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February 21, 2025

HON. FRANCIS JOSEPH "CHIZ" G. ESCUDERO
Senate President
Senate of the Philippines
GSIS Bldg., Financial Center, Diokno Blvd. Pasay City

Copy to **Hon. Ferdinand Martin G. Romualdez**
Speaker of the House
House of the Representatives of the Philippines

Hon. Alan Peter "Compañero" S. Cayetano
Senate Committee Chairperson on Science and Technology
Senate of the Philippines

Hon. Tobias "Toby" M. Tiangco
House Committee Chairperson on Information and Communications Technology
House of the Representatives of the Philippines

Dear Senate President Escudero:

The undersigned members of the Joint Foreign Chambers (JFC), along with the EU-ASEAN Business Council (EU-ABC), IT and Business Process Association of the Philippines (IBPAP), and the US-ASEAN Business Council (USABC) write to express our commendation to the Senate for approving the proposed *Konektadong Pinoy Act* under Senate Bill 2699. SB 2699 represents a measure that aims to address fundamental issues that have long slowed growth of the Philippine Internet industry and establish a comprehensive connectivity framework for the country. The Philippines continues to lag behind its ASEAN peers in terms of Internet infrastructure and access, which hurts the country's economic competitiveness, and our thousands of member companies and their employees. The *Konektadong Pinoy* bill paves the way for a more competitive and inclusive digital economy that fosters reliable, accessible, and affordable Internet connectivity for all Filipinos.

The country's outdated, analog-era laws[1] intended for landlines and radio broadcasting were not designed to regulate Internet-based technologies and are ill-suited to address the dynamic needs of modern Internet services and technologies. The *Konektadong Pinoy Act* presents an opportunity to establish a modern digital policy framework that would address the most pressing issues of the industry, including:

[1] Public Telecommunications Policy Act of 1995, Radio Control Law of 1931, the Public Service Act of 1936 and the NTC Charter of 1979

1. **Expanding competition and Internet access options** by introducing a streamlined administrative registration process for entities building networks and offering data transmission services only. It also mandates the development of a qualification process that ensures the highest, globally accepted performance standards are met, penalizing non-compliant and erring service providers, and placing consumer protection at the forefront. More secure Internet options will help lower costs for consumers and businesses.

2. **Promoting infrastructure sharing and use of common facilities** to create greater efficiency, lowering the cost and time of network deployment.

3. **Improving spectrum management** through a more transparent and consultative process, ensuring the equitable distribution of this scarce and valuable resource essential for mobile and wireless Internet.

In a statement during the 13th Arangkada Philippines Forum, you stated that, "*We are likewise looking at passing together with the Open Access bill or in tandem with it the Sovereign Data Storage bill, which seeks to require any and all data produced in the Philippines to be stored likewise in the Philippines in order to provide security and to provide technology transfer in this particular field and/or industry.*"

As the Senate and House move to reconcile the disagreeing provisions of the Open Access bills, we would like to express our strong opposition to the inclusion of data sovereignty/localization provisions in the *Konektadong Pinoy Act* that would require data to be stored and processed exclusively within Philippine territory. Data localization requirements will increase barriers to innovation and investment by imposing significant compliance costs on all businesses. Data localization would not boost investment in the Philippines' digital economy. Rather, it would impede cross-border data flows and restrict access to cutting edge technologies such as Artificial Intelligence (AI) and cloud computing, as well as place impediments to business models and hinder the ability of Filipino digital businesses from growing into new markets globally. We believe that these restrictions would hamper more inclusive access to technologies by SMEs and start-ups, discourage foreign investment, and ultimately place Filipino businesses at a disadvantage in the global economy.

For the Information Technology and Business Process Outsourcing (IT-BPO) industry, such measures would require re-evaluation and restructuring of global transactions. Data localization would severely disrupt business operations across the Asia-Pacific region and beyond, limiting trade benefits between firms and weakening industry-level agreements. The imposition of data localization would negatively impact business process outsourcing transactions, making it more difficult for companies to operate seamlessly across borders. Moreover, small and medium enterprises (SMEs), including startups, would struggle to comply with such mandates due to the digital nature of their businesses and the additional costs associated with data residency requirements. As such, we believe that these restrictions would discourage foreign investment and place Filipino businesses at a disadvantage in the global economy.

In a world that thrives on international collaboration, limiting data flows will significantly affect the country's ability to leverage global expertise, partnerships, and technological advancements. Businesses that depend on seamless data exchange will face unnecessary challenges from significantly increased operation costs in the Philippines. According to an Organisation for Economic Co-operation and Development (OECD) Trade Policy Paper on data localization measures (specifically, cross-border e-payments, cloud computing, and aviation), depending on the type of measure in place, data localization could raise data management costs by 15-55%. To further quote the paper, it found[2]:

> - *"Data localisation measures feature prominently in the e-payments sector, especially in non-OECD countries. This not only affects the ability of firms to operate international networks but also:* ***increases costs for consumers, including smaller firms; raises vulnerabilities to fraud and cybersecurity risks; and reduces resilience."***
> - *"Data localisation requirements are also particularly burdensome for cloud service providers who rely on economies of scale to offer cheaper and more secure digital solutions. Data localisation measures can lead to* ***higher costs and reduced service offerings, affecting downstream users, especially SMEs, the most.*** *In addition, data localisation can lead to greater cybersecurity risks by reducing the ability to share 'threat data' – metadata used to identify specific types of threats or system vulnerabilities."*
> - *"Insights on air travel underscore a highly regulated and standardised set of practices supporting the processing, transfer and storage of data, especially passenger data, across different entities (airlines, booking intermediaries, airports and government agencies).* ***Increasing uncertainties about the growing volume of cross-cutting data localisation measures are affecting global business operations, hampering innovation and the quality of services."***

