

Commission on Information and Communications Technology


IMPLEMENTING RULES AND REGULATIONS FOR EXECUTIVE ORDER NO. 269 CREATING THE COMMISSION ON INFORMATION AND COMMUNICATIONS TECHNOLOGY

This implementing rules and regulations is hereby promulgated and issued pursuant to Section 8 of Executive Order No. 269 dated 12 January 2004 mandating the Chairman of the Commission on Information and Communications Technology (CICT) to promulgate and issue rules, regulations and other issuances as maybe necessary to ensure the effective implementation of the provisions of Executive Order No. 269 s. 2004.

Chapter I Policy Framework

The Commission on Information and Communications Technology (CICT) or the Commission shall promote macroeconomic and sector-specific policies that adhere to the principles of competition, standardization, liberalization, and empowerment, including data protection, information and infrastructure security, and other principles espoused by the Constitution in fostering and sustaining an e-enabled information society. In accordance therefore, the Commission shall be guided by the following policies:

- 1) The provision of strategic, universal, high-speed, reliable, cost-efficient, and equitable access to information and communications technology (ICT) infrastructure, systems, services, and resources as instruments for nation-building and global competitiveness, and for promoting transparency and public accountability in governance shall be ensured;
- 2) A transparent and non-discriminatory policy and legal environment that will promote e-commerce activities, a level playing field, partnerships between the public and the private sector, small and medium ICT enterprises, strategic alliances with foreign investors, balanced investments between high-growth and economically-depressed areas, and broader private sector participation in ICT developments shall be ensured;
- 3) The convergence of ICT resources and services, such as, but not limited to the development of shared ICT networks shall be fostered and accelerated;

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- 4) A strong and effective regulatory system that fosters competition and protects intellectual property rights, as well as consumer welfare shall be established;
 - 5) The rights of individuals and business users to privacy, security, and confidentiality of their personal information shall be preserved;
 - 6) The development of ICT expertise in the country's human capital to enable Filipinos to compete in a fast-evolving information and communications age shall be promoted;
 - 7) The growth and global competitiveness of the ICT industries by sustaining a focus on quality and timely awareness of global developments shall be ensured, in coordination with the DTI;
 - 8) The use of ICT in support of efforts for the development and promotion of the country's arts and culture, history, education, public health and safety, and other socio-civic purposes shall be encouraged;
 - 9) The development of a modern nationwide postal system as an integral component of the overall development of ICT-enabled public services in the country shall be sustained;
 - 10) Universal access and high-speed connectivity at fair and reasonable cost shall be ensured;
 - 11) The provision of universal access to information and communications services in areas not adequately served by the private sector shall be ensured;
 - 12) The widespread use and application of emerging ICT shall be fostered;
 - 13) An integrated information database on the ICT sector shall be established and maintained to provide timely facts and data for policy planning and implementation, as well as direct support to the private sector and government agencies; and
 - 14) Supporting policies shall be developed to enhance access to capital and other supporting financial infrastructure for the ICT sector.

Chapter II

Definition of Terms

For purposes of these Rules, these terms shall be understood to have the following meanings:

1. *Executive Order* - refers to Executive Order No. 269 s. 2004, otherwise known as "Creating the Commission on Information and Communications Technology".
2. *Rules* - refers to these Implementing Rules and Regulations.
3. *CICT* - refers to the Commission on Information and Communications Technology.
4. *Commission* - refers to the Chairman and Commissioners of the CICT.
5. *Information and Communications Technology (ICT)* - refers to the totality of electronic means to collect, store, process and present information to end-users in support of their activities. It consists, among others, of computer systems, office systems and consumer electronics, as well as networked information infrastructure, the components of which include the telephone system, the Internet, fax machines and computers.
6. *ICT Industries* - refers to ICT producers, distributors and service providers including but not limited to those engaged in manufacturing, wholesale trade, telecommunications, and other computer-related business activities.
7. *E-government Fund* - refers to a fund set aside by the government for e-government projects that are in consonance with the e-Government agenda and direction of the CICT.
8. *Universal Access* - refers to permitting access to a defined minimum service of specified quality to all users everywhere at an affordable price.
9. *Convergence* - refers to technologies moving together towards a common point and elimination of differences between the provisioning of video, voice and data, using digital and other emerging technologies; the coming together of two or more disparate disciplines or technologies; the ability of different network platforms to carry any kind of service; and the coming together of consumer devices such as, but not limited to, the telephone, television and personal computer.

