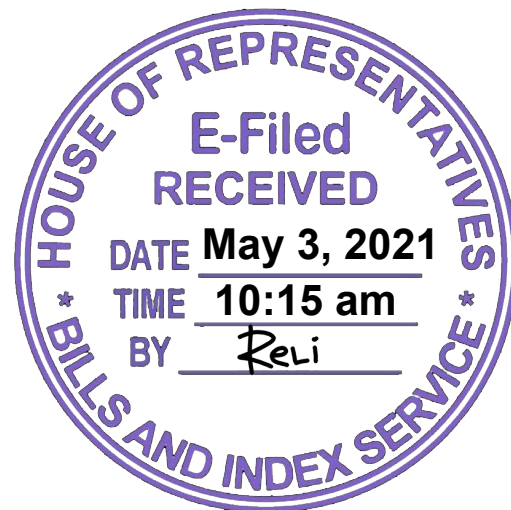




Republic of the Philippines
House of Representatives
Quezon City



EIGHTEENTH CONGRESS
Second Regular Session

House Bill No. 9292

Introduced by REPRESENTATIVE ERIC L. OLIVAREZ

EXPLANATORY NOTE

The internet is a tool that is used by almost every person in the world on a daily basis for an ever-growing list of essential activities such as commerce, education, health, safety, livelihood, occupation, public convenience, transportation, communication, entertainment, and so on. At this day and age, it is irrefutable that the internet has already become a necessity for all.

For this reason, internet service providers (ISPs) should not have the power to impair or degrade internet traffic in favor of, nor give improved speeds, connectivity, or access only to specific/select websites, online content, apps, services, or devices. This includes offering access that does not count against one's data cap on said specific platforms.

To allow ISPs to do this without regulation is to allow for the creation of an unfair advantage. Indeed, without network neutrality or more commonly known as "net neutrality", ISPs may arbitrarily prioritize, meter, limit, or even block traffic from specific websites, platforms, applications, services, or online content, while charging consumers for various tiers of service.

For example, a company can pay ISPs to grant internet users better access to the former's website, online content, apps, and services, or deny/limit the

internet users' access to the platforms of the company's competitor. This means that an end user could have a smooth browsing experience when visiting the website of Company A but would have a significantly slower connection when visiting the website of Company B - the competitor of Company A, because Company A paid the ISP a certain amount of money to control internet speed and gain an unfair advantage. As a result, the end-user will naturally be lured into buying the products posted in the website of Company A because of the more efficient and more enjoyable online browsing he/she experienced, as opposed to the very slow loading of Company B's website. This can then lead to another form of profiteering by the ISP because Company B will then be forced to pay said ISP a certain amount of money for the latter to lift the ban or the limitation it imposed.

There are many other ways that an ISP can control or manipulate the flow of information on the internet or the users' access thereto, which deprive the end user (1) of an equal opportunity to use the internet according to their differentiated personal needs, goals, pleasure, or objectives, and (2) of the opportunity to make an informed and intelligent choice between products and services that they are trying to avail online. It also forces entities that create or run lawful online content to pay up large sums of money to the ISP if it wants to have a fair shot at competing with another entity that is favored by the ISP. This situation discourages competition and kills innovation which are essential in the growth and development of any economy in general and the Philippine economy in particular.

It is for this reason that this bill is being proposed. The purpose of this bill is to ensure that all data (save for some exceptions provided in this bill) being exchanged over the internet is treated fairly and equally. There is a growing need to regulate the actions of existing or future internet service providers in order to ensure that the internet remains truly open and the access to information remains equally available to all end users.

It is high time that this bill be enacted into law considering that the general welfare of our country's population and economy are becoming increasingly dependent on the internet, and its openness and neutrality is the only guarantee to freedom of information exchange, competition and innovation, and protection of internet consumers from pseudo-services and opportunistic business practices.


ERIC L. OLIVAREZ



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1
2 **“AN ACT GUARANTEEING NETWORK NEUTRALITY TO PROMOTE**
3 **COMPETITION, ENCOURAGE INNOVATION, AND PROTECT**
4 **INTERNET CONSUMERS IN THE PHILIPPINES”**

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

7 **Section 1. Short Title.** This Act shall be known as the “Network Neutrality Act of
8 2021”

9 **Section. 2. Policy of the State.** It shall hereby be declared as policy of the State to
10 ensure the freedom of information exchange, promote competition and encourage
11 innovation, and protect internet consumers from unfair and opportunistic business
12 practices in relation to their use of the internet.

13 **Section. 3. Definition of Terms.** For purposes of this Act, the following terms shall
14 mean:

15 **Network Neutrality** – is the principle that internet service providers (ISPs)
16 must treat all Internet communications equally, and not discriminate or
17 charge differently based on user, content, website, platform, application,

1 type of equipment, source address, destination address, or method of
2 communication.

