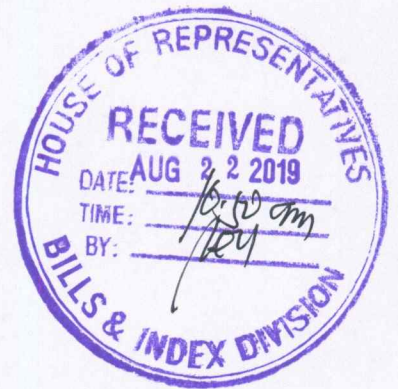


Republic of the Philippines
HOUSE OF REPRESENTATIVES
Quezon City

EIGHTEENTH CONGRESS
First Regular Session

House Bill No. 4110



Introduced by Hon. Francis Gerald Aguinaldo Abaya

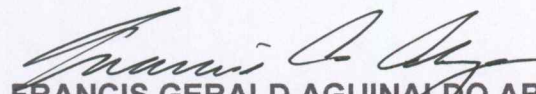
EXPLANATORY NOTE

Telecommunications undoubtedly plays a crucial role in the fundamental operations of our society. In this information age where each aspect of our lives can be affected by the speed with which data is transmitted from one point to another, improving our telecommunications will undoubtedly improve the quality of life for every Filipino.

Republic Act No. 7925 was passed on February 20, 1995 – over 20 years ago. The telecommunications landscape in the Philippines has dramatically changed since then. To adapt to these changes, this bill aims to bolster the powers of the National Telecommunications Commission (NTC) in regulating the industry. This bill seeks to do so by empowering the NTC to impose fines to violators of R.A. No. 7925 as well as require entities determined to be significant market powers to provide timely access to its network, facilities, or equipment.

The strengthening of the NTC is a necessary step towards the improvement of the country's telecommunication industry and the services they provide to the Filipino people.

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


FRANCIS GERALD AGUINALDO ABAYA
Representative, First District, Cavite

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EIGHTEENTH CONGRESS
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**AN ACT STRENGTHENING THE POWERS OF THE NATIONAL
TELECOMMUNICATIONS COMMISSION, AMENDING FOR THE PURPOSE
REPUBLIC ACT NO. 7925, OTHERWISE KNOWN AS THE PUBLIC
TELECOMMUNICATIONS POLICY ACT OF THE PHILIPPINES**

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

1 **SECTION 1.** Section 3 of Republic Act 7925, otherwise known as the “Public
2 Telecommunications Policy Act of the Philippines”, is hereby amended to read as
3 follows:

4
5 “Sec. 3. *Definitions and Interpretations.* – For purposes of this Act, the
6 following terms shall be used:

7 XXX

8 (L) **SIGNIFICANT MARKET POWER** - THE ABILITY OF A PUBLIC
9 TELECOMMUNICATIONS ENTITY TO AFFECT PRICE, SUPPLY OR
10 INNOVATION IN THE TELECOMMUNICATIONS INDUSTRY OR ANY PART
11 THEREOF, AS A RESULT OF EITHER ITS CONTROL OVER ESSENTIAL
12 FACILITIES OR THE USE OF ITS POSITION IN ANY MARKET IN THE
13 TELECOMMUNICATIONS INDUSTRY OR ANY MARKET RELATED
14 THERETO.

15 FURTHER, THE COMMISSION IS MANDATED TO ADOPT STANDARDIZED
16 DEFINITIONS OF THE INTERNATIONAL TELECOMMUNICATIONS UNION (ITU),
17 THE INTERNET ENGINEERING TASK FORCE (IETF), THE WORLD WIDE WEB
18 CONSORTIUM (WWWC), AND THE INTERNET CORPORATION FOR ASSIGNED
19 NUMBERS AND NAMES (ICANN), AND OTHER INTERNATIONAL AND
20 TRANSNATIONAL AGENCIES GOVERNING THE DEVELOPMENT, USE, AND
21 STANDARDIZATION OF THE INTERNET AND INFORMATION AND
22 COMMUNICATIONS TECHNOLOGY, SUBJECT TO REFINEMENTS OF THESE
23 INTERNATIONAL STANDARDS AS MAY BE PRESCRIBED BY REGIONAL
24 TELECOMMUNICATION BODIES TAKING INTO CONSIDERATION THE SPECIAL
25 CIRCUMSTANCES APPLICABLE ONLY TO THE REGION.” S

1
2 **SECTION 2.** Section 5 of the same Act is hereby amended to read as follows:
3

