

CUTTING RED TAPE: A LOOK AT THE EMPOWERMENT AND ENFORCEMENT FUNCTIONS OF THE ANTI-RED TAPE AUTHORITY

*JEDREK C. NG*¹

INTRODUCTION

I believe all of us have experienced the unpleasant and arduous task of lining up in long queues in government offices for the submission of an application, or after waiting for several hours, then being told to come back the following day just to complete a rather simple ministerial transaction. During these moments, we would wish that government services would somehow be more efficient and less burdensome.

Red tape, or the excessive regulations and bureaucracies involved in processing documents in the government, has been a bane for the Philippines. This culture of delays and inaction has led to corruption and the country's lackadaisical performance in an international ease of doing business report.² To address this issue, the Philippine government enacted Republic Act (RA) 9485 or the "Anti-Red Tape Act (ARTA) of 2007." The said law had broad application covering most government agencies. However, its scope was quite narrow—it primarily related to mandating fixed processing times, rather than an assessment of whether the regulatory requirements themselves remained appropriate.³

When President Rodrigo Duterte assumed office last 2016, among his administration's top priorities were to completely eradicate red tape and

¹LL.M, National University of Singapore (2016); LL.B., University of Santo Tomas Faculty of Civil Law (2002); A.B. in Behavioral Science, University of Santo Tomas (1997); Currently the Director for Legal and Public Assistance Division, Anti-Red Tape Authority (ARTA); Former Senior Associate at Divina Law; Previously fully-detailed at the Inter-Agency Council Against Trafficking (IACAT), Department of Justice (DOJ); Former Assistant City Prosecutor, City of Manila; Former Associate Solicitor, Office of the Solicitor General; Special lecturer in Polytechnic University of the Philippines, College of Law, Arellano University School of Law, Far Eastern University Institute of Law, Lyceum of the Philippines University College of Law, University of Santo Tomas Graduate School of Law and University of Santo Tomas Faculty of Civil Law.

² As of 2020, the Philippines ranks 95th of 190 economies. World Bank, Doing Business Report (2020).

³ OECD, Regulatory Impact Assessment in the Philippines, 2020. Page 29, <https://www.oecd.org/gov/regulatory-policy/regulatory-impact-assessment-philippines-2020.pdf>

corruption. Thus, the President pushed for the passage of RA 11032 or the "Ease of Doing Business and Efficient Government Service Delivery Act of 2018," which amended the old ARTA law. The strengthened version of the law is poised to facilitate prompt actions or resolution of all government transactions with efficiency. It applies to all government offices and agencies in the Executive Department including local government units (LGUs), government-owned or -controlled corporations, and other government instrumentalities, located in the Philippines or abroad, that provide services covering business-related and non-business transactions as defined in the law.⁴

THE ANTI-RED TAPE AUTHORITY(ARTA)

This game-changing legislation has led to the creation of the Anti-Red Tape Authority, or ARTA.⁵ Its main task is to implement and oversee a national policy on anti-red tape and ease of doing business.⁶ ARTA envisions a clean, highly efficient, technology-enabled and citizen-centric government that enables a vibrant business environment and a high-trust society.⁷ To achieve this, the Authority is transforming the way that government service is delivered through good regulatory practices, collaboration and innovation.⁸

The ARTA's mandate to oversee a national anti-red tape policy includes two important categories of powers and functions: empowerment and enforcement. The empowerment function of the Authority mainly emphasizes its role as a helper of government agencies in their streamlining, reengineering and automation efforts. ARTA is tasked to monitor, recommend, and assist government agencies on initiatives that could make their processes faster and more efficient. Meanwhile, the ARTA's enforcement function focuses primarily on the policing aspect in the government bureaucracy. It can crack the whip on government agencies that fail to comply with the Anti-Red Tape law. ARTA's investigative function enables it to file cases against government

⁴An 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, RA 11032, Sec. 3.

⁵Ibid, Section 17,

⁶Ibid, Section 17 (a)

⁷ARTA, ARTA's Vision 2021-2031, <https://arta.gov.ph/about/mandate-vision-mission/> (last accessed Feb. 3, 2022).

⁸ARTA, ARTA's Mission, <https://arta.gov.ph/about/mandate-vision-mission/> (last accessed Feb. 3, 2022).

employees, and even heads of agencies, if they are found to have violated any of the provisions of Section 21 of Republic Act No. 11032.

