

**Implementing Rules and Regulations of the Konektadong Pinoy Act  
(Republic Act No. 12234)**

**“AN ACT ESTABLISHING A COMPREHENSIVE AND INCLUSIVE DATA TRANSMISSION  
AND CONNECTIVITY FRAMEWORK FOR THE PHILIPPINES”**

This Implementing Rules and Regulations, hereinafter referred to as the IRR, is promulgated pursuant to Section 31 of Republic Act (R.A.) No. 12234, otherwise known as the “Konektadong Pinoy Act” (Act), for the purpose of carrying out the provisions of said Act.

**RULE I  
GENERAL PROVISIONS**

**Section 1. *Title.*** – These rules and regulations shall be referred to as the "Implementing Rules and Regulations of the Konektadong Pinoy Act" (IRR).

**Section 2. *Scope and Coverage.*** – This IRR shall apply to all Data Transmission Industry Participants (DTIP) as defined under the Act and this IRR. DTIPs that are principally engaged in the provision of basic telephone services, such as international carriers, interexchange carriers, local exchange operators, and mobile radio services providers, as defined in R.A. No. 7925 or the “Public Telecommunications Policy Act of the Philippines” (PTPA), and which also provide data transmission services, shall likewise be subject to the provisions of the Act and this IRR with respect to the data transmission services they provide and the linkage of their networks extended to other DTIPs.

Access providers and passive infrastructure owners, lessors, and operators (PIOLOs) shall likewise comply with the relevant provisions herein and the policies, rules, and regulations issued under the Act and this IRR.

**Section 3. *Declaration of Policy.*** – The State recognizes the role of digital inclusivity in nation-building and the necessity of narrowing the digital divide in the country through the development of data transmission infrastructure and removing any barrier to competition in data transmission services.

The State hereby adopts a policy to promote, develop, and sustain new communication technologies and the best quality of data transmission services at an affordable cost and at standards consistent with the needs and aspirations of the nation. The State, taking into account national security concerns, shall protect public interest by implementing measures to ensure reliable and affordable universal internet access, especially in critical development priorities and areas such as e-governance and basic service delivery, education, health, trade, finance, disaster preparedness, and public safety.

The State shall pursue an open-access policy providing an accessible and competitive environment to all qualified participants in all segments of the data transmission network, and encouraging investments in the digital infrastructure for the development of reliable and affordable data transmission networks, comparable to the best in the world. The State shall promote data transmission infrastructure sharing and co-location to eliminate the uneconomic duplication of these facilities in the data transmission industry.

The State shall ensure efficient and transparent management of the radio frequency spectrum to optimize its utilization and prevent monopolistic control, thereby fostering fair competition and

equitable access to data transmission services for all Filipino citizens.

**Section 4. Definition of Terms.** – The following definition of terms shall apply for purposes of these Rules:

- (a) **Act** refers to R.A. No. 12234 or the “Konektadong Pinoy Act”;
- (b) **Access** refers to making facilities and/or services available to another entity to provide data transmission services. This includes, among others, access to network elements and associated facilities involving the connection of equipment by fixed or non-fixed means or the physical and logical linking of networks; access to passive infrastructure including buildings, ducts, and masts, and active infrastructure including software and operational support systems; access to data transmission networks; and access to virtual network access list services;
- (c) **Access List** refers to the list of digital infrastructure and services to be determined jointly by the Department of Information and Communications Technology (DICT), the National Telecommunications Commission (NTC), and the Philippine Competition Commission (PCC) where access to such infrastructure and services by another entity is necessary for it to offer data transmission services competitively. The inclusion of digital infrastructure and services in the list shall promote competition, entry and expansion of new players, and encourage the efficient use of and investment in digital infrastructure;
- (d) **Access Provider** refers to an entity that owns, leases, or operates digital infrastructure and services contained in the access list;
- (e) **Access Seeker** refers to DTIP requesting access to digital infrastructure and services contained in the access list from an access provider;
- (f) **Active infrastructure** refers to the active elements of: (i) wireless networks such as antennas, antenna systems, transmitters/receivers, transmission systems, radio frequency modules, channel elements, and other radio-communications systems; and (ii) electronic infrastructure and facilities, either existing or to be deployed in the future, that may be used to support data transmission;
- (g) **ARTA** refers to the Anti-Red Tape Authority;
- (h) **Basic Telephone Service** refers to the local exchange telephone service for residence and business establishments provided via the circuit-switched telephone network; It includes traditional fixed-line services as well as circuit-switched mobile services that depend on the Public Switched Telephone Network (PSTN) whether delivered through wired or wireless technologies;
- (i) **Community-Based Networks** refers to networks that are built, owned, operated and used by citizens in a participatory and open manner for the primary purpose of providing data transmission or internet access service to their community;
- (j) **Core or Backbone Network** refers to the segment of the data transmission network that consists of the main line, including international connection, that ties networks, delivers routes to exchange information among various subnetworks, connects regional distribution networks, and, in some instances, provides connectivity to other peer networks;

- (k) **Customer** refers to any entity, natural or juridical, that lawfully subscribes to, purchases, or otherwise consumes data transmission services for resale;
- (l) **Data transmission** refers to the process of sending and receiving digital or digitized analog signals over a communication medium such as wired, radio, spectral, visual/optical/light, electronic, electromagnetic, or technological means, including future innovations that may arise, to one (1) or more computing networks, communication or electronic devices. It enables the transfer and communication of devices in point-to-point, point-to-multipoint and multipoint-to-multipoint environments. It includes the provision of voice over Internet protocol (VoIP) services but does not include the provision of basic telephone services;
- (m) **Data transmission industry participant or DTIP** refers to any entity engaged in the provision of data transmission services as a form of economic activity, where the entity can physically or virtually operate, manage or control any relevant segment of the data transmission network. Public telecommunications entities (PTEs) and value-added services (VAS) providers, as defined under the PTPA and its implementing rules and regulations, and Satellite Systems Providers or Operators (SSPOs) are considered DTIPs to the extent of their businesses engaged in data transmission services, excluding foreign government-controlled entities or foreign state-owned enterprises as defined in R.A. No. 11659 or “An Act Amending Commonwealth Act (C.A.) 146, otherwise known as the Public Service Act, as amended” and its implementing rules and regulations (PSA), except independent pension funds, sovereign wealth funds, and multinational banks;
- (n) **Data Transmission Service** refers to the provision of a service consisting in, or having as its principal feature, the conveyance of data offered on a commercial basis or to the public for a fee.

It shall cover the use of network elements and associated facilities, including passive and active infrastructure, whether through physical or logical interconnection, for the purpose of enabling or facilitating the conveyance of data.

- (o) **Days** shall refer to calendar days, unless otherwise provided;
- (p) **DICT** refers to the Department of Information and Communications Technology;
- (q) **DPA** refers to R.A. No. 10173 or the “Data Privacy Act of 2012” and its implementing rules and regulations;
- (r) **Dig Once Policy** refers to policies, rules, and guidelines that promote coordinated efforts among DTIPs, concerned government entities, and other relevant entities to ensure that DTIPs can easily place and install cables without repeated excavation in buried conduits, which follow engineering standards, thereby substantially minimizing deployment and operations costs and public disruption;
- (s) **Digital infrastructure** refers to both passive and active infrastructure except for broadcast and basic telephone service;
- (t) **End-User** refers to any entity, natural or juridical, who lawfully subscribes to, purchases, or otherwise consumes data-transmission services for its own use and not for resale;
- (u) **Entity** refers to any person, natural or juridical, sole proprietorship, partnership, combination or association in any form, whether incorporated or not, domestic or foreign, including those owned or controlled by the government;

- (v) **EODBA** refers to R.A. No. 11032 or “An Act Promoting Ease of Doing Business and Efficient Delivery of Government Services, amending for the purpose R.A.No. 9845, otherwise known as the Anti-Red Tape Act of 2007, and for other purposes” and its implementing rules and regulations;
- (w) **FIA** refers to R.A. No. 7042 or the “Foreign Investments Act of 1991”, as amended by R.A. No. 8179 and R.A. No. 11647, and its implementing rules and regulations;
- (x) **International gateway facility** refers to the segment of data transmission network that consists of any facility, including submarine cables, that provides an interface to send and receive data traffic between one country’s domestic network facilities and those in another country;
- (y) **Last mile** refers to the segment of the data transmission network that connects end-users, including indoor/in-building networks, to the internet;
- (z) **Material cybersecurity incident** refers to a single event or a series of unwanted or unexpected events whose nature and scope are determined to have or likely to have a significant impact on a DTIP’s network, such as causing the stoppage, disruption, or degradation of a DTIP’s operations or compromising the integrity, confidentiality, or availability of the data transmitted within its network;
- (aa) **Middle mile** refers to the segment of the data transmission network that links the last mile network to the core or backbone network;
- (bb) **NTC** refers to the National Telecommunications Commission;
- (cc) **Open access** refers to the system of allowing the use of data transmission networks and associated facilities in a transparent manner, subject to fair, reasonable, and non-discriminatory terms;
- (dd) **Passive infrastructure** refers to all types of non-digital and non-electronic telecommunications and data transmission infrastructure or civil works, including but not limited to telecommunications towers, poles, dark fiber cables, cable entrances, ducts, conduits, utility corridors, and any other similar infrastructure and facilities, either existing or to be deployed in the future, that may be used to support data transmission;
- (ee) **PCA** refers to R.A. No. 10667 or the “Philippine Competition Act and its implementing rules and regulations;
- (ff) **PCC** refers to the Philippine Competition Commission;
- (gg) **PIOLO** refers to owners, lessors and operators of passive infrastructure that are necessary for or capable of supporting data transmission networks or services;
- (hh) **PSA** refers to C.A. 146 or the “Public Service Act”, as amended by R.A. No. 11659 or “An Act Amending Commonwealth Act 146, Otherwise Known as the Public Service Act, as Amended” and its implementing rules and regulations;
- (ii) **PTPA** refers to R.A. No. 7925 or the “Public Telecommunications Policy Act of the Philippines” and its implementing rules and regulations;



- (jj) **Radio frequency spectrum or Spectrum** refers to the continuous range of electromagnetic wave frequencies from 3 kilohertz up to 3,000 gigahertz;
- (kk) **RAO** refers to the Reference Access Offer under Rule VI, Section 4 of this IRR;
- (ll) **Satellite** refers to "communications satellites" or earth-orbiting systems capable of receiving and relaying signals to and from the ground to provide links for use in the provision of a variety of information and communications technology (ICT) services, such as telephony, radio, television, or broadband internet. For purposes of this IRR, satellites used exclusively for space/earth exploration are not included;
- (mm) **Satellite-based technologies** refer to technologies for the administration, deployment, or use of communications satellites;
- (nn) **Satellite Systems Provider or Operator (SSPO)** refers to providers or operators of satellite systems, whether fixed or mobile, international or domestic, registered in the Philippines, that are duly authorized to provide satellite communications services under the laws of their respective countries of domicile;
- (oo) **SMPF** refers to the Spectrum Management Policy Framework to be formulated as provided under Rule IV of this IRR;
- (pp) **Spectrum allocation** refers to an entry in the National Radio Frequency Allocation Table (NRFAT) of a given frequency band for its use by one or more telecommunications or data transmission services;
- (qq) **Spectrum assignment** refers to the authorization given by the NTC for an entity to use specific frequencies or channels under specified conditions. This term shall also cover spectrum reassignment and joint use or co-use;
- (rr) **Spectrum recall** refers to the process by which the State, through the NTC, reclaims spectrum assignment previously granted to an entity in accordance with the SMPF;
- (ss) **Student User** refers to an End-user currently enrolled in any public or private educational institution recognized by the Department of Education (DepEd), Commission on Higher Education (CHED) and Technical Education and Skills Development Authority (TESDA), as evidenced by a valid school identification card, enrolment certificate, or other documentary proof acceptable to the DTIP;
- (tt) **Underserved areas** refer to areas that have unreliable and inadequate ICT services, as may be defined by the DICT;
- (uu) **Underutilized spectrum** refers to spectrum assigned to an entity that is not being utilized efficiently, pursuant to the SMPF, and standards and parameters as determined by the NTC;
- (vv) **Unserviced areas** refer to areas that do not have DTIPs and ICT services, as may be defined by the DICT;
- (ww) **Unutilized spectrum** refers to spectrum assigned to an entity that is not being utilized, or is solely being utilized for unauthorized purposes pursuant to the SMPF, and standards and parameters as determined by the NTC; and

- (xx) **Voice over Internet Protocol (VoIP)** refers to the provision of voice communication using Internet protocol (IP) technology.

## **RULE II**

### **REGULATION OF THE DATA TRANSMISSION INDUSTRY**

**Section 1. Open Access Framework.** – Pursuant to the declared policy of promoting fair competition in the data transmission industry:

- (a) An Open Access regulatory framework shall govern the data transmission industry to remove unnecessary barriers to entry, promote fair competition, and provide equitable opportunity among all eligible participants.
- (b) The DICT, NTC, and PCC shall jointly identify and review, in accordance with their respective mandates, the regulatory, technical, and economic barriers to entry within one (1) year from the effectivity of this IRR. The NTC shall revise its existing rules and regulations, including the formula for its supervision and regulation fee (SRF), to ensure that entry into any segment of the data transmission network is not unreasonably restricted.
- (c) All segments of the data transmission network shall be competitive and open and all DTIPs shall be allowed to construct, install, establish, operate, maintain, lease, or own networks or facilities without need of legislative franchise.

