

Republic of the Philippines  
**HOUSE OF REPRESENTATIVES**  
Quezon City

**EIGHTEENTH CONGRESS**  
Second Regular Session



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**COMMITTEE REPORT NO. 815**

Submitted by the Committee on Information and Communications Technology on  
MAR 05 2021.

Re : House Bill No. 8910

Recommending its approval in-substitution of House Bills Numbered 57,4109, 5341, and 8383

Sponsor : Representative Victor A.Yap

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Mr. Speaker:

The Committee on Information and Communications Technology to which were referred House Bill No. 57 introduced by Representative Victor A.Yap, entitled:

**“AN ACT  
PROMOTING OPEN ACCESS IN DATA TRANSMISSION, PROVIDING  
ADDITIONAL POWERS TO THE NATIONAL TELECOMMUNICATIONS  
COMMISSION”**

House Bill No. 4109 introduced by Rep. Francis Gerald A. Abaya, entitled:

**“AN ACT  
PROMOTING OPEN ACCESS IN DATA TRANSMISSION, PROVIDING  
ADDITIONAL POWERS TO THE NATIONAL TELECOMMUNICATIONS  
COMMISSION”**

House Bill No. 5341 introduced by Rep. Johnny T. Pimentel, entitled:

**“AN ACT  
PROMOTING OPEN ACCESS IN DATA TRANSMISSION, PROVIDING  
ADDITIONAL POWERS TO THE NATIONAL TELECOMMUNICATIONS  
COMMISSION”**

and House Bill No. 8383 introduced by Rep. Joy Myra S. Tambunting, entitled:


**“AN ACT  
PROMOTING OPEN ACCESS IN DATA TRANSMISSION, PROVIDING  
ADDITIONAL POWERS TO THE NATIONAL TELECOMMUNICATIONS  
COMMISSION”**

has considered the same and recommends that the attached House Bill No. \_\_\_\_\_, entitled:

**“AN ACT  
PROMOTING OPEN ACCESS IN DATA TRANSMISSION AND PROVIDING  
ADDITIONAL POWERS TO THE NATIONAL TELECOMMUNICATIONS  
COMMISSION”**

be approved in substitution of House Bills Numbered 57, 4109, 5341, and 8383 with Representatives Victor A. Yap, Francis Gerald A. Abaya, Johnny T. Pimentel, Joy Myra S. Tambunting, Lord Allan Jay Q. Velasco, Florida “Rida” P. Robes, Rosanna “Ria” Vergara, Eric L. Olivarez, Isidro T. Ungab, Manuel Luis T. Lopez, Wilton “Tonton” T. Kho, Rozzano Rufino B. Biazon, Weslie T. Gatchalian, Rufus B. Rodriguez, Enrico A. Pineda, Micaela S. Violago, France L. Castro, John Reynald M. Tiangco, Xavier Jesus D. Romualdo, Carlito S. Marquez, Fernando T. Cabredo, Erico Aristotle C. Aumentado, Gabriel H. Bordado, Jr., Bienvenido M. Abante, Jr., Alyssa Sheena P. Tan, Virgilio S. Lacson, Faustino Michael Carlos T. Dy III, Francisco ‘Kiko’ B. Benitez, Julienne “Jam” L. Baronda, Ronnie L. Ong, Ramon C. Nolasco, Jr., Strike B. Revilla, Jose Enrique “Joet” S. Garcia III, Roman T. Romulo, Junie E. Cua, Dahlia A. Loyola, Precious Hipolito Castelo, Alfred D. Vargas, Joseph Stephen “Caraps” S. Paduano, Carlos Isagani T. Zarate, Stella Luz A. Quimbo, Angelica Natasha Co, Antonio “Tonypet” T. Albano, Raneo “Ranie” E. Abu, John Marvin “Yul Servo” C. Nieto, Ria Christina G. Fariñas, Jesus “Bong” C. Suntay, Edward Vera Perez Maceda, Alfred C. Delos Santos, Estrelita B. Suansing, Horacio P. Suansing, Jr., Michael B. Gorriceta, Ferdinand L. Hernandez, Jose Gay G. Padiernos, Christopher “Toff” de Venecia, Ed Christopher S. Go, Deogracias Victor “DV” B. Savellano, Conrado M. Estrella III, Lorenz R. Defensor and Edgar Mary S. Sarmiento, as authors thereof.

Respectfully submitted:

  
**HON. VICTOR A. YAP**  
 Chairperson  
 Committee on Information and  
 Communications Technology

**THE HONORABLE SPEAKER**  
**HOUSE OF REPRESENTATIVES**  
 Quezon City

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

EIGHTEENTH CONGRESS  
Second Regular Session

House Bill No. 8910  
(In Substitution of House Bills Numbered 57, 4109, 5341, and 8383)

