

Republic of the Philippines
HOUSE OF REPRESENTATIVES
THIRTEENTH CONGRESS
Third Regular Session

HOUSE BILL NO. 5739



Introduced by Reps. SATUR C. OCAMPO, TEODORO A. CASIÑO, JOEL G. VIRADOR, CRISPIN B. BELTRAN, RAFAEL V. MARIANO, LIZA LARGOZA-MAZA

Explanatory Note

Telecommunications is a necessity, a public utility, and a strategic industry for bridging development from urban city centers to agriculturally backward rural areas and for the communication needs of our people spread across the archipelago and those living and working abroad. As such, it is the government's responsibility to provide affordable, accessible, and efficient telecommunications services to its citizens. It is every Filipino's right to have access to low-cost and efficient telecommunications services for everyday, basic communication.

However, the government has failed to uphold consumer rights by refusing to effectively regulate the telecommunications industry due to its liberalization and deregulation policies, its inability or refusal to confront the existence of cartels or an oligopoly in the telecommunications sector. The government has allowed two telecommunications firms, Globe Telecom and Smart Communications, with 13.6 million and 20.8 million subscribers, respectively, to dominate and monopolize the telecommunications, specifically, the mobile phone services industry. The government has allowed this duopoly to control market prices without consulting the public or without explaining to them the element charges as bases for these prices.

Consumer rights have been repeatedly violated both by government and the private sector players Globe and Smart. Both increased their rates, without public consultation or even a public announcement, when they reduced "free" text messages, which are part of the monthly postpaid subscriptions and prepaid credit packages paid for by consumers. By reducing "free" text messages, Globe and Smart effectively depressed the value of postpaid subscriptions and prepaid cards.

Low call and text rates remain the exception, rather than the rule. Even as Smart and Globe cellular sites can now handle more calls and messages compared to a decade ago, they still charge rates that for the poor majority would eat a sizable portion of their income.

For example, Smart and Globe imposed a Php1.00 charge for balance inquiries through their previously toll-free numbers without public announcement. The "surprise" removal of the toll-free balance inquiries deducted an undetermined amount of credits from subscribers' prepaid loads without them knowing it. Balance inquiries should be considered auxiliary to mobile phone services and should therefore not be charged.

The true costs of mobile phone services are hidden in the untransparent pricing of Smart and Globe, which enables them to impose onerous charges. Cheaper calls and other telecommunications services reach consumers at such a slow pace while new telecommunications technologies, such as the Global System for Mobile Phones (GSM), which has integrated computer, satellite, radio, paging, and Internet technologies for mobile phone services, continue to improve and enable Smart and Globe to extract more income and more profits from cutting-edge technology. Some information technology engineers continue to contend that, by its nature, GSM can provide text messaging and other data services to subscribers without additional costs to providers.

Postpaid subscribers meanwhile bewail a lack of transparency on the charges levied against them by Smart and Globe, as found in billing statements. There is no sufficient explanation on how numerous basic voice call and SMS fees are calculated, such as Text Message Maintenance Fees, Foreign Currency Differential Adjustments, and Communications Charges. It is unclear whether these fees are

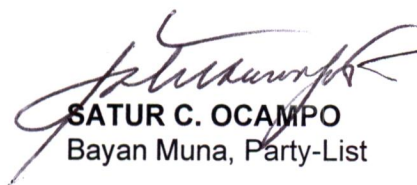
government exactions or real costs of mobile phone service providers, and whether they should or should not be charged to the public.

On another front, telecommunications companies and so-called content providers flood subscriber cellphones with text spam, or unwanted and unsolicited text or multimedia messages. In many cases reported by subscribers and consumer organizations, some of these spam messages have become more than a nuisance and an invasion of privacy. Some unscrupulous companies illegally and arbitrarily charge fees for these spam messages through forcible subscription to daily over-the-air sending of icons, logos, ringtones, and cellphone themes.

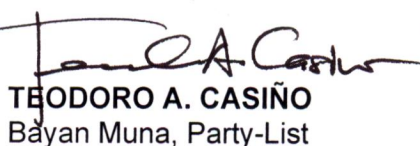
The National Telecommunications Commission has consistently avoided resolving the non-transparency and the irregularities of mobile phone service providers, invoking the supposed deregulation of the telecommunications industry through Republic Act No. 7925 or the Public Telecommunications Policy Act.