**Section 2. Segments of the Data Transmission Network.** - The data transmission network shall be divided into segments, which include: (a) international gateway facilities; (b) core or backbone network; (c) middle mile; (d) last mile; and (e) any other segment as may be defined by the DICT in a separate issuance.

**Section 3. Role of the Department of Information and Communications Technology.** - The DICT shall be the primary policy, planning, coordinating, implementing, and administrative entity of the Executive Branch of the government that will plan, develop, and promote the national ICT agenda in accordance with its mandate under R.A. No. 10844, or the "Department of Information and Communications Technology Act of 2015," and in accordance with international agreements and conventions to which the Philippines is a party.

In line with this mandate, the DICT shall be the highest policy-making body on data transmission and connectivity matters and shall have the following powers and functions:

- (a) Formulate plans and policies to implement an open access approach for the promotion of investment and healthy competition and the regulation of the data transmission sector;
- (b) Ensure the promulgation and adoption of technology-neutral policies that allow DTIPs to use any available technology to provide data transmission service in accordance with Rule II, Section 6 of this IRR;
- (c) Assist the PCC in promulgating policies governing DTIPs and/or access providers with significant market power (SMP) in accordance with Rule VI, Sections 11 and 12 of this IRR;
- (d) Formulate policies and guidelines to be used by NTC in determining the eligibility criteria for the registration of DTIPs;

- (e) Pursue policies, in coordination with the NTC, to secure necessary orbital slots for Philippine satellites;
- (f) Pursue plans, programs, activities, or initiatives as may be necessary or desirable to incentivize DTIPs to invest in, adopt, roll out, implement, establish, own, maintain, operate or utilize new and next generation technologies giving priority to unserved or underserved areas, including educational institutions. The departmental plans, programs, activities, or initiatives shall include, but not be limited to, effectively coordinating with the Department of Finance (DOF), Board of Investments (BOI), Philippine Economic Zone Authority (PEZA), Fiscal Incentives Review Board (FIRB), local government units (LGUs), and other concerned government agencies or instrumentalities, for the issuance and implementation of policies for the grant of applicable incentives and benefits.

Such incentives shall be designed to encourage sustainable private sector participation and equitable expansion of digital infrastructure, thereby reducing connectivity gaps, promoting affordability, and ensuring that all Filipinos, regardless of location or circumstance, can access and benefit from reliable and inclusive digital connectivity.

DTIPs may qualify for registration with the FIRB or other investment promotion agencies to avail of incentives under the National Internal Revenue Code of 1997, as amended by R.A. No. 12066, commonly referred to as the “Corporate Recovery and Tax Incentives for Enterprises to Maximize Opportunities for Reinvigorating the Economy (CREATE MORE)” Act, and other relevant laws. These incentives may include, but shall not be limited to:

- (i) Income Tax Holiday, and after expiration thereof, Enhanced Deductions regime;
- (ii) Duty exemption from the date of registration, respectively, unless otherwise extended under the Strategic Investments Priorities Plan (SIPP); and,
- (iii) Value-added tax (VAT) exemption and zero-rating from the date of registration, unless otherwise extended under the SIPP.

The DICT, through its ICT Industry Development Bureau, shall endorse applications for registration, and extend assistance to micro, small and medium DTIPs, including community-based DTIPs, in complying with the requirements to register with the FIRB or other investment promotion agencies.

- (g) Develop a SMPF, in coordination with the NTC and the PCC and in consultation with relevant stakeholders, within one (1) year from effectivity of this IRR, and regularly update the same every four (4) years or earlier, as necessary;
- (h) Define and identify underserved and unserved areas, and update the same, as necessary; *Provided*, That areas near educational institutions shall be prioritized;
- (i) Recommend performance standards for DTIPs to NTC in accordance with Rule III, Sections 10 to 12 of this IRR;
- (j) Issue guidelines prescribing the minimum cybersecurity standards and requirements in accordance with the DTIP’s risk profile per data transmission segment;

- (k) Create and maintain a repository of cybersecurity certifications, certificates of compliance, and cybersecurity incident reports; conduct cybersecurity performance audits; and provide guidance and training on cybersecurity as provided under Rule V of this IRR;
- (l) Formulate policies to safeguard local data, when necessary to advance national security and public interest, with primacy given to cross-border data flows as a key enabler of the global economy;
- (m) Ensure inclusive, transparent, and responsive policymaking through private sector engagement through the conduct of dialogues, at least once every quarter, with relevant stakeholders, including with DTIPs, industry associations, professional and standards organizations, legitimate consumer action groups, industry stakeholders and civil society organizations; and
- (n) Promulgate such other policies or guidelines necessary to achieve the objectives of this IRR.

The DICT may consult or coordinate with relevant government departments, agencies, bureaus or instrumentalities, and LGUs, as well as civil society and other stakeholders, in the formulation of its policies and guidelines. Regional Development Councils are encouraged to cascade said policies and guidelines to the LGUs and implement the same. All non-internal policies and guidelines to be issued by the DICT shall be subject to prior public consultations or hearings.

**Section 4. Role of the National Telecommunications Commission.** – The NTC, an attached agency of the DICT, shall be the principal regulatory and adjudicatory body over the data transmission sector and shall take the necessary measures to implement the policies and objectives of the Act and this IRR, and as may be set forth by the DICT.

In addition to its existing functions, the NTC shall be responsible for the following:

- (a) Ensure that the data transmission sector remains open and accessible to all qualified participants in accordance with the Open Access Framework stated in Rule II, Section 1 of this IRR;
- (b) Formulate eligibility criteria for the registration of DTIPs within one (1) month from the effectivity of this IRR in accordance with DICT's policy and Rule III, Sections 1 to 2;
- (c) Formulate and implement an efficient and speedy administrative process in the registration and authorization of DTIPs in accordance with Rule III, Section 1 of this IRR and in line with relevant laws, policies, rules and regulations, and government issuances;
- (d) In consultation with the DICT, issue rules and regulations on the development, use, and maintenance of satellite-based technology;
- (e) Issue rules and regulations, in consultation with the PCC, that promote fair and open competition in accordance with the principles and policies under PCA, its implementing rules and regulations, including guidelines and rules on DTIPs and/or access providers with significant market power in all segments of the data transmission network, allowing a wide variety of physical networks and applications to interact seamlessly;

- (f) Mandate transparency in pricing and the regular publication of updated pricing information to ensure fair trading within and between each data transmission segment to allow clear and comparative information on market prices and services;
- (g) Mandate access providers to provide access to digital infrastructure and services contained in the access list as provided under Rule VI, Section 2 of this IRR;
- (h) Publish the list of registered DTIPs on its official website and a publicly-accessible site or location, and update the same at least once a year subject to relevant issuances of the DICT, and provide this information to the DICT for concurrent publication;
- (i) Implement the SMPF developed by the DICT;
- (j) Periodically review spectrum allocation, use, and assignment every four (4) years or earlier as necessary pursuant to the policies and guiding principles contained in the SMPF, and undertake measures such as, but not limited to, spectrum recall and restacking to ensure the most efficient and optimal use of spectrum in accordance with the SMPF;
- (k) In coordination with the PCC, ensure that spectrum assignment and spectrum recall do not result in the concentration of spectrum resources which may harm competition;
- (l) Determine and set performance standards for DTIPs in accordance with Rule III, Sections 10 to 12 within two (2) months from the effectivity of this IRR, and periodically update such standards as necessary;
- (m) Monitor, evaluate, and investigate the compliance of DTIPs with the performance standards it has set;
- (n) Charge reasonable fees to defray administrative costs of services it renders;
- (o) Collect the necessary SRF and Spectrum User Fee (SUF), and other relevant fees as provided by law;
- (p) Impose the applicable administrative penalties for violations of the Act and this IRR; and
- (q) Perform such other functions as may be necessary to achieve the objectives of the Act and this IRR.

All rules, regulations and guidelines to be issued by the NTC shall be subject to prior public consultations or hearings.

**Section 5. Fair Competition.** –The PCC and the NTC shall ensure that the principles and policies enshrined under the PCA are strictly adhered to in the data transmission industry. The PCC and the NTC shall ensure that all industry players observe fair, reasonable, and non-discriminatory treatment in all their dealings, and that barriers to entry are eliminated to make the industry highly competitive. As such, within one (1) month from the effectivity of the Act, the PCC and the NTC shall enter into an agreement to:

- (a) foster and develop interagency cooperation mechanisms, including information-sharing tools, that will guide them in the performance of their respective mandates;
- (b) the promotion of fair competition in the data transmission industry; and

- (c) the effective performance of their obligations under this Act.

Further, the PCC and NTC shall establish the following within six (6) months from the effectivity of this IRR:

- (a) Protocols for information-sharing and joint market monitoring;
- (b) Process for coordinating the review of mergers and acquisitions that will affect existing or future spectrum assignments and existing or future DTIPs;
- (c) Process for coordinating the review of spectrum assignment and spectrum recall to ensure that it will not result in the concentration of spectrum resources which may harm competition.

**Section 6. *Technological Neutrality.*** – The DICT and the NTC shall ensure that the provisions of the Act and this IRR apply, mutatis mutandis, to future technologies in data transmission.

### **RULE III REGISTRATION AND AUTHORIZATION OF DATA TRANSMISSION INDUSTRY PARTICIPANTS**

**Section 1. *Registration and Authorization of DTIPs.*** – All segments of the data transmission network shall be competitive and open. In pursuit of this open access policy, the NTC, in coordination with relevant agencies, shall:

- (a) Formulate, within one (1) month from the effectivity of this IRR, eligibility criteria to qualify entities in the data transmission sector in accordance with the policy stated in the Act and this IRR, in consultation with relevant industry associations, professional and standards organizations, industry stakeholders and civil society organizations.
- (b) Promulgate and implement a speedy and expeditious administrative process in the registration and authorization of entities in order to construct, operate, lease, or own networks, including radio transmitting and/or receiving stations, in any segment of the data transmission network, for the provision of data transmission services.
- (c) Grant certificate of registration to a qualified entity allowing it to participate in the last mile or middle mile segment of the data transmission network.
- (d) Grant authorization to a qualified entity authorizing it to operate an international gateway facility, or a core or backbone network, after considering the entity's proposed route or roll out plan, as well as the manner of construction of the facility or network. *Provided, That* such authorization shall be a speedy and expeditious administrative process as provided under Section 4 of this Rule.
- (e) Grant authorization to a registered DTIP intending to use spectrum resources and be assigned or allowed access to such spectrum in accordance with Section 10 and other applicable provisions of the Act, this IRR, and other pertinent laws.
- (f) Grant authorization to a registered DTIP for the assignment and access of associated frequencies for satellite services, in accordance with the Act, this IRR, the SMPF the applicable rules and regulations of the DICT and NTC, and relevant international conventions and agreements.

- (g) Furnish the Philippine Space Agency (PhilSA) with information on any digital infrastructure, including auxiliary and ancillary facilities, to be placed or launched in space by a DTIP for inclusion in the National Registry of Space Objects, in accordance with R.A. No. 11363, or the “Philippine Space Act”, its implementing rules and regulations, and international conventions, frameworks, and agreements.

**Section 2. *Setting the Eligibility Criteria.* –**

- (a) In the determination and formulation of eligibility criteria for the registration and authorization of entities in any segment of the data transmission network, the NTC shall ensure that all requirements are:

- (i) Transparent, objective, and applied consistently to all applicants in the same segment;
- (ii) Non-discriminatory and proportionate to the nature and scale of the services to be provided;
- (iii) Aligned with the principles of open access, fair competition, cybersecurity, and national security; and
- (iv) Designed to facilitate market entry while ensuring that only qualified participants may construct, operate, lease, or own data transmission networks or facilities.

- (b) The formulation of the eligibility criteria and technical standards shall be undertaken in consultation with relevant industry associations, professional and standards organizations, industry stakeholders and civil society organizations as may be identified by the DICT and the NTC. Further, in the determination of eligibility criteria, the NTC shall take into consideration the following:

- (i) **Legal Eligibility.** The entity must be duly registered or organized under the laws of the Philippines as sole proprietorship, partnership, cooperative, corporation, including entities owned or controlled by the government.

Foreign entities seeking to register as DTIPs and/or obtain any of the foregoing authorizations shall comply with the provisions of the FIA, PSA and all other pertinent laws and issuances.

The entity must be duly licensed to operate the business of providing data transmission services by the city or municipality where the principal place of business of the entity is located.

- (ii) **Technical Capability.** The entity must be able to demonstrate the operational and technical feasibility of the proposed segment in the data transmission network. Noting the proposed segment, the documentation of technical feasibility may consist of the service areas, the service rates, description of the system/network, infrastructure functional block diagram, equipment datasheet providing detailed technical parameters, capability, configuration, and specifications, cybersecurity compliance or plan consistent with Rule V of this IRR, and organizational structure plan including external experts/professionals to be engaged, if any.
- (iii) **Financial Capacity.** The entity must have sufficient capitalization to undertake the prospective data transmission service intended to be offered, ensuring that such

criteria are proportionate to the scale and nature of the intended operations and do not create undue barriers for small and micro DTIPs.

