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**May 22, 2024**

**To: Honorable Atty. Ella Blanca Lopez**  
Commissioner  
National Telecommunications Commission (NTC)  
NTC Building, BIR Road, East Triangle, Diliman, Quezon City

**Re: Proposed NTC MC with subject “Implementing Rules and Regulations Of The National Telecommunications Commission On Public Services Pursuant To Republic Act No. 11659 And Its Implementing Rules And Regulations”**

**Dear Honorable Commissioner Lopez,  
Greetings!**

The undersigned is the National Chairperson of the Federation of International Cable TV and Telecommunications Association of the Philippines (FICTAP for brevity). FICTAP is composed of several hundred medium, small and micro cable TV operators, Value-Added Service (VAS) providers and telecommunications companies scattered throughout the country. FICTAP was formed for the purpose of protecting the interests of the cable TV operators and the subscribing public as well as to ensure the continued growth of the cable TV industry.

I am writing to you for two reasons, as follows:

1. To request for additional time to submit additional comments and inputs of FICTAP and of its members on the said proposed NTC MC, and;
2. To manifest the strong opposition of FICTAP against the passage of the proposed NTC Memorandum Circular (MC) with subject “*Implementing Rules and Regulations Of The National Telecommunications Commission On Public Services Pursuant To Republic Act No. 11659 And Its Implementing Rules And Regulations*”.

**Request for Extension of Time**

That we are making the request for additional time considering the scope and breadth of the proposed NTC MC which will greatly affect the telecommunications and broadcast industries. Although best efforts were made to convene our members and collect their inputs, considering that we have several hundred members and employ a consultative method of decision making, one week is not enough to collate and finalize our Position Paper. We could not rush this because we cannot afford consulting the stakeholders in this matter. Thus this request for an additional period of Fifteen (15) days from today or up to June 6, 2024 to submit our final Position Paper.

**Initial Comments on the Proposed NTC MC**

FICTAP is hereby manifesting its strong opposition against the proposed NTC MC. As its initial comments on the Proposed NTC MC, FICTAP hereby adopts and reiterates the comments of FICTAP legal counsel Atty. Stanley Kristoffer V. Cabrera VI which he made during the May 15,

2024 public hearing held at the NTC premises. FICTAP likewise adopts and reiterates the comments made by the other participants during the same hearing, particularly the comments of Atty. Eusebio K. Lee, Atty. Jerwin D. Bala and Atty. Karen Joy V. Bala.

That based on the report of the various participants of the May 15, 2024 hearing, it is apparent that the proposed NTC MC did not undergo Regulatory Impact Assessment (RIA) considering the answers of the NTC officers during the hearing, as follows:

1. Deputy Commissioner Salvahan could not say that the proposed NTC MC underwent RIA
2. RB Director Walcien stated that she was allegedly told that not all regulations undergo RIA
3. RB Director Walcien later opined that the May 15, 2024 hearing was the impact assessment

That FICTAP most respectfully submits that the proposed NTC MC should undergo RIA, and further submits that the May 15, 2024 is not the impact assessment required by law considering there are specific procedures for RIA.

To emphasize, RIA is a requirement imposed by the Republic Act (RA) No. 9485 as amended by RA No. 11032 entitled "*An Act Promoting Ease Of Doing Business And Efficient Delivery Of Government Services, Amending For The Purpose Republic Act No. 9485, Otherwise Known As The Anti-Red Tape Act Of 2007, And For Other Purposes*". In particular, reference may be made to Sections 3, 4 and 5 of RA 11032 (amending certain sections of RA 9485):

*Section 3. Section 3 of the same Act is hereby amended to read as follows:*

*"Sec. 3 . Coverage. – **This Act shall apply to all government offices and agencies** including local government units (LGUs), government-owned or controlled corporations and other government instrumentalities, whether located in the Philippines or abroad, **that provide services covering business and nonbusiness related transactions as defined in this Act.**"*

*Section 4. Section 4 of the same Act is hereby amended to read as follows:*

*"Sec. 4. Definition of Terms. – As used in this Act, the following terms are defined as follows:*

*x x x*

*"(c) **Business-related transactions** – a set of regulatory requirements that a business entity must comply with to engage, operate or continue to operate a business, such as, but not limited to, collection or preparation of a number of documents, submission to national and local government authorities, approval of application submitted, and receipt of a formal certificate or certificates, permits, licenses which include primary and secondary, clearances and such similar authorization or documents which confer eligibility to operate or continue to operate as a legitimate business;*

