

Republic of the Philippines
HOUSE OF REPRESENTATIVES
Quezon City

SEVENTEENTH CONGRESS
Second Regular Session

HOUSE BILL No. **6563**



Introduced by BAYAN MUNA Rep. CARLOS ISAGANI T. ZARATE

AN ACT
PROMOTING THE RIGHTS OF MOBILE PHONE SUBSCRIBERS BY REGULATING
PRICES, REQUIRING TELECOMMUNICATIONS SERVICE COMPANIES TO
PROVIDE DETAILED BILLING OF PREPAID CREDITS, NUMBER PORTABILITY,
LOWERED PULSE RATE, AND OTHER SERVICE IMPROVEMENTS

EXPLANATORY NOTE

Telecommunications is a necessity, a very important public utility, and, a strategic industry for bridging development from urban city centers to rural areas. It is also crucial 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, due to its liberalization and deregulation policies, its inability or refusal to confront the existence of cartels or an oligopoly/duopoly in the telecommunications sector has failed to uphold consumer rights by refusing to effectively regulate the telecommunications industry. Among the numerous instances where these telecommunication service providers (telcos) defied NTC was when they refused to implement a 20-centavos deduction on interconnection charges for SMS (text messages) which the NTC ordered effective November 30, 2011. Interconnection fee is charged on every SMS sent from one telco to another. That the NTC allows these telcos to greedily charge 1-peso despite the lowered interconnection fee is a clear case of its failure to protect the Filipino consumers.

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 take a sizable portion of their income.

There is no transparency in the true costs of mobile phone services in the pricing of the duopoly of in our telcos, of Smart and Globe, which enables them to impose onerous charges. Prepaid subscribers often are left blind as to how some of their credits were consumed, if they were indeed consumed at all. The credit or load expiration is also a dubious practice. Postpaid subscribers meanwhile bewail a lack of transparency on the charges levied against them as found in billing statements.

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 seeks to promote the rights of mobile phone subscribers by regulating prices, requiring telecommunications service companies to provide detailed billing of both prepaid credits and postpaid consumption, number portability, lowered pulse rate and other service improvements for the benefit of our consuming public.

This bill was first filed by Bayan Muna Representative Teddy Casiño in the 15th Congress and was refiled by Reps. Neri Colmenares and Carlos Isgani Zarate in the 16th Congress.

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

Approved,


REP. CARLOS ISAGANI T. ZARATE
Bayan Muna Party-list

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

SECTION 1. Short Title. – This Act shall be known as “The Mobile Phone Subscribers Act”.

SEC. 2. Declaration of Policy. – It is hereby declared policy of the state to regulate the mobile cellular phone service to protect the 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 underprivileged.

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.

SEC. 3. Definition of Terms

a) "Cellular Mobile Telephone System" (CMTS) refers to a system of geographic areas or cells, with each 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", "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 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 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, 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 defacto standard for digital cellular communications, 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 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 standards allow for 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 service” refer to balance inquiry, customer support, and prepaid reloading services.

l) “Prepaid subscriber” refers to a subscriber who manually loads credits to his mobile cellular phone and is thus not subject to periodical billing for mobile phone service 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 it required for data to travel over networks from the source to the ultimate destination.

q) "Advertisement" shall mean 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 or which is likely to induce, directly or indirectly, the purchase of consumer products or services.

SEC. 3. Price Regulations. Mobile phone service providers, distributors, and retailers are hereby required to file a petition to NTC every time they intend to implement any changes in the market price ceilings of basic mobile phone services. Affected and concerned parties may also file petitions with the NTC opposing such petition or petitions to increase mobile service price ceilings, or asking for cancellation of franchise for violation of this Act.

In revising prices and price ceilings, the NTC shall be guided by the following considerations:

a) Whether claimed costs and expenses, sales, profits, and rates of return are real and reasonable.

b) The impact of the proposed prices or change therein on the consuming public, particularly low-income groups and small businesses, given the daily cost of living and predominant wages, and on the economy.

