

Republic of the Philippines
HOUSE OF REPRESENTATIVES
Quezon City

SEVENTEENTH CONGRESS
First Regular Session

HOUSE BILL NO. 5242



Introduced by Rep. Winston "Winnie" Castelo

EXPLANATORY NOTE

In the Philippines, more than half of the population subscribes to mobile services, with a 116 percent penetration rate.¹ Despite the unprecedented growth rate and rapid developments in information telecommunications technology, the leading telecommunications companies (telcos) in the country have failed to cope with the ever-increasing demand for quality services, and provide its subscribers with sub-par and inadequate services. Stories of poor signal quality, choppy or garbled voice transmission, frequent dropped calls, unexplained exorbitant charges, slow internet connection, and vanishing load are familiar complaints that have been the subject of several legislative inquiries, yet telcos continue to fail to present any substantial improvement.

Section 20 of Republic Act No. 7925, otherwise known as the "Public Telecommunications Policy Act of the Philippines", provides that users of telecommunications service shall have the basic right to reliable service compliant with minimum standards set by the National Telecommunications Commission (NTC). Unfortunately, the NTC is unable to enforce this mandate, to the prejudice of subscribers who are left with no choice but to endure the poor services provided by telcos.

This bill seeks to protect the rights of subscribers by establishing the minimum standards regarding the quality of telecommunications services that telcos must provide. It directs the telcos to adopt a Mobile Number Portability (MNP) feature,² mandates them to deliver a minimum internet connection at par with the global average and establish a responsive complaint handling system, and prohibits load expiration and unsolicited promotions.

It is the belief of this representation that by empowering consumers and ensuring that they get the best value for their money, telcos will be forced to improve their services and genuinely compete with each other. It will also encourage

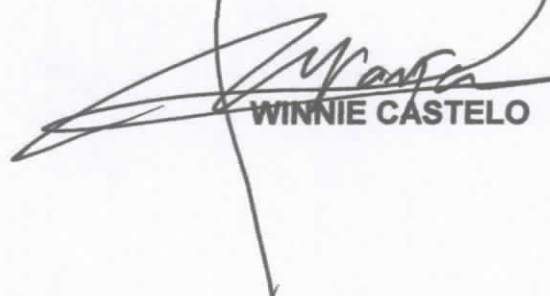
¹ GSMA Intelligence, *Country Overview: Philippines*.

<https://www.gsmainelligence.com/research/?file=141201-philippines.pdf&download>. Accessed on 27 February 2017.

² MNP is a feature that allows mobile phone subscribers to use the same mobile phone numbers even if they switch to a different carrier. Under the current system, the first four numbers of a mobile phone number are assigned to specific carriers, forcing mobile phone subscribers to change numbers when switching to a different telco.

innovation, stimulate demand for telecommunications services, and in the long run boost economic growth.

The immediate consideration and approval of this proposed measure is therefore most earnestly sought.

A handwritten signature in black ink, appearing to read 'Winnie Castelo', is written over a large, hand-drawn circle. The signature is stylized and fluid.

WINNIE CASTELO

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**AN ACT STRENGTHENING THE RIGHTS OF MOBILE
TELECOMMUNICATIONS SERVICE SUBSCRIBERS, ESTABLISHING THE
MINIMUM STANDARDS IN THE QUALITY OF SUCH SERVICES, AND FOR
OTHER PURPOSES**

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

**CHAPTER I
GENERAL PROVISIONS**

SECTION 1. *Short Title.* – This Act shall be known as the "Magna Carta for Mobile Phone Subscribers."

SEC. 2. *Declaration of Policy.* – The State recognizes the vital role of communication and information in nation-building. To maximize the full utility of available information and communications technology (ICT) infrastructure, the State shall ensure the provision of efficient, quality, and reliable services by mobile telecommunications service providers and shall protect the rights and welfare of consumers. Towards this end, a minimum standard of service quality shall be established.