- (iv) Commitment to Comply. The entity must commit to comply with all the terms, conditions, and obligations required and imposed on a DTIP engaged in the offering of data transmission service.
- (c) Entities must meet all eligibility criteria and submit complete and correct documentary requirements including the payment of applicable processing fees, for the grant of the applicable certificate.
- (d) The Certificate of Registration (CoR) or Certificate of Authorization (CoA) shall serve as authority for the registered DTIP to construct, operate, lease, or own data transmission facilities, subject to other applicable laws and regulations. The said Certificate will specify the services authorized, registered service areas, and any special conditions.
- (e) In the processing of any certificate, the NTC shall collect the applicable fees and charges based on its prevailing rules and guidelines until the DICT shall have formulated and implemented rules to minimize the administrative burden of permitting and certification processes.
- (f) Nothing provided herein shall prevent the DICT from issuing subsequent policies on the eligibility criteria.

**Section 3. General Terms and Conditions of a Certificate.** – The general terms and conditions of duly registered and authorized DTIPs shall include, among others, the following:

- (a) Maintain a valid CoR or CoA, which may be national or subnational in scope, in the provision of data transmission services.
- (b) File an annual report with the NTC in accordance with Rule III, Section 8 of this IRR. The annual report, the template of which shall be made available/prescribed by NTC, shall include technical and financial reports of the entity which shall contain, among others, investments made, network roll-out reach, and all costs and charges relevant to the data transmission network segment where the entity operates.
- (c) Submit its rates, for every segment of the data transmission network in which it operates, to the DICT, NTC and the PCC on or before 30 April of each year. The rates, including a historical record, shall be published in a consolidated manner by the DICT and NTC. Each DTIP shall likewise maintain a publicly accessible archive of its rates.
- (d) Upon registration or authorization, adopt and comply with national and global best practices and standards on cybersecurity; and be subject to cybersecurity performance audit by the Cybersecurity Bureau of the DICT in accordance with Rule V of this IRR.

Within two (2) years from registration or authorization, DTIPs shall secure a cybersecurity certification or cybersecurity compliance from the DICT Cybersecurity Bureau in accordance with Rule V of this IRR.

- (e) Submit to DICT or NTC, as applicable, the terms and conditions, which include levels of access to any international fixed or mobile satellite system, when the entity



deploys or utilizes satellite technology as required under Rule III, Section 15 (c) of this IRR.

- (f) Comply with the performance standards set by the NTC.
- (g) Comply with internationally accepted engineering standards and best practices, relevant engineering codes, referral codes, and other codes of practice to ensure disaster resiliency and ease of recovery and restoration of passive infrastructure, such as towers, poles, and utility corridors, from the effects of disasters.
- (h) Comply with the principles and policies of the PCA, and the requirements of fair competition under the Act and this IRR.
- (i) Adhere to technology-neutral policies and regulations issued pursuant to Section 19 of the Act and Rule II, Section 6 of this IRR.
- (j) Implement mechanisms to ensure the observance of the basic rights of users or subscribers of its data transmission services as enumerated in Section 25 of the Act and Rule VIII of this IRR.
- (k) Pay SRF to NTC on or before 30 September of each year.
- (l) Pay SUF for all frequency assignments, as applicable.
- (m) Maintain separate books of accounts between different data transmission segments to allow identification of costs and revenues for each segment in accordance with Rule IX, Section 1(d) of this IRR.
- (n) For access providers and PIOLOs, comply with their obligations under Rule VI and Rule VII, respectively.
- (o) Ensure that all activities requiring the practice of regulated professions in the data transmission industry are undertaken in compliance with all applicable laws, rules, and regulations governing professional practice in the Philippines, such as R.A. 9292 or the “Electronics Engineering Law of 2004”, and other related laws, as well as reciprocity agreements with other countries.
- (p) Adopt measures to improve the resiliency of data transmission facilities, especially in hazard- and calamity-prone areas, and endeavor to maintain or promptly restore services during national emergencies or other disasters, as part of the emergency telecommunications cluster, in coordination with the DICT and NTC pursuant to Rule VIII, Section 1(b) of this IRR.
- (q) Comply with existing laws, policies and regulations pertaining to privacy of communications, obscene or indecent transmission, dissemination of deliberately false information, terrorism, espionage, and foreign interference, including but not limited to the DPA, R.A. No. 10175 or the “Cybercrime Prevention Act of 2012”, R.A. No. 11497 or the “Anti-Terrorism Act of 2020”, Republic Act No. 11930 or the “Anti-Online Sexual Abuse or Exploitation of Children (OSAEC) and Anti-Child Sexual Abuse or Exploitation Materials (CSAEM) Act”, R.A. No. 11313 or the “Safe Spaces Act”, their respective implementing rules and regulations and their respective future iterations, and other laws that may be promulgated in the future. *Provided*, That nothing in this provision shall be construed as authorizing prior restraint of content, either on the part of the DTIP or the NTC.

The NTC may include additional terms and conditions, and obligations pursuant to other applicable laws, rules and regulations in the grant, renewal, or modification of CoRs or CoAs; *Provided*, That such terms, conditions, and obligations shall be reasonable, non-discriminatory, transparent, and consistent with the objectives of the Act and this IRR, observe the policies of open access, fair competition and technology neutrality and shall not impose undue barriers to entry or operation in the data transmission industry.

**Section 4. Expedited Processing of Applications.** – The NTC shall act on applications in accordance with the periods set in the EODBA.

- (a) If the NTC fails to act within said period, the application shall be deemed approved and the CoR or CoA, as the case may be, shall be issued in accordance with provisions of the EODBA.
- (b) To this end, the NTC will provide a checklist of requirements for the different types of applications to streamline the determination of completeness of submissions.
- (c) Moreover, the NTC will establish a Green Lane for processing of applications of DTIPs. The said green lane shall be integrated and shall not be duplicative to the existing One Stop Shops under existing laws.
- (d) The NTC shall designate an account officer for the Green Lane, who is responsible for coordinating with the One-Stop-Action-Center for Strategic Investments (OSAC-SI) of the BOI, investment promotion agencies, relevant government offices or agencies in streamlining and simplifying business permitting and licensing processes, and recommending modifications or amendments to existing procedures that are outdated, redundant, and adds undue regulatory burden and cost to the transacting public, in coordination with the ARTA.
- (e) The NTC shall establish a simplified Green Lane registration process, with streamlined documentary requirements and reduced processing fees, for micro and community-based DTIPs that intend to operate in rural, underserved or unserved areas.
- (f) All approvals, deemed approvals, deficiency, denials, suspension and revocation notices issued under this Section shall be recorded in the DTIP Registry pursuant to Rule III, Section 9 of this IRR.

**Section 5. Standards for New and Emerging Data Transmission Technologies.** – The DICT, in coordination with the NTC, and in consultation with relevant stakeholders, shall lead the development of baseline standards for new and emerging data transmission technologies which will be made publicly available.

**Section 6. Change in Ownership or Control.** –

- (a) Prior Approval. No DTIP shall sell, assign, lease, encumber, or otherwise transfer its CoR or CoA without the prior approval of the NTC.
- (b) Substantial Change in Ownership or Control. The following shall be deemed a substantial change in ownership or control that requires NTC evaluation and approval:
  - (i) Merger or consolidation with another entity;

- (ii) Any direct or indirect sale, transfer, or disposal of twenty percent (20%) or more of the voting shares or equity interest of the DTIP, whether in a single transaction or a series of related transactions within a twelve-month period;
  - (iii) Any transaction that results in a new entity, person, or group exercising the power to elect a majority of the board of directors or otherwise direct the management and policies of the DTIP; or
  - (iv) Assignment or transfer of a material portion of network assets that would impair the DTIP's ability to meet its service obligations.
- (c) **Reporting Obligation.** The DTIP shall notify the NTC in writing within thirty (30) days of the execution of any agreement or corporate action that will result in a change covered by paragraph (b) of this Section. The notice shall include full particulars of the transaction and supporting documents.
- (d) **Approval Process.** Within fifteen (15) working days from receipt of complete documentary requirements, the NTC shall approve or disallow the proposed transfer or change in control, in consultation with the PCC. Failure of the NTC to act within said period shall constitute implied approval, without prejudice to subsequent compliance audits.
- (e) **Transaction subject to PCC Mandatory Review.** If any of the transactions in Section 6 (b) above is subject to review by the PCC, the NTC shall issue its approval or disallowance within three (3) working days after the PCC renders its decision. Failure of the NTC to act within said period shall constitute implied approval, without prejudice to subsequent compliance audits.
- (f) **Effect of Non-Compliance.** Any transfer or change in control effected without the requisite approval, or any failure to report within the period prescribed in paragraph (c), shall be a ground for suspension or revocation of the CoR/CoA, without prejudice to the imposition of administrative fines under Section 21 of the Act and Rule IX of this IRR. Further, any transfer or change in control effected without the requisite approval shall be deemed void and for DTIPs that are corporations, shall not be recorded in the stock and transfer book of the DTIP.

***Section 7. Validity and Renewal. –***

- (a) The validity of the certificate in the last mile shall be up to five (5) years, middle mile for up to ten (10) years, and core or backbone network and international gateway facility for up to fifteen (15) years, renewable for the same period. An applicant may request a shorter validity of not less than one (1) year. Applications for renewal shall be filed not later than two (2) months before expiry of the CoR or CoA.
- (b) A DTIP that fails to secure renewal of its CoR or CoA on time shall, upon the expiry date stated in its CoR or CoA, immediately cease the provision of data transmission services, without prejudice to the imposition of surcharges and other penalties under Section 21 of the Act and Rule IX of this IRR.

***Section 8. Submission of Annual Reports. –***

- (a) All DTIPs shall be required to file an annual report on or before 30 April of each year, with the NTC and PCC, in digital and machine-readable formats. The annual report shall include therein a fair and accurate statement regarding their market prices and

their services. The annual report shall include technical and financial reports of the entity which shall contain, among others:

- (i) investments made;
  - (ii) network roll-out reach;
  - (iii) network map of segment(s) of the transmission network where they operate;
  - (iv) all costs and charges relevant to the data transmission network segment where the participants operate;
  - (v) historical log of past rates or plans;
  - (vi) aggregate number of customers for each segment of the data transmission network as defined in Section 5 of the Act; and
  - (vii) cybersecurity certification or compliance, subject to Rule V, Section 2 of this IRR.
- (b) The NTC or the DICT, may require submission of other reports, after the issuance of specific guidelines, to assist in determining compliance of DTIPs with the provisions of the Act, this IRR and other relevant laws, rules and regulations.
- (c) DTIPs operating across several data transmission segments are required to prepare and maintain separate books of accounts for each segment and must submit these to the NTC.
- (d) For last-mile DTIPs operating in rural and geographically isolated and disadvantaged areas (GIDAS), the NTC or the DICT may require reporting requirements that are less onerous and minimal taking into account the necessity of encouraging their development to help the country achieve universal internet access.

**Section 9. DTIP Registry. –**

- (a) Within three (3) months from the effectivity of this IRR, the NTC and DICT shall publish a registry of all DTIPs on their respective websites.
- (b) The DTIP Registry shall include, at a minimum, the following information for each registered DTIP:
- (i) legal name and/or business name;
  - (ii) Certificate number, as applicable, or in the case of DTIPs registered prior to the Act, their Case Number of Provisional Authority (PA)/Certificate of Public Convenience and Necessity (CPCN), and their current regulatory status (valid, suspended, or revoked);
  - (iii) latest geographic roll-out or service-area information;
  - (iv) Cybersecurity certification or certificate of compliance status, standard adopted, certifying body, and validity; and
  - (v) Customer care contacts such as hotline number, on-line complaint channel, and service-center address.
- (c) The NTC and DICT may include additional fields or provide links to more detailed documents, *Provided*, That personal data and confidential business information are protected in accordance with applicable laws. The NTC and DICT shall regularly update the DTIP Registry whenever there are any changes to the information contained therein, including the registration of new DTIPs, and in any event, at least once a year.
- (d) The DTIP Registry shall be made available on the websites of the DICT and the NTC in downloadable and machine readable formats, such as Excel or CSV for ease of access and use.

**Section 10. Performance Standards for the Data Transmission Industry. –**

- (a) Within two (2) months from the effectivity of this IRR, NTC shall adopt and publish on its website the performance standards for all DTIPs based on the policies promulgated by the DICT. These standards shall take into account quality of service (QoS) parameters such as speed, packet loss, jitter, and latency, with benchmarks or minimum thresholds adjusted as appropriate to the technology used, including fixed wired, fixed wireless, mobile, and satellite systems operating in geostationary, medium earth, or low earth orbits or any other technology or innovation that will be introduced in the future consistent with Rule II, Section 6 of this IRR.
- (b) The performance standards shall be effective thirty (30) days after publication, and DTIPs shall comply within six (6) months from its initial publication.
- (c) The performance standards shall:
  - (i) be reviewed at least once a year and updated as necessary; and
  - (ii) be at par with service levels established in regional data transmission network performance indices and aligned with international best practices.

