

Republic of the Philippines
HOUSE OF REPRESENTATIVES
Quezon City

SEVENTEENTH CONGRESS
First Regular Session

HOUSE BILL NO. 4695



Introduced by **HON. LUIS RAYMUND "LRAY" F. VILLAFUERTE, JR.**

EXPLANATORY NOTE

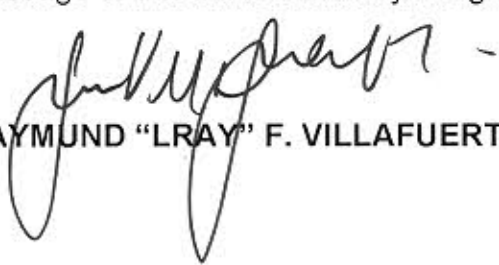
Mobile phones have become such a vital part of a Filipino's life that so rarely do you see a person without a phone on hand. This has warranted necessary efficient telecommunication services and it is the government's duty to ensure that the services being provided to its citizens are affordable and accessible. Communication in the information age is, and continues to be, a tool for effective nation-building that the state should be compelled to utilize for the country's best interest.

We have all heard the horror stories of horrendous over-charges imposed on subscribers' bills; the slow network signal that has cut off an important call or two; the sudden loss of load credits that leaves prepaid users wondering in contempt; and the spam text messages promoting certain products— these are the common complaints that we have all experienced at least once. These are by-products of the services that telecommunication companies provide— services that telecommunications companies have time and time again presented its subscribers without genuine improvement on their part.

It is time that we stop settling for below-par services that these companies promise but ultimately fail to deliver. While this sector has had, in recent years, considerable competition, it persists to be an oligopoly that the state is obliged to keep an eye on.

This bill seeks to protect the interests of the Filipino mobile service consumers by regulating prices, requiring proper detailed billing of both prepaid and postpaid subscriptions, full mobile number portability and further service improvements.

In view of the foregoing, the immediate passage of this bill is earnestly sought.


LUIS RAYMUND "LRAY" F. VILLAFUERTE, JR.

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**AN ACT PROTECTING THE RIGHTS OF MOBILE PHONE SUBSCRIBERS
THROUGH ESTABLISHING THE MINIMUM STANDARDS IN THE QUALITY OF
PHONE SERVICES, REGULATION OF PRICES, TRANSPARENCY IN BILLING AND
OTHER SERVICE IMPROVEMENTS**

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

SECTION 1. *Short Title.* This act shall be known as the "Mobile Subscribers Protection Act"

SECTION 2. *Declaration of Policy.* It is hereby declared the policy of the State to protect the rights and interests of the consumers, promote their general welfare by enforcing strict but reasonable supervision and regulation of the telecommunications industry. Towards this end, a minimum standard of service quality shall be set and regulation of prices being charged to subscribers shall be fixed. It shall require Cellular Mobile Telecommunications (CMTS) providers to file petitions to the National

Telecommunication Commission (NTC) whenever price adjustments on mobile phone service fees are proposed and other service improvements imposed by the State.

SECTION 3. *Definition of Terms.*

- a. *NTC* – refers to the National Telecommunications Commission.
- b. *Mobile Phone Service Provider, Service Provider or Telecommunication Company* – refers to any person, firm or 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 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* – refers to short messaging service (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* – refers 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, horoscopes, games recorded messages, logos, pictures, applications, etc; alert services, browsing services such as wireless application protocol (WAP) and general packet radio services (GPRS); locator services; and prepaid subscriber-to-subscriber credit transfer services.
- g. *Global System for Mobile Communications (GSM)* – refers to the globally-accepted defacto standard for digital cellular communications, which was tasked to formulate specifications for a Pan European mobile cellular radio system operating at 900MHz. Modern GSM, however, uses frequency ranging from 1850 to 1990MHz and uses narrowband Time Division Multiple Access (TDMA) method.

h. *Third Generation Mobile Telephone Technology or 3G* – refers to the group of International Telecommunications Union (ITU) standard access methods and protocols that provide for wide wireless network at higher bandwidths (higher than 2G) making ease of access to voice and data transmission. Current standard allow for 3G technology provided services involving the transmission of text, digitized voice, video and multimedia in cellular networks to be faster.

i. *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.

j. *Prepaid Subscriber* – refers to a subscriber who manually loads credits to his/her mobile cellular phone and is thus, not subjected to a periodical billing for mobile phone service usage.

k. *Postpaid Subscriber* – refers to subscribers billed for mobile phone services after the lapse of a set period of time.

l. *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.

m. *Propagation Delay* – refers to the time required for data to travel over networks from the source to the ultimate destination.

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. *Advertisement* – shall refer to the product or service information sent by mail or disseminated through commerce by print radio, television, outdoor public announcement or notice, or other media for the purpose of inducing directly or indirectly, the purchase of consumer products or services.