This situation of government neglect and oligopolistic exploitation cannot go on unchecked. Congress must act now and institute measures to address these issues, ensure a pro-people telecommunications industry and promote consumer welfare.

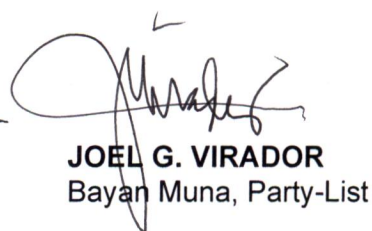
This Bill therefore requires the regulation of the mobile phone service industry through the initial elimination of unjust service practices, the creation of a mobile phone service regulatory council under the present National Telecommunications Commission, and the institution of a system of public consultation.



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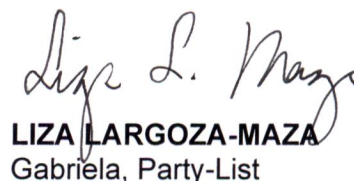


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AN ACT REGULATING THE CELLULAR MOBILE TELEPHONE SERVICE INDUSTRY, AMENDING SECTION 17 OF
REPUBLIC ACT 7925, SECTION 120 OF REPUBLIC ACT 8424, AND ARTICLE 149 OF REPUBLIC ACT NO. 7394; AND
REPEALING SECTION 18 OF REPUBLIC ACT 7925 FOR THE PURPOSE, CREATING A MOBILE PHONE SERVICE
REGULATORY COUNCIL, AND FOR OTHER PURPOSES

Hon. _____

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AN ACT
REGULATING THE CELLULAR MOBILE TELEPHONE SERVICE INDUSTRY, AMENDING
SECTION 17 OF REPUBLIC ACT 7925, SECTION 120 OF REPUBLIC ACT 8424, AND ARTICLE
149 OF REPUBLIC ACT NO. 7394; AND REPEALING SECTION 18 OF REPUBLIC ACT 7925 FOR
THE PURPOSE, CREATING A MOBILE PHONE SERVICE REGULATORY COUNCIL, AND FOR
OTHER PURPOSES

Be it enacted by the Senate and the House of Representatives of the Philippines in Congress assembled:

SECTION 1. Short Title.

This Act shall be known as the *"Mobile Phone Subscribers Protection Act of 2006"*.

SECTION 2. Declaration of Policy.

It is hereby declared a policy of the state to regulate the cellular mobile telephone service to protect public welfare, as required under Sections 1, 13, and 19 of Article XII of the 1987 Constitution, to wit:

Section 1. "The goals of the national economy are a more equitable distribution of opportunities, income, and wealth; a sustained increase in the amount of goods and services produced by the nation for the benefit of the people; and an expanding productivity as the key to raising the quality of life for all, especially the under-privileged."

Section 13. "The State shall pursue a trade policy that serves the general welfare and utilizes all forms and arrangements of exchange on the basis of equality and reciprocity."

Section 19. "The State shall regulate or prohibit monopolies when the public interest so requires. No combinations in restraint of trade or unfair competition shall be allowed."

SECTION 3. Definition of Terms.

- (a) "Cellular Mobile Telephone System" (CMTS) refers to a system of geographic areas or cells, with each cell covered by a base station, where a mobile telephone falling into the coverage of a cell communicates (exchanges data) with the respective base station and with other respective base stations once the mobile telephone moves to other cells.
- (b) "Mobile phone service provider" or "service provider" refers to any person, firm, partnership or corporation, government or private, granted a legislative franchise by Congress to provide cellular mobile telephone services to the general public, and issued certificates of public convenience and necessity (CPCN) by the National Telecommunications Commission (NTC).
- (c) "Mobile cellular phone", "mobile phone", or "cellphone" refers to a mobile telecommunication device that uses a combination of radio transmission and conventional telephone switching to permit telephone communication to and from mobile users within a specified area or cell.