**Section 11. Performance Standards for the Last Mile (Downstream). –**

- (a) A DTIP providing last-mile data transmission services shall comply with QoS standards and minimum thresholds, on parameters such as but not limited to the following:
  - (i) average and median download and upload speed or throughput;
  - (ii) latency;
  - (iii) packet loss;
  - (iv) jitter;
  - (v) service availability; and
  - (vi) service uptime.
- (b) *Provided*, however, that separate standards may be prescribed for last-mile DTIPs operating in rural areas and GIDAs, taking into consideration the challenges in infrastructure deployment and service delivery in these areas.
- (c) DTIPs shall notify end-users and submit a report to the NTC of any scheduled downtime or planned maintenance within seven (7) days before an activity.

In case of unscheduled downtime (e.g., fiber cut), notify end-users and submit a report to the NTC within twenty-four (24) hours from the detection of an outage. The DTIP shall also submit to the NTC an interim report within twenty-four (24) hours of the DTIP receiving a plan of work for any repair and a final report within seven (7) days of completing any repair.

- (d) Reports submitted to the NTC may be used in adjudicating complaints against a DTIP for violation of the minimum performance standards.

**Section 12. Performance Standards for the International Gateway Facility, Core or Backbone, and Middle Mile (Upstream). –**

- (a) A DTIP providing services in the international gateway, backbone, and middle mile segments of the data transmission network shall:

- (i) Comply with performance standards in accordance with its contractual obligations and commercial service level agreements with its customers, based on the technical requirements of the service it provides such as dark fiber leasing, capacity leasing, wavelength leasing:
    - (1) uptime;
    - (2) packet loss;
    - (3) latency;
    - (4) aggregated optical signal loss
  - (ii) Notify its customers and submit a report to the NTC of any scheduled downtime or planned maintenance at least fourteen (14) days before an activity, which may affect its customers' system and operations. *Provided*, That the DTIP and its customer may agree on a different time period for advance notification based on a SLA;
  - (iii) In case of unscheduled downtime (e.g., fiber cut), notify its customers and submit a report to the NTC within twenty-four (24) hours from the detection of an outage. The DTIP shall also submit to the NTC an interim report within twenty-four (24) hours of the DTIP receiving a plan of work for any repair and a final report within seven (7) days of completing any repair.
- (b) Reports submitted to the NTC may be used in adjudicating complaints against a DTIP for violation of the minimum performance standards.

**Section 13. Performance Standards Monitoring. –**

- (a) The DICT shall:
  - (i) Issue policies on measurement and reporting guidelines that define the methodologies, metrics, reporting templates, and, in the case of upstream providers, the materiality thresholds for incidents to be reported; and,
  - (ii) Prescribe data transmission performance measurement tools to be used by consumers, industry players, and government agencies, and promote the use of crowdsourcing mechanisms and applications that enable the public to independently monitor and report the quality of internet services.
- (b) The NTC shall:
  - (i) Monitor and measure the compliance of DTIPs with the applicable published performance standards on a quarterly basis, and publish the compliance results on the NTC website quarterly;
  - (ii) Conduct periodic audits and/or inspections to verify compliance, which may include on-site checks, independent performance tests, validation of submitted data, and other relevant measures; and
  - (iii) Engage, as may be necessary, the services of independent third-party monitoring firms to monitor the performance of DTIPs.
- (c) DTIPs shall:

- (i) Notify the NTC of its Ready-For-Service (RFS) date for each service area or segment;
- (ii) Comply with the performance standards set by the NTC based on the policies of the DICT; and
- (iii) Submit to the NTC, within twenty-four (24) hours from occurrence, a report of any extended or sustained data transmission interruption, outage, or maintenance activity arising from natural or human-induced external causes, including inclement weather, marine activity, or international fiber cuts, that causes or is reasonably likely to cause service degradation or unavailability and may affect compliance with the performance standards.

**Section 14. Failure to Comply with Performance Standards for the Data Transmission Industry. –**

- (a) The NTC may, *motu proprio* or upon petition by any interested party, subject to due process, penalize any DTIP for failure to comply with the performance standards promulgated by the NTC and require rectification of such noncompliance within a reasonable period, as determined by the NTC.
- (b) If a DTIP fails to rectify its actions or the NTC deems that a DTIP is non-compliant, the NTC shall impose the applicable administrative penalties in Rule IX, Section 2 of this IRR.
- (c) The NTC may, subject to due process, revoke the registration or authorization of the erring DTIP and tag the same as “revoked” in the DTIP Registry after failure to substantially comply with the performance standards for three (3) consecutive years. Thereafter, the DTIP shall be prohibited from rendering data transmission services, without prejudice to filing an application for re-registration under Rule III of this IRR.
- (d) The NTC shall ensure that penalties are proportionate to the gravity and frequency of the violation, and that corrective action is prioritized over punitive measures where feasible.

**Section 15. Direct Access to Satellite Systems. –**

- (a) Duly registered DTIPs may deploy satellite technology and use associated spectrum in any or all segments of their broadband network without the need for a lease or rent capacity from PTEs.
- (b) The use of associated spectrum shall adhere with the provisions of this Act, the SMPF as provided in Rule IV of this IRR, and other applicable rules and regulations issued by the DICT and NTC, as well as relevant international conventions, frameworks, and agreements.
- (c) Prior authorization from either the DICT, for broadband networks, or the NTC, for broadcast providers and for services that do not involve broadband networks, shall not be required for direct access to satellite under this provision: *Provided*, That the terms and conditions, which include levels of access to any international fixed and mobile satellite system, shall be submitted by the DTIPs to the DICT or NTC, as applicable for record purposes.

- (d) DTIPs intending to access and utilize orbital slots shall be governed by policies to be issued by the DICT, in accordance with Rule II, Section 3 of this IRR, and consistent with applicable international conventions, frameworks, and agreements.

## **RULE IV SPECTRUM MANAGEMENT**

### **Section 1. *Spectrum Management Policy Framework.* –**

- (a) A SMPF shall be formulated to ensure that the spectrum is managed in a manner that ensures fair competition, supports adaptability to technological advancements, and maximizes the efficient use of this resource among all registered DTIPs and other authorized users, in accordance with international conventions, standards, and developments, aligned to national priorities and development agenda, and as provided by other pertinent laws.
- (b) The SMPF shall contain the national policies and guiding principles to govern the management of spectrum, which include, among others, spectrum valuation and pricing, spectrum allocation, and spectrum assignment for public, private, and government use.
- (c) The SMPF shall reflect the vital role communications and information technology has in nation-building and the digital economy. The State shall provide for the management of radio frequency spectrum and ensure its proper, efficient, and equitable distribution and use without causing harmful interference in order to maximize the public benefit therefrom.
- (d) The SMPF shall recognize that spectrum allocation and assignment bear a significant impact on multiple sectors of the economy and society. The SMPF shall facilitate a spectrum allocation process and assignment process that is transparent and considers the inputs and needs of various stakeholders, and properly allocates among stakeholders the responsibility for spectrum management.
- (e) The SMPF shall facilitate fair and sustainable competition in communications markets, by requiring that spectrum allocation, assignment, renewal, sharing, and recall decisions avoid undue spectrum concentration and enable competition at both the service and infrastructure levels nationwide.
- (f) The SMPF shall comply with international agreements and conventions to which the Philippines is a party, especially with International Radio Regulations promulgated by the International Telecommunications Union (ITU), and other relevant international treaty obligations.

### **Section 2. *Development and Update of the Spectrum Management Policy Framework.***

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- (a) Within three (3) months from the effectivity of this IRR, the NTC, in coordination with the DICT, shall initiate and complete a review of the existing spectrum allocations and assignments. Upon completion of the review, the NTC shall provide the DICT with recommendations aimed at enhancing the efficiency and optimization of spectrum management, which shall serve as a basis for the development of the SMPF.
- (b) The DICT, as Chair, shall constitute a Spectrum Management Consultative Group, together with the NTC, PCC, and the DOF, to develop the SMPF. The SMPF shall be promulgated within one (1) year from effectivity of the IRR.



The SMPF shall be reviewed annually and updated at least every four (4) years, in line with the World Radiocommunications Conferences (WRC), or as necessary due to the following:

- (i) national security so requires;
- (ii) it is deemed necessary and essential to promote the interest of the country and national development goals;
- (iii) the Philippines has a regional and/or international commitment as member signatory to bilateral or multilateral agreements; or
- (iv) when significant market, technological, or interference management developments materially affect spectrum use.

The Spectrum Management Consultative Group shall meet at least twice a month during the development of the SMPF. After issuance of the SMPF, the Spectrum Management Consultative Group shall meet once every six (6) months or as often as may be necessary to review and discuss any updates or amendments to the SMPF. Relevant stakeholders from the industry, professional organizations, and civil society organizations shall be consulted on any proposed revisions, updates or amendments to the SMPF.

- (c) Within three (3) months from the effectivity of the SMPF, the NTC shall promulgate rules and regulations in order to effectively implement the same. As necessary, the NTC shall amend its rules and regulations to execute the updated SMPF.
- (d) To accelerate connectivity, the Spectrum Management Consultative Group shall immediately be convened and shall complete the formulation of the SMPF, and NTC shall issue the implementing rules and regulations of the SMPF within three (3) months from effectivity of this IRR.

**Section 3. Contents of the Spectrum Management Policy Framework.** – The SMPF shall include, at a minimum, policies on the following:

- (a) Overall policy objectives for spectrum management in the Philippines including but not limited to the allocation and assignment of radio frequency spectrum;
- (b) Supporting, enabling, and facilitating the temporary use of radio frequencies for testing new and emerging technologies;
- (c) Procedures for spectrum use applications, including joint use or co-use, and spectrum monitoring in accordance with ITU regulations, ensuring the optimal and efficient use of this finite spectrum resources, including defined validity periods and corresponding obligations for spectrum grantees;
- (d) Methodologies for spectrum assignment or reassignment, spectrum valuation, and spectrum pricing, including spectrum caps and market-based mechanisms where appropriate;
- (e) Rules and procedures for spectrum recall, ensuring systematic reevaluation and reassignment where necessary, following consultations with affected licensees and stakeholders. Such rules and procedures shall ensure that affected spectrum holders are given due notice and hearing. The SMPF shall be designed to facilitate orderly transition,

reallocation, and reassignment of spectrum to align with evolving sector needs and efficient spectrum use;

- (f) The standards, systems and tools for the determination of unutilized or underutilized spectrum and the procedures for spectrum recall: *Provided*, That all spectrum determined to be unutilized or underutilized shall be subject to such spectrum recall procedures by the NTC within one (1) year from the effectivity of the SMPF;
- (g) In accordance with the spectrum reform objectives of the Act, the SMPF shall include a framework to rationalize the computation and charging of spectrum fees, taking into account technological change, spectrum availability, market conditions, public interest, and the cost of network expansion in unserved and underserved areas, including GIDAs. Fees shall be fair, reasonable, transparent, proportionate, technology neutral, and designed to encourage entry by DTIPs without imposing unreasonable burdens. The framework shall distinguish cost-recovery charges for spectrum administration from spectrum usage fees that reflect the State's appropriate share of spectrum economic value where assignments or licenses are not awarded through market-based mechanisms.

The computation of usage fees shall adopt objective parameters including, but not limited to, bandwidth, band and propagation characteristics, geographic scope or coverage, population density, congestion or scarcity, sharing or joint use, and license duration, and shall avoid structures that unduly penalize deployment in low-density areas.

The SMPF may identify bands and technologies eligible for fixed or lower SUFs to expand coverage, and may authorize time-bound reduced rates or rebates tied to verifiable rollout in GIDAs and other unserved or underserved areas.

- (h) A requirement for the NTC to publish decisions related to relevant spectrum assignments, joint use or co-use applications, and spectrum recalls on its website. All such published notices should be publicly accessible and retained in an archive for future reference;
- (i) A mandate for the NTC to act promptly on applications by DTIPs for permits to import equipment that comply with international standards and duly type-approved. Any application for a permit to import equipment not acted upon by the NTC within seven (7) days shall be deemed approved;
- (j) Frequencies reserved for use by the government such as those for emergency and national security purposes;
- (k) Guidance on sub-national assignment of spectrum, including the conditions under which such assignments may be issued and the manner of coordination with national assignments to prevent harmful interference and ensure efficient use;
- (l) The authority for the NTC to, *motu proprio* or upon petition by any interested party, recall the spectrum assignment of a DTIP if it finds after due process that the DTIP holds unutilized or underutilized spectrum pursuant to the provisions of the Act and this IRR and other pertinent issuances, or that the DTIP has not complied with its obligations in relation to its spectrum assignment. The NTC shall, where required and appropriate, work with the DTIP concerned to take appropriate measures to minimize the impact of such recall on active users of services utilizing the recalled spectrum. The foregoing

notwithstanding, no frequency shall be recalled within eighteen (18) months of the grant of PA, license, authorization or registration; and

- (m) A requirement for any DTIP requesting for assignment of spectrum or shared use of spectrum for data transmission to serve notice to the PCC; and for the NTC to submit within five (5) days any and all documents in its possession that are relevant to the DTIP's request and required by the PCC to undertake a competitive analysis. *Provided*, That the PCC may require additional information directly from the requesting DTIP. The PCC may intervene in the assignment process and shall publish the results of its analysis and furnish a copy thereof to the NTC.

Paragraphs (c), (d), (e), (f), and (m) herein shall not apply to applications for frequency assignments for fixed point-to-point radio links and Wi-Fi subject to guidelines to be issued by the DICT.