3 **Internet Service Provider (ISP)** – Refers to a company that sells or
4 provides internet access, whether fixed or mobile, to an end-user whether
5 an individual or entity. For purposes of this Act, ISP is used as an acronym
6 for internet service provider.

7 **Internet Traffic** – is the exchange of data between an end-user and a
8 website, service, or application.

9 **Device** – Refers to a computer, cellphone, or other computerized device.

10 **Favorable access** – When an ISP allows for faster or prioritized internet
11 traffic speeds for particular websites, platforms, applications, services,
12 online content only, or to users of a specific device or operating system; or
13 does not count the amount of data exchanged against data caps.

14 **Degraded access** – When an ISP provides slower internet traffic speeds
15 or no access to certain websites, platforms, applications, services, or online
16 content only or to users of a specific device or operating system.

17 **Section. 4. Prohibited Activities.** It shall be unlawful for internet service providers
18 to intentionally:

- 19 1. give favorable access only to select/specific website, platform, service,
20 application, or online content or give favorable access only to the users
21 of a select/specific internet-connected device or operating system;
- 22 2. give degraded access to or block a select/specific lawful website,
23 platform, service, application, or online content, or block or give
24 degraded access only to the users of a specific internet-connected
25 device or operating system;
- 26 3. offer or sell a promotion to provide access to a select/specific website,
27 platform, service, application, or online content, or to users of a specific
28 device or operating system;
- 29 4. exempt internet traffic from a select/specific lawful website, platform,
30 service, application, or online content, or device or operating system
31 from counting towards a data cap/limit;

- 1 5. charge a user for access to a select/specific website, platform, service,
2 application, or online content in excess of their regular connection fees
3 for internet service; and
- 4 6. unreasonably interfere with or unreasonably disadvantage in any other
5 means, ways, or forms, whether directly or indirectly, either (1) an end-
6 user's ability to select, access, and use the lawful websites, online
7 content, applications, services, or devices of his/her choice, or (2)
8 another entity's ability to make and maintain lawful websites, online
9 content, applications, services, or devices to be made available to end
10 users.

11 Provided that, reasonable network management shall not be considered a
12 violation of this section.

13 **Section. 5. Exception.** Nothing in this Act shall supersede any obligation or
14 authorization that a fixed or mobile Internet service provider may have by virtue of
15 a law, ordinance, official issuances or a written agreement with the government or
16 any of its relevant departments, agency, branches, or instrumentalities, or an order
17 of the court, with respect to the control or regulation of access to the internet to
18 address the needs of the public in times of war, emergency, national disaster,
19 pandemic, and other analogous situations; or when it is for the protection and
20 preservation of national security, public safety, and public morals, among other
21 analogous situations, provided that such agreement is consistent with or is
22 permitted by applicable law. The same exception applies when the subject matter
23 pertains to data that is harmful, illegal, vicious, or discriminatory as determined by
24 the courts or the proper government authority.

25 **Section. 6. Penalty.** Any ISP found to be in violation of any of the provisions of this
26 Act shall pay a fine of not less than 1,000,000.00 pesos but not more than
27 10,000,000.00 million pesos for the first offense, a fine of not less than
28 10,000,000.00 million pesos but not more than 50,000,000.00 pesos for the
29 second offense, and a fine of not less than 50,000,000.00 pesos, and revocation
30 of all relevant permits and license to operate in the country, for the third and
31 succeeding offenses.

32 The erring ISP shall also refund its subscribers not less than one half ($\frac{1}{2}$) of
33 their subscription fee per month, for all the months when the ISP was found to
34 have engaged in the prohibited activities provided in this Act.

1 **Section. 7. *Implementing Rules and Regulations.*** The Department of Information
2 and Communications Technology (DICT) shall, within sixty (60) days from the
3 effectivity of this Act, promulgate the implementing rules and regulations to
4 effectively carry out the provisions of this Act.

5 **Section. 8. *Separability Clause.*** If, for any reason, any part, section or provision
6 of this Act is held invalid or unconstitutional, the remaining provisions not affected
7 thereby shall continue to be in force and effect.

8 **Section. 9. *Repealing Clause.*** All laws, decrees, executive orders, proclamations,
9 rules and regulations, and other issuances, or part or parts thereof, which are
10 inconsistent with the provisions of this Act are hereby repealed, amended or
11 modified accordingly.

12 **Section. 10. *Effectivity Clause.*** This Act shall take effect fifteen (15) days after its
13 publication in the Official Gazette or at least two (2) newspapers of general
14 circulation, whichever comes earlier.

15
16
17 Approved.

18 Approved.