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Introduced by Representatives Victor A. Yap, Francis Gerald A. Abaya, Johnny T. Pimentel, Joy Myra S. Tambunting, Lord Allan Jay Q. Velasco, Florida "Rida" P. Robes, Rosanna "Ria" Vergara, Eric L. Olivarez, Isidro T. Ungab, Manuel Luis T. Lopez, Wilton "Tonton" T. Kho, Rozzano Rufino B. Biazon, Weslie T. Gatchalian, Rufus B. Rodriguez, Enrico A. Pineda, Micaela S. Violago, France L. Castro, John Reynald M. Tiangco, Xavier Jesus D. Romualdo, Carlito S. Marquez, Fernando T. Cabredo, Erico Aristotle C. Aumentado, Gabriel H. Bordado, Jr., Bienvenido M. Abante, Jr., Alyssa Sheena P. Tan, Virgilio S. Lacson, Faustino Michael Carlos T. Dy III, Francisco 'Kiko' B. Benitez, Julienne "Jam" L. Baronda, Ronnie L. Ong, Ramon C. Nolasco, Jr., Strike B. Revilla, Jose Enrique "Joet" S. Garcia III, Roman T. Romulo, Junie E. Cua, Dahlia A. Loyola, Precious Hipolito Castelo, Alfred D. Vargas, Joseph Stephen "Caraps" S. Paduano, Carlos Isagani T. Zarate, Stella Luz A. Quimbo, Angelica Natasha Co, Antonio "Tonypet" T. Albano, Raneo "Ranie" E. Abu, John Marvin "Yul Servo" C. Nieto, Ria Christina G. Fariñas, Jesus "Bong" C. Suntay, Edward Vera Perez Maceda, Alfred C. Delos Santos, Estrelita B. Suansing, Horacio P. Suansing, Jr., Michael B. Gorriceta, Ferdinand L. Hernandez, Jose Gay G. Padiernos, Christopher "Toff" de Venecia, Ed Christopher S. Go, Deogracias Victor "DV" B. Savellano, Conrado M. Estrella III, Lorenz R. Defensor and Edgar Mary S. Sarmiento

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AN ACT  
PROMOTING OPEN ACCESS IN DATA TRANSMISSION AND PROVIDING  
ADDITIONAL POWERS TO THE NATIONAL TELECOMMUNICATIONS COMMISSION

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

CHAPTER I

INTRODUCTORY PROVISIONS

SECTION 1. *Short Title.* — This Act shall be known as the "Open Access in Data Transmission Act".

SEC. 2. *Declaration of Policy.* - It is the policy of the State to narrow the digital divide in the country by encouraging the development of data transmission infrastructure and removing any barrier to competition in data transmission services. Moreover, the State shall implement measures to require data transmission service providers to adhere to telecommunications standards suitable to the needs and aspirations of the nation and ensure that internet users enjoy the best quality of data transmission service. The State shall:

(a) Promote the construction and development of reliable, affordable, open and accessible data networks that transmit information at speed and quality comparable to the

1 best in the world;

2 (b) Create an entrepreneurial ecosystem where persons who wish to engage in the  
3 data transmission industry can compete openly and freely in the spirit of fair competition  
4 and permission-less innovation;

5 (c) Encourage investments in the digital infrastructure development in the country;

6 (d) Adopt and ensure open access in the regulation of the data transmission industry;

7 (e) Protect the public interest as it is affected by its ability to access data networks;

8 (f) Establish a strong and independent regulatory body and system to ensure and  
9 enhance fair competition in the data transmission industry;

10 (g) Protect and promote the internet as an open platform enabling consumer choice,  
11 freedom of expression, end-user control, competition and the freedom to innovate without  
12 permission, and thereby encouraging the development of advanced telecommunications  
13 capabilities and the removal of barriers to infrastructure investment;

14 (h) Encourage infrastructure sharing and co-location in order to promote network  
15 investment, eliminate the uneconomic duplication of infrastructure facilities, and  
16 strengthen competition; and

17 (i) Ensure efficient and transparent management of the radio frequency spectrum,  
18 especially those utilized in the delivery of data transmission services.

19 SEC. 3. *Definition of Terms.* - As used in this Act:

20 (a) *Basic telephone service* refers to the local exchange telephone service for residence  
21 and business establishments provided via the circuit switched telephone network;

22 (b) *Cellular Mobile Telephone Service (CMTS)* refers to the wide area mobile radio  
23 telephone system with its own switch, base stations and transmission facilities capable of  
24 providing high capacity mobile telecommunications by utilizing radio frequencies;

25 (c) *Content* refers to, among others, texts, images, audios, videos, and animations that  
26 are carried over the broadband/internet network;

27 (d) *Core or Backbone Network* refers to the main line including international  
28 connection, that ties networks, delivers routes to exchange information among various  
29 subnetworks, connects regional distribution networks and, in some instances, provides  
30 connectivity to other peer networks;

31 (e) *Data transmission* refers to the process of sending digital or digitized analog signal  
32 over a communication medium to one or more computing networks, communication or  
33 electronic devices. It enables the transfer and communication of devices in a point-to-point,  
34 point-to-multipoint and multipoint-to-multipoint environments. The term data  
35 transmission includes the provision of Voice over Internet Protocol (VoIP) services but does  
36 not include the provision of basic telephone services;

37 (f) *Data transmission industry participant* refers to any person, firm, partnership or

1 corporation, government or private, engaged in the provision of data transmission services  
2 to the public. This includes public telecommunications entities (PTEs) that offer data  
3 transmission services as defined under Republic Act (RA) No.7925, otherwise known as the  
4 “Public Telecommunications Policy Act of the Philippines”;

