

COMMENTS ON THE E-GOVERNMENT/E-GOVERNANCE TWG WORKING DRAFT:
AN ACT INSTITUTIONALIZING THE TRANSITION OF THE GOVERNMENT TO E-GOVERNANCE
IN THE DIGITAL AGE, CREATING FOR THE PURPOSE THE PHILIPPINE INFOSTRUCTURE
MANAGEMENT CORPORATION AND APPROPRIATING FUNDS THEREFOR

Prepared by: Dr. Ramonette Serafica, Dr. Marife Ballesteros, and Ms. Tatum Ramos

Comments on General Principles

1. The current version of the draft has provisions that can indeed support the transition of the government to e-governance, but it requires further improvement. The draft in its current form encompasses areas already covered in other laws, better handled by the private sector, or not directly related to e-government.
2. We recommend that the proposed bill focus on developing the building blocks for digital transformation at the national and sub-national levels of government. In particular, the smart cities framework can be used as a guide in crafting the bill. The smart cities framework identifies three building blocks to enable e-governance for the delivery of public services and urban management: (1) digital infrastructure, (2) data generation and maintenance, and (3) data protection and security. Digital infrastructure is the base from where smart applications are deployed and includes smartphones and sensors connected through fast communication networks. Data/information are elements that empower digital infrastructure and are sustained by technically knowledgeable and competent people. Regulation on data security and protection is critical in building trust in e-governance.

Comments on Specific Provisions

1. Section 2(f) states that the objectives include reduction of costs and burdens for businesses and other government entities. We would like to inquire why reduction of costs and burdens to households and individuals was not mentioned here when efforts in the transition of the government to e-governance should be human-centric.
2. Sections 2(l) and 2(n) state that the objectives also include promotion of ICT capacity development to create quality jobs and increase employability of the Philippine workforce, and promotion of digital literacy to enable Filipinos to participate in an evolving ICT age. We would like to clarify whether these provisions are still necessary given Republic Act No. (RA) 11927, also known as the Philippine Digital Workforce Competitiveness Act. Section 2 of RA 11927 provides that "...the State shall provide the necessary infrastructure and, in collaboration with the private stakeholders, shall undertake the upskilling, re-skilling and training of the Filipino workforce on digital technology and innovations for employability and competitiveness in the Fourth Industrial Revolution." Additionally, the Implementing Rules and Regulations (IRR) of RA 11927 was already approved in October 2023.

3. Section 2(o) relates another objective to the *creation of a conducive environment for start-ups*. We would like to inquire regarding the need to indicate this in the proposed bill given RA 11337, also known as the Innovative Startup Act. Section 2 of RA 11337 provides that "...the State shall provide incentives and remove constraints aimed at encouraging the establishment and operation of innovative new businesses, businesses crucial to their growth and expansion, and to strengthen, promote, and develop an ecosystem of businesses and government and nongovernment institutions that foster an innovative entrepreneurial culture in the Philippines."
4. Section 4(e) states that digitalization refers to the process of using digital technologies to enhance the operations of the government, and provide new revenue and value-producing opportunities. We would like to clarify the relevance of including the phrase "provide new revenue" in the definition, particularly in the context of e-government. Perhaps the definition can instead be patterned from that in Section 2(o) of the IRR of RA 11927, *i.e.*, "*Digitalization* refers to the adaptation of a system, process, and business model to be operated with the use of computers and/or the internet". Additionally, it can be patterned from the definition provided by Brennen and Kreiss (2014) cited by the United Nations Conference on Trade and Development (UNCTAD) (2019, p.4) wherein digitalization refers to "the transition of businesses through the use of digital technologies, products and services".
5. Section 6 states the role of the DICT. We recommend that the DICT undertake oversight functions. It can guide agencies on what systems to employ in ICT projects and which ones to invest in to ensure interoperability. The proposed functions are similar to that of Australia's Digital Transformation Agency (DTA) which has been an advisor on ICT and digital investment decisions, and oversees alignment of implementation with digital strategies and priorities (Australian Government DTA n.d.).
6. Sections 7, 25, and 26 state the roles and responsibilities of the E-Governance Unified Project Management Office (E-Gov-UPMO) and the Philippine Infostructure Management Corporation (PIMC). We would like to seek clarification on the delineation of these roles and responsibilities. Additionally, Section 26(h) states that the PIMC shall create an enabling environment to foster innovation to include the promotion and support for emerging technologies, and Section 26(j) states that it shall provide ICT counseling and technical services to government and private entities. We would like to request a review on the appropriateness of including these as functions of the PIMC.
7. We would also like to seek clarification on the proposed function in Section 26(b) "Manage ICT assets of the government including the NGAs, LGUs, the Courts and the Congress" and whether this will not impinge on the functions of respective agencies to manage their ICT assets.
8. Furthermore, we would like to request the rationale for the composition of the PIMC Board of Directors as provided in Section 27 and the relevance of the composition in

