AN ACT

ESTABLISHING CROSS-SECTOR INFRASTRUCTURE SHARING AS A POLICY TO PROMOTE THE DEVELOPMENT OF INFORMATION AND COMMUNICATIONS TECHNOLOGY AND SUPPORT PUBLIC AND PRIVATE TELECOMMUNICATIONS NETWORK, APPROPRIATING FUNDS THEREFOR

EXPLANATORY NOTE

Countries, organizations, businesses, and people are now more interconnected and integrated than ever. Globalization has now become a norm and have greatly influenced the relationship of countries and individuals around the world. Interconnection comes in different forms and from different platforms, the most famous and cheapest of said platforms is the internet or the world wide web. Despite the common knowledge of this obvious fact, however, our country lags behind in terms of internet connectivity and information and communications technology (ICT) development.

As a developing nation, it is a reasonable policy prioritize building infrastructures to boost the economy. Several studies including the World Global Toolkit on Cross-Sector Information Sharing dated February 2017, commissioned by the World Bank, have revealed that there is an efficient way of maximizing real properties and their fixtures to similarly develop ICT and support public and private telecommunications network.

This bill proposes the establishment of cross-sector infrastructure sharing as a policy to develop the country’s ICT and support telecommunications network, both public and private. Through cross-sector infrastructure sharing, infrastructures – primarily real property fixed assets comprising land, improvements and fixtures – across different sectors of the economy will be also used as fixtures and facilities for use of ICT systems.

For example, cross-sector infrastructure sharing might encompass the use of the same bridge to include telecommunications facilities whose primary purpose is to support internal communications needs of an infrastructure owner whose primary business is not the provision of telecommunications services. Generally, the opportunity for cross-sector infrastructure sharing to support public telecommunications networks is greatest with infrastructure owners in various network sectors. These may include roadworks, railways, water and sewer systems, electricity transmission and distribution systems, petroleum and

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pipelines and other infrastructure development by both government agencies and private entities.  

Through this Act, as cliché as it may sounds, we are hitting two birds with one stone, that is (a) the development of the country’s infrastructure which subsequently requires spending and therefore boosts our economy and (b) development of the country’s ICT at no extra expense of building an infrastructure for the exclusive use of ICT.

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

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2 Id. at 2.
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Be it enacted by the Senate and House of Representatives of the Republic of the Philippines in Congress assembled:

Section 1. Title. – This Act shall be known as the "Cross-Sector Infrastructure Sharing Act."

Sec. 2. Declaration of Policy. – Article II, Section 24 of the 1987 Constitution provides that the State recognizes the vital role of communication and information in nation-building. It is thus the policy of the State to promote the development of information and communications technology (ICT) and provide support to telecommunication and data transmission networks, both private and public, whether international of local, by, among other things, maximizing the shared use of government assets, properties, and infrastructure, both existing and those yet to be built, and promoting cross-sector infrastructure sharing in and among the private and public sector. In furtherance of this objective, the State shall encourage public and private sector investments and partnerships to ensure an efficient and effective ICT infrastructure and systems.

Sec. 3. Definition. – For purposes of this Act, the term "cross-sector infrastructure sharing" shall refer to the sharing of infrastructure – primarily real property fixed assets comprising land, improvements and fixtures – across different sectors of the economy by, on the one hand, the telecommunications network operators and data transmission service providers and, on the other hand, the owners of infrastructure, whether a government agency or private entity, developed primarily for purposes other than the provision of public telecommunications and data transmission services.

Sec. 4. Scope of the Act. – This Act shall identify the responsibilities of different parties for enabling cross-sector infrastructure sharing for the propagation of telecommunication and data transmission networks.
Sec. 5. Cross-Sector Infrastructure Sharing for ICT Development. The relevant government agencies identified below shall have the following role in the implementation of this Act.

A. The Department of Information and Communications Technology (DICT) and concerned government agencies, such as, but not limited to the Department of Public Works and Highways (DPWH), the Philippine National Railways (PNR), the Department of Transportation (DOTr), the National Electrification Authority (NEA), the Energy Regulatory Commission (ERC), the Metropolitan Waterworks and Sewerage System (MWSS), shall promulgate policies, rules, and regulations, among others, on the following:

1. Coordinated infrastructure planning and development to ensure that telecommunications and broadband networks are deployed together with roadworks, railways, electricity transmission and distribution lines, water and sewer systems, pipe-laying, and other infrastructure development by both government agencies and private entities;

2. Sharing of passive infrastructure such as, but not limited to, telecommunications towers, poles, cable entrances, ducts, conduits, utility corridors, and any other non-electronic infrastructure and facilities, whether existing or yet to be built, necessary for or capable of supporting telecommunication and internet facilities and services, is mandatory for open access and made available for co-location and co-use by the infrastructure owner on an open, fair, and non-discriminatory basis to any access seeker's network facilities subject to mutual agreement of both parties;