5 (g) *International gateway or landing* refers to a segment of data transmission that  
6 consists of any facility that provides an interface to send and receive data traffic between  
7 one country’s domestic network facilities and those in another country;

8 (h) *Last mile* refers to the segment of data transmission network that connects end  
9 users;

10 (i) *Middle mile* refers to the segment of data transmission network that links the last  
11 mile network to the core or backbone network;

12 (j) *Open access* refers to the system of allowing the use of data transmission or  
13 distribution systems and associated facilities subject to fair, reasonable, and non-  
14 discriminatory terms in a transparent market;

15 (k) *Paid prioritization* refers to the management of a data transmission network to  
16 directly or indirectly favor some traffic over other traffic, through the use of techniques  
17 such as traffic shaping, prioritization, resource reservation, zero-rating, or other forms of  
18 preferential traffic management, either in exchange for consideration (monetary or  
19 otherwise) from a third party, or to benefit an affiliated entity;

20 (l) *Voice over Internet Protocol (VoIP) service* refers to the provision of voice  
21 communication using Internet Protocol (IP) technology; and

22 (m) *Passive infrastructure* collectively refer to telecommunication towers, poles, cable  
23 entrances, ducts, utility corridors, and any other non-electronic infrastructure and facilities,  
24 either existing or to be deployed in the future, that may be used to support data  
25 transmission.

## 26 CHAPTER II

### 27 ORGANIZATION AND OPERATION OF THE DATA TRANSMISSION INDUSTRY

28 SEC. 4. *Scope.* - This Act applies to all persons who participate in the data  
29 transmission industry. Any person or entity whose business deals substantially with the  
30 transmission of data, including VoIP service provider, internet service providers (ISPs), and  
31 data center service providers, shall be governed by the provisions of this Act. PTEs that are  
32 principally engaged in the provision of basic telephone services, such as an international  
33 carrier, interexchange carrier, local exchange operator, and mobile radio services provider,  
34 as defined in RA 7925, and which also provide data transmission services, shall likewise be  
35 subject to the provisions of this Act with respect to the data transmission services they  
36 provide and the interconnection to their networks that they extend to data transmission  
37 industry participants.

1 SEC. 5. *Segments.* - The data transmission industry shall be divided into four (4)  
2 segments: (a) International gateway or landing; (b) Core or Backbone network; (c) Middle  
3 mile; and (d) Last mile.

4 All four (4) segments shall be competitive and open. Data transmission industry  
5 participants operating in any segment shall be allowed to use any available technology,  
6 wired or wireless. Notwithstanding the provisions of this Act or any other law, the following  
7 registration and certification shall apply to data transmission:

8 a) All data transmission industry participants shall be required to register with the  
9 National Telecommunications Commission (NTC). The NTC shall promulgate a speedy and  
10 expeditious administrative process for registration and shall, in coordination with the  
11 Department of Information and Communications Technology (DICT), develop a set of  
12 criteria for qualifying data transmission industry participants that will encourage the  
13 widest possible participation of as many industry players as possible who will offer data  
14 transmission services to end users in different parts of the country. The qualification  
15 requirements for data transmission industry participants shall also take national security  
16 concerns into consideration, particularly for facilities that interface directly with another  
17 country's domestic network;

18 b) Data transmission industry participants in any of the four (4) segments shall not  
19 be required to secure a franchise from Congress and a Certificate of Public Convenience and  
20 Necessity (CPCN) or Provisional Authority (PA) from the NTC, to construct, install, and  
21 operate networks and facilities for the data transmission services they provide. Data  
22 Transmission Industry Participants shall also not be required to secure a Congressional  
23 franchise and CPCN/PA before they could secure permits, certificate or licenses necessary  
24 for deploying data transmission networks, whether using wired or wireless technologies,  
25 including permits and licenses for the construction, installation, establishment or operation  
26 of radio/base stations. Neither shall they be required to secure a Congressional franchise  
27 and CPCN or a PA for the data transmission services they provide to the general public.  
28 Participants in the data transmission industry shall, however, be required to register with  
29 the NTC, specifying the segment they are participating in and to provide their rate  
30 schedules.

### 31 CHAPTER III

#### 32 REGULATION OF THE DATA TRANSMISSION INDUSTRY

33 SEC. 6. *Open Access Approach to Regulation of the Data Transmission Industry.* - The  
34 NTC shall ensure that the data transmission sector remains open and accessible to all  
35 qualified participants. Specifically, it shall;

36 (a) Implement an efficient and speedy administrative process in the authorization and  
37 registration of data transmission sector participants;

1 (b) Adopt a technology-neutral framework that allows data transmission industry  
2 participants to use any available technology to provide service;

3 (c) Promote fair and open competition in all the segments of the data transmission  
4 network, allowing a wide variety of physical networks and applications to interact in an  
5 open architecture;

6 (d) Mandate transparency in pricing and the publication of pricing information to  
7 ensure fair trading within and between each data transmission segment so as to allow  
8 clear, comparative information on market prices and services;

9 (e) Mandate interconnection so that data transmission industry participants can  
10 connect to each other at the various segments and interfaces, such that entities of any size  
11 may freely enter and exit the market, and dominance by any single player or group of  
12 players is avoided;

13 (f) Promulgate policies that will encourage distributed local solutions rather than  
14 centralized ones, encouraging services that are closer to the user;

15 (g) Publish the list of registered data transmission industry participants at least once  
16 a year; and

17 (h) Promulgate together with the Philippine Competition Commission (PCC) rules  
18 defining and regulating entities with substantial market power.

