This bill seeks to provide protection to consumers in electronic commerce, amending for the purpose Republic Act (RA) No. 7394, otherwise known as the "Consumer Act of the Philippines."

The Coronavirus pandemic forced the government to put in place community lockdowns and quarantines which resulted to closure of most businesses, particularly those that are non-essential. With lockdowns and quarantines in place, people’s mobility was greatly reduced and only front liners were allowed to move about. This situation triggered the consumers to resort to online shopping to attend to their basic needs such as clothing and food. During the lockdowns and quarantines, most businesses have transitioned and started online selling. There is therefore a need to revisit the Consumer Act of the Philippines to protect the growing numbers of consumers in electronic commerce.

This bill aims to protect online consumers from unscrupulous online merchants and gain the trust and confidence of consumers to transact online. The mechanisms in place to protect consumers in traditional commerce is adopted and made applicable in electronic commerce.

To ensure that only legitimate businesses are offering their goods and services, online platform operators and online merchants are required to register with the Department of Information and Communications Technology and Department of Trade and Industry (DTI), respectively. Also, the operator of online platform may not allow any unregistered online merchant to use the online
platform. In addition, information about the online merchant is required to be disclosed.

For the consumers to make an informed decision in purchasing their needs online, it is required for the online platform operator and online merchant to disclose all and every information about the goods and services they offer. A mandatory help desk will be set-up to further address any concern of the consumers about the goods and services even after the goods are delivered and the services are performed.

The payment method is also made favorable to the consumers as they can choose the method most convenient to them. This feature also allows most Filipino consumers who have no credit cards, bank accounts and other means to pay online to still be able enjoy the advantages of electronic commerce. The online platform operator and the online merchant are required to keep the records of online transactions for at least two years, for reference purposes.

The effects of the delay in the delivery of goods and services are made clear in this proposed measure. The consumer may cancel the transaction and get a refund or still choose to continue the transaction even if there is a delay in the delivery of the goods or services. If the goods delivered are damaged, the consumer may choose for a replacement of the goods or get a refund after deciding to cancel the transaction. The refund must be given to the consumer within five (5) days from the notice of cancellation.

The prohibitions and penalties applicable in traditional commerce are made applicable in electronic commerce by RA 8792, otherwise known as the "Electronic Commerce Act," in a general manner by stating that, "Violations of the Consumer Act or Republic Act No. 7394 and other relevant or pertinent laws through transactions covered by or using electronic data messages or electronic documents, shall be penalized with the same penalties as provided in those laws." However, at present, RA 7394 does not have particular provisions on electronic commerce transactions. Thus, this bill provides a new Article VI on Electronic Commerce Transactions, enumerates the unlawful acts and proposes penalties to deter, if not eliminate, unscrupulous online platform operators and online merchants.

As there are Filipino consumers in cross-border electronic commerce, this bill provides that any Filipino consumer aggrieved by a foreign online merchant will be given the necessary assistance to file a complaint against the erring foreign online merchant. The Department of Foreign Affairs and DTI will provide assistance to the aggrieved Filipino consumer until the complaint is resolved and finally settled.
This bill intends not only to provide the necessary protection to consumers in electronic commerce but also intends for the consumers to put their trust and confidence in transacting online. The consumers’ trust and confidence, in turn, will help boost not only the electronic commerce industry in the country, but also its economy as a whole.

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

SHARON S. GARIN
AAMBIS-Owa Party-list
AN ACT
PROVIDING PROTECTION TO CONSUMERS IN ELECTRONIC COMMERCE,
AMENDING FOR THE PURPOSE REPUBLIC ACT NO. 7394, OTHERWISE
KNOWN AS THE "CONSUMER ACT OF THE PHILIPPINES"

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

SECTION 1. A new Title VI and new articles are hereby added after Article 166
of Republic Act No. 7394 to read as follows:

"TITLE VI

ELECTRONIC COMMERCE TRANSACTIONS

ART. 167. GOVERNING PROVISIONS. — THE PROVISIONS

UNDER TITLE II ON CONSUMER PRODUCT QUALITY AND
SAFETY, TITLE III ON FOOD, DRUGS, COSMETICS AND
DEVICES, AND TITLE IV ON PROTECTION AGAINST DECEPTIVE,
UNFAIR AND UNCONSCIONABLE SALES ACTS OR PRACTICES
OF THIS ACT SHALL, AS FAR AS PRACTICABLE, ALSO GOVERN
ALL ELECTRONIC COMMERCE TRANSACTIONS.

