologies Inc. in its report for first quarter of 2016 said that the Philippines ranked 14 of 15 countries in the Asia-Pacific region with respect to internet speed, averaging a woeful 3.5 Mbps, at best 5.5 Mbps, (megabits per second). Compared to say South Korea which has an average of 29 Mbps, the Philippines internet connectivity is unacceptably slow. In this age of internet connectivity, where every personal and business communications as well as government transactions are highly reliant on the internet, the country's slow but ironically expensive internet service weighs down competitiveness. As the world enters the Fourth Industrial Revolution where data has become the new oil, low internet speed has elevated to a comparative disadvantage especially as it deters the cross pollination of ideas and knowledge so critical to research and development.

At present, the country has only 17,000 connectivity infrastructures servicing a population of 105 million compared to say Vietnam which has 65,000 towers for a population of more or less 96 million. But then again, even if these telecomm companies plans to build more cell sites and improve infrastructure to boost telecom services, both will have to hurdle almost insurmountable barriers to meet the optimum cell density in relation to the number of internet users. A telecommunication company officer said, "The disproportionate low number of cell sites versus internet users in the Philippines is mainly attributed to difficulties in securing permits from various local government units (LGUs), homeowner associations (HOAs), and other stakeholders, causing considerable delay in the construction of such facilities." Based on experience by existing telecommunication companies (telcos), putting up a cell tower requires three levels of bureaucracy, starting with 'barangay' level or local

community officials, next is processing your engineering, electrical and sanitation permits at the city or municipal level while at the same time getting additional approvals and permits from national govt. agencies i.e. DICT-NTC, DOST, DENR, DPWH. Adding to the numerous permits required by local government, several Home Owners Associations, exclusive subdivisions and building administrators also impose their own guidelines and permits. On the average, from negotiations to documentation, it takes around eight months and to one year and 25 permits before a cell site can begin construction.

The common tower strategy of the DICT has encouraged more players into the industry with almost 37 interested parties and the national government has signed MOUs with 15 corporations and identified 1,000 sites or initial locations. However, this has the unintended effect of increasing demand for local business permits and right of way acquisitions, thus increasing the bargaining position of LGUs, building owners and subdivisions.

Simplifying and rationalizing the bureaucratic process, particularly in acquiring the permits to build cell towers, will dramatically enhance the build-up of telecommunications infrastructure in the country which can make internet connectivity at par, if not better, with the best in the world.

This bill declares slow internet speed and poor internet connectivity as a national emergency, conversely declaring internet speed and quality as a national imperative being a source of national competitiveness. In this connection, the bill seeks to grant the President of the Republic of the Philippines emergency powers to adopt the necessary measures to be able to harness all available resources in order to effectively address the aforesaid predicament in a period of two (2) years. The President is granted the authority among others:

- a) To utilize all government resources, perform executive actions, unhampered and unbridled by existing laws, regulations and procedures;
- b) To streamline regulatory processes and procedures in relation to the development and improvement of internet infrastructure, including, but not limited to, any application for the construction of cell sites or cell towers and installation of related infrastructure facilities in order to expeditiously achieve optimum cell site density vis-à-vis a specific area's population size and geographical configuration;
- c) To require concerned LGUs and other national agencies to issue the necessary permits in relation to the application for the construction of cell site or cell tower or other similar facilities within a period of seven (7) days, which may be extended only under exceptional circumstances;
- d) To enter into partnership or collaborative arrangement with any entity, public or private, to share resources that would achieve public interest consistent to the desired objective of this Act;
- e) To draw up incentive plans and opportunities as well as impose penalties whenever necessary in order to boost national internet service and compel the creation of the infrastructure essential for overall economic growth; and

- f) To administer and implement remedial and such other related measures, without due regard to existing law, regulations and procedures, in order to address the problem of poor internet connectivity in the country;

Under the proposed bill, the Secretary of DICT is designated as the Internet Speed and Connectivity Crisis Manager and the DICT is ordained to formulate a sustainable 5-year Internet Speed and Connectivity Reform Plan which shall among others set 1. Target speed and coverage 2 Quality metrics and 3. Competition Policy and Consumer Welfare aspects including affordability. A case in point is the commitment of 3rd Telco Player to achieve 55mbps in 5 years from the current 8.24mbps in 2018, lower than 8.59 mbps in 2017.

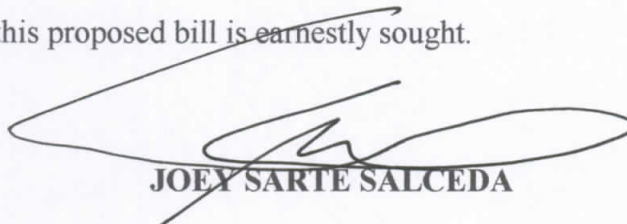
The bill also transforms the Common Tower Policy of the DICT into binding law. As alter ego of the President, the DICT Secretary shall have the following delegated powers:

- a) To modify, amend, or expand the functions of the DICT or NTC as may be determined under this Plan;
- b) Override the permits and licenses, including building permit procedures and governing ordinances of Local Government Units, as well as the relevant and existing procedures, and implement such other measures as exigencies shall require;
- c) To enter into, using perpetually, private properties, when necessary for the speedy connection and construction of connectivity linkages network;
- d) To acquire any land or property for the purpose of developing future connectivity projects, in order to minimize cost of acquisition, and maximize value capture opportunities for government;
- e) To assist, with the Department of Public Works and Highways, the telecommunication companies on the installation of their fiber optic or other cable connection necessary for the efficient internet or communication connection along the national and other roads;
- f) To integrate the different modes of communication infrastructure network;
- g) To oversee the construction of structures or implementation of road works that would improve the connectivity flow, in coordination with the DPWH; and
- h) To oversee the opening up of private roads, whether or not with the imposition of toll fees, as additional access points, in coordination with the DPWH.

In order to avoid prolonged litigation and legal disruption that would delay the immediate resolution of the crisis, temporary restraining order or preliminary injunction shall not be issued against the government or any of its subdivisions, official or any person or entity, whether public or private acting under the government direction, to restrain, prohibit or compel the performance of certain actions including the acquisition, clearance and development of the right-of-way and/or site or location of any project identified by the Crisis Manager; procurement of connectivity projects, including infrastructure projects, goods, and consulting services; among others.

To ensure that the provisions of the Act are properly implemented, the DITC shall be required to submit a monthly report to Congress on the effectiveness and effectiveness of the measures undertaken. A Congressional Oversight Committee will be created to monitor and oversee its proper implementation.

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



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

SECTION 1. *Short Title.* – This Act shall be known as “**Internet Speed and Connectivity Emergency Act of 2019.**”

SEC. 2. *Declaration of Policy.* – The State recognizes the vital role of communication and information in nation-building and national economic competitiveness. As such, it shall endeavor to achieve fast, affordable and reliable telecommunications services, including internet services, by granting the President, as chief executive, the authority to adopt measures that would address the problem of poor and inadequate telecommunications infrastructure resulting in slow internet connectivity among other related problems which has assumed the nature and magnitude of a national emergency.

SEC. 3. *Definition of Terms.* – The following terms shall mean:

- a) “*Emergency Powers*” shall refer to the authority granted to the President of the Republic of the Philippines under Section 23 (2), Article VI of the 1987 Philippine Constitution by the Congress for a limited period and subject to such restrictions as

it may prescribe to exercise powers necessary and proper to carry out a declared policy;

- b) “*Internet Speed and Connectivity Crisis*” shall refer to the current internet speed and connectivity situation in the country, with the nature and magnitude of a national emergency;
- c) “*Internet Project*” shall refer to construction, repair, rehabilitation, improvement, operation, or maintenance of all communication infrastructures to ensure the speed and convenience of the public, including all projects aimed at building internet connectivity in highest speed in the country;
- d) “*National Government Projects*” as defined under Republic Act No. 10752. It shall be deemed to include projects for the resettlement of informal settlers or other persons or families affected by any national government infrastructure project implemented pursuant to Republic Act No. 6957, as amended by Republic Act No. 7718; and
- e) “*Common Tower Policy*” refers herein the authority of the telecommunication companies to build their own tower as mandated by their franchise to speed up better connectivity.

SEC. 4. *Grant of Emergency Powers to the President.* – The President is hereby authorized to exercise all powers necessary and proper to carry out the above-declared national policy. As such, the President, is hereby granted Emergency Powers to urgently utilize all necessary government resources, exercise police power, and employ executive actions and measures to ensure the effective implementation, reconfiguration, and harmonization of national and local government projects intended to address the internet speed and connectivity crisis, unhampered by existing laws, agreements, regulations, court orders, and procedures that would cause delay in addressing the crisis, with the assistance of his cabinet secretaries, as his alter ego, involved in information, communication, connectivity and technology projects and issues.

SEC. 5. *Authorized Powers.* – Pursuant to Article VI, section 23(2) of the 1987 Constitution, the President of the Republic of the Philippines, through his cabinet secretaries, is hereby granted the authority to issue rules and regulations to carry out any and all of the following powers:

- a) To utilize all government resources, perform executive actions, unhampered and unbridled by existing laws, regulations and procedures;
- b) To streamline regulatory processes and procedures in relation to the development and improvement of internet infrastructure, including, but not limited to, any application for the construction of cell sites or cell towers and installation of related infrastructure facilities in order to expeditiously achieve optimum cell site density vis-à-vis a specific area's population size and geographical configuration;
- c) To require concerned LGUs and other national agencies to issue the necessary permits in relation to the application for the construction of cell site or cell tower or other similar facilities within a period of seven (7) days, which may be extended under exceptional circumstances;
- d) To enter into partnership or collaborative arrangement with any entity, public or private, to share resources that would achieve public interest consistent to the desired objective of this Act;
- e) To draw up incentive plans and opportunities as well as impose penalties whenever necessary in order to boost national internet service and compel the creation of the infrastructure essential for overall economic growth; and
- f) To administer and implement remedial and such other related measures, without due regard to existing law, regulations and procedures, in order to address the problem of poor internet connectivity in the country;

SEC. 6. *Formulation of the Internet Speed and Connectivity Network Reform Plan.* – The Department of Information and Communication Technology shall adopt a comprehensive, integrated and sustainable Internet Speed and Connectivity Network Reform Plan (hereinafter the “Plan”).