19 (i) Publish a Spectrum Management Framework to be developed together with DICT  
20 and PCC.

21 (j) Collect the necessary Supervision and Regulation Fee (SRF) and Spectrum User  
22 Fee (SUF) and other relevant fees as provided by law.

23 *SEC. 7. Spectrum Allocation, Recall, and Reallocation.* — The NTC shall maximize  
24 the allocation and assignment of finite radio spectrum resources used in the transmission of  
25 data by ensuring that the spectrum is made available for the use of all registered data  
26 transmission industry participants. To this end:

27 (a) The procedure for radio spectrum assignment, joint use and recall shall be made  
28 transparent to the public. All applications, including letter requests, spectrum assignment,  
29 joint use, recall, and reallocation shall be posted in the NTC website and in a conspicuous  
30 place in the offices of the NTC for at least three (3) consecutive months. The notice shall  
31 specifically indicate the names of the applicants for spectrum assignment, joint use and  
32 recall, including where the NTC itself is the proponent of any such action, the affected  
33 spectrum, and the applicant's or NTC's reasons for the proposed spectrum assignment, joint  
34 use and recall. The NTC shall not assign, recall or allow co-use or joint use of any radio  
35 frequency band or bands without conducting at least one (1) public hearing and allowing  
36 public comment for a period of fifteen (15) days from the date of the public hearing, prior to  
37 approval and/or disapproval of the same. This shall apply to all spectrum, whether used for

1 data transmission or not;

2 (b) All radio spectrums, radio frequency assignments, recalls, and joint use decisions  
3 of the NTC shall be published in the NTC website and in a conspicuous place in the offices  
4 of the NTC for at least three (3) consecutive months. The recall of frequency for purposes of  
5 free public use shall be given priority.

6 The immediately preceding paragraphs (a) and (b) herein shall not apply to  
7 applications for frequency assignments for fixed point-to-point radio links, wifi, and  
8 satellite networks;

9 (c) The NTC shall avoid the concentration of spectrum resources in the hands of a few  
10 players and shall not assign, or allow joint use of radio spectrum in a manner that  
11 establishes, promotes or perpetuates the dominance of PTEs. Any entity who believes that  
12 any one or more of the NTC's decisions for the assignment of radio spectrum, whether past  
13 or present, which will promote the dominance of any entity and hinder competition, may  
14 file a complaint before the PCC to determine the dominance of a data transmission industry  
15 participant and deal with anti-competitive conduct in accordance with its mandate under  
16 Republic Act No.10667, otherwise known as the "Philippine Competition Act of 2015";

17 (d) The NTC shall promptly act on applications of data transmission industry  
18 participants for permits to import equipment. Any application for a permit to import  
19 equipment that is not acted on by the NTC within seven (7) days shall be deemed approved;

20 (e) If the NTC finds, on its own initiative or upon complaint, that any right, license or  
21 radio spectrum assignment to any data transmission industry participant or PTE is not  
22 being used, or is not being maximized by the user thereof, or that the grantee has violated  
23 the provisions of this Act, it may, *motu proprio* or upon petition by any person, subject to  
24 due process, recall the radio spectrum assignment of the data transmission industry  
25 participant or PTE. The NTC shall, where required and appropriate, work with the data  
26 transmission industry participant or PTE concerned to take appropriate measures to  
27 minimize the impact of such recall on active users of services utilizing the recalled  
28 spectrum. The foregoing notwithstanding, no frequency shall be recalled within 18 months  
29 of the awarding of a provisional authority or license or registration;

30 (f) The NTC shall ensure that the allocation, re-allocation, assignment, re-assignment,  
31 re-classification, joint use or co-use, and recall of spectrum does not result in the  
32 concentration of spectrum resources which promote, establish, or perpetuate the significant  
33 market power of PTEs or of only a limited number of participants. In instances where the  
34 resulting assignment of spectrum for mobile and point-to-multipoint networks will give an  
35 assignee or entities it controls, jointly or singly, or under common control, either by virtue  
36 of that request or in combination with other previous requests by that party or its affiliates,  
37 fifteen percent (15%) or above of assignable spectrum in the same band, the party



1 requesting for an assignment of spectrum or a joint use of spectrum shall be required to  
2 serve notice to the PCC and secure a no-objection notice from the PCC. The PCC shall issue  
3 a no-objection notice within thirty (30) working-days upon its receipt of pertinent  
4 information necessary for the review and issuance of the notice: *Provided*, that the PCC  
5 may once extend such period for an additional fifteen (15) working-days upon their  
6 notification of the NTC and the concerned party or parties to a spectrum allocation, re-  
7 allocation, assignment, re-assignment, re-classification, joint use or co-use, and recall.