SEC. 3. *Definition of Terms.* – As used in this Act:

- (a) "*Advertisement*" means any direct or indirect advertising, marketing, promotional or branding activity or any other activity which has the same or similar effect and which is made to promote a product, service, or person to consumers;
- (b) "*Bill*" means an invoice from a service provider which advises a subscriber of the total charges due for in respect of telecommunications service provided by the telecommunications entity;
- (c) "*Billing*" means any one, or a combination of, the following activities:
 - (i) calculating charges incurred by a subscriber during a billing period;
 - (ii) applying any debits or credits outstanding or discounts due against the charges, and calculating the net amount payable by

the subscriber; (iii) issuing and delivering bills to the billing address; (iv) handling billing inquiries; and (v) receiving and receipting payments made by the subscriber.

- (d) "*Commission*" means the National Telecommunications Commission (NTC);
- (e) "*Committed Information Rate*" is the bandwidth for a virtual circuit guaranteed by an internet service provider to work under normal conditions. This is the minimum speed that a service provider is compelled to provide;
- (f) "*Consumer*" means any person, whether natural or juridical, which consumes or may consume a Public Telecommunications Service provided by a service provider, alternatively referred to as "*Subscriber*";
- (g) "*Consumer Complaint*" means an expression of dissatisfaction made to a service provider in relation to its telecommunications products or services registered by any reasonable means at any place authorized by the service provider for such purposes;
- (h) "*Consumer Dispute*" means any correspondence or communication accepted by the NTC from a subscriber expressing dissatisfaction or grievance on the outcome of a Consumer Complaint or on matters within the direct scope of a service provider's business and on which matter the Subscriber has some legitimate interest;
- (i) "*Customer Service*" means services, other than telecommunications services, provided by a telecommunications entity to a subscriber, in connection with the subscriber's use of the entity's services and the subscriber's contract with the entity;
- (j) "*Load credits*" refers to the monetary value or the consumable amount loaded to a mobile number via prepaid call and text card that enable a subscriber to use telecommunication services;
- (k) "*Mobile Number Portability (MNP)*" refers to a feature that allows a mobile phone subscribers to use the same mobile phone numbers even if they switch to a different telecommunications service provider;
- (l) "*Mobile Phone Service Provider, Supplier, or Telecommunications Company*" means any person, firm, partnership, or corporation, government or private, granted a legislative franchise to engage in the provision of mobile telecommunications services to the general public for compensation;
- (m) "*Post-Paid*" means a type of account wherein telecommunications service can be used fully or in part prior to being paid for by the subscriber;
- (n) "*Prepaid*" refers to the type of account that requires the subscriber to purchase load credits before telecommunications services can be used;
- (o) "*Prepaid call and text card*" refers to any device, in the form of a card, certificate, coupon, document, record, code, electronic serial number, identification code or number, or any other transaction denominated by a reference number, with a corresponding peso value that has to be purchased to enable a subscriber to use telecommunication services;

- (p) "*Subscriber Contract*" means an arrangement or agreement between a service provider and a subscriber for the supply of a telecommunications services to that subscriber;
- (q) "*Subscriber Identity Module (SIM)*" refers to a pocket-sized card with embedded integrated circuits, which securely stores the key data identifying a subscriber, as well as subscription information and subscriber preferences; and
- (r) "*Subscriber Information*" means any personal data relating to a specific subscriber and includes, but is not limited to, that person's name, address, mobile phone number, bank account details, credit card details, service usage details, call records, message records, any information derived from a subscriber's use of telecommunications services, account status, and payment history.

CHAPTER II

ESTABLISHMENT OF STANDARDS REGARDING QUALITY OF SERVICE

SEC. 4. *In General.* Within two (2) years from the effectivity of this Act, all mobile phone service providers shall take steps to comply with the minimum standards of service quality established hereunder. The Commission shall ensure, through the appropriate regulatory measures, that these minimum standards are complied with to promote and protect the rights of mobile telecommunications subscribers.

SEC. 5. *Truth in Advertising.* Mobile service providers shall ensure that any information provided or made available to subscribers, including but not limited to offers, advertisements, and any other promotional materials, is communicated in plain language, clear, accurate, timely, and free of material omissions.