A. Empowerment function

It has only been three years since ARTA was established, but it has already initiated many reforms and collaborated with various government agencies and development partners to improve competitiveness and ease of doing business in the country. ARTA, through its empowerment function, implemented various initiatives, policies, and programs, adopting the whole-of-government approach, to pursue high quality regulation, collaboration, and innovation, pushing government agencies to improve and make more efficient the delivery of their services to the Filipino people.

The Philippines has been stagnant in terms of the maturity of its regulatory management system for the past 20 years. A Regulatory Management System (RMS) is a set of policies, institutions, processes, and tools employed by the government to pursue and maintain good quality regulation. With the establishment of ARTA and the implementation of its initiatives on RMS, the Philippines now transitions from the starter stage to the enabled stage, joining other countries such Malaysia, Japan, and Vietnam.⁹

One of the major policies issued by ARTA to improve RMS in the Philippines is the *Philippine Good Regulatory Principles (PGRP)*, launched last 17 June 2021. The PGRP are a set of principles outlining good regulatory practices that agencies can use as a guide on how they should regulate and expect to be regulated.¹⁰ The ten (10) PGRP are the principles of Clarity, Legal and Empirical Basis, Benefit-Cost, Assessment, Engagement, Coherence, Whole-of-Government, Continuous Evaluation, Competition, and Risk Management.¹¹

ARTA likewise launched and implemented various tools, initiatives, and programs, namely: Citizen's Charter; National Regulatory Impact Assessment (RIA) Manual; Whole-of-Government (WOG) Re-Engineering Manual; Report Card Survey; Philippine Business Regulations Information System (PBRIS); Anti-Red Tape Electronic Management Information System

⁹ Peter Carroll & Ponciano Intal, Jr., (2016). ASEAN's Regulatory Reform Imperative and Future Prospects. *ASEAN@50*, Vol. 5, 159-183. Retrieved from https://www.eria.org/5.6.ASEAN_50_Vol_5_Carroll_Gill_and_Intal.pdf

¹⁰ ARTA, Philippine Good Regulatory Principles (PGRP). Retrieved from <https://arta.gov.ph/philippine-good-regulatory-principles/>

¹¹ *Id.*

(ARTEMIS); Central Business Portal (CBP); Electronic Business One-Stop Shop (eBOSS); TradeNet; and the NEHEMIA Program.

Citizens Charter.

One of the most defining features of RA 11032 is the requirement for all government agencies and LGUs to put up their latest Citizen's Charter. The Citizen's Charter is an official document which communicates in simple terms the service standards or pledge of an agency on the government services being provided to the citizens. It also serves as the basis for establishing liability of all erring government employees involved in unnecessary red tape and corruption and for the grant of incentives and rewards as forms of acknowledgement for compliant government agencies that have shown exemplary services and best practices.

Section 6 of RA 11032 mandates all covered government agencies and LGUs to set up their most current and updated Citizen's Charters, to wit:

“SEC. 6. *Citizen's Charter.* – All government agencies including departments, bureaus, offices, instrumentalities, or government-owned and/or controlled corporations, or LGUs shall set up their respective most current and updated service standards to be known as the Citizen's Charter in the form of information billboards which shall be posted at the main entrance of offices or at the most conspicuous place, in their respective websites and in the form of published materials written either in English, Filipino, or in the dialect, that detail:

- (a) A comprehensive and uniform checklist of requirements for each type of application or request;
- (b) The procedure to obtain a particular service;
- (c) The person/s responsible for each step;
- (d) The maximum time to conclude the process;
- (e) The document/s to be presented by the applicant or requesting party, if necessary;
- (f) The amount of fees, if necessary; and
- (g) The procedure for filing complaints.”