8 SEC.8. *Setting Performance Standards.* - The NTC shall:

9 (a) Mandate that, within one (1) year from the effectivity of this Act, all last mile  
10 providers shall provide a minimum download speed of 2 megabits per second or as  
11 mandated by the National Broadband, whichever is higher, for mobile broadband and for  
12 fixed wireless/broadband access;

13 (b) Prescribe performance standards after public consultation and hearings within six  
14 (6) months from the effectivity of this Act;

15 (c) Upgrade performance standards imposed on the data transmission industry  
16 regularly to ensure that performance standards shall, at a minimum, be at par with service  
17 levels established in regional data network performance indices and aligned with  
18 international best practices. Such standards shall take into account speed, packet loss,  
19 jitter, and latency;

20 (d) Regularly review performance standards at least once a year and publish new  
21 performance standards at least thirty (30) days before they take effect. The publication of  
22 the results of the performance measurements shall be done in an open data format and  
23 made accessible to the general public;

24 (e) Any person, or the NTC itself, may, *motu proprio*, file a petition to penalize any  
25 data transmission industry participant for failure to deliver service according to the NTC's  
26 published performance standard and to require rectification of such noncompliance; and

27 (f) Measure the performance of the data industry participants and publish the results  
28 of its assessment in its website.

29 SEC. 9. *Arms-length Transactions and Transparency.* - The NTC shall:

30 (a) Publish and make available in print and online formats all aspects of spectrum use  
31 information, including the National Radio Frequency Allocation Table (NRFAT), indicating  
32 therein the purpose or use to which each frequency band is allocated, and, for frequency  
33 bands allocated for public use, the persons and/or entities to whom each particular  
34 frequency is assigned. The NRFAT and updated radio spectrum use information shall be  
35 made available on the NTC's website and to any person who requests the same, upon  
36 written request; and

37 (b) Promulgate rules requiring all data transmission industry participants to file an

1 annual report and include therein a fair and accurate statement regarding their market  
2 prices and their services. The annual report shall include all costs and charges relevant to  
3 the data transmission network segment where the participants operate. The rates shall be  
4 made available online, in print, and in any other viable venue to the public. Any person can  
5 file a complaint pertaining to these rates within thirty (30) days of posting. Each player at  
6 each segment shall submit a copy of their rates to the NTC and the PCC. The rates shall be  
7 published, including a historical record, in a consolidated manner. The data transmission  
8 industry participants shall keep a publicly accessible archive of their rates.

9 SEC. 10. *Fair Competition.* - The NTC and the PCC shall ensure that there are at  
10 least two (2) service providers in any given segment. The PCC and the NTC shall ensure  
11 that the principles and policies enshrined under the Philippine Competition Act are strictly  
12 adhered to in the data transmission industry. The PCC and NTC shall ensure that all  
13 industry players observe fair, reasonable, and non-discriminatory treatment in all their  
14 dealings, and that barriers to entry are eliminated to make the industry highly competitive.  
15 To this end, the PCC and NTC shall foster and develop interagency cooperation  
16 mechanisms, including information-sharing tools, that will guide them in the performance  
17 of their respective mandates, and in the promotion of fair competition in the data  
18 transmission industry.

19 SEC. 11. *Technological Neutrality.* - The NTC shall ensure that the provisions of this  
20 law apply, *mutatis mutandis*, to future technologies in data transmission.

21 SEC. 12. *Infrastructure Sharing and Co-location.* - The DICT and NTC shall  
22 promulgate policies, rules, and regulations to ensure that passive infrastructure, whether  
23 existing or built in the future, necessary or capable of supporting data transmission  
24 networks or services are:

25 (a) made mandatory for open access and made available for co-location and co-use by  
26 the owner of network facilities, equipment, and infrastructure on an open, fair, and non-  
27 discriminatory basis to any access seeker's network facilities, in any segment, subject to the  
28 technical feasibility of the access seeker's request and the network facility and  
29 infrastructure owner's standard published offer terms, conditions, and rates: *Provided,*  
30 That the provision of access to government-owned and -operated facilities and support  
31 infrastructure to access seekers for the purpose of offering data transmission services shall  
32 be mandatory, unless special circumstances, such as but not limited to national security  
33 concerns, exist;

34 (b) built not only in the city centers, but most especially in the remote, unserved, and  
35 underserved areas in order to extend data transmission services by both the existing and  
36 new players throughout the country;

1 (c) as far as possible, deployed together with roadworks, pipe-laying, and other  
2 infrastructure development by both government and private entities; and

3 (d) proliferated in the most cost-efficient and timely manner through various means,  
4 including, encouraging the operation of independent entities that build and operate towers,  
5 dark fiber, and utility corridors, among other passive infrastructure that help facilitate  
6 data transmission network deployment.

7 The DICT shall coordinate and issue a policy with other relevant government  
8 agencies upon consultation with stakeholders to implement this provision. For purposes of  
9 data transmission, the NTC shall, in case of a dispute arising from an infrastructure  
10 sharing agreement, (1) mediate between a data transmission industry participant and an  
11 infrastructure owner, and (2) serve as the primary enforcer of this provision.

12 The DICT and NTC shall promulgate policies, rules, and regulations to ensure that  
13 buildings, condominiums, villages, towns, and subdivisions are all built with facilities, such  
14 as cable entrances, ducts, and risers, that allow non-discriminatory access to multiple data  
15 transmission industry players in order for them to provide service. They shall also  
16 promulgate policies, rules, and guidelines that will ensure a level-playing field and price  
17 non-discrimination among data transmission industry participants and network facility and  
18 infrastructure owners.