- (d) "Basic mobile phone services" refer to short messaging services (SMS) or text messaging and voice call services.
- (e) "Short messaging service" (SMS) refers to a service that allows short, alphanumeric messages to be sent to cellular phone display panels.
- (f) "Supplemental mobile phone services" refer to extended services offered by service providers to individual consumers, such as, but not limited to, multimedia messaging services (MMS); data download and subscription services for news, horoscope, ringtones, games, recorded voice messages, logos, pictures, etc.; alert services; browsing services such as wireless application protocol (WAP) and general packet radio service (GPRS); locator services; and prepaid subscriber-to-subscriber credit transfer services.
- (g) "Multimedia messaging service" (MMS) refers to a standard for telephony messaging systems that allows sending messages, including multimedia objects (images, audio, video, rich text), and not just text messages through the short messaging service (SMS).
- (h) Global System for Mobile Communications (GSM) refers to the globally accepted de-facto standard for digital cellular communications, which was standardized by a committee in 1982 with the same name, which was originally tasked to formulate specifications for a pan-European mobile cellular radio system operating at 900 MHz. Modern GSM however uses frequency ranging from 1850 to 1990 MHz and uses narrowband Time Division Multiple Access (TDMA) method.
- (i) "Third Generation mobile telephone technology" or "3G" refers the group of ITU standard access methods and protocols that provide for wide area wireless network at higher bandwidths (higher than 2G) making ease of access to voice and data transmission. Current standards allow for 3G to connect at 2 megabytes per second (Mbps) for a telecommuter at a fixed non-moving location. 3G technology provided services involving the transmission of text, digitized voice, video, and multimedia in cellular networks faster.
- (j) Subscriber identity module (SIM) refers to a pocket-sized card with embedded integrated circuits, which securely stores the key data identifying a mobile phone service subscriber, as well as subscription information, subscriber preferences, and text messages.
- (k) "Auxiliary mobile phone services" refer to balance inquiry, customer support, and prepaid reloading services.
- (l) "Prepaid subscriber" refers to a subscriber who manually loads credits to his/her mobile cellular phone and is thus not subject to periodical billing for mobile phone services usage.
- (m) "Post-paid subscriber" refers to subscribers billed for mobile phone services after the lapse of a set period of time.
- (n) "Noise" refers to undesirable signals, in relation to communications, from natural to technological sources, which are added in the signals of communication systems.
- (o) "Network latency" refers to the round-trip time it takes for data to travel from the source to the ultimate destination and a response back to the source, also referred to as "round trip propagation delay" or "propagation delay X2".
- (p) "Propagation delay" refers to the time required for data to travel over networks from the source to the ultimate destination.
- (q) "Department" refers to the Department of Transportation and Communication.
- (r) "NTC" refers to the National Telecommunications Commission.
- (s) "Council" shall mean the Mobile Phone Service Regulatory Council (MPSRC).

- 1 (t) "Advertisement" shall mean product or service information sent by Philippine mail or disseminated
2 through commerce by print, radio, television, outdoor public announcement or notice, or other
3 media for the purpose of inducing or which is likely to induce, directly or indirectly, the purchase of
4 consumer products or services.
5
6

7 **SECTION 4. *Creation of the Mobile Phone Service Regulatory Council.***
8

- 9 (a) COUNCIL – The Mobile Phone Service Regulatory Council (MPSRC) is hereby created, directly
10 under the National Telecommunications Commission (NTC), hereafter referred to as the Council.
11
12 (b) COMPOSITION – The Council shall be composed of a Chairperson and six (6) Members to be
13 appointed by the Commissioner of the NTC. The Chairperson and the Council Members shall be
14 natural-born citizens and residents of the Philippines; of known probity; at least thirty (30) years of
15 age; with at least five years of distinguished service and experience in any of the following fields:
16 telecommunications, law, economics, finance, commerce and industry, and management; or the
17 consumer and commercial/industrial sectors; Of the six (6) members of the Council, at least one (1)
18 shall have had five (5) years experience in the fields of management, economics, or commerce and
19 industry; one (1) shall be a certified public accountant with at least ten (10) years experience in
20 active practice; and two (2) shall be sectoral representatives of people's organizations or non-
21 government organizations specializing in consumer welfare, or representatives of labor unions in
22 the commercial/industrial telecommunications sector.
23
24 (c) TERM – The term of office of the chairperson and three council members, one of which is the
25 accountant, shall be six years; while the remaining three (3) initial appointees shall hold office for
26 three (3) years. Succeeding chairpersons and members shall hold office for six (6) years. In case of
27 vacancy, the predecessor shall serve only the unexpired term of the vacant office. Re-appointment
28 to the council is prohibited by this Act.
29
30 (d) RANK – The Chairperson, and members of the council shall enjoy the same privileges, benefits
31 and emoluments equivalent to the ranks of Undersecretary and Assistant Secretary respectively.
32
33 (e) PROHIBITION – Former Chairpersons and members of the Council are prohibited from working
34 directly or indirectly in any firm engaged in the mobile phone service industry or any other entity
35 whose main business is directly or indirectly related to any such firm within one (1) year from the
36 time they have ceased to be officially connected with the Council. The Chairperson and the Council
37 Members shall devote their full time to the Council and shall not accept any other employment
38 while in office.
39
40