The setting up of a Citizen's Charter has already been mandated under RA 9485 or the “Anti-Red Tape Act of 2007”. However, RA 11032 expanded the covered agencies who are required to setup their Citizen's Charters as well as the services that should be included therein, covering both internal and external services of the agency or office. RA 11032 gave more teeth to the previous law as it already provides for penalties for those government agencies

or LGUs that fail to render government services within the processing time provided in their Citizen's Charter as well as those that impose additional requirements or fees other than those provided in their Citizen's Charter. ARTA issued the corresponding guidelines that provided all government agencies with pertinent information and instructions in developing and revising their Citizen's Charter in compliance with RA 11032 and its IRR.¹²

As part of its empowerment function, ARTA provides assistance to agencies and LGUs in the crafting of their Citizen's Charters by conducting orientations and write shops through its Compliance Monitoring and Evaluation Office (CMEO). CMEO monitors the compliance of covered agencies and LGUs as they are mandated to regularly update their Citizen's Charter and submit the same to ARTA. It also conducts on-site inspection to check whether the agency or office is compliant with the posting requirement under the law, as well as check whether the posted Citizen's Charter is updated and compliant with the format mandated by ARTA to standardize all Citizen's Charters.

National Regulatory Impact Assessment (RIA) Manual.

RA 11032 mandates all proposed regulations of covered government agencies to undergo Regulatory Impact Assessment (RIA) to establish if the proposed regulation does not add undue regulatory burden or cost to these and agencies and the applicants or requesting parties.¹³ In partnership with the United States Agency for International Development (USAID) and the UP Research and Extension Services Foundation – Regulatory Report Support Program for National Development (UPPAF-RESPOND), ARTA launched the Regulatory Impact Assessment (RIA) Manual which is a reference document that provides the tools, process and procedures of undertaking RIA to ensure that regulations are subjected to proper consultations and evidence-based analysis before its issuance.¹⁴ It aims to help government agencies, LGUs, and other government instrumentalities to enact sound and effective regulations that provide the most benefit for citizens and stakeholders without causing any undue burden or cost. ARTA, through Regulatory Management and Training Division (RMTD) under the Better Regulations Office (BRO), conducts regulatory management training programs to capacitate National

¹² ARTA Memorandum Circular No. 2019-002, s. 2019.

¹³ RA 11032, Sec. 5.

¹⁴ Regulatory Impact Assessment Manual. Retrieved from <https://arta.gov.ph/riamannual/>

Government Agencies and LGUs to comply with sound regulatory management principles.

Whole-of-Government (WOG) Re-Engineering Manual.

RA 11032 mandates all covered government agencies and offices to regularly 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.¹⁵ The reengineering process also entails an interagency review and harmonization of permitting and licensing laws, policies, regulations, and issuances to eliminate redundant and undue regulatory burdens to the transacting public.¹⁶

In partnership with the United Kingdom Government – Department for Business, Energy, and Industrial Strategy (UK BEIS), ARTA developed the Guidelines and Manual on the WOG Reengineering. This Manual is a reference document containing tools and principles in streamlining and reengineering processes, derived from principles and practices in business engineering tailor-fitted to the public Sector. It provides a walk-through of the process of reengineering methodology and the tools that agencies can use to support their reforms. The Manual was formally launched through a virtual ceremony on 29 July 2021. ARTA is currently conducting trainings and capacity building for covered agencies on the conduct of reengineering and the use of the Manual through its Compliance Monitoring and Evaluation Office.

Report Card Survey.

Section 20 of RA 11032 provides that all offices and agencies providing government services shall be subjected to a Report Card Survey. The RCS was initially overseen by the Civil Service Commission (CSC), but with the enactment of RA 11032, ARTA is now responsible for its implementation, in coordination with CSC and the Philippines Statistics Authority (PSA). Last November 2021, ARTA officially launched the Report Card Survey (RCS) 2.0., a scorecard of government agencies that will measure the effectiveness of the Citizen's Charter in reducing regulatory burdens and the impact of human resources systems and programs in delivering efficient government service. It is a holistic tool that is aimed at reducing regulatory burdens.

¹⁵ RA 11032, Sec. 5.

¹⁶ARTA Memorandum Circular No. 2021-09, S. 2021. Retrieved from: https://arta.gov.ph/wp-content/uploads/2020/07/Signed_Memorandum_Circular_No._2019-002_Series_of_2019.pdf

The RCS can be conducted both online and on-site. It examines three core areas: institutionalization of RA 11032 mandates, overall client satisfaction, and agency performance and recognition. The RCS 2.0 uses compliance reports, surveys—using a survey questionnaire and inspection checklist—the Client Satisfaction Measure (CSM), and reports and awards from other government agencies as its methods of measurement. The CSM is a feedback mechanism that measures the specific and overall satisfaction of the transacting public for every service that government agencies offer. The results of the RCS will still be used as one of the bases in granting rewards and incentives to government agencies.