3. Ensure that passive infrastructure, whether existing or built in the future, necessary or capable of supporting telecommunication and data transmission networks or services are:

i. Built not only in the city centers, but most especially in the remote, unserved, and underserved areas in order to extend telecommunication and data transmission services by both the existing and new players throughout the country; and

ii. Propagated 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 telecommunication and data transmission network deployment;

4. Ensure the disaster resiliency and ease of recovery and restoration of passive infrastructure, such as towers, poles, and utility corridors, from the effects of disasters by strictly enforcing compliance with internationally-accepted engineering standards and best practices, and relevant engineering codes and codes of practice;
5. Provide a streamlined right-of-way and permits process to facilitate cross-sector infrastructure sharing; and

6. Implement Section 6 of this Act.

B. The DICT, the Housing Land Use Regulatory Board (HLURB) and, where necessary, the Department of the Interior and Local Government (DILG), shall promulgate policies, rules, and regulations, among others, to ensure that

1. Buildings, condominiums, villages, towns, and subdivisions are all built with facilities, such as cable entrances, ducts, and risers, for telecommunications and Internet services, and that allow non-discriminatory access to multiple data transmission industry players in order for them to provide service; and

2. Telecommunications and data transmission networks are granted reasonable right-of-way and location rights, and are not barred from buildings, condominiums, villages, towns, and subdivisions.

C. The DICT and the National Telecommunications Commission (NTC) shall also promulgate policies that --

1. Promote a level-playing field and price non-discrimination among telecommunications and data transmission industry participants and network facility and infrastructure owners; and

2. Maintain an updated database of telecommunications and data transmission infrastructure, including passive infrastructure used to support ICT infrastructure. The database, to be updated annually, shall include the exact location, ownership, technical specifications, and other relevant information about the facility.

The DICT, DPWH, NTC, DILG, HLURB, PNR, DOTr, NEA, ERC, and the MWSS, as necessary, upon coordination with other government agencies and in consultation with the relevant stakeholders, shall jointly issue policies to implement this provision.

Sec. 6. Development of Shared Infrastructure for the DICT Fiber Optic Network. – The DICT and DPWH shall collaborate to create:

1. Philippine National Road and Fiber Optic Cable (FOC) Network. The DPWH and the DICT shall utilize DPWH’s Philippine National Roads as conduit for the deployment of the DICT fiber optic network. The DPWH shall incorporate the installation of ducts/subducts on highways, new road and bridge constructions, renovations, and maintenance; and

2. Training Program on the Use of FOC. The DICT shall prepare a training program covering operation, use, and a maintenance of the FOC network. The training program shall be provided to the DPWH and other government agencies that are utilizing the FOC network.
Sec. 7. Leasing of Shared Infrastructure. – The DPWH, in coordination with the
DICT, shall make these shared cross-sector infrastructure networks available for lease to
entities on a non-exclusive basis. Priority shall be given to government operations and
private sector entities targeting the marginalized sectors and serving the unserved and
underserved areas that need government assistance to interconnect.

The DICT shall adopt an open access approach and allow all entities, as well as
registered data transmission service providers, to access shared cross-sector
infrastructure, to use ducts and subducts therein, and to access the DICT’s fiber optic
cable network, without adversely affecting the FOC installed by the DICT.

The DPWH, in coordination with the DICT shall issue guidelines, rules, and
regulations on the lease and use of the FOC networks.

Sec. 8. Conditions Conducive to Cross-Sector Infrastructure Sharing. – To
attract public and private partnership and investments to attain the objective of this Act,
the DICT, DPWH, and NTC, upon coordination with other government agencies and
consultation with the relevant stakeholders, shall issue rules and regulations to:

a. Introduce incentives and remove disincentives, which may include revenue
   sharing, if applicable;

b. Ensure open, equal and efficient telecommunications and data transmission
   access to infrastructures;

c. Streamline the permits and right-of-way process for cross-sector
   infrastructure;

d. Facilitate information exchange and dialogue; and

e. Tailor government interventions to local existing conditions.

Sec. 9. Mandatory Access Legislation. – The DICT and NTC, whenever necessary
and the present circumstance require, may jointly exercise its mandatory access
legislation powers which jointly grants them the power as regulator to promulgate ex
ante regulation of infrastructure sharing as well as to impose ex post remedies.

Sec. 10. Implementing Rules and Regulations. – Within sixty (60) days from the
effectivity of this Act, the DICT and the concerned government agencies shall promulgate
the necessary rules and regulations of the effective implementation of this Act.

Sec. 12. Repealing Clause – All law, decrees, executive issuances, rules, and
regulations, or parts thereof, inconsistent with this Act are hereby repealed or modified
accordingly.

Sec. 12. Separability. – If any provision of this Act or the application of such
provision to any person or circumstance is declared invalid, the remainder of this Act or
the application of such provision to any other person or circumstance shall not be affected
by such declaration.
Sec. 13. Effectivity. – This Act shall take effect fifteen (15) days following the completion of its publication in two (2) newspapers of general circulation.

Approved,