41 **SECTION 5. *Functions of the Council.***
42

43 The Council shall be constituted 30 days after the adoption of this Act. The Council shall ensure just
44 prices, require the provision of affordable mobile phone services, regulate such services, and protect
45 the rights of consumers. It shall:
46

- 47 a) Revise market price ceilings of basic mobile phone services, except for the initially set price
48 ceilings under Section 9 of this Act, upon proper public notice and hearing;
49
50 b) Set and revise minimum performance metrics for various mobile phone services;
51
52 c) Ensure that the public shall enjoy the benefits of advances in technology and productivity
53 through the mobile phone services and subscription packages made available to them;
54
55 d) Prohibit public offering of any mobile phone service deemed detrimental to the general welfare;
56
57 e) Require and ensure that auxiliary mobile phone services, including balance inquiry or account
58 status for prepaid and postpaid accounts; toll free numbers for customer support via SMS or
59 voice call; and reloading of prepaid credit are offered free of charge; and
60

- 1 f) Commence investigations and hearings upon petition and letter-complaint from any individual
2 or group of consumers, or upon the Council's own initiative;
3
4

5 **SECTION 6. Powers of the Council.**
6

7 The Council shall have the following powers:
8

- 9 a) Promulgate its own rules and procedures;
10
11 b) Conduct hearings, investigations, data gathering, monitoring, compilation, and sampling in
12 furtherance of its mandate;
13
14 c) Establish procedures for systematically receiving, investigating, and responding to consumer
15 complaints into the development of consumer policies, rules, and regulations, assuring as far
16 as practicable, simple and easy access on the part of the consumer/s to seek redress for
17 grievances;
18
19 d) The Chairperson and the Members of the Council shall create its own sub offices, and appoint
20 officers, staff, and personnel, including technical boards, subject to existing laws on eligibility
21 and compensation;
22
23 e) In order that consumers may fully benefit from mobile phone technology, which allows for the
24 periodic provision of basic mobile phone services with no incremental cost, require service
25 providers to provide daily, weekly, and monthly SMS-only and SMS-and-voice call prepaid and
26 postpaid unlimited subscription packages; multi-month and multi-year postpaid subscription
27 packages; single-year and multi-month tied postpaid subscription contracts providing cellular
28 phone units free of charge; and postpaid SIM cards without tied subscription contracts;
29
30 f) To issue subpoena and subpoena duces tecum and summon witnesses for any inquiry, study,
31 hearing, investigation, or proceeding of the Council; to administer oaths and affirmations; and
32 to cite for contempt any person or entity, in accordance with the pertinent provisions of, and the
33 penalties prescribed by, the Rules of Court; and
34
35 g) To perform such other action in furtherance of its mandate;
36
37

38 **SECTION 7. Implementing Rules and Regulations.**
39

40 The Mobile Phone Services Regulatory Council shall formulate and issue the necessary implementing
41 rules and regulations within sixty (60) days after the effectivity of this Act, in consultation with the
42 following:
43

- 44 (1) National Telecommunications Commission;
45
46 (2) Individual mobile phone service consumers on a nationwide scale;
47
48 (3) Organizations from different sectors affected by the following regulations, including but not
49 limited to: consumer and commercial/industrial groups; and other representative people's
50 organizations;
51
52 (4) Executive-level managers, lawyers, and other representatives of mobile phone service
53 providers;
54
55 (5) Representatives of mobile phone service distributors and resellers; as well as
56
57 (6) Independent industry experts with the same qualifications under Section 7 of this Act.
58
59