Philippine Business Regulations Information System (PBRIS) and Anti-Red Tape Electronic Management Information System (ARTEMIS).

ARTA, with the assistance of the United States Agency for International Development (USAID) and the University of the Philippines Public Administration Research and Extension Services Foundation, Inc. – Regulatory Support Program for National Development (UPPAF-RESPOND), launched the Phase 1 of the Philippine Business Regulations Information System (PBRIS) and the Anti-Red Tape Electronic Management Information System (ARTEMIS) last September 2021.

The PBRIS is an online platform that provides accessible information on the Philippine Regulatory Management System and the laws and regulations that are relevant to the public. Its establishment by ARTA is mandated under RA 11032, Section 17(k) to ensure the dissemination of and public access to information on regulatory management system and changes in laws and regulations relevant to the public. The PBRIS will serve as a comprehensive repository of all government regulations and relevant regulatory documents, accessible through a user-friendly catalogue that the public can search through.

On the other hand, the ARTEMIS is a web-based platform that provides real-time and on-demand database and mapping of all government services indicated in the Citizen's Charter—the information billboard containing pertinent facts on government services and how much they'll cost, what are the steps, and how long the transaction will be processed. It will also serve as a tool for ARTA to monitor the compliance of government agencies in posting and updating their Citizen's Charter which is mandated under RA 11032. ARTEMIS Phase 1 will allow the public to search, view, and download the Citizen's Charter of national government agencies (NGAs), LGUs, government-owned and controlled corporations, local water districts, state universities and colleges, and public hospitals.

ARTA is currently planning and developing the Phase 2 Features of PBRIS and ARTEMIS. For the Phase 2 features of ARTEMIS, the public will be able to search for specific government services and process maps and to subscribe to government agencies and services that will automatically notify them whenever there are changes in the services or processes. It will also enable government agencies to create, submit, and update their Citizen's Charters using data capture forms. For PBRIS Phase 2, the system will allow regulators and regulated bodies to upload existing and proposed regulations, subscribe to specific sets of regulations, submit preliminary and regulatory impact statements, conduct public consultation and commenting, regulatory notification, and reports generation.

Central Business Portal (CBP)

The creation of a Central Business Portal is mandated under Section 13 of RA 11032 which provides, to wit:

“SEC. 13. *Central Business Portal (CBP)*. – To eliminate bureaucratic red tape, avert graft and corrupt practices and to promote transparency and sustain ease of doing business, the DICT shall be primarily responsible in establishing, operating and maintaining a CBP or other similar technology, as the DICT may prescribe.

"The CBP shall serve as a central system to receive applications and capture application data involving business-related transactions, including primary and secondary licenses, and business clearances, permits, certifications, or authorizations issued by the LGUs: Provided, That the CBP may also provide links to the online registration or application systems established by NGAs.” X X X X

ARTA, together with the Department of Information and Communications Technology (DICT), Securities and Exchange Commission (SEC), Bureau of Internal Revenue (BIR), Social Security System (SSS), Home Development Mutual fund or Pag-IBIG Fund, Philippine Health Insurance Corporation (PhilHealth), and eighteen (18) pilot LGUs launched the first phase of the Central Business Portal last January 2021. ARTA oversees the implementation of the CBP and provides support, facilitation, and assistance to the participating agencies throughout its development and implementation.

The CBP Phase 1 will allow for the registration of one person corporations, corporations with two to four incorporators, and regular corporations whose incorporators are juridical entities and/or the capital structure is not covered by the 25%-25% rule. The portal provides a Unified Application Form for all agencies involved in the business registration process, thus eliminating the undue burden on applicants of having to fill up redundant

entry forms with different agencies. Through the portal, applicants can now complete their business registration with SEC and BIR, generate BIR tax identification number, pay for BIR filing and registration fees, and register employer numbers for SSS, PhilHealth, and Pag-IBIG. The CBP now also features a Unified Employee Reporting Module for SSS, Philhealth, and Pag-IBIG, and process applications for secondary license featuring FDA's License to Operate (LTO) for Center for Drugs.