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

10 XXX

11 (c) Mandate a fair and reasonable interconnection of facilities of
12 authorized public network operators and other providers of telecommunications
13 services through appropriate modalities of interconnection and at a reasonable
14 and fair level of charges [, which make provision for the cross subsidy to
15 unprofitable local exchange service areas so as to promote telephone density
16 and provide the most extensive access to basic telecommunications services
17 available at affordable rates to the public];

18 XXX

19 (f) Protect consumers against misuse of a telecommunications entity's
20 monopoly or quasi-monopolistic powers by, but not limited to, the investigation
21 of complaints and exacting compliance with service standards from such entity;
22 [and]

23 (g) In the exercise of its regulatory powers, continue to impose such fees
24 and charges as may be necessary to cover reasonable costs and expenses for
25 the regulation and supervision of the operations of telecommunications entities
26 [.] AND

27 (H) IN THE EXERCISE OF ITS REGULATORY POWERS, IMPOSE
28 FINES AGAINST PUBLIC TELECOMMUNICATION ENTITIES WITHIN THE
29 SCOPE OF ITS REGULATION, WHICH ARE FOUND TO HAVE VIOLATED,
30 VIOLATING, OR THOSE WHICH HAVE FAILED OR ARE FAILING TO
31 COMPLY WITH THE TERMS AND CONDITIONS OF THIS ACT, ANY
32 CERTIFICATE, OR ANY ORDER, DECISION OR REGULATION OF THE
33 COMMISSION.

34 THE ERRING PUBLIC TELECOMMUNICATION ENTITY SHALL BE
35 SUBJECT TO A FINE AMOUNTING TO THE TOTAL ACTUAL LOSS OR
36 OVERCHARGING AS DETERMINED BY THE COMMISSION FOR EVERY
37 DAY DURING WHICH SUCH DEFAULT OR VIOLATION CONTINUES, OR IF
38 IT IS NOT FEASIBLE TO QUANTIFY THE OFFENSE, TO A FINE
39 AMOUNTING TO ONE MILLION PESOS (PHP1,000,000.00) FOR EVERY
40 DAY DURING WHICH SUCH DEFAULT OR VIOLATION CONTINUES UNTIL
41 THE AMOUNT IS FULLY PAID: PROVIDED, THAT, IF THE
42 TELECOMMUNICATION ENTITY HAS A GROSS ANNUAL INCOME NOT
43 EXCEEDING TEN MILLION PESOS (PHP10,000,000.00), THE PENALTY
44 THAT MAY BE IMPOSED SHALL BE EQUIVALENT TO ONE PERCENT (1%)

1 TO TWO PERCENT (2%) OF ITS GROSS ANNUAL INCOME. THE
2 COMMISSION IS HEREBY AUTHORIZED AND EMPOWERED TO IMPOSE
3 SUCH FINE, AFTER DUE NOTICE AND HEARING. THE ERRING
4 TELECOMMUNICATION ENTITY IS ALSO MANDATED TO REFUND TO
5 CONSUMERS THE CHARGES IT ERRONEOUSLY IMPOSED TO ITS
6 SUBSCRIBERS.

7 THE COMMISSION IS FURTHER AUTHORIZED TO IMPOSE A FINE
8 OF ONE MILLION PESOS (PHP1,000,000.00) FOR EVERY DAY THAT A
9 VIOLATION OF SECTIONS 18 AND 19 HEREOF IS COMMITTED, AND
10 UNTIL SUCH TIME THAT THE ERRING TELECOMMUNICATION ENTITY
11 FULLY COMPLIES WITH THE TERMS AND CONDITIONS OF THE ACT, ANY
12 CERTIFICATE, OR ANY ORDER, DECISION, OR REGULATION OF THE
13 COMMISSION: *PROVIDED*, THAT, IF THE TELECOMMUNICATION ENTITY
14 HAS A GROSS ANNUAL INCOME NOT EXCEEDING TEN MILLION PESOS
15 (PHP10,000,000.00), THE PENALTY THAT MAY BE IMPOSED SHALL BE
16 EQUIVALENT TO ONE PERCENT (1%) TO TWO PERCENT (2%) OF ITS
17 GROSS ANNUAL INCOME.

18 (I) THE COMMISSION SHALL REQUIRE PUBLIC
19 TELECOMMUNICATION ENTITIES WITH SIGNIFICANT MARKET POWER
20 AS DETERMINED BY THE PHILIPPINE COMPETITION COMMISSION (PCC)
21 TO PROVIDE TIMELY ACCESS TO ITS NETWORK, FACILITIES OR
22 EQUIPMENT TO ACCESS SEEKERS ON A FAIR, REASONABLE AND NON-
23 DISCRIMINATORY TERMS AND CONDITIONS.”
24

25 **SECTION 3.** Sections 10 of the same Act is hereby amended to read as follows:

26 “Sec.10. *International Carrier.* - Only entities which [will provide local
27 exchange services and] can demonstrably show technical and financial
28 capability to install and operate an international gateway facility shall be allowed
29 to operate as an international carrier.

