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Philippine Association of Multinational Companies Regional Headquarters, Inc.

May 16, 2023

Sen. Alan Peter S. Cayetano
Chairperson
Committee on Science and Technology
Senate of the Philippines
GSIS Bldg., Financial Center,
Diokno Blvd., Pasay City
Philippines

Subject: *Supplemental letter on the Open Access in Data Transmission Bills*

Dear Chairperson Cayetano,

This supplements our letter dated January 19, expressing support for the Open Access and Data Transmission Act, in particular House Bill No. 6 proposing for *An Act Promoting Open Access in Data Transmission and Providing Additional Powers to the National Telecommunications Commission*, which was approved on 3rd reading by the House of Representatives in December 2022. The undersigned members of the Joint Foreign Chambers reiterate our support for the intention of the legislative proposal to lower barriers to market entry, fast-track and lower the cost of deploying data transmission/broadband facilities, and make more spectrum available for Internet service.

However, to ensure that the coverage and provisions of the Open Access bill are consistent with its objective, we respectfully recommend the following amendments:

- 1) Add the phrase **“for a fee or compensation”** in Sec. 3 (f) on the definition of “data transmission industry participants.” This is to clarify that the coverage of the bill is limited to data transmission industry participants engaged in the “provision of data transmission services to the public **for commercial purposes.**”

This amendment will also ensure that the bill does not cover: (i) entities or companies that operate privately, such as those that support, enable, or operate internal data transmission networks, which should not be subject to the same standards as those operating publicly; and (ii) data transmission networks used to offer free Internet services, as defined in Republic Act No. 10929 or the “Free Internet Access in Public Spaces Act.”

- 2) Remove “data center (DC) service providers” in Sec. 4 on the scope of the data transmission industry. DC service providers do not offer or provide data transmission services. Although DC service providers offer access to computing resources over a telecom or broadband network, they do not operate a telecom or



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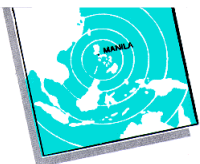
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KOREAN



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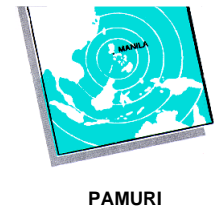
broadband network. DC service providers simply operate computer servers used for the storage and processing of data, which data transmission industry participants, such as public telecommunications entities (PTEs) and Internet service providers (ISPs), transmit to their subscribers and clients through an Internet connection. Accordingly, DC service providers should not be regulated as a data *transmission* service.

Moreover, the inclusion of DC service providers within the scope of the bill can create confusion for cloud services providers (CSPs) that build private data centers. Such a clarification would align the bill with international norms and reinforce its stated objective “to encourage investments in the development of digital infrastructure of the country.”

We will be pleased to meet with you and your team to discuss our inputs with you. Mr. Randall Garcia (email: randall@arangkadaphilippines.com; mobile: 09173244084) from AmCham Philippines can coordinate with your office to explore how we can work with you to further refine this much-needed policy proposal.


We hope that this request merits your favorable consideration.

Sincerely yours,




FRANK THIEL
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 Commerce of the Philippines,
 Inc.


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ATTY. MIMI LOPEZ-MALVAR
 Director
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Attachment: January 19 JFC letter to Chairperson Cayetano expressing support for the OADTA