*x x x*

*"(h) **Nonbusiness transactions** – all other government transactions not falling under Section 4 (c) of this Act;*

*x x x*

*Section 5. Section 5 of the same Act is hereby amended to read as follows:*

*"Sec. 5. Reengineering of Systems and Procedures. – All offices and agencies which provide government services are hereby mandated to regularly undertake cost compliance analysis, time and motion studies, undergo evaluation and improvement of their transaction systems and procedures and reengineer the same if deemed necessary to reduce bureaucratic red tape and processing time.*

*"The Anti-Red Tape Authority, created in this Act, shall coordinate with all government offices covered under Section 3 of this Act in the review of existing laws, executive issuances and local ordinances, and recommend the repeal of the same if deemed outdated, redundant, and adds undue regulatory burden to the transacting public.*

*"All proposed regulations of government agencies under Section 3 of this Act shall undergo regulatory impact assessment to establish if the proposed regulation does not add undue regulatory burden and cost to these agencies and the applicants or requesting parties: Provided, That when necessary, any proposed regulation may undergo pilot implementation to assess regulatory impact.*

*"Upon effectivity of this Act, all LGUs and NGAs are directed to initiate review of existing policies and operations and commence with the reengineering of their systems and procedures in compliance with the provisions of this Act, pending the approval of the implementing rules and regulations (IRR) thereof."*

***\*Emphasis ours***

That it is crystal clear from the aforementioned provisions of RA 11032 (amending certain sections of RA 9485) that RIA is to be undertaken by all government offices and agencies that provide services covering business and nonbusiness related transactions – including the Honorable National Telecommunications Commission (NTC). Moreover, it is likewise crystal clear that the proposed NTC MC with subject *"Implementing Rules and Regulations Of The National Telecommunications Commission On Public Services Pursuant To Republic Act No. 11659 And Its Implementing Rules And Regulations"* should be subject to the Regulatory Impact Assessment.

That there is nothing in the law which provides that said proposed NTC MC is exempted from RIA, and therefore it is incumbent upon the NTC to conduct said RIA. Indeed, had the NTC conducted RIA, it would have been painfully clear that the rates imposed in the said proposed NTC MC adds undue regulatory burden to the transacting public, to put it lightly.

As manifested by the participants during the May 15, 2024 hearing, there was no prior consultation done before the said rates were drawn up – whether by the NTC or by the NEDA. The fact that the stakeholders were not consulted before the said rates were drawn up is fatal to its adoption and implementation, as there is a significant and irreconcilable disconnect between the proposed regulation and the realities on the ground. If the proposed NTC MC is passed as written, FICTAP is afraid that there would nothing left for the NTC to regulate – which is contrary to the mandate and responsibility of the regulatory agency.

That with regards to the argument that the rates were derived from RA 11659 and its IRR, it should be noted that FICTAP and other stakeholders were likewise not consulted before the passage of the said IRR, thus making its passage questionable. Even assuming without admitting that the said IRR is valid, the passage of an IRR and even of a Republic Act is not an argument against the conduct of RIA. RIA was developed (in foreign jurisdictions and thereafter adopted in the Philippines) specifically to address instances wherein existing or passed regulations and legislation impose undue regulatory burden to the transacting public.

RIA is precisely the answer to the question – *"What can we do, if a law or regulation has been passed?"*

As stated by the Organisation for Economic Co-operation and Development (OECD), RIA is a core regulatory management tool that helps to base decisions whether to adopt **or change laws and regulations on facts and evidence.**

Thus, the NTC cannot claim that its hands are tied by RA 11659 and its IRR considering that even laws and regulations that have been passed can still be changed based on the results of RIA. As a matter of fact, RA 11032 (amending certain sections of RA 9485) expressly states in Section 5 that *"The Anti-Red Tape Authority, created in this Act, shall coordinate with all government offices covered under Section 3 of this Act in the review of existing laws, executive issuances and local ordinances, and recommend the repeal of the same if deemed outdated, redundant, and adds undue regulatory burden to the transacting public"*.

Therefore, FICTAP most respectfully prays that the appropriate Regulatory Impact Assessment be first initiated prior to the passage of the proposed NTC MC and the implementation of RA 11659 and its IRR.

FICTAP submits this communication as its initial comments and shall submit additional comments on or before June 6, 2024, as prayed for.

Respectfully submitted.

A handwritten signature in black ink, appearing to read 'Neng Juliano-Tamano', with a large, stylized flourish underneath.

**Estrellita “Neng” Juliano-Tamano**  
**- FICTAP National Chair**