The Plan shall provide a roadmap and list of projects and infrastructure in order to establish an internet connectivity throughout the country, with the end in view of spurring development in all regions in the country, providing sufficient connectivity infrastructure and linkages.

The Plan shall among others set 1. Target speed and coverage 2 Quality metrics and 3. Competition Policy and Consumer Welfare aspects including affordability.

SEC. 7. *Appointment of an Internet Speed and Connectivity Crisis Manager.* – The Secretary of the Department of Information, Communication and Technology (DICT) is designated as the Internet Connectivity Crisis Manager (“Crisis Manager”).

SEC. 8. *Powers of the Internet Speed and Connectivity Crisis Manager.* – The Connectivity Crisis Manager shall have the following delegated powers:

- a) To modify, amend, or expand the functions of the DICT or NTC subject to the approval of the President as may be determined under this Plan;
- b) To override the permits and licenses, including building permit procedures and governing ordinances of Local Government Units, as well as the relevant and existing procedures, and implement such other measures as exigencies shall require;
- c) To enter into, using perpetually, private properties, when necessary for the speedy connection and construction of connectivity linkages network;
- d) To acquire any land or property for the purpose of developing future connectivity projects, in order to minimize cost of acquisition, and maximize value capture opportunities for government;
- e) To assist, with the Department of Public Works and Highways, the telecommunication companies on the installation of their fiber optic or other cable connection necessary for the efficient internet or communication connection along the national and other roads;
- f) To integrate the different modes of communication infrastructure network;
- g) To oversee the construction of structures or implementation of road works that would improve the connectivity flow, in coordination with the DPWH; and
- h) To oversee the opening up of private roads, whether or not with the imposition of toll fees, as additional access points, in coordination with the DPWH.

SEC. 9. *Power of Eminent Domain.* – The government may acquire real property needed as right-of-way site or location for any national government infrastructure project through donation, negotiated sale, expropriation, or any other mode of acquisition as provided by law. All concerned government agencies shall coordinate and jointly work with the Crisis Manager for the immediate resolution of issues for the establishment of connectivity infrastructure. This shall include the exercise of the power of eminent domain for right-of-way acquisition necessary for infrastructure projects or public convenience in order for the

telecommunication companies to enter building and private properties or subdivisions for the installation of the necessary infrastructures as provided under this Plan.

SEC. 10. *Common Tower Policy.* – The State shall allow construction of necessary infrastructures by tower and telecommunication companies to speed up the connectivity, as provided in their respective franchise. A common tower policy is hereby implemented as means to address the demand for speedy connections to serve better communication.

SEC. 11. *Validity of Emergency Power.* – The authority granted to the President under this Act shall subsist, be valid and effective for a period of two (2) years unless sooner withdrawn by a resolution by Congress.

SEC. 12. *Prohibition on the Issuance of Temporary Restraining Orders and Preliminary Injunctions.* – In the implementation of this Act, no temporary restraining order or preliminary injunction shall be issued against the government or any of its subdivisions, official or any person or entity, whether public or private acting under the government direction, to restrain, prohibit or compel the following acts:

- a) Acquisition, clearance and development of the right-of-way and/or site or location of any project identified by the Crisis Manager;
- b) Procurement of connectivity projects, including infrastructure projects, goods, and consulting services;
- c) Commencement, prosecution, execution, implementation, operation of any connectivity project;
- d) Termination or rescission of any Connectivity Project; and
- e) The undertaking or authorization of any other lawful activity necessary for any Connectivity Project.

SEC. 13. *Appropriations.* – The amount as may be needed for the implementation of the provisions of this Act shall be included in the annual General Appropriations Act.

SEC. 14. *Reportorial Requirement.* – The DITC, acting on behalf of the President, is duty bound to submit a monthly report to Congress on the effectiveness and effectiveness of the measures undertaken this Act.

SEC. 15. *Congressional Oversight Committee.* – There is hereby created a Joint ICT Congressional Oversight Committee to monitor and oversee the implementation of the provisions of this Act. The Committee shall be composed of six (6) members from the Senate and six (6) members from the House of Representatives with the Chairpersons of the Committee of Information and Communications Technology of both Houses as co-chairpersons.

SEC. 16. *Separability Clause.* – If any provision of this Act or the application of such provision to any person or circumstances is declared invalid, the remainder of this Act or the application of such provision to any other person or circumstances shall not be affected by such declaration.

SEC. 17. *Repealing Clause.* – All laws, decrees, ordinances, rules and regulations, executive or administrative orders and other presidential issuances inconsistent with this Act, are hereby repealed, amended or modified accordingly.

SEC. 18. *Effectivity Clause.* – This Act shall take effect fifteen (15) days after its publication in the Official Gazette or in a newspaper of general circulation.

Approved,