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New Information Technologies and the Philippine Regulatory Environment

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Introduction

The emergence of convergent information technologies (broadcasting, satellites and computers) in both wired and wireless formats, provide the opportunity for the people of developing countries to increase significantly their access and participation in communication and information services for development. These new information technologies are a mix of new and existing services that flow directly from the expanded utilization of new digital network architecture and technologies, driven by the increasingly ubiquitous integration of powerful and inexpensive computer processing capability.

The coming "Information Age" is one consequence of the acceleration of technology that bodes of great changes for human societies with the power to accomplish the centuries-old dream of an interdependent global economy which could invariably bring good or harm for peoples and cultures everywhere. The focus of this paper is how we can harness the benefits from these new communication technologies by providing for a rational and comprehensive framework for its expansion and development in the Philippines. Some key issues that we will try to address here include the following:

What new services are most likely to be of real benefit to Philippine society given our cultural, sociological and political context?

What new communication services are most likely to be useful to the Philippines in accelerating the achievement of its national development objectives?

What should be the optimum role of government in creating an environment in which such communication technologies can be channeled and focused for the benefit of the Filipino people?

The fundamental question that needs to be addressed by Philippine policymakers concerns the necessary regulatory environment to optimize the benefits of the new information technology for the masses of our people. Political will in the exercise of policy planning and implementation in the communication sector is necessary to accelerate the widespread use of these
information infrastructures and systems nation-wide. A way must be found by which these new technologies and the services they support can be introduced in a way that provides for equitable pricing, universal access to information services, broad nation-wide coverage, and service quality.

Certain policy formulation if carried to extremes, for example, can at one end, benefit mostly the suppliers and the operators at the expense of the consumer and the national interest. At the other extreme, the user's short-term benefit can be addressed at the sacrifice of the provider's financial and business interests. Both extremes will fail in the long run to support a viable communications or information sector that will emancipate millions of our people from centuries of information poverty.

What is needed, therefore, is to support the national goal of alleviating the communication needs of the masses of our people. Such efforts, ultimately, will lead to the development of a viable and efficient national communications policy environment that is pro-growth and pro-people. Moreover, the quest for a more responsive communications setup is further complicated by the traditional conflicts between urban and rural populations, the poor versus the rich and business versus versus household needs.

There is also the question of what role the government has to play in the introduction and expansion of new communication technologies in the country. It may be inadequate to merely create a regulatory environment to support the introduction of these services. Indeed, most of the developed world's economies were jump started by the forceful intervention of the central government in the development cycle of their economies. It may well be necessary, in this sense for some form of government action to initiate a degree of intervention in the introduction of these services. But government itself must calibrate its moves since these are different times and overzealous involvement can easily destroy the very open market environment that is necessary for these services to flourish and serve the Filipino people.

The regulatory functions of government could take the form of some controls on price, for example, and on the creation of service coverage and quality standards to insure that all of the Philippine society is served as quickly and cost effectively as possible, consistent with the reality of insuring the financial objectives of communication service providers. Left to seek their own ideal market, providers will often gravitate to high volume business users and upper income residences thinking, somewhat falsely that the "trickle down" phenomenon to bring these benefits to the whole of the Philippine society will work. Any involvement by government, moreover, should also be supportive of the overall objective of insuring competition in the provision of these information services.

The Philippine Constitution, as a legal document, serves as the supreme law of the land and as a standard for validity of any legal decisions. It also prescribes the permanent framework of government, defines and distributes power to people and to branches of government and establishes basic principles and policies. In terms of the national communication setup, the
Constitution provides under Article 16, Section 10: “The State shall provide the policy environment for the full development of Filipino capability and the emergence of communication structures suitable to the needs and aspirations of the nation and the balanced flow of information into, out of, and across the country, in accordance with a policy that respects the freedom of speech and of the press.”

