

Comments on House Bill No. 6122, entitled: “*An Act Protecting Consumers and Merchants Engaged in Internet Transactions, Creating for this Purpose the Ecommerce Bureau and Appropriating Funds Therefor (Internet Transactions Act)*”, introduced by Representative Wes Gatchalian

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A. On the Explanatory Note

1. “Ecommerce in the country is in its nascent stage” – Ecommerce Act was enacted in 2000. It has been 22 years since then. I think taking stock of what has been done in the past (e.g., policies and regulations implemented by DTI and other relevant agencies) along this area will provide insights on where we are (Question: Are we still in nascent stage after 22 years?), what are the policy gaps, and how to move forward in the light of new developments, particularly the advent of the FIRE.
2. The explanatory note enumerates many issues that affect the Philippine MSMEs’ adoption of ecommerce. Difficulty in using digital technology platforms and tools is one of these issues. Another issue is the **lack of policies and regulations that will facilitate online transactions and cross-border trade processes** which are meant to address the following concerns:
 - i. Lack of trust
 - ii. Internet infrastructure (low internet speed experienced in Philippines)
 - iii. Logistics infrastructure (weak last-mile delivery options, challenging topographical structure)
 - iv. Payment mechanisms (payment gateways and currency exchange rates; majority still prefer to pay in local currency against foreign currency)
 - v. Lack of governing entity at the regional level that can fight cybercrime and settle cross-border disputes
 - vi. Difficulty in the process of returning product
 - vii. Taxation (VAT, customs duties and other charges, de minimis threshold, VAT registrations of foreign ecommerce operators, 12% VAT on total value of online transactions in the Philippines); and
 - viii. Online consumer complaints

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Nevertheless, some of these issues are beyond the scope of functions of DTI based on the Ecommerce Act of 2000. DICT and DOF, among others, are also critical in addressing some of these issues.

My question is: What are the specific issues that the creation of the Ecommerce Bureau under DTI will attempt to address? I suggest that these issues be highlighted in the Explanatory Note. With the proposed creation of the said bureau, I assume that there are issues with regard to the current set-up/arrangement within DTI in handling e-commerce concerns.

B. On the Proposed Creation of the E-commerce Bureau

1. Looking at the DTI's organizational structure, there are six (6) functional groups (FGs), as follows:
 - a) Competitiveness and Innovation Group – established in support of Agenda 3 of the President's 0+10 socio-economic agenda to increase competitiveness, innovation, and ease of doing business.
 - i. Competitiveness Bureau
 - ii. Bureau of Trade and Industrial Policy Research
 - iii. Philippine Accreditation Bureau
 - iv. **E-commerce Program Office**
 - b) Consumer Protection Group – in-charge of the enforcement of laws to protect consumers, consumer education, and formation of consumer groups.
 - i. Consumer Protection and Advocacy Bureau
 - ii. Bureau of Philippine Standards
 - iii. Fair Trade Enforcement Bureau
 - c) Industry Development and Trade Policy Group – responsible for trade and industry policy formulation and implementation of the Manufacturing Resurgence Program
 - i. Bureau of International Trade Relations
 - ii. Bureau of Import Services
 - iii. Strategic Trade Management Office
 - iv. Board of Investments
 - d) Trade Promotions Group – responsible for DTI's export and investment development program.
 - i. Bureau of Domestic Trade Promotion
 - ii. Export Marketing Bureau
 - iii. Design Center of the Philippines
 - iv. Philippine Trade Training Center

- v. Center for International Trade Expositions and Missions
- e) Regional Operations Group – responsible for the field operations of the DTI in the regions and provinces
 - i. Bureau of Micro, Small, and Medium Enterprise Development
 - ii. SB Corporation
 - iii. Regional Offices/Provincial Offices
 - iv. Comprehensive Agrarian Reform Program (CARP) – National Program Office
- f) Management Services Group – ensures operational efficiency within the Department by providing support services to all units to properly equip them in the performance of their respective functions.
 - i. Planning and Management Service
 - ii. Finance Service
 - iii. Human Resource and Administrative Service
 - iv. Information Systems Management Service
 - v. Knowledge Management and Information Service
 - vi. Resource Generation and Management Service

Currently, the E-Commerce Program Office is under the Competitiveness and Innovation Group. I assume that this office is the one handling all e-commerce concerns as mandated in the E-commerce Act of 2000. To quote:

“RA 8792 (Ecommerce Act of 2000) Sec. 29. Authority of the Department of Trade and Industry and Participating Entities - The Department of Trade and Industry (DTI) shall direct and supervise the promotion and development of electronic commerce in the country with relevant government agencies, without prejudice to the provisions of Republic Act. 7653 (Charter of Bangko Sentral ng Pilipinas) and Republic Act No. 337 (General Banking Act), as amended.

Among others, the DTI is empowered to promulgate rules and regulations, as well as provide quality standards or issue certifications, as the case may be, and perform such other functions as may be necessary for the implementation of this Act in the area of electronic commerce to include, but shall not be limited to, the installation of an online public information and quality and price monitoring system for goods and services aimed at protecting the interests of the consuming public availing of the advantages of this Act.”

Taking stock of what the E-commerce Program Office has done, with highlight on the issues and challenges that the office encountered in performing its functions and responsibilities in the light of the E-commerce Act will shed light on the need to establish an E-commerce Bureau or maybe, just the need to strengthen the current office by expanding the staff and providing capacity building opportunities.

2. Composition of the Bureau – the Bureau shall be headed by a commissioner... What will be the implications on the current set-up in DTI, or even in other government agencies, wherein bureaus are headed by Directors, not Commissioners? Will this promote demoralization within DTI and across the bureaucracy? The Commissioner will be assisted by six (6) Deputy Commissioners. The salary grade level for the said posts is not stated in the bill but the creation of the Bureau will certainly entail additional budgetary requirements. The costs should be weighed against the benefits of creating a new one. Or better yet, assess whether the potential benefits of creating a new one can also be obtained by just strengthening the current office.
3. The bill seeks to culture an environment founded on trust among consumers and merchants, as a means to increase the number of ecommerce participants, and ultimately achieve sustainable growth.

The DTI has the Consumer Protection Group, which is in-charge of the enforcement of laws to protect consumers, consumer education, and formation of consumer groups. Is this Group handling concerns of online consumers as well? Is there a need for a separate Consumer Protection Group for online consumers? I think creation of a separate Group for online consumers will promote fragmentation in services, when the literature suggests that digital economy should not be treated in isolation. In general, I think there is a need to assess whether the envisioned functions and responsibilities of the proposed E-commerce Bureau can be absorbed by the existing functional groups in DTI. Strengthening these functional groups is critical in this regard.