60 **SECTION 8. Budget of the Mobile Phone Service Regulatory Council.**
61

1 The amount of fifty million pesos (PhP50,000,000.00) is hereby allocated from the General Fund not
2 otherwise appropriated for the initial operations of the Mobile Phone Service Regulatory Council.
3 Thereafter, the annual budget of the Council shall be included in the regular or special appropriations
4 under the General Appropriations.
5
6

7 **SECTION 9. *Transitory Duties of the Council upon the Effectivity of this Act.***
8

9 The Council shall be constituted not more than thirty (30) days from the effectivity of this act. The first
10 order of business of the Council, after the promulgation of its IRR, shall be to set market price ceilings
11 on basic mobile phone services and minimum service provider metric performance. After the
12 promulgation of such, the National Telecommunications Commission shall act to suspend or revoke
13 permits and licenses of providers that violate, after due notice, such price ceilings and performance
14 metrics.
15

16 Any succeeding modification of these price ceilings shall hereby be required to undergo public
17 hearings, convened by the Council, before such become effective.
18
19

20 **SECTION 10. *Price Regulations.***
21

22 I. In revising prices and price ceilings, the Council shall be guided by the following considerations:
23

- 24 (a) Whether claimed costs and expenses, sales, profits, and rates of return are real and
25 reasonable;
26
27 (b) The impact of the proposed prices or change therein on the consuming public, particularly low
28 income groups and small businesses, given the daily cost of living and predominant wages;
29 and on the economy.
30

31 II. Mobile phone service providers, distributors, and retailers are hereby required to file a petition
32 with the Council every time they intend to implement any changes in the market price ceilings of
33 basic mobile phone services. Affected and concerned parties may also file petitions with the
34 Council opposing such petitions or petitions proposing to decrease mobile phone service price
35 ceilings, or asking for the cancellation of franchise for violation of Section 9 and Section 12 of this
36 Act.
37
38

39 **SECTION 11. *Service Regulations.***
40

41 (a) Minimum performance metrics shall be based on:
42

- 43 (1) Success rate of calls;
44
45 (2) Acceptable level of noise in voice calls;
46
47 (3) Network latency and propagation delay; and
48
49 (4) Data drops and unreceived data packets.
50

51 (b) Expiry of prepaid credits shall hereby be prohibited until such credit has been fully consumed:
52 *Provided*, that SIM cards shall only expire at least one year after loaded credit has been fully
53 consumed.
54

55 (c) Transparency in Billing Statements
56

57 Mobile phone service providers shall revise the entries under the billing statements periodically
58 sent to postpaid subscribers, according to: simplicity, clarity, and specificity.
59

Consistent with the foregoing, billing statements shall be made consumer-friendly, using the language and terminology familiar to subscribers when itemizing and categorizing usage of basic, auxiliary, and supplemental services, as applicable.

(d) The use of universal access codes, to be sent through SMS to specific network numbers supplied by each mobile phone service provider, shall be provided free to stop unwanted or unsolicited messages in any data form;

(e) Mobile Phone Number Portability

Mobile phone service providers are hereby required, in coordination with the NTC, to adopt a cellular mobile telephony system that will allow subscribers to retain mobile numbers even after they switch service providers. The implementation process of mobile phone number portability shall be commenced by the NTC and all mobile phone service providers upon the effectivity of this Act.

SECTION 12. Consumer Rights Protection.

(a) Deceptive Sales Acts or Practices

An act or practice shall be deemed deceptive, whether it occurs before, during, or after the transaction, whenever a mobile phone service provider, distributor, or reseller, through concealment, false representation, or fraudulent manipulation, induces a consumer to enter into a sales transaction of any consumer product or service.

Without limiting the scope of the above paragraph, the act or practice of a mobile phone service provider, distributor, or reseller is deceptive when it is evident that a mobile phone service has been supplied in accordance with the previous representation when in fact it is not.

(b) False, Deceptive, or Misleading Advertisements

An advertisement shall be false, deceptive, or misleading in a material respect. In such determination, there shall be taken into account, among other things, not only representations made or any combination thereof, but also the extent to which the advertisement fails to reveal material facts in the light of such representations and in a clear and simple manner, or materials with respect to consequences which may result from the use or application of consumer products or services to which the advertisement relates:

Provided, That, upon the determination of the Council of the use of deceptive sales acts or practices; or of false, deceptive, or misleading advertisements, it may motu proprio or upon verified complaint commence formal administrative action against any party that appears responsible therefor.