THE ONLINE PLATFORM OPERATOR AND ONLINE
MERCHANT SHALL ENSURE THAT THE REQUIREMENTS ON
CONSUMER PRODUCT QUALITY AND SAFETY, LABELING AND
PACKAGING, PRICING, WARRANTIES, FAIR MARKETING AND
ADVERTISING, AND CREDIT TRANSACTIONS ARE STRICTLY
FOLLOWED.

FOR PURPOSES OF THIS ACT, ELECTRONIC COMMERCE
OR "ECOMMERCE" REFERS TO THE PRODUCTION,
DISTRIBUTION, MARKETING, SALE OR DELIVERY OF GOODS
AND SERVICES BY ELECTRONIC MEANS.

"ONLINE MERCHANT" REFERS TO ANY NATURAL OR
JURIDICAL PERSON THAT SELLS, DISTRIBUTES OR
MANUFACTURES GOODS OR SERVICES IN THE ORDINARY
COURSE OF BUSINESS BY ELECTRONIC MEANS.

"ONLINE PLATFORM" REFERS TO DIGITAL PLATFORM
THAT CONNECTS ONLINE SELLERS AND ONLINE BUYERS AND
FACILITATES THE SALE OF PRODUCTS, GOODS OR SERVICES
THAT IS OPERATED BY A NATURAL OR JURIDICAL PERSON.

ART. 168. LICENSE TO OPERATE. — BEFORE ENGAGING
IN ELECTRONIC COMMERCE, A DULY REGISTERED BUSINESS,
EITHER SOLE PROPRIETORSHIP, PARTNERSHIP,
CORPORATION OR COOPERATIVES, SHALL SECURE FROM THE
CONCERNED DEPARTMENT A LICENSE TO OPERATE AS AN
ONLINE MERCHANT. LIKewise, a Duly Registered Online
Platform Operator MUST SECURE THE LICENSE TO
OPERATE FROM THE DEPARTMENT OF INFORMATION AND
Communications Technology.

No Online Merchant may be allowed to
Advertise, Sell or Transact in the Online Platform
Without the License to Operate.

Art. 169. Disclosure Requirement. — The Online
Platform Operator Shall Disclose Pertinent
information about the Online Merchant using the
Platform. Likewise, the Operator of Online Platform
Shall Ensure that the Online Merchant Discloses
Necessary Information about the Products or
Services that Online Merchant Offers to the
Consumers.

The Information about the Products or
Services, including the Relevant Terms and
Conditions of the Transaction, Must be Fair, Clear,
Accurate and Easily Accessible to Enable the
Consumers to Make an Informed Decision Whether or
Not to Buy or Avail of the Products or Services.
ART. 170. **CONCLUSION OF TRANSACTION.** — THE ONLINE PLATFORM OPERATOR AND THE ONLINE MERCHANT SHALL ALLOW THE CONSUMERS TO REVIEW THE TRANSACTION BEFORE CONFIRMATION, AND SHALL ALLOW THE CONSUMER TO ACCEPT, REJECT OR MODIFY THE PURCHASE ORDERS.

ART. 171. **MANNER OF PAYMENT.** — THE ONLINE PLATFORM OPERATOR AND THE ONLINE MERCHANT SHALL ALLOW THE CONSUMER TO CHOOSE THE MANNER BY WHICH THE PRODUCTS AND SERVICES ARE TO BE PAID. THE CONSUMER MAY CHOOSE TO PAY BY WAY OF CREDIT CARDS, MOBILE PAYMENTS, BANK TRANSFERS, CASH ON DELIVERY OR OTHER PAYMENT METHODS CONVENIENT TO THE CONSUMER. AS SOON AS PAYMENT IS RECEIVED, THE ONLINE MERCHANT SHALL ISSUE THE CORRESPONDING SALES INVOICE OR OFFICIAL RECEIPT.

ART. 172. **KEEPING OF RECORDS.** — ONLINE PLATFORM OPERATOR AND ONLINE MERCHANT SHALL GIVE A COPY OF ALL THE RECORDS TO THE CONSUMER AND SHALL KEEP ALL RECORDS OF THE ELECTRONIC TRANSACTIONS WITHIN TWO (2) YEARS FROM THE CONCLUSION OF THE TRANSACTION.

ART. 173. **DELIVERY.** — THE ONLINE MERCHANT AND CONSUMER SHALL AGREE ON THE DELIVERY DATE OF THE GOODS OR SERVICES PURCHASED ONLINE. THE GOODS OR
SERVICES MUST BE DELIVERED WITHIN THE AGREED PERIOD AND THE ONLINE MERCHANT SHALL ENSURE THAT THE GOODS ARE COMPLETE AND IN GOOD CONDITION, AND THE SERVICES ARE IN ACCORDANCE WITH THE TERMS AND CONDITIONS OF THE CONTRACT.

