



Annex B: Provisions of the Magna Carta for Philippine Internet Freedom (MCPIF) that relate to data capping and broadband use.

Section 4. Protection of the Internet as an open network.

- No person shall restrict or deny the interconnection or interoperability of a device, equipment, or network to the Internet, other public network, or other ISPs, telcos, or entities providing Internet or data services without due process of law.

Section 5. Promotion of network neutrality.

- No person shall restrict the flow of data or information on the Internet on the basis of content.
- No person shall use means to favor the flow of information on the Internet of one class of data over another on the basis of content.

Section 13. Promotion of development of Internet network and information and communications infrastructure.

- Network bandwidth is a finite resource limited by technology, infrastructure, and investment. The State shall encourage the development of information and communications technology and infrastructure.

Section 17. Amendments to the Public Telecommunications Policy Act of the Philippines.

- Explicitly recognizes the role of the National Telecommunications Commission (NTC) in the development of information and communications technology and expands the power of the NTC over telcos and ISPs.
- Transfers the powers of the Department of Transportation and Communications over the ICT industry to the Department of Information and Communications Technology (DICT). It also provides for the role of the DICT in the development of ICT in the country.
- Provides for the development and regulation, including interconnection and sharing arrangements, of telcos, ISPs, Internet exchanges, Internet data centers, Internet gateway facility, content providers.
- Provides that telcos, ISPs, Internet exchanges, Internet data centers, Internet gateway facility, content providers shall be considered as public utilities, except where their services are dependent on existing networks in which case they will be considered a value-added service provider.
- Provides for the rights of end users of ICT services.

Section 18. Quality of Service and Network Fair Use.

- No ICT services shall be made available on reasonable, non-discriminatory terms and conditions.



- **Terms and conditions of the network service shall be clearly and accurately disclosed to users in plain language.**
- Minimum levels of availability, uptime, and other service quality standards shall be set by the NTC for users using prepaid, postpaid, or other means of payment.

Section 20. Content Fair Use

- The viewing of online content on any computer, device, or equipment shall be considered fair use.
- Subject to the provisions of the Intellectual Property Code and relevant laws, the viewing, use, editing, decompiling, or modification of downloaded or otherwise offline content shall be considered fair use.
- Any person who shall upload to, download from, edit, modify, or otherwise use content on the Internet or telecommunications network shall have done so with full knowledge of the intellectual property laws.

Note that there is a distinction between network fair use, which describes the relationship between a telco and a subscriber, and content fair use, which describes the relationship between a creator and an audience.