The CBP now also links to the online business permitting system of the local government of Quezon City, Paranaque City, Ilagan City, Baler, Dipaculao, Limay, Macabebe, Paete, Santa Cruz in Marinduque, Labo, Santa Barbara in Iloilo, Mandaue City, Dumingag, Catarman, and Kabacan. The online business permitting systems of other LGUs are also being targeted for integration in the portal in the future. Additional features will also thereafter be developed and incorporated in the CBP.

Electronic Business One-Stop Shop (eBOSS)

RA 11032 mandated cities and municipalities to automate their business permitting and licensing system or set up an electronic business one-stop shop (eBOSS) within a period of three (3) years upon the effectivity of the law. Section 11 (c) of RA 11032 provides, to wit:

"SEC. 11. Streamlined Procedures for the Issuance of Local Business Licenses, Clearances, Permits, Certifications or Authorizations.—

X X X X

(c) Cities/Municipalities are mandated to automate their business permitting and licensing system or set up an electronic BOSS within a period of three (3) years upon the effectivity of this Act for a more efficient business registration processes. Cities/Municipalities with electronic BOSS shall develop electronic versions of licenses, clearances, permits, certifications or authorizations with the same level of authority, which may be printed by businesses in the convenience of their offices. The DICT shall make available to LGUs the software for the computerization of the business permit and licensing system. The DICT, DTI, and DILG, shall provide technical assistance in the planning and implementation of a computerized or software-enabled business permitting and licensing system.

"(d) To lessen the transaction requirements, other local clearances such as, but not limited to, sanitary permits, environmental and agricultural clearances shall be issued together with the business permit.

"(e) Business permits shall be valid for a period of one (1) year. The city/municipality may have the option to renew business permits within the

first month of the year or on the anniversary date of the issuance of the business permit.

"(f) Barangay clearances and permits related to doing business shall be applied, issued, and collected at the city/municipality in accordance with the prescribed processing time of this Act: Provided, That the share in the collections shall be remitted to the respective barangays." X X X

Together with the Department of Trade and Industry (DTI), Department of the Interior and Local Government (DILG), and the Department of Information and Communications Technology (DICT), ARTA issued Joint Memorandum Circular No. 1, s. 2021 which provides guidelines for processing business permits, related clearances and licenses in all cities and municipalities.¹⁷ It mandated LGUs to automate their business permitting and licensing system or set up an eBOSS not later than 17 June 2021. The eBOSS should have the following functionalities:

1. Accept online or electronic submission of business permit applications using a Unified Application Form which an applicant can fill up or edit;
2. Issue electronically the tax bill/order of payment which indicates the amount that the applicant has to pay covering the business tax, fees and charges;
3. Accept online payments using online payment facilities and other payment gateways or alternative digital payment options;
4. Issue electronic versions of permits, licenses or clearances, which may be printed by businesses at the convenience of their offices, and which have the same level of authority as hard copies usually issued by LGUs;
5. Provide a gateway facility linked with courier services to allow physical delivery of permits, clearances, and other documents issued in relation to a business registration in cases where the applicant prefers to receive the hard copy of the permit.

ARTA monitors the compliance of LGUs to the eBOSS and extends assistance to them in establishing their eBOSS platforms. For LGUs that face challenges in establishing their eBOSS platforms, ARTA encourages LGUs to adopt the Integrated Business Permits and Licensing System (iBPLS)—a software developed by the DICT that may be adopted by LGUs for free. This

¹⁷Anti-Red Tape Authority-Department of Trade and Industry-Department of Interior and Local Government-Department of Communication Technology, ARTA-DTI-DILG-DICT Joint Memorandum Circular No. 01 (2021).

software incorporates the Business Permits and Building Permits Registration Systems.

TradeNet

TradeNet is an interoperable online platform to reduce processing time and harmonize the permitting procedures involved in import and export. It is the National Single Window System that will allow for the online processing of import and export permits. Pursuant to ARTA Memorandum Circular No. 2021-01¹⁸, all seventy-six (76) identified Trade Regulatory Government Agencies (TRGAs) involved in the issuance of license, permit, clearance, and certification for movement of cargo (import-export-transit) of cargo are now mandated to get onboard with the TradeNet in order to simplify and harmonize the permitting and licensing processes concerning imports and exports. ARTA Secretary Jeremiah B. Belgica is presently the chairperson of the technical working group that will onboard TRGAs to the TradeNet.