#### **Section 4. *Spectrum Use Publication Requirements.* –**

- (a) Within one (1) month from the effectivity of this IRR, the NTC shall make available in print and on the NTC website the NRFAT. The NRFAT includes the following information but is not limited to:
  - (i) Frequency Bands;
  - (ii) ITU Frequency Allocations;
  - (iii) National Frequency Allocations;
  - (iv) Radio Services;
  - (v) Reference Footnotes; and
  - (vi) Channel Plans
- (b) The NTC shall also publish in print and online formats the particular frequency bands allocated for public use, including the persons or entities to whom each particular frequency is assigned.
- (c) All other aspects of spectrum use information, including the purpose or use for which each frequency band is allocated, shall be regularly reviewed, updated, published on the NTC website, and made available in print and online formats by the NTC.
- (d) The publication of spectrum use information as provided in paragraphs (b) and (c) of this Section shall be done every two (2) years or as necessary when:
  - (i) national security so requires;
  - (ii) the government deems it necessary and essential to the interest of the country; and
  - (iii) the Philippines has a regional or international commitment as a member signatory to bilateral or multilateral agreements.
- (e) All online publications under this Section shall be searchable and downloadable in machine-readable formats in compliance with the web accessibility standards of the DICT
- (f) Upon written request, the NTC shall furnish an entity any information requested in printed form, subject to payment of applicable reproduction fees and in accordance with the period prescribed by the EODBA.

## **RULE V CYBERSECURITY MEASURES**

### ***Section 1. Network Security Obligations. –***

- (a) A DTIP shall adopt, implement, and maintain cybersecurity measures that are commensurate with its risk profile and risk exposure based on the segment of the data transmission network where it operates. The level of controls shall be proportionate to the DTIP's complexity and factors, such as the size (market share) and scope (nationwide, regional, or localized) of the DTIP's operation, among others. Within three (3) months from the effectivity of this IRR, the DICT, in consultation with industry stakeholders, including DTIPs and access providers, shall issue guidelines on the risk profile per data transmission segment.
- (b) The minimum cybersecurity requirements prescribed by the DICT, to prevent unauthorized access and safeguard data and network assets, shall be aligned with the principles of confidentiality, integrity, availability, non-repudiation, authenticity, privacy, and safety (CIANA-PS), as defined in the National Cybersecurity Plan 2023-2028, and its future iterations.
- (c) All DTIPs shall:
  - (i) establish and operationalize of a Computer Emergency Response Team (CERT);
  - (ii) adopt internationally recognized cybersecurity standards and frameworks prescribed by the DICT, such as but not limited to Philippine National Standards (PNS)/International Organization for Standardization (ISO)/International Electrotechnical Commission (IEC) 27001 Information Security Management System (ISMS); National Institute of Standards and Technology (NIST) Cybersecurity Framework (CSF) 2.0 as well as its accompanying Security Publications (SPs); and Center for Internet Security (CIS) Controls, European Union Network and Information Systems Directive 2 (EU NIS2) and European Network and Information Security Agency (ENISA) Regulatory Framework or other future iterations and evolving approaches;
  - (iii) submit reports on material cybersecurity incidents to DICT National Computer Emergency Response Team (NCERT); and
  - (iv) develop and implement risk management plan, including business continuity and disaster recovery strategies, and supply chain security.

Other cybersecurity requirements, depending on the DTIP's risk profile, shall be based on the guidelines to be issued by the Cybersecurity Bureau of the DICT.

- (d) In cases where the DTIP is a community-based or a micro business enterprise, the DICT shall determine the applicable minimum cybersecurity requirements and make available to such DTIPs the necessary cybersecurity training and support.

### ***Section 2. Cybersecurity Certification or Certificate of Compliance. –***

- (a) DTIPs shall adopt and comply with national and global best practices and standards on cybersecurity; and within two (2) years from registration, secure the appropriate certification based on its risk-profile as may be determined by the DICT:

- (i) a cybersecurity certification from a third-party organization based on the prevailing ISO standards on information security management; or
  - (ii) a certificate of compliance from the DICT Cybersecurity Bureau based on the requirements as defined in Rule V, Section 1 of this IRR and other future related issuances.
- (b) The DICT shall, in collaboration with the NTC, Cybercrime Investigation and Coordinating Center (CICC), the National Privacy Commission (NPC), other relevant agencies, the academe, private sector, and civil society, shall provide guidance and training to DTIPs on cybersecurity standards and/or requirements upon request or as necessary.
- (c) DTIPs with existing valid cybersecurity certifications shall submit such certification to the DICT within ten (10) days from receipt of the notice referred to in Rule X, Section 5(b) of this IRR.

If such cybersecurity certification is among those recognized by the DICT as provided in Rule V, Section 1(c)(ii), these shall be deemed compliant for the duration of the certification's validity period, subject to cybersecurity audits under Rule V, Section 3. Otherwise, the DTIP shall be required to secure a cybersecurity certification or certificate of compliance, in accordance with this Section.

### **Section 3. Cybersecurity Audit. –**

- (a) DTIPs shall be subject to periodic cybersecurity audits conducted by the DICT or DICT-accredited Cybersecurity Assessment Providers and Cybersecurity Posture Assessment Laboratory(ies), for the purpose of verifying compliance with the requirements prescribed in Rule V, Section 1 of this IRR and related issuances. *Provided, That*, in such cases where the DICT issues a certificate of compliance to a DTIP, the DICT shall assign a third party to conduct the cybersecurity performance audit of the concerned DTIP.
- (b) The DICT shall notify the DTIP, prior to the audit, of the normative references or frameworks to be used for the audit, such as the PNS/ISO/IEC 27001 ISMS, NIST CSF and SPs, CIS Controls v.8, EU NIS2, ENISA, Control Objectives for Information and Related Technology (COBIT), or such other references and frameworks as may be prescribed by the DICT.
- (c) The DICT shall inform a DTIP of the results of its cybersecurity audit in a timely manner and of the cybersecurity measures that a DTIP must implement to improve its cybersecurity posture.

## **RULE VI ACCESS**

**Section 1. *Obligation to Grant on Access.*** – Access providers shall grant access to digital infrastructure and services contained in the access list on an open, fair, reasonable, and non-discriminatory basis, subject to the technical feasibility of the access seeker's request.

- (a) Open means to make transparent or public specified information, such as but not limited to accounting information, technical specifications, network characteristics, terms and conditions for supply and use, and prices.

- (b) Fair means equitable and not unjustly favoring the access provider and its related entities.
- (c) Reasonable means that the terms and conditions, and fees for access should be justified and not excessive, taking into account the value of the infrastructure or service.
- (d) Non-discriminatory means that an access provider shall grant access on equal terms and conditions in similar circumstances and shall provide information to third parties under the same conditions as it provides to itself, its subsidiaries, or its related entities.

**Section 2. Access List. –**

- (a) A technical working group (TWG) comprising of the DICT, as the lead agency, with the NTC and the PCC as members, shall be convened to prepare and update the access list. Representatives from the private sector may be invited to participate in the TWG as resource persons.
- (b) The access list shall include all digital infrastructure and services necessary for an access seeker to offer its data transmission service competitively.
- (c) The inclusion of digital infrastructure and services in the list shall promote competition, entry and expansion of new players, and encourage the efficient use of, and investment in, digital infrastructure. For this purpose, the TWG shall use appropriate methodologies and approaches such as, but not limited to:
  - (i) the “with or without test” which poses the question of whether it is more desirable to impose regulation rather than to exercise regulatory forbearance;
  - (ii) a qualitative cost-benefit analysis of access regulation, based on the submissions received to the public consultation.
- (d) The TWG, shall conduct public consultations with relevant stakeholders, including potential access providers and access seekers, prior to the publication of the access list or any updates thereto. Entities whose facilities and services are being considered for inclusion in the access list shall be given reasonable opportunity to contest such inclusion and present evidence in support thereof during the consultation process.
- (e) The NTC and DICT shall publish and maintain the access list in their respective websites.
- (f) The access list shall be reviewed and updated every four (4) years or as may be necessary. Unless otherwise amended or superseded by a subsequent access list, the current access list shall remain in effect.
- (g) After publication of the access list, the TWG may, on its own or by written petition of an access provider, remove facilities and services from the access list when there is demonstrable evidence of competition in the supply of such facilities or services sought to be removed and that access thereto shall continue to occur on open, fair, reasonable and non-discriminatory terms notwithstanding its removal from the access list. The TWG shall decide within sixty (60) days from its commencement of review or from its receipt of the written petition, extendible for another thirty (30) days.

**Section 3. Initial Access List. –** The initial access list shall be issued in accordance with the

procedure outlined in Rule VI, Section 2 above, within three (3) months from the effectivity of this IRR.

**Section 4. Reference Access Offer. –**

- (a) Access providers shall publish a RAO that contains the relevant information, terms, conditions and rates to access the digital infrastructure and services contained in the access list; *Provided*, That such information sharing shall not result to any anticompetitive conduct in violation of the PCA, its implementing rules and regulations, and other issuances of the PCC.
- (b) The RAO shall be comprehensive, complete, modular, and detailed. The published RAO should represent an access provider's definite offer, sufficient in substance and form, such that an access seeker that accepts it without negotiation or requests for additional information shall not be refused access.
- (c) The RAO shall, at minimum, contain the following information, when applicable:
  - (i) Scope and Definition of Services
  - (ii) Points of Interconnection (POIs) and Interconnection Facilities
  - (iii) Network and Transmission Requirements
  - (iv) Cybersecurity Management
  - (v) Traffic Measurement and Routing
  - (vi) Infrastructure Sharing and Co-location
  - (vii) Financial Terms, including Charging Mechanisms, Billing and Settlements
  - (viii) Technical Service Commitments and Fault Repairs
  - (ix) Data Interchange and Treatment of Customer Information
  - (x) Ancillary Services
  - (xi) Interconnection User Charges
  - (xii) Cross-Border Provision of Data Transmission Services (including roaming and IP Transit Services)
  - (xiii) Other Commercial Terms and Conditions
  - (xiv) Fundamental Technical Plans
  - (xv) Confidentiality, Liability and Indemnities
  - (xvi) Contract Review, including grounds for suspension or termination of access
  - (xvii) Disputes
  - (xviii) Notices
  - (xix) Procedure for acceptance or negotiation of the published RAO
  - (xx) Express warranty that the terms and conditions of the published RAO are fair, reasonable, and non-discriminatory.

**Section 5. Obligation to Publish a Reference Access Offer. –**

- (a) Access providers shall publish their RAOs in their respective websites in machine-readable format, and furnish NTC with the same within seven (7) days from publication. Access providers shall publish their RAOs without need of prior approval from the NTC, subject to paragraph (c) in this Section.
- (b) All access providers shall publish their initial RAO within sixty (60) days from the issuance of the initial access list under Section 3 of this Rule, and may subsequently update or revise the same, as may be appropriate.
- (c) Should any access providers be subsequently designated as having significant market power in accordance with this Section 11 of this Rule, they shall prospectively submit

and secure NTC approval prior to publication of their RAO. Access providers with significant market power shall publish their RAO within thirty (30) days from approval by the NTC. Said approval or action shall observe the period prescribed by the EODBA.

- (d) The NTC shall maintain a public database of access providers with their published RAOs.

**Section 6. *Unconditional Acceptance of RAO Request.* –**

- (a) When an access seeker unconditionally accepts a published RAO, it shall notify the access provider in writing of its acceptance.
- (b) Unless otherwise rejected in accordance with the immediately succeeding section, the accepted RAO shall serve as the binding agreement between the parties, and a separate agreement based on the terms and conditions contained in the RAO is not required.
- (c) Upon acceptance, access providers shall not impose additional requirements, financial guarantees, or technical specifications beyond those explicitly stated in the published RAO, unless technically justified and approved by the NTC.

**Section 7. *Grounds for Refusal.* –**

- (a) Refusal of an access seeker's acceptance of the published RAO shall be permitted solely on the following objectively verifiable grounds:
  - (i) Technical infeasibility of providing access;
  - (ii) Technical unsuitability of the infrastructure;
  - (iii) Lack of available space;
  - (iv) Risks to public safety or national security;
  - (v) Risks to network integrity or cybersecurity;
  - (vi) Degradation of quality of service that would compromise the access provider's performance standards; or
  - (vii) Failure or refusal to pay fees as provided in the RAO or as agreed between the parties for access to the service.
- (b) The refusal must be communicated in writing to the access seeker substantiating its refusal with relevant data. The access seeker may consider such refusal as a dispute which shall be governed by Section 10 of this Rule.
- (c) Within six (6) months from the effectivity of this IRR, the TWG shall issue joint guidelines clarifying the grounds provided in this Section, prescribing additional guidance and processes relating to this Rule VI on Access, as well as other issues to effectively implement this Rule.

**Section 8. *Negotiated Access.* –**

- (a) Access seekers may negotiate terms and conditions that deviate from the published RAO. For this purpose, the access seeker shall notify the access provider in writing of its intent to negotiate.
- (b) The parties shall promptly commence negotiations within seven (7) days from receipt by the access provider of the written notice of intent to negotiate. The parties shall engage in honest, fair, and good faith negotiations with the aim of reaching mutually acceptable



terms and conditions within a period of thirty (30) days, extendible by another thirty (30) days as may be mutually agreed to by the parties.