SEC. 6. *Telecommunications Offers.* Mobile service providers shall provide a summary of each of its current standard plans or services being offered, to allow subscribers to compare and determine which offer best suits their needs. The summary shall include the following information: description of the service; minimum and maximum monthly charge payable, where calculable; inclusions, exclusions, and any important conditions, limitations, restrictions, or qualifications for the offer.

SEC. 7. *Customer Service.* Mobile service providers shall ensure that its customer service system is receptive and responsive, and its representatives deal with subscribers courteously and in a fair and accurate manner. They shall ensure that appropriate action is taken against employees who are rude or harassing to, or engage in misleading conduct, with subscribers.

SEC. 8. *Unsolicited Promotions.* A consumer or subscriber cannot be deemed to be charged for, subject to, or part of any service or promotion thereof prior to his express agreement, which shall be in written form if practicable, to participate, join, use, subscribe to or avail of such service or promotion.

SEC. 9. *Prepaid Load Expiration.* The following acts are hereby declared unlawful:

- (a) Imposition of an expiration period on the validity of unused prepaid call and text cards;
- (b) Forfeiture of load credits stored on an active prepaid phone account via prepaid call and text card; or
- (c) Refusal to give a refund to any prepaid subscriber whose load credits were forfeited without any valid cause.

SEC. 10. *SIM Card Expiration.* Prepaid SIM cards shall only expire after a year of inactivity. For purposes of this Act, a SIM card shall be considered inactive if it has not been loaded with load credits one (1) year after the load credits in its last prepaid card have been fully consumed.

SEC. 11. *Billing.* A post-paid subscriber shall have the right to regular and accurate billing, timely correction of errors therein, if any, and the immediate provision of rebates or refunds by the service provider upon determination of the subscriber's entitlement thereto, without need for demand. Service providers shall be required to establish a system where prepaid subscribers can track the usage of their load credits, at no cost to the subscriber.

In case of complaints related to billing for post-paid or loss of load credits for prepaid, the service provider has the burden of proving that the complainant made or authorized an unverified charge for a product or service. Pending investigation on a complaint, the complainant shall not be required to pay the disputed charge(s) and the service provider may not suspend the service for the non-payment thereof.

SEC. 12. *Internet Speed.* All mobile telecommunications service providers shall provide a committed information rate or minimum internet download speed of 10 Megabits per second (Mbps) for mobile broadband/internet access.

Every two (2) years after the effectivity of this Act, the Commission shall review the abovementioned standard, and may adjust the same, taking into consideration industry trends and developments in information and communications technology; *Provided*, that the minimum speed shall be above the global average.

SEC. 13. *Number Portability.* It shall be the obligation of service providers to provide mobile number portability (MNP) to all subscribers, whether prepaid or postpaid. They shall ensure that subscribers can change, in one (1) working day, their mobile operator while keeping their old phone number. Every mobile service provider shall, within the period stated in the implementing rules and regulations of this Act, set up a mechanism to implement MNP.

SEC. 14. *Protection of Subscriber Information.* Any data supplied by the subscriber shall be treated as confidential by the service provider and shall not be used for purposes not authorized by him/her, nor be disclosed to a third party without prior written consent by the subscriber. Upon subscription, the subscriber shall be informed of his/her right to privacy and the manner by which his/her data would be protected.

SEC. 15. *Complaint Handling.* A complaint handling system shall be established to address subscriber complaints as follows:

(a) *Mobile service providers.* -- The mobile service providers shall endeavour to allow complaints to be received by mail and other means using telecommunications facilities or the internet, which shall include but shall not be limited to voice calls, short messaging service (SMS), multimedia messaging service (MMS), electronic mail, or social media accounts. They shall acknowledge a complaint by providing a subscriber with the following:

- 1) unique reference number or such other means as will ensure the service provider's ability to subsequently identify the complaint and its subject matter; and
- 2) an indicative timeframe for the resolution of the complaint, which shall not be more than thirty (30) days.

The service providers shall keep a record of all complaints made pursuant to the system established under this provision and submit the same to the Commission as required by Section 17 of this Act.