30 [The entity so allowed shall XXX grant of authority.]

31 [The international carrier shall XXX complies therewith.]

32 [Failure to comply with XXX international carrier.]”
33

34 **SECTION 4.** Section 12 of the same Act is hereby amended to read as follows:

35 “Sec. 12. *Mobile Radio Services.* – [In a local telephone exchange area,
36 m] More than one duly enfranchised provider of mobile radio services, distinct
37 and separate from the local exchange carrier, may be allowed to operate.
38 However, such entities shall secure prior authority from the Commission and,
39 in addition, comply with the [conditions imposed on VAS and with the] norms
40 on radio frequency spectrum utilization.

41 [The operator of a XXXa mobile radio telephone system.]”
42
43

1 **SECTION 5.** Section 15 of Republic Act 7925 is hereby amended to read as
2 follows:

3
4 “Sec.15. [*Radio Frequency Spectrum.*] **USE OF AVAILABLE OR**
5 **UNASSIGNED SPECTRUM.** – The radio frequency spectrum allocation and
6 assignment shall be subject to AN ANNUAL REVIEW. THE USE THEREOF
7 SHALL BE SUBJECT TO reasonable spectrum user fees. Where demand for
8 specific frequencies exceed availability, the Commission shall hold open
9 tenders for the same and ensure wider access to this limited resource.

10 **WITHIN ONE (1) YEAR FROM THE EFFECTIVITY OF THIS ACT, THE**
11 **DEPARTMENT OF INFORMATION AND COMMUNICATIONS**
12 **TECHNOLOGY (DICT), IN CONSULTATION WITH THE COMMISSION AND**
13 **THE PCC, SHALL ISSUE THE GUIDING PRINCIPLES AND POLICY**
14 **DIRECTION FOR THE USE OF SPECTRUM.”**

15
16 **SECTION 6.** Section 18 of the same Act is hereby amended to read as follows:

17
18 “Sec.18. *Access Charge/Revenue Sharing.* - The access charge/revenue
19 sharing arrangements between all interconnecting carriers shall be negotiated
20 between the parties and the agreement between the parties shall be submitted to the
21 Commission FOR REVIEW AND APPROVAL. In the event the parties fail to agree
22 thereon within a reasonable period of time, the dispute shall be submitted to the
23 Commission for resolution.

24 In adopting or approving an access charge formula or revenue sharing
25 agreement between two or more carriers, particularly, but not limited to a local
26 exchange, interconnecting with a mobile radio, interexchange long distance carrier, or
27 international carrier, the commission shall ensure equity, reciprocity and fairness
28 among the parties concerned. [In so approving the rates for XXX interconnecting with
29 them.]”

30
31 **SECTION 7.** A new Section shall be inserted after Section 18 of the same Act
32 to read as follows:

33
34 “**SEC. 18-A TRANSPARENCY.** - **ALL INTERCONNECTING CARRIERS**
35 **SHALL PROVIDE TO THE COMMISSION ALL TERMS AND CONDITIONS,**
36 **INCLUDING RATES, OF ACCESS CHARGE/REVENUE SHARING**
37 **ARRANGEMENTS SUCH CARRIERS HAVE ENTERED INTO.**

38 **ALL TELECOMMUNICATIONS SERVICE PROVIDERS SHALL OPEN**
39 **THEIR BOOKS OF ACCOUNT TO THE COMMISSION, WHO IS**
40 **EMPOWERED TO DEMAND COPIES THEREOF.”**

41
42 **SECTION 8. Separability Clause.** — Should any provision herein be declared
43 unconstitutional, the other provisions not affected shall remain in full force and effect.
44

1 **SECTION 9. *Repealing Clause.*** – Section 23 of Republic Act 7925 *Equality*
2 *of Treatment in the Telecommunications Industry* is hereby repealed. All laws, orders,
3 issuance, rules and regulations or part thereof inconsistent with the provisions of this
4 Act are hereby repealed, amended or modified accordingly.

5
6 **SECTION 10. *Effectivity.*** – This Act shall take effect fifteen (15) days after its
7 publication in the Official Gazette or in any newspaper of general circulation.

8
9 Approved,
10
11