Chapter III **Composition of the Commission**

Section 1. Organization.

- 1.1 *Chairman.* The CICT shall be headed by a Chairman with a Cabinet Rank.

Commissioners. The Chairman shall be assisted by the Director-General of the National Computer Center (NCC), and the Chief of the DOTC Telecommunications Office (TELOF) who, in addition to their current responsibilities, shall concurrently serve as CICT Commissioners. Two (2) additional Commissioners shall also assist the Chairman. The Commissioners shall be appointed by the President upon recommendation by the Chairman.

Transferred Agencies. The transferred agencies include the National Computer Center (NCC), the DOTC Telecommunications Office (TELOF), and all other operating units currently existing in the Department of Transportation and Communications, which directly support Communications, all of which shall form the CICT. The Telecommunications Policy and Planning Office of the DOTC shall be consolidated under the Office of the Chairman.

- 1.4 *Attached Agencies.* The following agencies shall be attached to the CICT: National Telecommunications Commission (NTC) and Philippine Postal Corporation (PPC).

Section 2. Powers and Functions of the Commission


The Commission shall be the primary policy, planning, coordinating, implementing, regulating, and administering entity for ICT of the Executive Branch of the Government. Specifically, the Commission shall exercise the following powers and functions:

Formulate and implement national policies and guidelines that shall promote ICT and the wider use of the internet and other cyberspace infrastructures and exchanges of universal application, in consultation with the business sector, civil society organizations, and other private and public entities, such as educational and training institutions;

Harmonize, synchronize, and coordinate with appropriate agencies all ICT and e-commerce policies, plans and programs consistent with national policies and goals;

- 2.3 Establish, administer, and implement comprehensive and integrated ICT programs with due consideration to advances in convergence and other emerging technologies; and, for this purpose, may call on any agency, corporation or organization, whether public or private, whose development programs in ICT are an integral part thereof, to participate and assist in the preparation and implementation of such programs;
- 2.4 Design, implement, and ensure the protection of an integrated and coordinated government information and communications infrastructure development program, taking into account all the existing plans, programs, proposals, software and hardware

inventory, and the installed systems and programs of government agencies;

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- 2.5 Provide an integrating framework and oversee the identification and prioritization of all e-government systems and applications as provided for in the Government Information Systems Plan; and, manage and/or administer the e-Government Fund, which shall be institutionalized and included in the proposed annual national budget of government. The CICT shall likewise promulgate the guidelines and selection criteria for the review and approval of projects funded under the e-Government Fund;
- 2.6 Coordinate with concerned agencies to generate resources, governmental and non-governmental, local, national and international, as may be appropriate in and for the development, marketing, growth and competitiveness of the Philippine ICT Industry;
- 2.7 Develop and implement, in coordination with concerned government agencies, a comprehensive ICT application capability in government and determine the personnel qualifications and other standards essential to the integrated and effective development and operation of a government information and communications infrastructure pursuant to the rules and regulations set by, and in coordination with the Civil Service Commission;

Encourage and establish guidelines for private sector funding of ICT projects of government agencies to fast-track projects, which provide reasonable cost-recovery mechanisms for the private sector, including but not limited to Build-Operate-Transfer (BOT) mechanisms;

Coordinate with the Department of Science and Technology (DOST) and other concerned public and private entities for the formulation of strategic directions in government research and development programs in ICT.