Pursuant to the provisions of the Constitution, the Congress as the legislative branch of government formulates policy proposals and enacts them into laws. The Congress is also the body solely empowered to grant a national franchise to private telecommunication carriers and broadcast organizations. On the other hand, the Office of the President, which is the Executive branch of government, is primarily involved in the telecommunications sector through the following agencies:

The Department of Transportation and Communications as a policy-making body for telecommunications, formulates and recommends policies for the industry (which are then promulgated by the executive branch as an Executive Order). As mandated by Republic Act No. 7925, the DOTC is also responsible for:

the development and maintenance of a long-term strategic national development plan for telecommunications to serve as a guide to the regulatory body, the industry and potential investors;

the coordination of research and development activities in government with the work of other institutions in the field of telecommunications;

the representation and promotion of Philippine interests in international bodies, and the negotiation of the nation's rights and obligations in international telecommunication matters; and

the operation of a national consultative forum to facilitate interaction amongst the telecommunications industries, user groups, academic and research institutions in the airing of resolutions to important issues in the field of communications.

The National Telecommunications Commission (NTC), which is the regulatory entity, with quasi-judicial powers originally provided under Executive Order Nos. 546, 125 and 125-A, and as revised under Republic Act No. 7925. The commission, after public hearings, grants certificates of authority, to franchised telecom companies;

The Telecommunications Office, which is the (interim) operating arm in providing limited telephone and telegraph services in rural areas; and

The Municipal Telephone Projects Office, which is the implementing arm for the Government’s municipal telephone program.

The National Economic and Development Authority (NEDA) functions as the coordinating agency for coordinating the country’s overall economic
policies and development strategies. The DOTC policies are prepared within this general framework.

The Department of Trade and Industry (DTI), together with one of its agency - the Board of Investments (BOI), formulate policies regarding investments in the country. They identify preferred areas of investment that may qualify for incentives.

The Department of Science and Technology (DOST) establishes standards in communications technology, and is the lead agency in the development of the country's information technology. The DOST coordinates with the DOTC in the establishment of the Philippine Information Infrastructure.

The Broadcast and Telecommunication Sectors

At present, the broadcast sector is considered separate from the telecommunications sector. However, the telecom and broadcast sectors somehow overlap because the latter is a major user of telecommunications services. The NTC issues broadcast licenses and assigns frequency (spectrum) bands. Apart from these linkages with the telecommunications sector, the broadcast sector exercises self-regulation through the Kapisanan ng mga Brodkaster sa Pilipinas (Association of Broadcasters in the Philippines) or the KBP.

The local communications manufacturing sector has been in existence for the past two to three decades. Local production activities in this sector are mostly on primary telecommunications equipment such as support facilities and telecommunications line hardware (wires and cables), and end-user components like telephone handsets, cordless telephones, modems, consumer electronics, etc.

Cable Television Sector

Being relatively new, there is no specific law or regulation governing the establishment and operations of Cable TV in the Philippines. As a consequence Cable TV operators have mushroomed since the sector is known as a free market. As of December 1997, NTC has registered more than 200 Cable TV network service providers. To remedy the lack of a regulatory framework for the sector, there are draft legislative proposals in Congress to establish standards and procedures, ownership structure, definitions, prescribe sanctions, etc. which will encourage the growth and development of cable TV systems. However, the need for a new law or rules on this service is being overtaken by the fast-changing technology. Thus, a new bill solely on Cable TV will not be adequate as it is. What may be required is a new law that will cover all the converging communications services such as direct broadcast satellites that can go inside homes without the burden of landlines.

Information Technology Service Sector

Information technology has recently emerged as a service sector providing many businesses, particularly small and medium-sized enterprises, "value-
"added" inputs resulting to more output, savings, revenues, and new markets. Accessibility to these services and products, via the so-called information highway, have kept many businesses efficient and competitive. Internet services is becoming a popular market as evidenced by the increasing number of Internet service providers not only in Metro Manila but in other major cities as well. Selected universities are using Internet services and are extending its use to professors and students at discounted rates. Most private businesses, large or small enterprises, have shown growing utilization of the Internet. Government offices also have started using the service. To date, close to thirty government departments and bureaus are now on-line. And then there is also Internet telephony which is now a byword that many business and academic institutions are beginning to explore.

All these indicate an increasing trend in demand for information services that require a reliable and dependable telecommunications infrastructures and networks. Such infrastructure gives information providers the lines needed to give their customers low-cost access not only to a full range of value-added services, but openings to trade and commercial opportunities for businesses. As of March 1997, there are some 30 Internet service providers (ISPs) officially registered with the NTC, with a total of about 113 operating in various parts of the country.

