Republic of the Philippines
HOUSE OF REPRESENTATIVES
Quezon City, Metro Manila

EIGHTEENTH CONGRESS
FIRST REGULAR SESSION

House Bill No. 3563

INTRODUCED BY REPRESENTATIVE LUIS JOSE ANGEI N. CAMPOS, JR.

EXPLANATORY NOTE

Time and time again, the United Nations General Assembly has declared that internet access is a basic human right which enables people to "exercise their right to freedom of opinion and expression".

In a special report from the Human Rights Council, it emphasized the importance of "applying a comprehensive human rights based approach when providing and expanding access to the internet and for the internet to be open, accessible and nurtured".

Article III, Section 2, of our Constitution declares that "the right of the people to information on matters of public concern shall be recognized".

Internet access, as a right, is a modern concept, but it is nonetheless equated with other traditional human rights by the international community of nations. It is a tool through which people can not only express themselves but also avail of basic and much needed services. Its power and effect upon the lives of people is vast enough to influence elections and certain governments are forced to disable internet access to prevent uprisings.

In line with the foregoing, the quality of internet must be maintained. However, in supplying sufficient internet services the price of the same must not be subject to the capricious whim of a monopoly with significant market power.

This bill seeks to strengthen and enhance the powers of the National Telecommunications Commission so that it may adequately safeguard the Filipinos' access to the internet, considering both financial and technical concerns.

For the foregoing reasons the passage of this bill is earnestly sought.

REP. LUIS JOSE ANGEI N. CAMPOS, JR.
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AN ACT
ENHANCING 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:

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

"Sec. 3. Definitions and Interpretations. – For purposes of this Act, the following terms shall be used:

XXX

(I) SIGNIFICANT MARKET POWER - THE ABILITY OF A PUBLIC TELECOMMUNICATIONS ENTITY TO AFFECT PRICE, SUPPLY, OR INNOVATION IN THE TELECOMMUNICATIONS INDUSTRY OR ANY PART THEREOF, AS A RESULT OF EITHER ITS CONTROL OVER ESSENTIAL FACILITIES OR THE USE OF ITS POSITION IN ANY MARKET IN THE TELECOMMUNICATIONS INDUSTRY OR ANY MARKET RELATED THERETO.

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

SEC. 2. Section 5 of the same Act is hereby amended to read as follows:

"Sec. 5. Responsibilities of the National Telecommunications Commission. -
The National Telecommunications Commission (hereafter referred to as the
"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:

XXX

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

XXX

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

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

AND

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

THE ERRING PUBLIC TELECOMMUNICATION ENTITY 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, OR IF IT IS NOT FEASIBLE TO QUANTIFY THE OFFENSE,
TO A FINE AMOUNTING TO ONE MILLION PESOS (PHP1,000,000.00)
FOR EVERY DAY DURING WHICH SUCH DEFAULT OR VIOLATION
CONTINUES UNTIL THE AMOUNT IS FULLY PAID: PROVIDED, THAT,
IF THE TELECOMMUNICATION ENTITY HAS A GROSS ANNUAL
INCOME NOT EXCEEDING TEN MILLION PESOS (PHP10,000,000.00),
THE PENALTY THAT MAY BE IMPOSED SHALL BE EQUIVALENT TO
ONE PERCENT (1%) TO TWO PERCENT (2%) OF ITS GROSS ANNUAL
INCOME. THE COMMISSION IS HEREBY AUTHORIZED AND
EMPOWERED TO IMPOSE SUCH FINE, AFTER DUE NOTICE AND
HEARING. THE ERRING TELECOMMUNICATION ENTITY IS ALSO
MANDATED TO REFUND TO CONSUMERS THE CHARGES IT
ERRONEOUSLY IMPOSED UPON ITS SUBSCRIBERS.

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

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

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

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

[The entity so allowed shall XXX grant of authority.]
[The international carrier shall XXX complies therewith.]
[Failure to comply with XXX international carrier."

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

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

[The operator of a XXX mobile radio telephone system."

SEC. 5. Section 15 of Republic Act 7925 is hereby amended to read as follows:

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

WITHIN ONE (1) YEAR FROM THE EFFECTIVITY OF THIS ACT, THE DEPARTMENT OF INFORMATION AND COMMUNICATIONS TECHNOLOGY (DICT), IN CONSULTATION WITH THE COMMISSION AND THE PCC, SHALL ISSUE THE GUIDING PRINCIPLES AND POLICY DIRECTION FOR THE USE OF SPECTRUM."
SEC. 6. Section 18 of the same Act is hereby amended to read as follows:

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

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

SEC. 7. A new Section shall be inserted after Section 18 of the same Act to read as follows:

"SEC. 18-A TRANSPARENCY. - ALL INTERCONNECTING CARRIERS SHALL PROVIDE TO THE COMMISSION ALL TERMS AND CONDITIONS, INCLUDING RATES, OF ACCESS CHARGE/REVENUE SHARING ARRANGEMENTS SUCH CARRIERS HAVE ENTERED INTO.

ALL TELECOMMUNICATIONS SERVICE PROVIDERS SHALL OPEN THEIR BOOKS OF ACCOUNT TO THE COMMISSION, WHO IS EMPOWERED TO DEMAND COPIES THEREOF."

""SEC. 18-B PUBLIC INFORMATION. - ANY FILIPINO CITIZEN MAY REQUEST FOR THE INFORMATION IN THE IMMEDIATELY PRECEDING PARAGRAPH. SUCH REQUEST SHALL BE FILED WITH THE COMMISSION AND SHALL BE GRANTED WHEN PUBLIC INTERESTS WARRANT."

SEC. 8. Separability Clause. – Should any provision herein be declared unconstitutional, the other provisions not affected shall remain in full force and effect.

SEC. 9. Repealing Clause. – Relevant Sections of Republic Act 7925 Equality of Treatment in the Telecommunications Industry are hereby repealed. All laws, orders, issuance, rules and regulations or part thereof inconsistent with the provisions of this Act are hereby repealed, amended or modified accordingly.
SEC. 10. Effectivity. - This Act shall take effect fifteen (15) days after its publication in the Official Gazette or in any newspaper of general circulation.

Approved,