19 The DICT and NTC, in coordination with relevant government agencies, shall also  
20 ensure the disaster resiliency and ease of recovery and restoration of passive infrastructure,  
21 such as towers, poles, and utility corridors, from the effects of disasters by strictly enforcing  
22 compliance with internationally-accepted engineering standards and best practices, and  
23 relevant engineering codes and codes of practice.

24 The DICT and NTC shall maintain an updated database of data transmission  
25 infrastructure, including passive infrastructure used to support data transmission. The  
26 database, to be updated annually, shall include the exact location, ownership, technical  
27 specifications, and other relevant information about the facility.

## 28 CHAPTER IV

### 29 PROHIBITED ACTS

30 SEC. 13. *Prohibited Acts.* - The following acts are prohibited:

31 (a) Refusal to Plug and Play. - Any data transmission industry participant, insofar  
32 as such person is so engaged, shall not refuse access to infrastructure to any other data  
33 transmission industry participant, except for failure to pay open market fees for the access  
34 to the service.

35 Data transmission industry participants shall not impede the end-user's right to  
36 access and distribute information and content, use and provide applications and services  
37 and use terminal equipment of their choice, regardless of the end user's or provider's

1 location or the location, origin or destination of the information, content, application or  
2 service via their data transmission service.

3 Agreements between data transmission providers of data services and end users on  
4 commercial and technical conditions and the characteristics of data access services such as  
5 price, data volume or speed, and any commercial practices conducted by providers of  
6 internet access services shall not limit the exercise of the rights of end users laid down in  
7 the preceding paragraph;

8 (b) Paid Prioritization. - A data transmission industry participant shall not engage  
9 in paid prioritization for monetary or other consideration except when allowed by the NTC  
10 after such participant demonstrates that the practice will provide significant public interest  
11 benefit and will not disadvantage content and applications that are not prioritized or harm  
12 the open nature of the internet;

13 (c) Throttling. - A data transmission industry participant shall treat all traffic  
14 equally when providing data access services without discrimination, restriction or  
15 interference, regardless of the sender and receiver, the content accessed or distributed, the  
16 applications or services used or provided, or the terminal equipment used.

17 It shall be prohibited for a data transmission industry participant to hinder or slow  
18 down services or applications or access to specific sites in the internet except where (1)  
19 access to such sites, services or applications are prohibited by law; (2) it is necessary to  
20 preserve the integrity and security of the network and service of the provider or the  
21 equipment of the end user: *Provided*, That if the breach of integrity or security is caused by  
22 the equipment of the end user, the provider has to notify the end user first and give the  
23 former sufficient time to rectify the situation; (3) it is necessary to block the transmission of  
24 unwanted communications such as spam and child pornographic materials upon the  
25 complaint of the end user or the data transmission industry participant;

26 (d) Refusal to Give Information. — It shall be prohibited for any data transmission  
27 industry participant, including PTEs with regard to its network and facilities, to refuse or  
28 fail to make available to suppliers of data transmission services, on a timely basis, the  
29 technical information about its essential facilities or network facilities and commercially  
30 relevant information that are necessary for the efficient provision of their services; and

31 (e) Anti-competitive Cross-subsidization. - The NTC shall require separate books of  
32 accounts between different data transmission segments in order to allow identification of  
33 costs and revenues for each segment. Any violation of this provision shall give rise to a  
34 presumption of anti-competitive cross-subsidization, which shall then be referred to the  
35 Philippine Competition Commission for proper determination and action, in accordance  
36 with the provisions of RA 10667. Nothing herein shall prevent interconnecting networks  
37 from charging the appropriate cost-based compensation for the use of interconnection

1 facilities.

2 SEC. 14. *Administrative Penalties.*— The NTC shall require data transmission  
3 industry participants and PTEs providing data transmission services to comply with  
4 prescribed performance standards and shall impose penalties for failure to comply with  
5 such performance standards.

6 (a) Any data transmission industry participant who fails to comply with the minimum  
7 service standards set by the NTC shall be imposed a minimum penalty of a fine of not less  
8 than One hundred thousand pesos (P100,000.00) but not more than Five million pesos  
9 (P5,000,000.00) per day for every day during which such default or violation continues,  
10 until the participant fully complies: *Provided,* That if the data transmission industry  
11 participant has a gross annual income not exceeding Ten million pesos (P10,000,000.00),  
12 the penalty that may be imposed shall be equivalent to one percent (1%) to two percent (2%)  
13 of its gross annual income. The NTC is hereby authorized and empowered to impose such  
14 fine, after due notice and hearing.

15 (b) An entity who fails to substantially comply with the NTC's performance standards  
16 for three (3) consecutive years shall, subject to due process, be removed from the registry of  
17 registered data transmission industry participants and shall be prohibited from rendering  
18 data transmission services.

19 (c) Any data transmission industry participant who engages in the prohibited acts  
20 under Section 12 of this Act or fails to comply with the performance standards set by the  
21 NTC shall suffer a minimum penalty of a fine of not less than Three hundred thousand  
22 pesos (P300,000.00) but not more than Five million pesos (P5,000,000.00) for every day that  
23 the violation continues until the participant fully complies: *Provided,* That if the data  
24 transmission industry participant has a gross-annual income not exceeding Ten million  
25 pesos (P10,000,000.00), the penalty that may be imposed shall be equivalent to one percent  
26 (1%) to two percent (2%) of its gross annual income. In cases of anti-competitive cross-  
27 subsidization, the imposable penalties are those provided under RA 10667.