FAILURE TO DELIVER THE GOODS OR SERVICES ON THE AGREED PERIOD IS A GROUND FOR THE CONSUMER TO CANCEL THE TRANSACTION AND THE ONLINE MERCHANT TO REFUND TO THE CONSUMER THE PAYMENT MADE, IF ANY. IF THE GOODS DELIVERED ARE DAMAGED, THE CONSUMER MAY OPT FOR A REPLACEMENT OF THE GOODS OR A REFUND.

THE REFUND MUST BE GIVEN TO THE CONSUMER WITHIN FIVE (5) DAYS FROM NOTICE TO THE ONLINE PLATFORM OPERATOR OR ONLINE MERCHANT OF THE CANCELLATION OF THE TRANSACTION.

ART. 174. HELP DESK. — ALL ONLINE PLATFORM OPERATORS AND ONLINE MERCHANTS SHALL SET-UP THEIR RESPECTIVE HELP DESK TO ANSWER THE QUERIES AND POSSIBLE COMPLAINTS OF CONSUMERS. THE HELP DESK MUST ALSO SERVE AS AN AFTER-SALES SUPPORT.

ART. 175. COMPLAINT. — ANY AGGRIEVED CONSUMER IN ELECTRONIC COMMERCE MAY FILE A COMPLAINT BEFORE THE CONCERNED DEPARTMENT AS PROVIDED FOR UNDER
CHAPTER 3, TITLE V OF THIS ACT. THE CONCERNED DEPARTMENT MAY DEVELOP AN ONLINE MECHANISM TO ADDRESS ANY COMPLAINT OF THE CONSUMERS.

ART. 176. LIABILITY. — THE ONLINE MERCHANT IS PRIMARILY LIABLE FOR ANY SANCTIONS THAT THE CONCERNED DEPARTMENT MAY IMPOSE AFTER DUE NOTICE AND HEARING. IF THE ONLINE MERCHANT IS FOUND LIABLE, THE LIABILITY EXTENDS TO THE OPERATOR OF THE ONLINE PLATFORM IN A SUBSIDIARY MANNER.

ANY THIRD PARTY, LIKE COURIER AND DELIVERY SERVICES, MAY ALSO BE LIABLE TO THE CONSUMER, IF PROVEN TO BE THE CAUSE OF ANY DAMAGES THAT CONSUMER MAY SUFFER.

ART. 177. PROHIBITIONS. — IT SHALL BE UNLAWFUL FOR ANY PERSON ENGAGED IN ELECTRONIC COMMERCE TO COMMIT ANY OF THE FOLLOWING ACTS:

A. OFFER FOR SALE, DISTRIBUTE IN COMMERCE, OR IMPORT INTO THE PHILIPPINES ANY CONSUMER PRODUCT WHICH IS NOT IN CONFORMITY WITH AN APPLICABLE CONSUMER PRODUCT QUALITY OR SAFETY STANDARD PROMULGATED IN THIS ACT;

B. OFFER FOR SALE, DISTRIBUTE IN COMMERCE, OR IMPORT INTO THE PHILIPPINES ANY CONSUMER
PRODUCT WHICH HAS BEEN DECLARED AS BANNED
CONSUMER PRODUCT;

C. REFUSE ACCESS TO OR COPYING OF PERTINENT
RECORDS OR FAIL OR REFUSE TO PERMIT ENTRY OF
OR INSPECTION BY AUTHORIZED OFFICERS OR
EMPLOYEES OF THE DEPARTMENT;

D. FAIL TO COMPLY WITH AN ORDER ISSUED UNDER
ARTICLE 11 OF THIS ACT, RELATING TO
NOTIFICATIONS OF SUBSTANTIAL PRODUCT
HAZARDS, AND TO THE RECALL, REPAIR,
REPLACEMENT OR REFUND OF UNSAFE PRODUCTS;

E. IMPORT, EXPORT, SELL, OFFER FOR SALE,
DISTRIBUTE OR TRANSFER ANY FOOD, DRUG, DEVICE
OR COSMETIC THAT IS ADULTERATED OR
MISLABELED;