- 2.10 Establish and prescribe rules and regulations for the establishment, operation and maintenance of ICT facilities in areas not adequately served by the private sector, in consultation with the business sector, civil society, and other private and public entities, such as educational and training institutions;
- 2.11 In coordination with the Philippine Postal Corporation (PPC), establish and prescribe rules and regulations for the operation and maintenance of a nationwide postal system that shall include, but not be limited to, mail processing, delivery services, and money order services;

Administer and enforce all laws, standards, rules, and regulations governing ICT, and ensure the protection of ICT-related intellectual property rights in coordination with the Intellectual Property Office (IPO) and law enforcement agencies;

In coordination with concerned agencies, ensure consumer protection and welfare, and protect the rights of consumer and business users to privacy, security and confidentiality. The CICT shall be responsible for conducting systems audit activities, including but not limited to, vulnerability assessments and security monitoring of both government and business ICT infrastructures in government and public service enterprises. It shall coordinate with law enforcement agencies in ensuring the security and confidentiality of information, information systems and networks;

- 2.14 Assist the Department of Trade and Industry in carrying out its function related to the promotion of trade and investment opportunities in ICT Services and ICT-enabled Services;

- 2.15 In coordination with concerned agencies, promote strategic partnerships and alliances among and between local and international ICT firms and institutions; R&D, educational and training institutions; and technology providers, developers and manufacturers, to speed up industry growth;

- 2.16 In coordination with concerned agencies, plan and/or implement such activities as maybe appropriate and/or necessary to enhance the competitiveness of Philippine workers, firms, and small to medium enterprises in the global ICT market;

In coordination with concerned agencies, harmonize, reconcile and make sure that the ICT plans and programs of government agencies and their implementation are consistent with the national ICT objectives and goals;


In coordination with the Department of Education, formulate policies and initiatives with respect to IT education and the development, promotion and application of ICT in education. The CICT shall, likewise, coordinate with the Commission on Higher Education (CHED), Technical Education Skills Development Authority (TESDA), and other concerned agencies to effect improvements in ICT education in the tertiary, and technical and vocational schools;

- 2.19 In coordination with the National Telecommunications Commission, the CICT shall, in accordance with the policies enunciated in Republic Act 7925, be responsible for the implementation of Section 6(a) to (d) of the said Act;

In coordination with relevant government agencies, the CICT shall, in accordance with laws enacted relating to communications, perform such other functions as therein provided and be responsible for the implementation of such laws, as appropriate;

When appropriate, establish multi-stakeholders committees, work groups and/or task forces to afford other sectors such as the private sector and the academe participation in the effective implementation of the provisions of Executive Order 269 s. 2004;

Represent and/or coordinate with appropriate government agencies proper representation in various international meetings related to ICT; and when appropriate, authorize other qualified persons to represent the country;

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- 2.23 Reorganize the transferred agencies, and initiate promotions and transfers of personnel from one region/unit to another; and
 - 2.24 Perform such other powers and functions as may be prescribed by law or as may be necessary, incidental or proper to its mandate or as may be assigned from time to time by the President.

Section 3. Powers and Responsibilities of the Chairman

3.1 The Chairman shall have the following authorities:

3.1.1) *Supervision and Control Over the CICT.* The authority and responsibility for the exercise of the mandate of the CICT and for the discharge of its powers and functions shall be vested in the Chairman, who shall have supervision and control of the CICT. The Chairman shall also have supervision and control over the bureaus, regional offices, coordinating units, and agencies/offices under him, subject to the guidelines prescribed in the Administrative Code.

3.1.2) *Supervision and Control Over Transferred Agencies.* The Chairman, acting as an official with cabinet rank representing the CICT, shall exercise the following powers over the transferred agencies, subject to the provisions of the Administrative Code:

- a. Act directly whenever a specific function is entrusted by law or regulation to a subordinate;
- b. Direct the performance of duty;
- c. Restrain the commission of acts;
- d. Review, approve, revise or modify acts and decisions of the Regional officials and other subordinate officials;
- e. Determine priorities in the execution of plans and programs;

- f. Prescribe standards, guidelines, plans and programs for ICT;
- g. Establish the organizational structure and staffing pattern of the CICT and submit the same for approval of the President;
- h. Oversee the orderly transfer of assets, personnel and projects to prevent, among others, impairment of valid contracts of the involved agencies to ensure the effective implementation of the provisions of the Executive Order; and
- i. Perform such other acts as may be necessary and not otherwise prohibited by law.