(b) *National Telecommunications Commission.* -- The Commission shall likewise establish and administer a system that makes available a procedure for the resolution of consumer disputes, as defined in this Act. The Commission shall acquire jurisdiction over complaints filed with the service provider upon notification from the aggrieved subscriber that his complaint is denied in whole or in part, or is not acted upon within thirty (30) days from filing thereof.

The Commission shall require each mobile service provider to include, in each subscriber's bill, a statement informing the subscriber of its complaint system, including the procedure of filing an appeal with the Commission.

SEC. 16. *Suspension or Termination of Service.* Mobile service providers shall act on requests to suspend or terminate subscriber's contracts within five (5) days from receipt thereof and shall not impose any other condition for the resolution of such requests, except the payment of charges arising from the use of telecommunications services.

CHAPTER III ENFORCEMENT

SEC. 17. *Reportorial Requirement.* All mobile service providers shall transmit an annual report to the Commission regarding the complaints received pursuant to the complaint system established under this Act, indicating the following:

- (a) The number of complaints received during the period for which the report is made;
- (b) The types of complaints received during such periods, including complaints regarding dead spots, dropped calls, and improper billing;
- (c) The number of each type of complaint received during such period, and the resolution thereof.

The Commission shall likewise keep a record of consumer disputes it received and shall make this information readily available in its website.

SECTION 18. *Disciplinary Proceedings.* The Commission, after due notice and hearing, may suspend or revoke the legislative franchise and other permits and licenses issued to service providers if the service provider:

- (a) Gives false or misleading data or information or wilfully or through gross negligence, conceals or makes a material misrepresentation in any investigation, inquiry, or proceeding conducted pursuant to this Act;
- (b) Fails to comply with the provisions of this Act or any rule promulgated pursuant to this Act;
- (c) Fails to cooperate with the Commission, or fails to timely respond to a request for information by the Commission, in connection with an investigation pursuant to this Act; or
- (d) Violates any other law that substantially relates to the operation of a mobile telecommunications entity and consumer protection.

SECTION 19. *Penalties.* In addition to suspension or revocation of franchise or any other action under the immediately preceding Section, the Commission may assess against a service provider for each violation enumerated thereunder, a fine of not less than One Hundred Thousand Pesos (P100,000.00) but not more than Five Hundred Thousand Pesos (P500,000.00); *Provided*, that if the false or misleading data or information shall have been under oath, the maximum penalty shall be imposed.

The Commission shall determine the amount of the administrative penalty to be imposed on a service provider found violating the provisions of this Act, after considering the following factors:

- (a) The seriousness of the violation or failure to comply, including the nature, circumstances, extent, and gravity of the violation, and the harm or injury that may arise as a result of the violation;
- (b) The history of contraventions of or failures to comply;
- (c) The efforts made to correct the violation; and
- (d) Any other factor that may be just and reasonable under the circumstances.

CHAPTER IV FINAL PROVISIONS

SEC. 20. *Effect on Consumer Protection Laws.* Nothing in this Act shall be construed as relieving any mobile service provider from the obligation to comply with any law, executive issuance, rule or regulation relating to consumer protection or unfair trade or serve to limit or impair the rights and remedies of a consumer under any other law.

SEC. 21. *Public Information Campaign.* The Philippine Information Agency (PIA), in coordination with the National Telecommunications Commission, shall be responsible for information campaigns to ensure nationwide awareness of the Magna Carta for Mobile Subscribers and its implementing rules and regulations.

SEC. 22. *Implementing Rules and Regulations.* – Within ninety (90) days from the promulgation of this Act, the Department of Information and Communications Technology (DICT) and the National Telecommunications Commission (NTC) shall issue the necessary rules and regulations for the proper and effective implementation of this Act.

SEC. 23. *Separability Clause.* – If any provision or part hereof is held invalid or unconstitutional, the remainder of the provision not otherwise affected shall remain valid and subsisting.

SEC. 24. *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.

SEC. 25. *Effectivity.* – This Act shall take effect after fifteen (15) days following its publication in at least two (2) newspapers of general circulation.

Approved,