Part of the modernization efforts of the government under President Fidel V. Ramos is the establishment of an integrated information network or the Philippine Information Infrastructure (PII), or what could be called as the Philippine Intranet. This, hopefully, could serve as an umbrella under which the potentials of information technology can be enhanced to create many commercial prospects and employment opportunities vital to sustained economic development of the country. The physical facilities needed to interconnect Filipino homes and business establishments with the rest of Philippine society can be built around existing telecom structures to yield a common nationwide overlay network.

A separate Policy Framework and Strategic Plan for the Accelerated Implementation of the PII is being drafted by the DOTC, in consultation with other government agencies and the private sector, and is expected to be issued before the end of 1998. Said policy framework and strategic plan shall consider issues such as universal access, timing and financing, government improvement, content and culture, competition and regulation, research and development, and learning opportunities.

The Challenges Facing the Government

Amidst a global climate of constant rapid technological change, the policy-making process covering the provision of basic telecommunications service and beyond is even more a daunting task for the government given a multi-operator telecommunications domestic environment.
The shift to a liberalized industrial structure for telecommunications from a several decades-old monopoly was a bold step in the sense that it was significantly different from the experience of telecommunications development elsewhere in the world. It was an audacious move taken by the country in the interest of accelerating universal access to basic telephone service.

Hence, while telecommunications infrastructure is still in stages of development, the government must do more to improve and refine the policy environment in order to motivate and enable private carriers to continuously invest in the upgrade of services and facilities while taking a more competitive form in a dynamic than before Philippine telecommunications market.

In the medium-term, the government's goal is to maintain investor confidence and industrial order to ensure a steady flow of investments and re-investments of revenues in order to extend modern telecommunications infrastructure and services throughout the country.

In the future, policy and regulatory management of telecommunications will be changing in response to advancing technological trends, and in accommodating and managing new market structures. The future policy-maker and regulator will be more consumer-oriented meaning, foremost of their concern will the welfare of consumers, particularly the business and household users. Regardless of the state of telecommunications development, the same basic principles of promoting innovation and creating a conducive atmosphere for investment will always apply.

Regulatory Policy Thrusts

Spectrum Rationalization. As mandated by RA 7925, NTC is set to issue a memorandum circular on the radio frequency spectrum allocation and assignment. Once promulgated, the spectrum shall be subject to periodic review and the use thereof shall be subject to reasonable spectrum fees. When specific frequencies exceed availability, the NTC shall hold open tenders for the same and ensure wider access to this limited resource.

IRR on Convergence. Once the Bill on Convergence is enacted into law by Congress, a new set of rules and regulations should be drafted to cover all converging services.

Interconnection. The NTC, with its mandate under EO 59 and RA 7925, shall continue to work toward the evolution of a rational, integrated and interconnected telecommunications system which meets both national and international standards, to achieve universal access. Interconnection problems, including rates settlements, should be resolved to provide a seamless interconnection and better quality of service.
To summarize, the primary objective of the communications sector is to provide service at reasonable price. Specifically, the government’s objectives for the sector at the national, entity and project levels should be as follows:

At the national level, the government’s principal policy objective for the sector should be to create an appropriate environment that would lead to an efficient provision of adequate (quantity and quality) telecommunications facilities at a reasonable price. In most cases this means liberalization and privatization of the sector. Liberalization has led to higher telephone density, better quality of service, improved efficiency and reduced tariffs. The degree of liberalization could therefore be an important indicator of the status of telecommunication services. Creating the appropriate environment requires that the telecommunications policy, legal and regulatory frameworks are all conducive to rapid development of the sector;

At the entity level, the main policy objective should be to ensure availability of the required quantity of high quality telecommunications services at competitive prices; and

At the project level, the objective should be provision of different types of modern telecommunications facilities at least cost

An Agenda for Action: First, encourage private investment....Second, promote and protect competition... (and) prevent unfair cross-subsidies and act to avoid information bottlenecks that would limit consumer choice, or limit the ability of new information providers to reach their customers. Third, provide open access to the network....We need to ensure the NII (National Information Infrastructure), just like the PC, is open and accessible to everyone with a good idea who has a product they want to sell....Fourth, we want to avoid creating a society of information “haves” and “have nots.”... The less fortunate sectors of the population must have access to a minimum level of information services through subsidies or other forms of a public interest tithe. Fifth and finally: we want to encourage flexibility...