F. REFUSE TO PERMIT ENTRY OR INSPECTION AS
AUTHORIZED BY ARTICLE 36 TO ALLOW SAMPLES TO
BE COLLECTED;

G. GIVE A FALSE GUARANTY OR UNDERTAKING ON THE
PRODUCTS OFFERED FOR SALE;

H. FORGE, COUNTERFEIT, SIMULATE, FALSELY
REPRESENT, OR USE WITHOUT PROPER AUTHORITY
ANY MARK, STAMP, TAG, LABEL, OR OTHER
IDENTIFICATION DEVICE AUTHORIZED OR
REQUIRED BY REGULATIONS PROMULGATED UNDER
THE PROVISIONS OF THIS ACT;

I. USE FOR PERSONAL INTEREST OR REVEAL ANY
INFORMATION ABOUT TRADE SECRET THAT IS
ENTITLED TO PROTECTION;

J. ALTER, MUTILATE, DESTRUCT, OBLITERATE, OR
REMOVE THE LABELING OR PART OF LABELING OF
ANY FOOD, DRUG, DEVICE, OR COSMETIC ON SALE
RESULTING TO ADULTERATED OR MISLABELED
PRODUCT;

K. IMPORT, EXPORT, SELL, OFFER FOR SALE,
DISTRIBUTE, OR TRANSFER ANY PRODUCT, DRUG OR
DEVICE WITHOUT THE REQUIRED LICENSE UNDER
THIS ACT;

L. SELL OR OFFER FOR SALE ANY DRUG OR DEVICE
BEYOND ITS EXPIRATION OR EXPIRY DATE;

M. RELEASE FOR SALE OR DISTRIBUTE A BATCH OF
DRUGS WITHOUT BATCH CERTIFICATION WHEN
REQUIRED UNDER ARTICLE 34 OF THIS ACT;
N. ALTER, MUTILATE, DESTROY, OBLITERATE OR
REMOVE THE LABELING OF A MISLABELED
HAZARDOUS SUBSTANCE OR BANNED HAZARDOUS
SUBSTANCE ON SALE; AND

O. FAIL TO REFUND THE CONSUMER FOR THE RETURNED
ITEMS WITHIN FIVE (5) DAYS FROM THE RECEIPT OF
THE NOTIFICATION TO REFUND, IN VIOLATION OF
ARTICLE 173 OF THIS ACT.

ART. 178. PENALTIES. — ANY PERSON WHO COMMITS
ANY OF THE UNLAWFUL ACTS ENUMERATED IN THE
PRECEDING ARTICLE THROUGH ELECTRONIC DATA MESSAGES
OR ELECTRONIC DOCUMENTS SHALL BE PUNISHED WITH
IMPRISONMENT OF NOT LESS THAN TWO (2) YEARS BUT NOT
MORE THAN TEN (10) YEARS, OR A FINE OF NOT LESS THAN
ONE HUNDRED THOUSAND PESOS (P100,000.00) BUT NOT
MORE THAN FIVE HUNDRED THOUSAND PESOS (P500,000.00),
OR BOTH.

IF THE OFFENDER IS A CORPORATION OR ASSOCIATION,
THE PENALTY SHALL BE IMPOSED ON THE PRESIDENT,
MANAGER, MANAGING PARTNER OR ANY OFFICER OF THE
CORPORATION OR ASSOCIATION WHO DIRECTLY
PARTICIPATED IN THE COMMISSION OF THE UNLAWFUL ACTS
MENTIONED IN THE PRECEDING ARTICLE.
ART. 179. ASSISTANCE. – THE DEPARTMENT OF TRADE
AND INDUSTRY AND THE DEPARTMENT OF FOREIGN AFFAIRS
SHALL ASSIST FILIPINO CONSUMERS AGGRIEVED BY FOREIGN
ONLINE MERCHANT IN ELECTRONIC COMMERCE TO FILE A
COMPLAINT AGAINST THE ERRING FOREIGN MERCHANT, AND
UNTIL THE COMPLAINT IS RESOLVED AND SETTLED WITH
FINALITY."

SEC. 2. Title VI of RA 7394 is hereby renumbered as Title VII and Articles 167
to 173 of the same Act are also renumbered as Articles 180 to 186.

SEC. 3. Within ninety (90) days from the effectivity of this Act, the Secretary
of Trade and Industry shall, in coordination with the other heads of the different
implementing agencies under Republic Act No. 7394, and other laws on consumer
protection, issue the rules and regulations for the effective implementation of this Act.

SEC. 4. Paragraph (c), Section 33 of Republic Act No. 8792, otherwise known
as the "Electronic Commerce Act, is hereby amended. All other laws, orders,
issuances, rules and regulations inconsistent with the provisions of this Act are
repealed or modified accordingly.

SEC. 5. This Act shall take effect fifteen (15) days after its publication in the
Official Gazette or in a newspaper of general circulation.

Approved,