National Effort for the Harmonization of Efficiency Measures of Inter-related Agencies (NEHEMIA Program).

The NEHEMIA program, a flagship program of ARTA, is a sectoral-based streamlining effort that aims to reduce processing time, costs, requirements, and procedures in the government. For its Phase 1 implementation, ARTA identified and focused on five priority sectors: Telco, Logistics, Food and Pharma, Housing, and Energy. Through this program, ARTA has coordinated with various government agencies and members of the private sector and issued various Memorandum Circulars and Joint Memorandum Circulars (JMCs) that provide guidelines on the streamlined processing of documents in the said sectors.

JMCs released in connection with this program includes issuances providing guidelines on the following: Automation of business one-stop shops (eBOSS); Issuance and/or reinstatement of permits and licenses in the “new normal”; Creation of a *Bayaniban* one-stop shop for securing a license to operate to import critical COVID-19 commodities for commercial distribution; Mandatory online filing, processing, and payment of port charges, cargo handling charges, other cargo handling-related charges, permits and ancillary fees, and customs taxes and duties; Processing of documents for the construction of Shared Passive Telecommunications Tower Infrastructures

¹⁸ Anti-Red Tape Authority, ARTA Memorandum Circular No. 2021-01 (2021).

(PTTIs); Erection of poles, construction of underground fiber ducts, and installation of aerial and underground cables and facilities; Establishment of a green lane for a vaccine manufacturing facility; Suspension of LGU imposition and collection of illegal pass-through fees; processing of uniformed services benefit claims; Processing of construction-related permits in 2020; and the Unified Logistics Pass which will facilitate the unhampered movement of trucks for hire that deliver basic goods and necessities across the country through a unified application form.

One of the successful NEHEMIA Programs of ARTA is in the Telco Sector. Since the start of its initiative in 2020, three (3) Joint Memorandum Circulars (JMC) have been issued, streamlining the process and requirements for the issuance of permits, licenses, and clearances to accelerate the deployment of telecommunications and internet infrastructure. According to Ookla, a speed test global indexing company, the Philippines ranked 73rd for mobile and 63rd for fixed broadband as of August 2021, which is a huge leap coming from the 100th rank for mobile and 94th rank for fixed broadband last August 2017. Since the signing of the first JMC in 2020, at least 44,920 permits in the Telco Sector have been released. Of this figure, 38,630 are from PLDT/Smart as of December 20, 2021, 4,433 are from DITO Telecommunity as of December 31, 2021, and 1,857 are from Globe as of September 2021.¹⁹

This was made possible through the initiatives and collaborative work of the NEHEMIA Telco Sector Oversight Committee, composed of ARTA, the Department of Information and Communications Technology (DICT), Department of Public Works and Highways (DPWH), Department of the Interior and Local Government (DILG), Department of Human Settlements and Urban Development (DHSUD), National Telecommunications Commission (NTC), Civil Aviation Authority of the Philippines (CAAP), Department of Health (DOH) – Food and Drug Administration (FDA), Bureau of Fire Protection (BFP), National Electrification Administration (NEA), Energy Regulatory Commission (ERC), Philippine Competition Commission (PCC), and its Private Stakeholders.

In just a short span of three years since it was established and two years into the Covid-19 Pandemic, ARTA has achieved great heights in improving ease of doing business and overall competitiveness of the country through its empowerment function. Even with limited manpower and budget, ARTA, in collaboration with its developmental partners, various government agencies and offices, and private stakeholders, was able to accomplish the foregoing

¹⁹ Data gathered from the submissions of PLDT/SMART, Dito Telecommunity, and Globe Telecom Inc. to ARTA.

initiatives and programs, launch tools and machineries, and assisted government agencies and offices in the digital transformation of their services and compliance with RA 11032 mandates, in order to improve regulatory management and the delivery of government services in the Philippines.

B. *Enforcement function*

While the empowerment role of ARTA is to partner and foster cooperation with government agencies and LGUs to comply with the ease of doing business law. In situations where government personnel are recalcitrant and causing undue hardships to the transacting public, the ARTA will have to wield its enforcement function.