(c) Preferential and Regular Representation

Concerned non-government organizations shall be accorded preferential and regular representation in the in the appointment of officers, staff, and personnel of the Council, including those in its sub offices, to guarantee their active involvement and participation in all activities of the Council.

SECTION 13. General Prohibitions.

(a) Ban on Gambling

Any form of electronic gambling, including, but not limited to raffles, quizzes, or games of chance, wherein subscribers send, through any basic or supplementary mobile phone service, answers to questions asked through any advertising medium and/or from subscribers' respective message centers, is explicitly prohibited.

1 (b) Prohibition on Inter-Network Access Charges

2
3 Mobile phone service providers are hereby prohibited from charging inter-network access fees
4 or charges for communication, over and above basic prices for mobile phone services, between
5 mobile phones utilizing SIM cards issued by different service providers.
6

7 For this purpose, Section 18, entitled "Access Charge/Revenue Sharing", of Republic Act No.
8 7925, also known as the "Public Telecommunications Policy Act of the Philippines" is hereby
9 repealed.

10
11 (c) Prohibition on Unsolicited Advertisements

12
13 Unsolicited commercial advertisements, sent through SMS, recorded voice calls, or other
14 supplementary mobile phone services, especially, but not limited to, those announcing the
15 winning of prizes, raffles, draws, etc. and requesting subscriber action, such as replying
16 through return calls or text messages, or requiring other potentially detrimental actions from
17 subscribers are hereby prohibited.
18

19 Unless the subscriber has indicated willingness to receive advertisements and promotional
20 messages, the mobile phone service provider shall not allow access to the subscribers' mobile
21 phone number for the purpose of advertising and promotional messages.
22

23 This prohibition includes unsolicited commercial advertisements from mobile phone service
24 providers.
25

26 (d) Protection of Consumer Privacy

27
28 Service providers are prohibited from retaining personal information, including but not limited to
29 names, ages, addresses, birthdates, telephone numbers, and other contact information,
30 submitted by any subscriber for any promo or marketing program, such as games and
31 contests.
32

33 Electronic surveillance or solicitation by any agency, state, or private organization of the
34 content or details of calls, SMS, MMS, and video messages; or the personal information or
35 subscription details of subscribers shall likewise be prohibited, except with the written and
36 expressed permission of all parties concerned or on the basis of a valid judicial order
37
38

39 **SECTION 14. Penalties for Violations.**

- 40
41 (a) Any person who gives false or misleading data or information or willfully or through gross
42 negligence, conceals or falsifies a material fact, in any investigation, inquiry, study, or other
43 proceeding held pursuant to this Act, shall be punished with imprisonment of not less than
44 two but not more than six months, and with a fine of not less than one thousand
45 (PhP1,000.00) but not more than ten thousand pesos (PhP10,000.00): *Provided, however,*
46 That if the false or misleading data or information shall have been given under oath, the
47 maximum penalty for giving false testimony or perjury shall be imposed;
48
49 (b) Any person who violates any other provision of this Act or any order, decision, ruling, or
50 regulation of the Council shall, upon conviction, be sentenced for a period of not less than six
51 months but not more than five years and a fine of not less than ten thousand pesos
52 (PhP10,000.00) but not more than fifty thousand pesos (PhP50,000.00). If the offender is a
53 juridical entity, the penalty shall be imposed on the officer or officers responsible for
54 permitting or causing a violation by the corporation, partnership, or juridical person of the
55 provisions of this Act;
56
57 (c) If the offender is a government official or employee, the maximum penalty prescribed in
58 paragraph (b) shall be imposed, together with applicable administrative action;
59
60 (d) If the offender is a corporation, the maximum penalty prescribed in paragraph (b) shall be
61 imposed on the members of its board and/or management, as applicable, together with the

suspension or revocation of permits and licenses by the National Telecommunications Commission;

- (e) If the offender is a member of the Mobile Phone Service Regulatory Council and the commission of the offense is attended by clear abuse of discretion on his part, or by any corrupt practice defined in Republic Act No. 3019, otherwise known as the "Anti-Graft and Corrupt Practices Act", or other similar irregularity, the penalty imposed shall be a fine of one hundred thousand pesos and imprisonment of not less than ten years; and
- (f) Any alien violating this Act shall, in addition to the penalty herein provided, be deported after service of sentence and shall not be permitted reentry into the Philippines.
- (g) All monetary penalties shall directly accrue to the National Treasury.