the long-term operations of digital infrastructure. Given its stated primary function to “Implement infrastructure programs such as the National Broadband Plan, Free WiFi for All, and expansion of the National Government Data Centers and Government Cloud” (Section 26(a)); we believe that representatives from relevant government agencies such as NEDA, DOST and/or PhilSA, DPWH, DE, and the Military and/or National Security Council are best suited. We caution against including industry representatives who might influence or gain undue advantage in the implementation of government-owned and publicly funded digital infrastructure. A renowned expert, national scientist, or academic in the field of ICT could represent the private sector or civil society, if needed.

9. Section 17 states that the Free Public Internet Access Program shall provide associated or related computer systems and programs, databases and/or management and information systems, including the provisions of core transmission and distribution networks to support the said programs. We would like to inquire whether this is not yet covered in RA 10929, also known as the “Free Internet Access in Public Places Act”. Section 5(g) of RA 10929 provides that the DICT shall “undertake the creation, establishment, installation, maintenance, and operation of infrastructure, equipment, systems, platforms, applications, and such other Program requirements necessary to effectively provide free internet access in public places throughout the country;”
10. Sections 21 to 23 are provisions on security and privacy. Emphasis on security and privacy is necessary given recent reports. The IBM (2022) reported the following in relation to the Philippine context: (1) normalized cyber-capacity is behind countries including Thailand, Malaysia, and India; (2) academic pipeline and military-to-civilian pipeline relevant to providing cybersecurity graduates/professionals are minor/almost non-existent; and (3) lack of competitive government pay scale for cyber/privacy-talent.
11. Section 24 is a provision included to ensure that participation of the private sector will not be prevented by the proposed bill while including a safeguard that contracts or agreements with the private sector shall be subject to laws and rules on public accountability, transparency, and good governance. The DICT must ensure that it sets the strategic direction and asserts its lead role in any form of partnership arrangement to avoid programs and projects that are supply or supplier-driven. Additional safeguards can include ensuring that private sector partners are not given undue advantage through exclusive arrangements in public-funded programs and projects, and ensuring that partnerships are not limited to select companies.
12. Section 33 provides for the establishment of the ICT Academy. Rule 7 of the RA 11927 IRR, however, already provides for upskilling, re-skilling, and training programs. Rule 7 Section 1 of the IRR enumerates the following objectives: (a) address gaps in nationwide digital technology and digital skills mapping exercise by developing and conducting appropriate training courses; (b) ensure access to skills and competencies in digital contents, platforms, digital innovations, entrepreneurship, and technology;

and (c) ensure effective implementation of upskilling, re-skilling, and training strategies prescribed in the National Roadmap on Digital Technology and Digital Skills. The government need not create an Academy specifically for ICT skills. The private schools and colleges are already enhancing their programs and training in line with digitalization and advances in technology. For its part, the government can improve on the curriculum of basic education on public schools on ICT including cybersecurity and/or offer scholarships for specialized ICT skills such as cybersecurity.

13. Section 40 provides for an E-Government Interoperability Fund that shall be a special account in the general fund to be managed by the DICT. We would like to know what types of expenditures are envisaged and why it is proposed to be a special account instead of being a part of the regular budget. Additionally, we recommend that there be caution in sourcing funds from the Spectrum User's Fees, which is already used for the Free Wi-Fi for All program, as this could put pressure to increase the fees and have an impact on the affordability of mobile services.
14. Section 42 states that all ICT employees providing technical support to the implementation of all E-Government Programs shall be covered by RA 11312, also known as the Magna Carta for Scientists, Engineers, Researchers and other S & T Personnel in the Government, Amending for the Purpose Republic Act No. 8439. We would like to seek clarification on the need to have this provision given that the Magna Carta already applies to engineers and other ICT professionals. The purpose of the Magna Carta is to reward innovation and encourage scientific work. Adding ICT employees based mainly on positions in the government bureaucracy will distort the incentives and discriminate against other types of technical work.

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