3.1.3) *Responsibilities Over Attached Agencies.* The Chairman shall, in accordance with his power of direct supervision and control over agencies and offices, undertake the following:


- a. Set policy directions and strategies in the conduct of their activities; and
- b. Monitor plans and projects carried out by the attached agencies.

The attached agencies shall give full support and coordinate with the Chairman of the CICT, as may be appropriate, consistent with Executive Order 269 s. 2004. The NTC shall now receive policy guidelines from the Commission provided that the Commission shall not exercise any power, which will tend to influence or effect a review or a modification of the NTC's quasi-judicial function; nor shall the Commission exercise any power in violation of the charter of the Philippine Postal Corporation.

3.1.4) *Delegation of Authority.* The Chairman shall delegate such authority to the CICT officials as may be necessary for them to implement CICT's plans and programs adequately. The delegation shall be in writing; shall indicate to which officer or class of officers or employees the delegation is made; and shall vest sufficient authority to enable the official to discharge his assigned responsibility.

3.2 The Chairman shall discharge the following functions:

3.2.1) Advise the President, as the President may direct, in issuing executive orders, regulations, proclamations and other issuances, the promulgation of which is expressly vested by law in the President relative to matters under the jurisdiction of the CICT;

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- 3.2.2) Establish the policies and standards for the operation of the CICT pursuant to the approved programs of government;
 - 3.2.3) Promulgate rules and regulations necessary to carry out CICT's objectives, policies, functions, plans, programs and projects;
 - 3.2.4) Promulgate administrative issuances necessary for the efficient administration of the offices under the Chairman and for proper execution of the laws relative thereto. These issuances shall not prescribe penalties for their violation, except when expressly authorized by law;
 - 3.2.5) Exercise disciplinary powers over officers and employees of the CICT in accordance with law, including their investigation and the designation of a committee or officer to conduct such investigation;
 - 3.2.6) Appoint all officers and employees of the CICT except those whose appointments are vested in the President or in some other appointing authority; Provided, however, that where the CICT is regionalized on a department-wide basis, the Chairman shall appoint employees to positions in the second level in the regional offices as defined in the Administrative Code;
 - 3.2.7) Exercise jurisdiction over all offices and agencies under the CICT as are provided by law, and in accordance with the applicable relationships as specified in Book IV, Chapters 7, 8, and 9 of the Administrative Code;
 - 3.2.8) Formulate and enforce a system of measuring and evaluating periodically and objectively the performance of the CICT and submit the same annually to the President;
 - 3.2.9) Prepare and submit to the President through the Department of Budget and Management an estimate of the necessary expenditures of the CICT during the next fiscal year and succeeding years, on the basis of the reports and estimates submitted by the offices under the CICT;
 - 3.2.10) Be responsible for offices placed directly under the Office of the Chairman as determined by the Commission; and
 - 3.2.11) Perform such other functions as may be provided by law or as may be assigned by the President.

Section 4. Responsibilities of the Commissioners

Each of the Commissioners shall be assigned specific focus areas consisting of functional units to be determined and delegated by the Chairman. These focus areas include those embodied in the ITECC strategic roadmap namely: (a) e-government, (b) information infrastructure, (c) business development, (d) human resources development, and (e) legal and regulatory environment; and, other areas, such as research and development and internal management, which are regarded as necessary in pursuing the effective implementation of the mandate of the Commission.

Each of the Commissioners shall exercise the following powers and functions:

- 4.2.1) Advise and assist the Chairman in the formulation and implementation of the CICT's objectives and policies;
- 4.2.2) Coordinate all the operational activities of the focus area/s for which he/she is made responsible to the Chairman;
- 4.2.3) Assist in guiding government and private investments in the development of ICT, in a more practical, expeditious and orderly manner;
- 4.2.4) Coordinate the programs and projects of his/her focus area/s and be responsible for its economical, efficient and effective administration; and
- 4.2.5) Perform such other functions as may be assigned or delegated by the Chairman.

Section 5. Responsibilities of Transferred Agencies/Units

- 5.1 Specific responsibilities of the transferred agencies/units shall be assigned by the Chairman as provided in the duly approved organizational structure of the CICT.