The ARTA is vested with investigatory powers and to file complaints against erring government officials. Among its powers are to monitor and evaluate the compliance of agencies covered and issue notice of warning to erring and/or noncomplying government employees or officials²⁰; to initiate investigation, *motu proprio* or upon receipt of a complaint, refer the same to the appropriate agency, or file cases for violations of this Act²¹; and to assist complainants in filing necessary cases with the Civil Service Commission, the Ombudsman and other appropriate courts.²²

Filing of cases

The proverbial teeth of R.A. 11032 lie within Section 21. It enumerates acts or omissions, and the performance of which can lead to civil, criminal, and administrative liabilities, as follows:

- (a) Refusal to accept application or request with complete requirements being submitted by an applicant or requesting party without due cause;
- (b) Imposition of additional requirements other than those listed in the Citizen's Charter;
- (c) Imposition of additional costs not reflected in the Citizen's Charter;
- (d) Failure to give the applicant or requesting party a written notice on the disapproval of an application or request;

²⁰ RA 11032, Sec. 17 (c).

²¹ RA 11032, Sec. 17 (d).

²² RA 11032, Sec. 17 (e).

- (e) Failure to render government services within the prescribed processing time on any application or request without due cause;
- (f) Failure to attend to applicants or requesting parties who are within the premises of the office or agency concerned prior to the end of official working hours and during lunch break;
- (g) Failure or refusal to issue official receipts; and
- (h) Fixing and/or collusion with fixers in consideration of economic and/or other gain or advantage.²³

Moreover, the law imposes a two-strike policy in penalizing offenders, to wit:

- (a) First Offense: Administrative liability with six (6) months suspension: *Provided, however,* That in the case of fixing and/or collusion with fixers under Section 21(h), the penalty and liability under the following paragraph shall apply.
- (b) Second Offense: Administrative liability and criminal liability of dismissal from the service, perpetual disqualification from holding public office and forfeiture of retirement benefits and imprisonment of one (1) year to six (6) years with a fine of not less than Five hundred thousand pesos (P500,000.00), but not more than Two million pesos (P2,000,000.00).

Criminal liability shall also be incurred through the commission of bribery, extortion, or when the violation was done deliberately and maliciously to solicit favor in cash or in kind. In such cases, the pertinent provisions of the Revised Penal Code and other special laws shall apply.²⁴

3-7-20 days

One of the salient provisions of RA 11032 is the 3-7-20 processing time, the shorter and more realistic time for the completion of government services—three (3) working days for simple transactions, seven (7) working days for complex transactions, and twenty (20) working days for highly technical transactions. The maximum time prescribed may be extended only once for the same number of days which shall be indicated in the Citizen's Charter.²⁵ If the application requires a *Sanggunian* approval, the latter will be given forty-five (45) working days to act on the application, extendible for another twenty (20) working days.²⁶

²³ RA 11032, Sec. 21.

²⁴ RA 11032, Sec. 22.

²⁵ RA 11032, Sec. 9 (b)(1).

²⁶ RA 11032, Sec. 9.

Simple transactions are defined as applications or requests submitted by applicants or requesting parties of a government office or agency which only require ministerial actions on the part of the public officer or employee, or that which present only inconsequential issues for the resolution by an officer or employee of said government.²⁷ Complex transactions are applications or requests submitted by applicants or requesting parties of a government office which necessitate evaluation in the resolution of complicated issues by an officer or employee of said government office.²⁸ While Highly Technical applications require the use of technical knowledge, specialized skills and/or training in the processing and/or evaluation thereof.²⁹

Generally, if there has already been the submission of complete requirements and payment of fees by an applicant and a government official or employee fails to provide its services to the applicant within processing time provided in its Citizen's Charter, which shall not be longer than the 3-7-20 period, such will constitute a violation of Section 21 (e) for failure to render government services within the prescribed processing time without due cause. Under the law, the Head of the office or agency may also be held primarily responsible, since all transactions and processes are deemed to have been made with the permission and clearance from the highest authority having jurisdiction over the government office or agency responsible.³⁰ In addition, if an application for permit, license or certificate remains pending without the government office approving or disapproving the same, the Head of such office and the official or employee responsible can both be held liable under Section 21 (d), for failure to give the applicant or requesting party a written notice on the disapproval of an application or request.

Automatic Approval or Extension.

When a government office or agency fails to approve or disapprove an original application or request for issuance of license, clearance, permit, certification, or authorization within the prescribed processing time, said application or request shall be deemed approved.³¹ The applicant can seek an

²⁷ RA 11032, Sec. 4 (m).