28 (d) A data transmission industry participant violating any provision of this Act shall  
29 forfeit all certificates, licenses, authorizations, rights, and awards issued to it in relation to  
30 its participation in the data transmission industry.

31 (e) Any other violations not specifically penalized under the relevant provisions of this  
32 Act shall be penalized by a fine of not less than Fifty thousand pesos (P50,000.00) and not  
33 more than Two million pesos (P2,000,000.00).

34 SEC. 15. *Adjustment for Inflation.*— The fines imposed under this Act shall be  
35 adjusted by the NTC, year-on-year, considering the prevailing cost of money based on the  
36 current consumer price index, and subject to publication of such adjustments.

1 CHAPTER V

2 RIGHTS OF DATA TRANSMISSION SERVICE USERS AND RESPONSIBILITIES OF  
3 DATA TRANSMISSION SERVICE PROVIDERS

4 SEC. 16. *Rights of End Users.* - The user of data transmission services shall have the  
5 following basic rights:

6 (a) To be entitled to data transmission services which is non-discriminatory,  
7 reliable, and conforming with minimum standards set by the NTC;

8 (b) To be rendered data transmission services within two (2) months from application  
9 for service;

10 (c) Regular, timely and accurate billing, courteous and efficient service at business  
11 offices and by company personnel;

12 (d) Timely correction of errors in billing and the immediate provision of rebates or  
13 refunds by the data transmission service provider without the need for demand by the user;  
14 and

15 (e) Thorough and prompt investigation of, and action upon complaints. The data  
16 transmission service provider shall endeavor to allow complaints to be received by any  
17 means convenient to the end user, including voice calls, post, short messaging service  
18 (SMS), multi-media messages (MMS) and online communication, and shall keep a record of  
19 all complaints received and the action taken to address the complaints.

20 Subject to the filing of a formal request to the data service provider, a user may  
21 request the immediate termination of service without the imposition of fees or penalties,  
22 and with the refund of any fee or charge already paid by the user, should a data service  
23 provider not consistently comply with paragraphs (a), (d), (e), of this section or any other  
24 minimum performance standards set by the NTC.

25 CHAPTER VI

26 FINAL PROVISIONS

27 SEC. 17. *Expedited Processing.* - In all instances where a participant in the data  
28 transmission industry shall require a form, certificate, or request from any government  
29 agency or local government unit (LGU), there should be no more than two (2) public officers  
30 involved in processing the form, certificate, or request.

31 Processing fees and certifications required for the deployment of any segment of data  
32 transmission networks shall be limited to those identified by the DICT. The DICT shall  
33 coordinate with the concerned national government agencies and LGUs, and conduct the  
34 necessary consultations with civil society organizations and other stakeholder groups, for  
35 the development of the implementing rules and policies to minimize the administrative  
36 burden of permitting and certification processes.

37 SEC. 18. *Implementing Rules and Regulations.* - Within sixty (60) days from the

1 effectivity of this Act, the NTC shall promulgate the necessary rules and regulations for its  
2 effective implementation.

3 SEC. 19. *Joint Congressional Oversight Committee on Open Access in Data*

4 *Transmission.* - There shall be created a Joint Congressional Oversight Committee on Open  
5 Access in Data Transmission (JCOCOADT) which shall monitor and ensure the effective  
6 implementation of this Act. It shall determine weaknesses and loopholes in the law,  
7 recommend the necessary remedial legislation or administrative measures and perform  
8 such other duties and functions as may be necessary to attain the objectives of this Act.

9 The JCOCOADT shall be composed of five (5) members from the Senate and five  
10 (5) members from the House of Representatives, in addition to the Chairperson of the  
11 Senate Committee on Science and Technology and the Chairperson of the House of  
12 Representatives Committee on Information and Communications Technology: *Provided,*  
13 That two (2) members of each chamber's nominees shall come from the ranks of the  
14 minority party/bloc.

15 The Chairperson of the Senate Committee on Science and Technology and the  
16 Chairperson of the House of Representatives Committee on Information and  
17 Communications Technology shall act as co-Chairpersons of the JCOCOADT. The ranking  
18 minority members nominated by both the Senate and the House of Representatives shall  
19 act as co-Vice Chairpersons. The Secretariat of the JCOCOADT shall come from the  
20 existing Secretariat personnel of the Committee on Science and Technology of the Senate  
21 and the Committee on Information and Communications Technology of the House of  
22 Representatives. The JCOCOADT shall have its own independent counsel.

23 The JCOCOADT shall exist for a period not exceeding five (5) years from the  
24 effectivity of this Act. Thereafter, its oversight functions shall be exercised by the Senate  
25 Committee on Science and Technology and the House of Representatives Committee on  
26 Information and Communications Technology, acting separately.

27 SEC. 20. *Separability Clause.* - Should any provision herein be declared  
28 unconstitutional, the other provisions not affected shall remain in full force and effect.

29 SEC. 21. *Repealing Clause.* - All laws, decrees, orders, rules and regulations or other  
30 issuances or parts inconsistent with the provisions of this Act are hereby repealed,  
31 amended or modified accordingly.