Further, a whitepaper by Leviathan Security Group showed that forced data localization measures raise the cost of hosting data by 30-60%[3]. A study by the European Center for International Political Economy on the costs of data

[2] Del Giovane, C., J. Ferencz and J. López González (2023), "The Nature, Evolution and Potential Implications of Data Localisation Measures", *OECD Trade Policy Papers*, No. 278, OECD Publishing, Paris, https://doi.org/10.1787/179f718a-en.
[3] Leviathan Security Group (2015), "Quantifying the Cost of Forced Localization", https://www.leviathansecurity.com/s/QuantifyingtheCostofForcedLocalization.pdf

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localization in seven economies found a considerable impact of data localization on economic activity:[4]

> *"However, the more immediate effect of data localization measures – the impact on economic recovery and growth – is even more dangerous. As this study has shown, this impact is a direct consequence of the complex relations between cross-border data flows, supply chain fragmentation and domestic prices. These are complexities that are generally not understood by policymakers, who are often in the field of security and privacy law, rather than international trade. The findings regarding the effects on GDP, investments and welfare from data localization requirements and discriminatory privacy and security laws are too considerable to be ignored in policy design. It is also reasonable to assume that SMEs and new firms are the first to be displaced from the market, as they lack resources to adapt to the regulatory changes."*

Any data sovereignty provision also directly conflicts with the Philippines' trade commitments and government policy of supporting cross-border data flow. The Philippines has been a key proponent of cross-border data movement in negotiations for the ASEAN *Digital Economy Framework Agreement* (DEFA). As a regional leader in cross-border data flows, the Philippines is well-positioned to emerge as a major beneficiary of the projected $2 trillion ASEAN digital economy by 2030 under the *Digital Economy Framework Agreement* (DEFA). The Philippines has also announced its intention to join the Comprehensive and Progressive Trans-Pacific Partnership Agreement (CPTPP), which contains high standard commitments that prohibit data localization and discriminatory digital trade measures. We caution that any change from the current open and supportive policy environment could disrupt progress and slow down the digital growth trajectory of the country.

<u>Data localization does not mean greater data security.</u> Data security depends primarily on the technical, operational, and managerial practices implemented to secure the data, not on its location. Moreover, data localization *increases* cybersecurity risks as it reduces the effectiveness and viability of threat detection and fraud prevention. Mandates that restrict data movement impede integrated cybersecurity planning, weaken coordinated network defense mechanisms, and create fragmented, siloed approaches to data that increase vulnerabilities to attack. What is critical for data security is the adoption of globally recognized standards for data protection and cybersecurity, and for organizations to access digital infrastructure and services that implement strict cybersecurity protocols including encryption of data at rest, in transit, and in use. In addition, the Philippines already has strong regulations in place to support data security. The APEC Cross-Border

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[4] Bauer, M., Lee-Makiyama, H., van der Marel, E., Verschelde, B. (2014), "The Costs Of Data Localisation: Friendly Fire On Economic Recovery", *Ecipe Occasional Paper*, No. 3/2014.

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Privacy Rules (CBPR) and the Republic Act 10173, or the Data Privacy Act of 2012, offer a strong rights-based framework that protects personal data.

The countries with advanced digitalization in the Asia-Pacific region, such as Japan, Singapore, Australia, and New Zealand, have taken an entirely different approach to data sovereignty/residency. Recognizing the restrictiveness to business and negative impact on access to technologies (such as AI), these countries have adopted effective, risk-based strategies for data classification and cross-border data flows.

We strongly urge the Senate to uphold the spirit of the *Konektadong Pinoy Act* by not including data sovereignty or localization provisions that would inadvertently limit the Philippines' potential for digital growth. The inclusion of such provisions would counteract the very objectives of the bill by increasing the cost of doing business in the Philippines, stifling competition to the detriment of Filipino consumers, and deterring the development of a globally competitive digital economy.

By focusing on a policy centered on obtaining reliable, accessible, and affordable Internet connectivity for all Filipinos, the *Konektadong Pinoy Act* can serve as the foundation for long-term digital transformation, economic resilience, and inclusive growth.

The JFC is a coalition of the American, Canadian, European, Japanese, and Korean chambers and PAMURI. The EU-ABC is the primary voice for European business within the ASEAN region. The IBPAP is the primary industry association and advocacy group of the country's agile, dynamic, and resilient IT and Business Process Management (IT-BPM) sector. The USABC represents over 180 U.S. companies, including many of the world's largest global firms, with a significant number of them having substantial investments in a variety of sectors. The JFC, EU-ABC, IBPAP, and USABC support and promote open international trade, increased foreign investment, and improved conditions for business to benefit both the Philippines and the countries we represent.

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Sincerely yours,

Ebb Hinchliffe
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Julian Payne
President
Canadian Chamber of Commerce of the Philippines

Paulo Duarte
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