²⁸ RA 11032, Sec. 4 (d).

²⁹ RA 11032, Sec. 4 (g).

³⁰ RA 11032, Sec. 8.

³¹Sec. 10. *Automatic Approval or Automatic Extension of License, Clearance, Permit, Certification or Authorization.* – If a government office or agency fails to approve or disapprove an original application or request for issuance of license, clearance, permit, certification or authorization within the prescribed processing time, said application or request shall be deemed approved: *Provided,* That all required documents have been submitted and all required fees and charges have been paid. The acknowledgment receipt together with

automatic approval or automatic extension from ARTA of its pending permit, license or clearance as long as the applicant shows proof that all required documents were submitted and all required fees and charges have been paid.³² The acknowledgment receipt together with the official receipt for payment of all required fees issued to the applicant or requesting party shall be enough proof or has the same force and effect of a license, clearance, permit, certification or authorization.

Zero-Contact Policy and Limitation of Signatories

RA 11032 likewise provides for the implementation of a zero-contact policy³³ which prohibits government officer or employee from having any contact, in any manner, with any applicant or requesting party concerning an application or request, except during the preliminary assessment of the request and evaluation of sufficiency of submitted requirements or unless strictly necessary. Moreover, the law also provided a limitation on the number of signatories to aid in reducing the processing time of transactions in the government. The number of signatories in any document shall be to a maximum of three (3) signatories which shall represent officers directly supervising the office or agency concerned.³⁴ If the authorized signatory is on official business or official leave, an alternate signatory must be designated so as not to cause delay in the delivery of the services of the agency. The law also encourages the use of electronic signatures or pre-signed license, clearance, permit, certification or authorization with adequate security and control mechanism to facilitate faster processing of applications or requests.

Number of cases filed and Automatic approvals issued

As of this writing, ARTA has already filed Five Hundred Fifty-One (551) cases against various heads of offices and agencies, plus a number of local

the official receipt for payment of all required fees issued to the applicant or requesting party shall be enough proof or has the same force and effect of a license, clearance, permit, certification or authorization under this automatic approval mechanism.

if a government office or agency fails to act on an application or request for renewal of a license, clearance, permit, certification or authorization subject for renewal within the prescribed processing time, said license, clearance, permit, certification or authorization shall automatically be extended.

³² Anti-Red Tape Authority, Implementing Rules and Regulations of RA 11032, Rule VIII Section 1 par. (a) (ii) (iii) (2019).

³³ RA 11032, Sec. 7.

³⁴ RA 11032, Sec. 9 (d).

government officials for violations of Section 21 of R.A. 11032.³⁵ In addition, ARTA has recently intensified its nationwide anti-fixer campaign. In collaboration with law enforcement agencies, several entrapment operations were initiated by ARTA that led to arrest and filing of criminal charges against fixers operating in the Land Transportation Office, Bureau of Customs and Bureau of Internal Revenue, among others. As of date, there are seventeen (17) cases filed against alleged fixers in different courts.³⁶ Moreover, since 2019 up to present, ARTA has issued a total of Eight Thousand Five Hundred and Seven (8507) automatic approvals/renewals of permits and applications pending with government agencies such as the Land Transportation Franchising and Regulatory Board (LTFRB) and the Food and Drugs Administration (FDA).³⁷

CONCLUSION

ARTA is envisioned to be a disruptor in the way government services are rendered. The public is used to lengthy waiting periods and accustomed to dealing with fixers loitering in government establishments to fast-track their applications. However, all this should change. Delays and cumbersome procedures should be a thing of the past, since the transacting public is expecting results from government offices within 3-7-20 working days. Furthermore, fixers should be out of business, as permits or licenses are regularly released within the prescribed processing time. To achieve this standard of government service, R.A. 11032 endowed ARTA with the dual function of empowerment and enforcement. The former to help government agencies streamline their processes and comply with the requirements of the law, the latter to police erring officials for violations committed. Both functions are necessary to ensure that government services to the public will be fast, efficient, convenient, and reliable. This should be the 'new normal' for our country.

³⁵ Data gathered from ARTA Investigation Enforcement and Litigation Office as of December 2021.

³⁶ Ibid.

³⁷ Data gathered from ARTA Legal and Public Assistance Division as of December 2021.