The transferred agencies/units shall continue to perform their respective current functions and responsibilities in addition to new responsibilities as may be assigned to the CICT.

Subject to the review power of the Chairman, the CICT's offices in the regions shall exercise the following functions:

- 5.3.1) Implement laws, policies, plans, programs, rules and regulations of the CICT in the regions;

- 5.3.2) Provide economical, efficient and effective service to the people in the area;
- 5.3.3) Coordinate ICT concerns with the local government units and the regional offices of other departments, bureaus and agencies in the area;
- 5.3.4) The TelOf Regional Offices shall perform their current functions pending their transition to CICT offices in the regions; and
- 5.3.5) Perform such other functions as may be delegated by the Chairman.

Section 6. Relationship with Other Departments/Agencies

The CICT may, in appropriate cases, seek the assistance and support of other government agencies and the private sector in the preparation and implementation of the CICT's ICT initiatives.

- 6.2 The CICT may, in the formulation of its policies, solicit and take into account the views or positions of the private sector, through the ITECC, or upon the abolition of the ITECC, through an advisory body that may be formed thereafter.
- 6.2 The Regional Development Councils and the Regional Information Technology and e-Commerce Councils (RITECCs) shall coordinate their ICT plans, programs and projects with the CICT.

Chapter IV

Transfer of Personnel, Appropriations, Funds, Assets, Records, Equipment, Facilities, Supplies, Books of Accounts, Choses in Action, Rights, Projects and Other Assets

Section 1. The transfer to the CICT of all transferred agencies/units shall include their personnel, appropriations, funds, records, equipment, facilities, supplies, books of account, choses in action, rights and all other assets.

Section 2. *Transfer of Programs and Projects.* The existing programs and projects of the transferred agencies/units shall likewise be transferred to the CICT. The Chairman shall oversee the orderly transfer of these programs and projects to prevent, among others, the impairment of valid contracts of the involved agencies/units, and to ensure the effective implementation of the provisions of the Executive Order.

Section 3. *Transfer of Staff.* All regular or permanent employees who shall be affected by E.O. 269 s. 2004 shall not suffer any loss of seniority in rank or decrease in emoluments.

Chapter V Miscellaneous Provisions

Section 1. *Transitory Provisions.*

1.1 *Continuation of Functions.* Pending the full organization of the CICT, the concerned DOTC offices and staff and all other affected agencies shall continue to perform their usual functions, duties and responsibilities, and shall likewise provide the support requirements to the CICT.

1.2 *Setting the Guidelines for the Effective Transfer of Affected Agencies/Units to the CICT.* The Commission, along with the Department of Transportation and Communications (DOTC) and the Department of Science and Technology (DOST), shall set the guidelines for the effective transfer of the agencies/units under their respective supervision and control to the CICT.

The Commission, along with the heads of the transferred agencies/units, shall likewise discuss and set the guidelines for the effective transfer of personnel, appropriations, funds, records, equipment, facilities, supplies, books of account, choses in action, rights and all other assets to the CICT.

1.3 *Setting the CICT Organizational Structure and Staffing Pattern.* A rationalized organizational structure and staffing pattern for CICT shall be established, taking into consideration the reengineered functions of the transferred agencies.

1.4 *Transfer of Documents, Assets and Liabilities.* The heads of the transferred agencies/units shall make an inventory of all documents, assets, and liabilities for which they are responsible before formally turning these over to the Commission.

All liabilities incurred prior to the appointment of the CICT Chairman shall be the responsibility of the heads of the transferred agencies/units. The Chairman, however, is not precluded from taking responsibility over programs and projects and contracts entered into prior to his appointment.

1.5 *Funding.* The Department of Budget and Management shall assist in facilitating the financial resource requirements of the CICT in order to carry out the provisions of these Rules.

Section 2. Separability Clause. In the event that any part or provision of this IRR is declared unconstitutional or invalid, the remaining provisions not affected therein shall continue in full force and effect.

Section 3. Effectivity Clause. This IRR shall take effect immediately.



SEC. VIRGILIO L. PEÑA
Chairman, CICT