SECTION 4. *Establishment of Standards Regarding the Quality of Commercial Mobile Service.*

A. In General - The National Telecommunications Commission (NTC) shall establish such requirements as the NTC considers appropriate to ensure the Telecommunication Companies meet the minimum standards regarding the quality and performance of such service which shall include, but not limited to, standards regarding:

- a. Rate of completed/successful calls;
- b. The acceptable level of noise during calls;
- c. Network latency and propagation delay;
- d. Data drops and unreceived data packets;
- e. Billing practices.

SECTION 5. *Price Regulation.*

A. All Mobile Phone Service providers shall charge a standard rate of fees for mobile phone services in accordance with the rates established by the NTC which shall be fair and reasonable and which provide for the economic viability of telecommunication entities and a fair return of their investments considering the prevailing cost of capital in the domestic and international markets.

B. Mobile Phone Service Providers are hereby required to file petitions with the NTC every time they intend to implement any changes in the market price ceilings of basic phone services. Affected and concerned parties may also file petitions with the NTC opposing such petitions to increase mobile service price ceilings, or asking for cancellation of franchise for violation of this act.

SECTION 6. *Prepaid Credit Expiration.*

A. Imposition of an expiration period on the validity of the unused prepaid call and text cards or electronic transfer are hereby prohibited.

B. Forfeiture of load credits stored on an active prepaid phone account prepaid call and text card or electronic transfer is hereby prohibited.

C. Mobile Phone Service providers are hereby required to refund the prepaid subscriber whose load credits were forfeited without valid cause.

D. SIM cards shall only expire a year after the loaded credit has been fully consumed.

SECTION 7. *Transparency.*

(A) Prepaid Load Credit Bill Breakdown

Service Providers shall be required to furnish the subscribers with a detailed billing, at no cost to the subscriber, on the usage of their mobile cellular phone load credits, through a system created to track such usage, by either presenting their consumed prepaid card or load credit tracking numbers to designated business centers of the service providers within seven (7) working days after the request of the subscriber. Further, in order to fully track and secure the usage of a prepaid subscribers' load credit, a monitoring system for mobile communications for prepaid load subscribers shall therefore be created for this purpose.

SECTION 8. *Protecting the Rights of Mobile Users.*

(A) Mobile Device Insurance

a. Mobile Phone Carriers or Mobile Service Providers are hereby required to inform and offer insurance plans or packages to the subscriber upon purchase of mobile devices. An insurance policy form shall be filled out and duly signed by the subscriber, which the carrier company shall then process and keep a record of.

b. The insurance will cover the mechanical malfunction, loss and theft (including robbery, snatching and any other unlawful taking) of all kinds of mobile devices beyond the manufacturer's warranty coverage, including tablets and any other devices capable of making and receiving calls and text messages. The coverage shall be effective from the day the insurance policy is purchased. The coverage shall be sold and offered on a monthly, bi-annual or yearly basis, depending on the subscriber's choice of mode of payment, with the first month offered free. The coverage shall also include cancellation policies that allow the subscriber to cancel the coverage at any

given time during the subscriber's chosen insurance plan and at the subscriber's discretion, with no extra cost to the subscriber.

c. Mobile Phone Carriers or Mobile Service Providers are given liberty to devise their insurance scheme, on their own accord or through partnership with an insurance company, with varying levels of coverage for the mobile device as deemed reasonable and marketable, and use the said levels as a leverage against other competing carriers, provided that the said schemes or levels of coverage adhere to the regulations prescribed by the NTC in coordination with the Insurance Commission.

d. Once the insurance claim of the subscriber has been approved and granted, the carrier company shall offer repair or replacement of the mobile phone depending on the circumstances per and on the level of coverage the subscriber as availed.

(B) Privacy

a. Service providers are prohibited from disclosing personal subscriber information and subscription data, such as history of calls and text messages, without the written and expressed approval of all parties involved or on the basis of a valid court order.

b. Any person or individual with access to subscriber information and subscription data are prohibited to release any private information without the written and expressed approval of all parties involved or on the basis of a valid court order.

c. Service providers are prohibited from using user information for other purposes, such as promotions and marketing schemes, without the permission of the subscriber.

d. Any act violating the privacy of a subscriber, including those mentioned above, are subjected to concurring penalties as provided for under Section 11 of this Act.

(C) Unsought Services/Promotions

a. Unsolicited commercial advertisement which includes, but not limited to, the announcement of winners of prizes, raffles, draws, etc. or requesting subscriber action such as requiring return calls or text messages, or requiring other potentially detrimental actions from subscribers sent through SMS, recorded voice calls, or other supplementary mobile phone services, are hereby prohibited.

b. Unless the subscriber has indicated willingness to receive advertisements and promotional messages, the service provider shall not allow companies or individuals access to the subscribers' mobile phone number for the purpose of advertising and promotion.

c. Advertisements and promotional messages, once the subscriber indicates willingness to receive such, shall only be sent or automated to be sent during business hours. Unsolicited messages beyond the hours of seven (7) in the evening and before eight (8) in the morning are prohibited. This shall also include automated calls regarding, but not limited to, bill and usage reminders.

d. Further, this prohibition shall include unsolicited commercial advertisements from the mobile phone service providers themselves.