- (c) Within seven (7) days from conclusion of their negotiations, the parties shall execute a written agreement based on the mutually acceptable terms and conditions. NTC approval of their agreement shall not be required.
- (d) In the event the access provider unreasonably refuses to negotiate or in cases of protracted or unreasonably extended negotiations, the access seeker shall have the right to consider the matter as a dispute which shall be referred to dispute resolution mechanisms or to NTC for adjudication in accordance with Rule VI, Section 10 of this IRR.

**Section 9. Access to the Facility or Service.** – The access provider shall provide the access seeker access to the relevant facility or service within thirty (30) days from notification of the accepted RAO or negotiated RAO agreement, as the case may be, unless a shorter or longer period is agreed to by the parties.

**Section 10. RAO Disputes.** –

- (a) In the event of a dispute concerning access, either party may submit the matter to the NTC for adjudication through a written petition. Prior thereto, upon mutual agreement, parties may, likewise, seek resolution thereof by way of mediation, arbitration or other modes of alternative dispute resolution (ADR) within such period agreed upon before duly established ADR institutions or providers such as but not limited to the Philippine Dispute Resolution Center and the Philippine International Center for Conflict Resolution in accordance with their respective rules. Upon failure of the parties to reach a settlement, they may, thereafter, submit the matter to the NTC for adjudication through a written petition; *Provided*, however, that only access seekers may treat the following matters as disputes and may escalate the same to ADR or NTC adjudication in accordance with this Section:
  - (i) refusal of access despite acceptance of a published RAO;
  - (ii) unreasonable refusal to negotiate the terms and conditions of a published RAO; or,
  - (iii) unreasonably protracted and prolonged negotiations of access terms and conditions.
- (b) The referral of a dispute concerning access negotiations to ADR or NTC adjudication shall result in the suspension of ongoing negotiations. However, the access seeker may, at any time prior to the resolution of the dispute, withdraw the referral and resume negotiations with the access provider.
- (c) Matters referred to the NTC for adjudication shall be resolved within sixty (60) days from its receipt of the petition. Where the requesting party demonstrates prima facie technical feasibility and public interest or urgency, the NTC may issue an interim order allowing provisional access under standard terms and conditions pending final resolution of the dispute. The issuance of such interim order shall not prejudice the final determination of the rights and obligations of the parties, and may be revoked or modified upon finding of technical infeasibility or other valid grounds.
- (d) Decisions by the NTC shall be appealable to the Court of Appeals and the Supreme Court, as the case may be, in accordance with the Rules of Court.
- (e) Unless the Court of Appeals or the Supreme Court, as the case may be, issues an order to stay effectivity of the decision, the parties shall promptly comply with any decision

rendered through ADR or by the NTC. If the outcome favors the access seeker, the parties shall either resume negotiations or execute an agreement based on the terms and conditions determined through ADR or by the NTC within seven (7) days from receipt by either party of the decision.

- (f) Nothing in this provision shall be construed to divest the PCC of its power to investigate and prosecute matters involving allegations of anti-competitive agreements or abuses of dominant position. Any decision by the NTC shall not preclude the PCC from exercising its mandate under the PCA, its IRR, and related laws.

#### **Section 11. Significant Market Power (SMP) Designation. –**

- (a) One (1) year after the issuance of the initial Access List, the PCC, in consultation with NTC and other relevant stakeholders, shall undertake a competitive analysis of the data transmission industry and identify market players that have SMP, using competition law principles and its powers under the PCA. The analysis may include recommendations on ex-ante obligations that will remedy, mitigate or prevent the exercise of SMP. A non-confidential version of said analysis shall be published by the PCC.
- (b) An entity shall be considered as having SMP if, either individually or jointly with others, it enjoys a position of economic strength affording it the power to behave to an appreciable extent independently of competitors, customers and ultimately consumers; *Provided*, That the designation of entities as SMP shall be limited for the purpose of imposing ex-ante obligations under the Act; provided further, that such designation shall not automatically result to a finding of dominance under the PCA. In determining which entities to designate as having SMP, the PCC shall consider, among others, the relevant market, barriers to entry and expansion, control of facilities not easily duplicated, absolute and relative size of the entity, technological and commercial advantages, countervailing buyer power, economies of scale, economies of scope, direct and indirect network effects, and absence or existence of competition.
- (c) An entity that, in the course of the competitive analysis, is found to have SMP, shall be notified of the finding, no later than seven (7) days from completion of the analysis. Such entity shall, within sixty (60) days from such notice, have the opportunity to dispute and contest the SMP finding by filing its verified written opposition with supporting documents and data, with the PCC, furnishing a copy to the NTC. Upon receipt of an opposition, the PCC shall have sixty (60) days to issue its resolution on the matter.
- (d) The PCC and NTC shall publish a list of entities with SMP in their respective websites.
- (e) The PCC shall review and update the list of entities designated with SMP every five (5) years, or as PCC determines it necessary.
- (f) The PCC may, either on its own initiative or upon petition by an access provider designated as having SMP, revoke such designation where there is demonstrable evidence of changes in market conditions that justify its removal.

#### **Section 12. Significant Market Power Obligations. –**

- (a) Within six (6) months from the conclusion of the competitive analysis in Section 11(a) of this Rule, and using the said analysis as basis, the NTC, in consultation with the PCC and other relevant stakeholders, shall publish a list of mandatory ex-ante obligations which shall apply to entities with SMP. Ex-ante obligations imposed on entities designated as having SMP shall be proportionate to the nature and extent of the

identified competitive harm, taking into account the entity's capacity and ability to comply.

- (b) The NTC shall review and update the list of mandatory ex-ante obligations every five (5) years or as soon after PCC updates its list under Section 11 (e) of this Rule.
- (c) The NTC may, upon written petition by an access provider designated as having SMP, grant exemption from any of the mandatory ex-ante obligations, where there is demonstrable evidence of changes in market conditions that justify such exemption. The NTC shall conduct public consultations and secure the inputs of the PCC prior to the resolution of such petition. The NTC shall resolve the matter within sixty (60) days from receipt of the written petition, subject to extension for another sixty (60) days as requested by PCC.

## **RULE VII INFRASTRUCTURE SHARING**

**Section 1. *Infrastructure Sharing Policies.*** – The DICT shall promulgate policies to ensure that passive infrastructure, whether existing or built in the future, and whether publicly or privately owned, operated, or controlled, that supports or can support data transmission networks or services are:

- (a) made available for co-location and co-use by the PIOLO on an open, fair, reasonable and non-discriminatory basis subject to the technical feasibility of the request.
- (b) built not only in the city centers, but most especially in the remote, unserved, and underserved areas to extend data transmission services by both the existing and new players throughout the country; and
- (c) proliferated in the most cost-efficient and timely manner through various means, including, encouraging the operation of independent entities that build and operate towers, dark fiber, and utility corridors, among other passive infrastructure that help facilitate data transmission network deployment.

The DICT and other relevant agencies shall review and update, as necessary, their policies, rules and regulations in relation to infrastructure sharing. In line with this, the DICT shall endeavor to update its DICT Department Circular (DC) No. 08, series of 2020 or the “Policy Guidelines on the Co-Location and Sharing of Passive Telecommunications Tower Infrastructure for Macro Cell Sites” within one (1) month after the effectivity of this IRR.

**Section 2. *Obligations of PIOLOs and Infrastructure Sharing Conditions.***

- (a) All PIOLOs, whether public or private, shall provide and maintain access to their passive infrastructure to registered DTIPs on an open, fair, reasonable, and non-discriminatory basis, subject to the technical feasibility of the request. Such access shall enable the co-location and co-use of infrastructure necessary for or capable of supporting data transmission networks and services, provided that nothing herein shall obligate a PIOLO to continue maintaining or operating existing infrastructure that it has permanently decommissioned, ceased to use, or can no longer economically maintain.

They shall, upon written request of access seekers, meet all reasonable requests for access to its infrastructure under such fair, reasonable, and non-discriminatory terms, including price, *Provided*, That PIOLOs are entitled to a fair return on the investments to

build the infrastructure to which access is requested, considering the prevailing cost of capital in the market.

(b) The PIOLO shall also provide the following information concerning the existing physical infrastructure, to any DTIP pursuant to a request for access, subject to information disclosure rules to be prescribed by the DICT and NTC:

- (i) The location and routing of infrastructure;
- (ii) Technical specifications and capacity;
- (iii) Current utilization and availability;
- (iv) Contact point for coordination.

(c) All PIOLOs including independent tower companies shall strictly comply with the policies of the DICT and other agencies on infrastructure sharing.

### **Section 3. *Grounds for Refusal.***

(a) Access may only be refused based on objective, proportionate, and transparent grounds, including:

- (i) Technical unsuitability of the infrastructure;
- (ii) Lack of available space;
- (iii) Risks to public safety or national security;
- (iv) Risks to network integrity or cybersecurity; and
- (v) Other objectively verifiable conditions as may be determined by the DICT, including cases of insufficient capacity or network congestion that render co-location technically infeasible at the time of request.

(b) Within six (6) months from the effectivity of this IRR, the DICT, in consultation with the NTC, other relevant agencies, and industry stakeholders, including but not limited to PIOLOs, access providers, and access seekers, shall issue guidelines clarifying the standards, thresholds, and procedures for infrastructure sharing, including the determination of technical feasibility and the acceptable grounds for refusal specified herein.

### **Section 4. *Dispute Resolution on Infrastructure Sharing.* –**

(a) Where access is refused or terms cannot be agreed upon within thirty (30) days of a complete request, the access seeker may submit the matter to the NTC for adjudication through a written petition. Prior thereto, upon mutual agreement, parties may, likewise, seek resolution thereof by way of mediation, arbitration or other modes of ADR within such period agreed upon before duly established alternative dispute resolution (ADR) institutions or providers such as but not limited to the Philippine Dispute Resolution Center and the Philippine International Center for Conflict Resolution in accordance with their respective rules.

Upon failure of the parties to reach a settlement, they may, thereafter, submit the matter to the NTC for adjudication through a written petition.

(b) Matters referred to the NTC for adjudication shall be resolved within sixty (60) days from its receipt of the petition. Where the requesting party demonstrates prima facie technical feasibility and public interest or urgency, the NTC may issue an interim order allowing provisional access under standard terms and conditions pending final resolution of the dispute. The issuance of such interim order shall not prejudice the final determination of

the rights and obligations of the parties, and may be revoked or modified upon finding of technical infeasibility or other valid grounds.

- (c) Decisions by the NTC shall be appealable to the Court of Appeals and the Supreme Court, as the case may be, in accordance with the Rules of Court.
- (d) Unless the Court of Appeals or the Supreme Court, as the case may be, issues an order to stay effectivity of the decision, the parties shall promptly comply with any decision rendered through ADR or by the NTC. If the outcome favors the access seeker, the parties shall either resume negotiations or execute an agreement based on the terms and conditions determined through ADR or by the NTC within seven (7) days from receipt by either party of the decision.
- (e) Nothing in this provision shall be construed to divest the PCC of its power to investigate and prosecute matters involving allegations of anti-competitive agreements or abuses of dominant position. Any decision by the NTC shall not preclude the PCC from exercising its mandate under the PCA, its IRR, and related laws.

**Section 5. In-Building Infrastructure Access.** – In coordination with the Department of Public Works and Highways (DPWH), the Department of Transportation (DOTr), the Department of Human Settlements and Urban Development (DHSUD), the PCC, and other relevant government agencies, the DICT shall issue policies, rules and guidelines to ensure that buildings, condominiums, villages, towns, and subdivisions are built with facilities, such as cable entrances, ducts, and risers, that allow non-discriminatory access to multiple DTIPs for them to provide service.

They shall also promulgate policies, rules, and guidelines that will ensure a level playing field and price non-discrimination among DTIPs and network facility and infrastructure owners.

**Section 6. Infrastructure Resiliency Standards.** – The NTC, in coordination with the Office of Civil Defense (OCD) and other relevant government agencies, shall develop standards for passive infrastructure to ensure resiliency and ease of recovery and restoration from the effects of disasters, in accordance with internationally-accepted engineering standards and best practices, and relevant engineering codes, referral codes, and other codes of practice.

**Section 7. Infrastructure Database.** – The DICT and NTC shall jointly maintain and update a centralized database of data transmission infrastructure, including passive infrastructure, used to support data transmission.

- (a) To promote fair and transparent infrastructure sharing, all PIOLOs, whether public or private, and all registered DTIPs shall be required to submit and regularly update infrastructure information in accordance with reporting guidelines to be issued by the DICT. These guidelines shall specify, among others:
  - (i) The type of data to be submitted, which may include the location, technical specifications, available capacity, planned deployment or upgrades, and points of interconnection;
  - (ii) The frequency of submission;
  - (iii) Standardized geotagging formats;
  - (iv) Access rights to submitted data; and
  - (v) Applicable data confidentiality protocols.
- (b) The DICT and the NTC shall publish and update annually a public version of this database on their respective websites. This public version shall include only such

information as may be necessary to inform market participants of infrastructure available or planned for sharing, and shall exclude proprietary or sensitive data in accordance with the confidentiality protocols established by the DICT, as well as information that, as determined by the DICT in coordination with the National Security Council (NSC) and National Intelligence Coordinating Agency (NICA), may compromise national security or public safety if published.