SEC. 4. Service Regulations. The National Telecommunications Commission (NTC) shall set the minimum performance metrics based on:

- 1) Success rate of calls;
- 2) Acceptable level of noise in voice calls;
- 3) Network latency and propagation delay; and
- 4) Data drops and unreceived data packets.

SEC. 5. Prepaid Credit Expiration. Expiry of prepaid credits shall hereby be prohibited until such credit has been fully consumed. Provided, that SIM cards shall only expire at least one year after loaded credit has been fully consumed.

SEC. 6. Billing

A. Manner of Billing

A subscriber of mobile telephone services shall only be billed for the actual airtime usage and number of messages sent. Actual air time usage shall mean the use of the mobile telephone service by the subscriber to be determined per six (6) seconds or one (1) pulse of actual use which will translate to one-tenth (1/10) of a minute. There shall be a minimum of one-tenth (1/10) or zero-point-one (0.1) of a minute charged even if a mobile cellular phone call lasts less than the six (6) second technical length of a 0.1-minute phone call.

B. Rate of Billing

The six (6) seconds of actual use shall be billed at the rate of one-tenth of a minute using the applicable rate for the particular plan of the mobile phone, whether a post-paid or pre-paid service subscriber.

C. Prepaid Subscribers Bill Breakdown

Service providers shall be required to entitle pre-paid subscribers to have a detailed billing, at no cost to the subscriber, on the usage of their mobile cellular phone by presenting their consumed pre-paid card or load credit tracer numbers to the designated business center of the service providers within seven (7) working days after the consumption or expiration of prepaid cards or load credits.

SEC. 7. Prohibition on Inter-Network Access Charges. Mobile phone service providers are hereby prohibited from charging inter-network access charges for communication, over and above the prices for mobile phone services, between mobile phones utilizing SIM cards issued by different service providers.

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

SEC. 8. 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 number portability shall be commenced by the NTC and all mobile service providers upon effectivity of this Act.

SECT. 9. 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 NTC 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. Prohibition on Unsolicited Advertisements

Unsolicited commercial advertisement, sent through SMS, recorded voice calls, or other supplementary mobile phone services, especially, but not limited to, those announcing the winning of prizes, raffles, draws, etc. and requesting subscriber action, such as replying through return calls

or text messages, or requiring other potentially detrimental actions from subscribers are hereby prohibited.

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

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

D. Protection of Consumer Privacy

Service providers are prohibited from retaining personal information, including but not limited to names, ages, addresses, birth dates, telephone numbers, and other contact information, submitted by any subscriber for any promotion or marketing to program, such as games and contests.

Service providers are likewise prohibited from disclosing personal information and subscription data, such as messages and calls, to any agency, state, or private organization, except with the written and expressed permission of all parties concerned or on the basis of a valid judicial order.

SEC. 10. Report of Violations. Any natural or juridical person may report before the NTC any violation of this Act.

SEC. 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 two but not more than six months, and with a fine of not less than One Thousand Pesos (Php 1,000.00) but not more than Ten Thousand Pesos (Php 10,000.00); Provided, however, that if the false or misleading data or information shall have been under oath, the maximum penalty for giving false testimony or perjury shall be imposed;

b) If the offender is a corporation, the penalties may range from the imposition a fine not less than One Million Pesos (Php 1,000,000.00) but not more than Ten Million Pesos (Php 10,000,000.00) 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.

c) 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.

d) All monetary penalties shall directly accrue to the National Treasury.

SEC. 12. Implementing Rules and Regulation. The Department of Transportation and Communications, Department of Trade and Industry, National Telecommunications Commission, and other relevant government agencies shall, within sixty (60) days from the effectivity of this Act, submit the implementing rules and regulations (IRR) governing this Act.

SEC. 13. Amendatory and Repealing Clause. – All laws, decrees, orders, rules and regulations, ordinances, or any parts thereof, inconsistent herewith are hereby repealed or modified accordingly.

SEC. 14. Separability Clause. – If any provision of this Act is subsequently declared unconstitutional, the validity of the remaining provisions hereof shall remain in full force and effect.

SEC. 15. Effectivity Clause. – This Act shall take effect immediately after its complete publication either in the Official Gazette or in a newspaper of general circulation in the Philippines.

Approved,