32 SEC. 22. *Effectivity.* - This Act shall take effect fifteen (15) days after its publication in  
33 the Official Gazette or in a newspaper of general circulation.

34 Approved.

## FACT SHEET

House Bill No. 8910

(Substitute Bill to House Bills Numbered 57, 4109, 5341, and 8383)

## OPEN ACCESS IN DATA TRANSMISSION ACT

*Introduced by: REPS. VICTOR A. YAP, FRANCIS GERALD A. ABAYA, JOHNNY T. PIMENTEL, JOY MYRA S. TAMBUNTING, LORD ALLAN JAY Q. VELASCO, FLORIDA "RIDA" P. ROBES, ROSANNA "RIA" VERGARA, ERIC L. OLIVAREZ, ISIDRO T. UNGAB, MANUEL LUIS T. LOPEZ, WILTON "TONTON" T. KHO, ROZZANO RUFINO B. BIAZON, WESLIE T. GATCHALIAN, RUFUS B. RODRIGUEZ, ENRICO A. PINEDA, MICAELA S. VIOLAGO, FRANCE L. CASTRO, JOHN REYNALD M. TIANGCO, XAVIER JESUS D. ROMUALDO, CARLITO S. MARQUEZ, FERNANDO T. CABREDO, ERICO ARISTOTLE C. AUMENTADO, GABRIEL H. BORDADO, JR., BIENVENIDO M. ABANTE, JR., ALYSSA SHEENA P. TAN, VIRGILIO S. LACSON, FAUSTINO MICHAEL CARLOS T. DY III, FRANCISCO 'KIKO' B. BENITEZ, JULIENNE "JAM" L. BARONDA, RONNIE L. ONG, RAMON C. NOLASCO, JR., STRIKE B. REVILLA, JOSE ENRIQUE "JOET" S. GARCIA III, ROMAN T. ROMULO, JUNIE E. CUA, DAHLIA A. LOYOLA, PRECIOUS HIPOLITO CASTELO, ALFRED D. VARGAS, JOSEPH STEPHEN "CARAPS" S. PADUANO, CARLOS ISAGANI T. ZARATE, STELLA LUZ A. QUIMBO, ANGELICA NATASHA CO, ANTONIO "TONYPET" T. ALBANO, RANEO "RANIE" E. ABU, JOHN MARVIN "YUL SERVO" C. NIETO, RIA CHRISTINA G. FARIÑAS, JESUS "BONG" C. SUNTAY, EDWARD VERA PEREZ MACEDA, ALFRED C. DELOS SANTOS, ESTRELITA B. SUANSING, HORACIO P. SUANSING, JR., MICHAEL B. GORRICETA, FERDINAND L. HERNANDEZ, JOSE GAY G. PADIERNOS, CHRISTOPHER "TOFF" DE VENECIA, ED CHRISTOPHER S. GO, DEOGRACIAS VICTOR "DV" B. SAVELLANO, CONRADO M. ESTRELLA III, LORENZ R. DEFENSOR AND EDGAR MARY S. SARMIENTO*

*Committee Referral: COMMITTEE ON INFORMATION and COMMUNICATIONS TECHNOLOGY (Primary)*

*Committee Chairperson: REP. VICTOR A. YAP*



## **OBJECTIVES:**

- To establish a strong and independent regulatory system and body to ensure and enhance fair competition in the data transmission industry.
- To promulgate rules and standards to promote the construction and development of reliable, affordable, open and accessible data networks that transmit information at speed and quality comparable to the best in the world.
- To create environment within the data transmission industry that is conducive to open, fair and innovation-propelled competition.
- To encourage investments in the development of digital infrastructure of the country.
- To protect the public interest and the public's ability to access data networks.

## **KEY PROVISIONS:**

- Provides for an open access approach in the regulation of data transmission services sector through a speedy and efficient registration process and promotion of fair and open competition;
- Mandates interconnection among data transmission participants to avoid dominance by a single player or by a group of data providers;
- Mandates the National Telecommunications Commission (NTC) to maximize the utilization of radio spectrum resources in the allocation and assignment of such finite resources in the transmission of data by ensuring that spectrum is made available for the use of all registered data transmission industry participants;
- Mandates the NTC to require all data transmission industry participants and Public Telecommunications Entities (PTEs) providing data transmission services, to comply with the prescribed performance standards and shall impose penalties for failure to comply with such performance standards;
- Ensures fair competition by mandating that at any given layer, there should be at least two (2) significant providers;

- Authorizes the NTC to impose a fine of Three hundred thousand pesos (Php 300,000.00) but not exceeding Five million pesos (Php 5,000,000.00) for every day of violation, per prescribed performance standards to any data transmission industry participant that fails to substantially comply with the minimum service requirement. In addition, if the said entity fails to comply with the prescribed performance standards for three (3) consecutive years, it shall be removed, subject to due process, from the registry of registered data transmission industry participants and shall be prohibited from rendering data transmission services;
- Prohibits and penalizes the following acts:1) Refusal to plug and play; 2) Paid Prioritization; 3) Throttling; and 4) Vertical Ownership.

**RELATED LAWS:**

- Republic Act No. 7925 (Public Telecommunications Policy Act)
- Republic Act No. 10667 (Philippine Competition Act)