- (c) For the avoidance of doubt, the centralized infrastructure database maintained under this Section shall be separate and distinct from the Access List provided under Rule VI. Inclusion in the database shall not, by itself, confer or imply regulated access rights unless such infrastructure or service is separately included in the Access List.

**Section 8. Dig Once Policy.** – To minimize repeated excavations, reduce the cost and time of deploying infrastructure, and ensure better coordination of civil works, a Dig Once Policy shall be adopted and implemented in accordance with the following:

- (a) Within three (3) months from the effectivity of this IRR, the DICT and the DPWH, in coordination with the NTC, the ARTA, the Department of the Interior and Local Government (DILG), the Energy Regulatory Commission (ERC), the National Electrification Administration (NEA), the LGUs, other relevant government agencies, and industry stakeholders, including but not limited to PIOLOs, access providers, and access seekers, shall jointly develop and issue a Dig Once Policy for the planning, relocation, installation, or improvement of conduit for data transmission services within the right-of-way in conjunction with any current or planned construction, including, but not limited to, highways, bridges and elevated and subterranean railways, and in accordance with the R.A. No. 10752 or the “Right-of-Way Act”, as amended by R.A. No. 12289 or the “Accelerated and Reformed Right-of-Way (ARROW) Act”, and other relevant laws, rules and regulations. The Dig Once Policy shall be presented to the Infrastructure Development Committee (InfraCom) under the Economy and Development Council for consultation and approval.
- (b) The Dig Once Policy shall include engineering and design standards, procedures, and criteria for the inclusion of broadband conduits in civil works, guidelines on contracts or lease agreements with private entities for their use, fair and reasonable pricing requirements, and provide for the allocation of risk, costs, and any revenue generated as well as the applicable dispute resolution mechanisms. Such policy shall ensure that passive infrastructure is, as far as possible, deployed together with roadworks, pipe-laying, and other infrastructure development by both government and private entities including but not limited to multi-dwelling infrastructure, tourist spots and buildings, and high-density areas, in line with the national and regional physical and spatial planning frameworks, the infrastructure development masterplans of national and local governments, and the Comprehensive Infrastructure Development Master Plan (CIDMP) to be vetted and consolidated by the InfraCom.
- (c) In the absence of any planned excavations by the DPWH within the timeframe necessary for a timely roll out of infrastructure projects, the implementation of the Dig Once Policy shall in no way preclude any entity from independently undertaking the installation or improvement of conduit for data transmission services: *Provided*, That such activities shall comply with relevant laws, regulations, and safety standards, and do not unduly interfere with ongoing projects or endanger public safety: *Provided*, further, That the party conducting independent excavation activities shall disseminate information about a proposed underground facility in a manner that is accessible to all parties who may be interested in installing a broadband conduit in the area of the proposed underground facility. *Provided*, further, that information shall be submitted and

disseminated in the One-Stop-Shop mechanism defined in Rule VII, Section 8(f) of this IRR.

- (d) The DICT and the DPWH shall jointly develop model Dig Once policies for potential adoption by provincial and municipal governments with respect to construction or other improvements to highways, roads, and any other rights-of-way under the LGU's jurisdiction. They shall seek inputs from the Union of Local Authorities in the Philippines, the League of Municipalities of the Philippines, the League of Cities of the Philippines, the League of Provinces of the Philippines, the ARTA and other stakeholders in developing these model policies.
- (e) Each LGU shall be guided by the model Dig Once policies in crafting and implementing its local Dig Once Policy ordinance. Each LGU, through its Local Chief Executive and in consultation with DICT, DILG, DPWH, NTC, ERC, NEA, ARTA and other government agencies shall convene regular planning meetings with DTIPs and relevant stakeholders such as property developers, electric distribution and water utilities to coordinate excavations and local "dig once" efforts for national, city, and municipal roads.
- (f) To facilitate the coordination among DTIPs and with other utility providers, the DICT shall establish a One-Stop-Shop mechanism, in coordination with relevant national agencies and LGUs. This mechanism shall streamline the processing of permits, improve information-sharing, and support joint planning for civil works across jurisdictions. The specific structure and implementation guidelines shall be issued by the DICT through subsequent policy issuances.

## **RULE VIII**

### **RIGHTS OF DATA TRANSMISSION SERVICE USERS**

**Section 1. *Rights of Users.*** – Users of data transmission services shall have the following basic rights:

- (a) To be entitled to data transmission services which are non-discriminatory, reliable, consistent, affordable and compliant with the minimum performance standards pursuant to Section 15 of the Act and Rule III, Sections 10 to 12 of this IRR.

The DICT, in consultation with the Department of Economy, Planning and Development (DEPDev), shall formulate and implement measures to ensure reliable, consistent and affordable data transmission services by expanding service coverage, improving network performance, and promoting fair and non-discriminatory access and competition in the data transmission industry. Such measures shall be guided by the principles of openness, transparency, efficiency, and inclusiveness, consistent with global best practices and benchmarks to ensure connectivity for all sectors of the population, particularly those in unserved, underserved, and GIDAs.

For purposes of transparency, a DTIP shall:

- (i) Disclose, at the point of sale and in all marketing materials, the advertised and minimum guaranteed download and upload speeds, latency, data caps or fair-use policies, traffic-management practices, service-reliability commitments, and all fees and charges;
- (ii) Ensure that no hidden technical or contractual restriction prevents the lawful use of the internet or the portability of customer equipment; and

- (iii) Provide users with a summary of their chosen service plan in plain language at the time of subscription, together with a detailed schedule of rates.
- (b) In times of national emergencies, disasters or calamities, DTIPs shall provide continuous and uninterrupted service to agencies and institutions providing aid, treatment, and assistance to affected persons. Service disruptions exceeding twenty-four (24) hours shall be considered as “interrupted service”;
  - (i) A DTIP shall provide access to back-up equipment, emergency network facilities and redundancies in whatever way or form, prepositioned or otherwise, to minimize the impact of service interruption.
  - (ii) While restoration is underway, a DTIP shall endeavor to provide temporary shared-access data transmission services to its end-users.
- (c) To be rendered data transmission services within thirty (30) days from application for service; *Provided*, That such application for service was lodged with a DTIP operating within the area sought to be serviced;
- (d) For student users enrolled in any public or private educational institutions to be provided with appropriate discounts as part of the DTIP’s corporate social responsibility. The NTC, in consultation with the DICT, DepEd, CHED, TESDA and other relevant agencies and stakeholders, shall issue guidelines to implement this provision within six (6) months from the effectivity of this IRR;
- (e) To receive regular, timely, and accurate billing, and be accorded with courteous and efficient service at business offices and by company personnel;
- (f) To be provided with timely correction of errors in billing and immediate rebates or refunds by the data transmission service provider without the need for demand by the user; and
- (g) To be accorded with thorough and prompt investigation of and action upon complaints. The data transmission service provider shall endeavor to allow complaints to be received by any means convenient to the end-user, including voice calls, posts, short messaging service (SMS), multimedia messages (MMS), instant messaging applications, and other means of online communication, and shall keep a record of all complaints received and the action taken to address the complaints.

For this purpose, DTIPs shall establish and maintain an accessible, free-of-charge complaints-handling mechanism that enables users to lodge service, billing, or other concerns.

- (i) Each DTIP shall operate at least two (2) independent channels for complaints, one of which shall be available twenty-four (24) hours a day, seven (7) days a week:
  - (1) Web-based portal / messaging app / e-mail facility; and
  - (2) Walk-in service centre or any other physical office that can accept written complaints.
- (ii) The DTIP shall issue a written or electronic acknowledgement containing a unique reference number within twenty-four (24) hours of receiving a complaint



through any channel. Billing disputes not exceeding ₱1,000 or service-inquiry issues that can be validated without network testing shall be resolved within seven (7) days from acknowledgement. All other complaints, including QoS deficiencies, repeated outages, or contract-termination disputes shall be resolved within fifteen (15) days from acknowledgement. If a complex complaint cannot be fully resolved within the fifteen (15)-day period for reasons outside the DTIP's reasonable control, the DTIP shall notify the complainant in writing, stating the cause of delay and providing a firm completion date not later than thirty (30) days from acknowledgement.

- (iii) A complainant may elevate the matter to the NTC when the DTIP fails to act within the timelines set in paragraph (b) or the complainant is dissatisfied with the DTIP's final disposition. The NTC shall endeavour to mediate or, where necessary, adjudicate the complaint within thirty (30) days of receiving the complete case file. The NTC may require the DTIP to submit additional data, conduct field tests, or appear in a hearing.
- (iv) DTIPs shall maintain a register of all complaints, actions taken, and resolution dates for five (5) years, and make the register available for inspection by the NTC. Manual documents may be kept for the first two (2) years, and DTIPs may store digital copies thereof for the remaining three (3) years.

Each DTIP shall submit to the NTC a quarterly machine-readable report (CSV or other format prescribed by the Commission) indicating the total complaints received by category, average resolution times, and ratio of resolved versus escalated complaints. An anonymised statistical dashboard derived from these reports shall be published on the DTIP's website.

- (v) All personal data collected in the course of complaint handling shall be processed in accordance with the DPA and its implementing rules, as may be amended.
  - (vi) Persistent failure to comply with the timelines, reporting obligations, or NTC directives under this Section shall constitute a violation subject to the administrative penalties in Rule IX of this IRR, and Section 21 of the Act, without prejudice to other civil or criminal liabilities.
- (h) Subject to the terms and conditions of their existing contracts and upon filing of a formal request to the concerned DTIP, users may request the immediate termination of service without the imposition of fees or penalties, and with the refund of any fee or charge already paid by the user, should a data service provider not consistently comply with paragraphs (a), (f), and (g) of this Section or any other minimum performance standards set by the NTC.

Nothing in this Section shall limit the right of an End-User to pursue additional remedies under the R.A No. 7394 or the "Consumer Act of the Philippines" and its implementing rules and regulations (Consumer Act), the DPA, or other applicable laws.

## RULE IX ENFORCEMENT AND PENALTIES

### **Section 1. *Prohibited Acts.***

- (a) *Refusal to Plug and Play.* – Except as may be permitted under the Act and this IRR, access providers shall not refuse any request to access their digital infrastructure in the access list, nor shall access providers revoke, discontinue or otherwise engage in any act or conduct that would substantially interfere with any access given to access seekers. Nothing in this Section shall be construed as requiring Access providers and PIOLOs to upgrade, modify or otherwise continuously maintain existing digital infrastructure solely to access requests from access seekers.
- (b) *Refusal to Give Information.* – Except as may be permitted under the Act and this IRR, access providers shall not refuse or fail to make available to access seekers on a timely basis, (i) technical information on its digital infrastructure and services in the access list, and (ii) commercially relevant information that are necessary for the efficient provision of these infrastructure and services; *Provided*, That nothing in this section shall be construed or interpreted as permitting sharing of information that may result in anticompetitive conduct in violation of the PCA, its implementing rules and regulations, and other issuances of the PCC.
- (c) *False information and material misrepresentation.* – DTIPs shall not supply false or incorrect information, or commit material misrepresentation in relation to its compliance with the provisions of the Act and this IRR. This prohibition shall also cover false advertising by DTIPs as to the products and services they offer, without prejudice to the provisions of the Consumer Act; and
- (d) *Anti-competitive Cross-subsidization.* – To allow clear identification of per-segment costs and revenues, DTIPs operating across several data transmission segments are required to prepare and maintain separate books of accounts for each segment and must submit these to the NTC in accordance with Rule III, Section 8 of this IRR. Any violation of this provision shall result in a presumption of anti-competitive cross-subsidization, which shall then be referred to the PCC for proper determination and action, in accordance with the provisions of the PCA. Nothing herein shall prevent interconnecting networks from charging the appropriate cost-based compensation for the use of interconnection facilities.

**Section 2. Administrative Penalties.** – The NTC shall, after due notice and hearing, impose administrative penalties for the following violations of the Act and this IRR:

- (a) A DTIP that fails to secure a cybersecurity certification or certificate of compliance in accordance with Section 9 of the Act and Rule V, Section 2 of this IRR shall be issued a suspension order which shall remain in effect until such DTIP is able to secure the required certification; *Provided*, That failure of a DTIP to secure the required cybersecurity certification or certificate of compliance within six (6) months from a suspension order shall be cause for the NTC to, after due process, revoke such DTIP's CoR or CoA, as the case may be, including spectrum assignment, remove the same from the list of active entities in the DTIP Registry and prohibit it from rendering data transmission services;
- (b) A DTIP that fails to comply with the minimum performance standards in accordance with Section 15 of the Act and Rule III, Sections 10 to 12 of this IRR shall be liable to pay the following administrative fines:

Annual Gross Income	Penalty	Maximum Imposable Penalty
More than Php 10 million	Daily fine of at least Five thousand pesos (P5,000.00) but not exceeding Two million pesos (P2,000,000.00) <u>per day</u> computed from notice of violation until fully complied.	None
PhP 10 million or less		One percent (1%) to two percent (2%) of its gross annual income.