SECTION 9. *System of Complaints.*

(A) Establishment of a Complaint System

a. The NTC shall establish and administer a system that enables subscribers of a mobile service provider to register a complaint regarding the quality of performance of their service.

b. The mobile service provider, likewise, shall establish and administer a system that enables subscribers to inquire and/or register a complaint regarding the service, the subscribers account or load credits or anything pertaining to the use of the mobile service provided, through all possible means of communication, such as, but not limited to, toll free numbers, physical and electronic mail, and social media accounts.

(B) Toll-free number

a. The complaint system to be established shall include a toll-free number for both landline and mobile phones, applicable to the mobile service provider, without a minimum load balance credit requirement, for the purpose of reporting a complaint.

(C) Physical and Electronic Mail

a. The system to be established shall include a mailing address for both physical and electronic mail applicable to the mobile service provider for the purpose of reporting a complaint.

(D) Social Media Account and other forms of online communication

a. The complaint system to be established shall include social media accounts and/or other forms of online communication applicable to the mobile service provider for the purpose of providing a quick method of report a complaint and/or engaging and assisting the subscriber regarding the complaint.

(E) Submission of Reports

a. The NTC shall maintain a record of each complaint made under the system established pursuant to this act;

b. Every six (6) months, the NTC shall submit a report to the Congress regarding complaints received under the complaint system;

c. Reports shall indicate the number of complaints received, during the period for which the report is made, regarding the service of the Public Telecommunications Entity for which a complaint is made to; and

d. Reports shall indicate the types of complaints received during such period, including, but not limited to, complaints regarding dead spots, dropped calls, network busy signals, noise and improper billing practices, and the number of each type of complaint received during such period.

SECTION 10. *Information Dissemination.*

A. The Philippine Information Agency (PIA) in coordination with the National Telecommunications Commission (NTC) shall ensure the proper and adequate information dissemination of the contents and benefits of this Act to the general public, especially to its intended beneficiaries.

B. The NTC shall likewise, upon submission of the report to the Congress, make such report public through publication in at least two (2) newspapers of general circulation.

C. The NTC will require each mobile service provider to include, in each subscriber's detailed bill for such service, a statement informing the subscriber that a complaint regarding the quality of their service may be registered with the Commission and provide the toll-free number and an address for mailing.

D. The NTC shall take such other actions as may be appropriate to publicize the availability of the complaint system and other service improvements to the subscribers.

SECTION 11. *Penalties.*

A. Any person who gives false or misleading data or information or willfully or through gross negligence, conceals or falsifies a material fact, in any investigation, inquiry, study or other proceeding held pursuant to this Act, shall be punished with imprisonment of not less than six months but not more than one year, and with a fine of not less than One Hundred Thousand Pesos (Php100,000.00) but not more than Five Hundred Thousand Pesos (Php500,000.00); Provided, however, that if the false or misleading data or information shall have been under oath, the maximum penalty shall be imposed.

B. Any person, member of an organization or corporation of the service provider or private individual who releases private information including, but not limited to, history of calls and text messages, of a postpaid or prepaid subscriber without knowledge or permission of the subscriber, and for malicious use, pursuant to this Act, shall be punished with imprisonment of not less than six months but not more than one year, and with a fine of not less than One Hundred Thousand Pesos (Php100,000.00) but not more than Five Hundred Thousand Pesos (Php500,000.00); Provided, however, that if the false or misleading data or information shall have been under oath, the maximum penalty shall be imposed.

C. If the offender is a corporation the penalties may range from the imposition a fine not less than One Million Pesos (Php1,000,000.00) but not more than Ten Million Pesos (Php10,000,000.00) and/or a suspension or revocation of its Legislative Franchise and other permits and licenses by NTC. The maximum penalties prescribed in paragraph (A) shall also be imposed on the members of its board and/or management, as applicable.

D. An 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.

E. All monetary penalties shall directly accrue to the National Treasury.

SECTION 12. *Separability Clause.* If any provision or part hereof is held invalid or unconstitutional, the remainder of the law or the provision not otherwise affected shall remain valid and subsisting.

SECTION 13. *Repealing Clause.* Any law, presidential decree or issuance, executive order, letter of instruction, administrative order, rule or regulation contrary to or

inconsistent with the provisions of this Act is hereby repealed, modified or amended accordingly.

SECTION 14. *Effectivity Clause.* This Act shall take effect fifteen (15) days after its publication in at least two (2) newspaper of general circulation.

Approved,