It is the prerogative of the Council to recommend to Congress the revocation of the franchises of any mobile phone service provider that is found to have violated any provision of this act, according to the gravity and frequency of such violation/s and in accordance with law.

SECTION 15. *Amendatory and Repealing Clause.*

- I. Section 17 of Republic Act No. 7925, also known as the "Public Telecommunications Policy Act of the Philippines" is hereby amended to read as follows:

SECTION 17. *Rates and Tariffs.* – "The Commission shall establish rates and tariffs which are fair and reasonable and which provide for the economic viability of telecommunications entities and a fair return on their investments considering the [prevailing] ACQUISITION cost of capital in the domestic and international markets.

~~[The Commission shall exempt any specific telecommunications service from its rate or tariff regulations if the service has sufficient competition to ensure fair and reasonable rates or tariffs. The Commission shall, however, retain its residual powers to regulate rates or tariffs when ruinous competition results or when a monopoly or a cartel or combination in restraint of free competition exists and the rates or tariffs are distorted or unable to function freely and the public is adversely affected. In such cases, the Commission shall either establish a floor or ceiling on the rates or tariffs.]"~~

- II. Amendment to Article 149 of Republic Act No. 7394

For the furtherance of the purposes under Section 12 of this Act, the Council shall have the functions, powers, and duties and shall adopt the sanctions delineated under Articles 160-166 of Republic Act No. 7394, otherwise known as the "Consumer Act of the Philippines".

For this purpose, Republic Act No. 7394, is hereby be amended to read as follows:

ARTICLE 149. *Composition.* – "The Council shall be composed of representatives from the following government agencies and non-government agencies:

- (a) Department of Trade and Industry;
- (b) Department of Education, Culture and Sports;
- (c) Department of Health;
- (d) Department of Agriculture;
- (e) MOBILE PHONE SERVICE REGULATORY COUNCIL;
- (f) Four (4) representatives from consumer organizations of nationwide base to be chosen by the President from among the nominees submitted by the various consumer groups in the Philippines;

- (g) Two (2) representatives from business/industry sector to be chosen by the President from among the nominees submitted by the various business organizations."

III. Amendment to Section 120 of Republic Act No. 8424

Section 120 of Republic Act No. 8424, otherwise known as the "Tax Reform Act of 1997" or "An Act Amending the National Internal Revenue Code, as Amended, and for Other Purposes", shall hereby be amended further to read as follows:

SECTION 120. *"Tax on Overseas Dispatch, Message or Conversation Originating from the Philippines. –*

(A) *Persons Liable.* – There shall be collected upon every overseas dispatch, message or conversation transmitted from the Philippines by telephone, telegraph, telewriter exchange, wireless and other communication equipment service, a tax of ten percent (10%) on the amount paid for such services. The tax imposed in this Section shall be payable by the person paying for the services rendered and shall be paid to the person rendering the services who is required to collect and pay the tax within twenty (20) days after the end of each quarter.

(B) *Exemptions.* – The tax imposed by this Section shall not apply to:

(1) *Government.* – X X X X

(2) *Diplomatic Services.* – X X X X

(3) *International Organizations.* – X X X X

(4) *News Services.* - X X X X AND

(5) *BASIC MOBILE PHONE SERVICES.* – AMOUNTS PAID FOR VOICE CALLS AND SMS OR TEXT MESSAGES TRANSMITTED BY INDIVIDUAL CONSUMERS OR SMALL BUSINESSES."

IV. All other laws, decrees, executive orders, rules and regulations, or parts thereof inconsistent with any of the provisions of this Act, are hereby repealed or amended accordingly.

SECTION 16. Separability Clause.

If, for any reason, any section or provision of this Act is declared unconstitutional or invalid, such other sections or provisions not affected thereby shall remain in full force and effect.

SECTION 17. Effectivity. – This Act shall take effect fifteen days after its complete publication in at least two (2) national newspapers of general circulation.

Approved,