*Provided*, That failure of a DTIP to substantially comply with the minimum performance standards for three (3) consecutive years shall be cause for the NTC to, after due process, revoke such DTIP's CoR or CoA, as the case may be, including spectrum assignment, remove the same from the list of active entities in the DTIP Registry, and prohibit it from rendering data transmission services, without prejudice to filing an application for re-registration under Rule III of this IRR;

- (c) An entity who, after due notice and hearing, is found to have engaged in the acts prohibited under paragraphs (a), (b) and (c), Section 20 of the Act and Rule IX, Section 1 of this IRR, shall be imposed administrative fines following the schedule below:

Annual Gross Income	Penalty
More than Php 10 million	At least Three hundred thousand pesos (P300,000.00) but not exceeding Five million pesos (P5,000,000.00) <u>per violation</u> .
PhP 10 million or less	One percent (1%) to two percent (2%) of its gross annual income, <u>per violation</u> .

Violations of paragraph (d), Section 20 of the Act and Rule IX, Section 1 of this IRR on anti-competitive cross-subsidization shall be subject to penalties imposable under relevant sections of the PCA;

- (d) A DTIP who commits any other violation of this Act not covered by the preceding paragraphs, including failure to submit reportorial requirements, shall be penalized with a fine of at least Fifty thousand pesos (P50,000.00) but not exceeding Two million pesos (P2,000,000.00), per violation; and
- (e) Any three (3) violations of the Act and this IRR, other than those falling under paragraphs (a) and (b) of this Rule IX, Section 2 shall be cause for the NTC to, after due process, revoke such DTIP's CoR or CoA, as the case may be, including spectrum assignment, remove the same from the list of active entities in the DTIP Registry and prohibit it from rendering data transmission services.

The foregoing administrative penalties shall be without prejudice to civil, criminal and administrative penalties imposable under other laws, rules and regulations.

The NTC shall issue further guidelines to implement this provision.

**Section 3. Adjustment of Fines.** – The administrative fines imposed under the Act and this IRR shall be adjusted annually by the NTC, considering the prevailing cost of money based on the current consumer price index, and subject to the conduct of public consultations and the publication of such adjustments.

**Section 4. *Liability of Public Officers and Employees.*** – Without prejudice to the provisions of R.A. No. 3019 or the “Anti-Graft and Corrupt Practices Act”, R.A. No. 6713 or the “Code of Ethical Standards for Public Officials” and other penal and civil service laws, a public officer or employee who, in bad faith or with gross negligence, fails to comply with the provisions of the Act and this IRR, shall be penalized with imprisonment of not less than two (2) years but not more than four (4) years, a fine of at least One hundred thousand pesos (P100,000.00) but not exceeding Two million pesos (P2,000,000.00), or both, at the discretion of the court.

No liability shall lie against any public officer or employee for having committed acts in the regular performance of their duties in good faith.

**Section 5. *Corporate Liability.*** – The liability imposed on a juridical entity for any violation of the Act and this IRR shall be without prejudice to any civil, criminal or administrative liability of its officers or employees responsible for the commission of the offense.

## **RULE X MISCELLANEOUS PROVISIONS**

### **Section 1. *Expedited Processing.*** –

- (a) In all instances where a DTIP shall require a form, certificate, or request from any government agency or LGU, there should be at least two (2) public officers involved in processing such form, certificate, or request.
- (b) Processing fees and certifications required for the deployment of any segment of data transmission networks shall be limited to those identified by the DICT. The DICT shall coordinate with the concerned national government agencies and LGUs, and conduct the necessary consultations with civil society organizations and other stakeholder groups, for the formulation of the policies and implementing rules to minimize the administrative burden of permitting and certification processes consistent with the policies of the State on the ease of doing business and e-governance.
- (c) In processing permits for the construction, installation, repair, operation, and maintenance of data transmission infrastructure, Executive Order No. 32 (s. 2023), as may be amended or supplemented, shall apply.

**Section 2. *Prohibition on the Issuance of Preliminary Injunctions and Preliminary Mandatory Injunctions.*** – Except for the Court of Appeals and the Supreme Court, no other court shall issue any preliminary injunction or preliminary mandatory injunction against the NTC in the exercise of its duties or functions pursuant to the Act: *Provided, That*, this prohibition shall apply in all cases, disputes, or controversies instituted by a private party, including, but not limited to, cases filed by entities or those claiming to have rights through such entities: *Provided, Further*, That this prohibition shall not apply when the matter is of extreme urgency involving a constitutional issue, such that the non-issuance of an injunction will result in grave injustice and irreparable injury to the public: *Provided, Furthermore*, That the applicant shall file a bond, in an amount to be fixed by the court, but in no case shall it exceed twenty percent (20%) of the impossible fines provided for under Section 20 of the Act: *Provided, Finally*, That in the event that the court decides that the applicant was not entitled to the relief applied for, the bond shall accrue in favor of the NTC.

Any preliminary injunction or preliminary mandatory injunction issued in violation of this Section is void and of no force and effect. Any judge who violates this section shall be penalized by suspension of at least one (1) year without pay in addition to other criminal, civil or administrative penalties.

**Section 3. Accountability of Public Officers.** – Public officers, employees and agents of government agencies tasked to implement the provisions of the Act and this IRR shall not be subject to any civil action, in connection with any act done or omitted by them in the regular performance of their duties except for those actions and omissions done in evident bad faith or with gross negligence.

**Section 4. Indemnity.** – Public officers, employees, and agents of government agencies shall be indemnified for liabilities, losses, claims, demands, damages, deficiencies, costs, and expenses of whatsoever kind and nature that may arise in connection with the exercise of their powers and performance of their duties and functions in the implementation of the provisions of the Act and this IRR unless their actions are found to be in willful violation, or performed in bad faith or with gross negligence.

**Section 5. Transitory Clause.** – Existing franchises, certificates and authorizations affected by relevant provisions of the Act and this IRR shall be treated as follows:

- (a) Upon effectivity of the Act, all entities that qualify as DTIPs as defined under paragraph (i), Section 3 of the Act and Rule III, Section 4(m) of this IRR, including those with existing legislative franchises, PAs, CPCNs, CoRs or CoAs issued by the NTC or accreditations issued by the DICT in respect of SSPOs shall be considered as such and shall be governed by relevant provisions of the Act and this IRR.
- (b) Entities with existing legislative franchises, PAs, CPCNs, CoRs or CoAs issued by the NTC or SSPO accreditations issued by the DICT that qualify as DTIPs shall not be required to separately register as such with the NTC. NTC shall immediately notify them of the effectivity of the Act and this IRR, and its application to them.

Conversely, franchisees or licensees that do not qualify as DTIPs and which have not been notified by the NTC in accordance with the preceding paragraph may seek confirmation that the provisions of the Act and this IRR are not applicable to them.

- (i) Existing legislative franchises for the provision of telecommunication services shall remain valid and effective until expiration or revocation thereof in accordance with their respective terms for services that do not constitute data transmission. Upon their effectivity, the provisions of the Act, this IRR and other relevant issuances shall govern their obligations and privileges with respect to their data transmission services;
- (ii) PAs, CPCNs, CoRs or CoAs issued by the NTC with respect to the provision of data transmission services or accreditations issued by the DICT to SSPOs pursuant to DICT Department Circular No. 02 s. 2021, prior to the effectivity of this Act shall be deemed valid without the necessity of revalidation or reissuance. Until the expiration or revocation of such certificates, these shall be deemed compliant with the qualification and registration requirements for DTIPs under Section 8 of the Act, Rule III, Section 1 of this IRR and other pertinent regulations on qualification and registration issued pursuant thereto.
- (iii) New SSPOs, as well as those with valid accreditation applying for renewal, shall register as DTIPs with the NTC and shall no longer be required to obtain separate accreditation from the DICT. The DICT shall transfer all accreditation-related documents and information from its registry to the NTC within thirty (30) days from the effectivity of this IRR.
- (iv) Independent Tower Companies shall continue to register with the DICT pursuant to DICT DC No. 008, series of 2020, as may be amended. Nonetheless, Independent Tower Companies that will engage in the business of providing data transmission

services shall also register as DTIPs with the NTC in accordance with Rule III of this IRR.

- (v) Rights, privileges, functions and obligations under existing franchises, PAs, CPCNs, or CORs issued by the NTC, or accreditation of SSPOs and registration of Independent Tower Companies issued by the DICT, which do not conflict or are not inconsistent with the provisions of the Act and this IRR shall continue to have force and effect. For the avoidance of doubt, the obligation of certain DTIPs to activate Subscriber Identity Module (SIM) Cards pursuant to R.A. No. 11934 or the “SIM Registration Act”, comply with portability requirements pursuant to R.A. No. 11202 or the “Mobile Number Portability Act” and other such similar functions and duties under existing laws and related rules and regulations, shall remain valid and subsisting.
- (c) Prior to the effectivity of this IRR and relevant issuances on the process for the qualification and the registration of DTIPs, the registration and authorization process for DTIPs shall be governed by the prevailing rules and guidelines of the NTC as of the effectivity of the Act. Upon the effectivity of this IRR and other relevant issuances, the rules and guidelines of the NTC governing the registration and authorization process for DTIPs prior to the effectivity of the IRR of this Act shall be superseded and will no longer be in effect;
- (d) All spectrum assignments validly subsisting upon the effectivity of the Act shall remain effective: *Provided*, That they shall be subject to the SMPF and its corresponding guidelines, rules and regulations and the provisions of the Act and this IRR upon their effectivity; and
- (e) All existing agreements granting entities access to digital infrastructure and services, as well as existing agreements on infrastructure sharing and co-location, shall remain valid upon the effectivity of the Act: *Provided*, That their terms and conditions shall be subject to the provisions of the Act and this IRR upon their effectivity.
- (f) To ensure effective and efficient implementation of the Act and this IRR, national government agencies, and LGUs shall, in coordination with and subject to the evaluation and approval of the Department of Budget and Management (DBM), adopt appropriate organizational adjustments and staffing plans in compliance with R.A. No. 12231, or the “Government Optimization Act”, civil service laws, rules and regulations, and other relevant laws.

Pending the approval and creation of new positions, concerned agencies may designate qualified existing personnel, or engage temporary or contractual staff to perform such additional or expanded functions to ensure continuity of operations.

**Section 6. *Implementation within the Bangsamoro Autonomous Region in Muslim Mindanao.*** – Consistent with the autonomy granted to the Bangsamoro Government pursuant to R.A. No. 11054 or the “Organic Law for the Bangsamoro Autonomous Region in Muslim Mindanao”, relevant agencies of the national and Bangsamoro Governments shall cooperate and coordinate to ensure the efficient and effective implementation of the Act and this IRR in the Bangsamoro Autonomous Region in Muslim Mindanao, and shall enter into agreements to facilitate the transition of the powers, functions, and duties set out herein to the Bangsamoro Government.

**Section 7. *Designation as Critical Infrastructure.*** – The DICT and DEPDev, in consultation with the Inter-agency Investment Promotion Coordination Committee (IIPCC) as established

under the FIA shall submit a letter to the Office of the President requesting the latter to declare a segment or segments of the data transmission network as critical infrastructure, in accordance with the PSA.

Upon the declaration by the President that a segment of the data transmission industry is a critical infrastructure, the provisions of relevant laws on critical infrastructure shall apply prospectively.

**Section 8. *Separability Clause.*** – If any provision of this IRR is declared unconstitutional, the remainder thereof not otherwise affected shall remain in full force and effect.

**Section 9. *Joint Congressional Oversight on Open Access in Data Transmission.*** – A Joint Congressional Oversight Committee on Open Access in Data Transmission (JCOCOADT) is hereby constituted. The JCOCOADT shall monitor and ensure the effective implementation of the Act.

The JCOCOADT shall be composed of the following:

- (a) The Chairperson of the Senate Committee on Science and Technology and four (4) other members of the Senate; and,
- (b) The Chairperson of the House of Representatives Committee on Information and Communications Technology and four (4) other members of the House of Representatives;

*Provided, That two (2) members of each chamber shall come from the minority.*

The Chairperson of the Senate Committee on Science and Technology, and the Chairperson of the House of Representatives Committee on Information and Communications Technology shall act as Co-Chairpersons of the JCOCOADT. The ranking minority members nominated by both the Senate and the House of Representatives shall act as co-Vice Chairpersons. The Secretariat of the JCOCOADT shall come from the existing personnel of the Secretariats of the Senate Committee on Science and Technology and House of Representatives Committee on Information and Communications Technology. The JCOCOADT shall have its own independent counsel.

The JCOCOADT shall promulgate and adopt its own rules which shall govern procedures and proceedings before the committee.

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


**Section 10. *Repealing Clause.*** – Section 1 of Act No. 3846, or the “Radio Control Act”, and Section 7, the first sentence of the first paragraph of Section 11, the first paragraph of Section 16, and Section 23 of the PTPA insofar as they apply to DTIPs, are hereby expressly repealed. All other laws, presidential decrees, executive orders, letters of instruction, proclamations or administrative regulations that are inconsistent with the provisions of this Act are hereby repealed, amended or modified accordingly.

**Section 11. Effectivity Clause.** – This IRR shall take effect after fifteen (15) days following its publication in the Official Gazette or in newspaper of general circulation and upon filing of three (3) certified true copies with the Office of the National Administrative Register, University of the Philippines Law Center.

Approved:


  
*Secretary*  
Department of Information  
and Communications Technology

In coordination with:

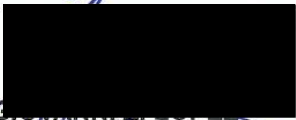
  
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Department of Public Works and Highways  
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**MICHAEL G. AGUINALDO**  
*Chairperson*  
Philippine Competition Commission *R*