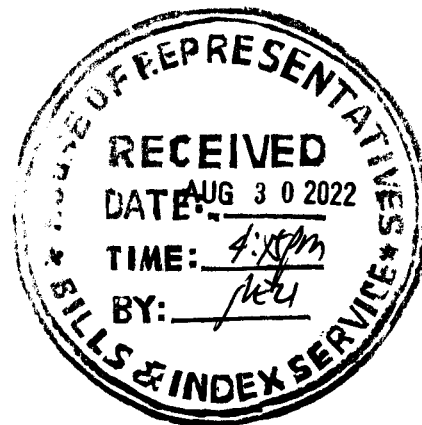


Republic of the Philippines
HOUSE OF REPRESENTATIVES
Quezon City

NINETEENTH CONGRESS
First Regular Session

HOUSE BILL NO. 4251



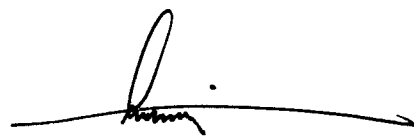
Introduced by: **REP. TOBIAS "TOBY" M. TIANGCO**

EXPLANATORY NOTE

For the past two years, Filipinos have received an alarming number of suspicious SMS and emails from unknown persons. In the first half of 2022 alone, Globe Telecom Inc. has already blocked around 138 million spam emails and scam text messages. Scammers use these spam messages and emails to prey on Filipino consumers by offering them jobs and prizes or to register bank accounts to receive discounts and freebies.

This measure seeks to protect the fundamental right of a mobile phone subscriber and email user to privacy, as well as the adoption of more responsible and accountable business practices by marketing and sales agents. The bill requires "prior consent from the subscriber before commercial or promotional advertisements, or push messages may be sent to them or when the subscriber has specifically opted to receive said messages without additional cost."

This bill has passed three readings in the 18th Congress as HB 9608 and was transmitted to the Senate for its consideration.


TOBIAS "TOBY" M. TIANGCO
Representative
Lone District, Navotas City

Republic of the Philippines
HOUSE OF REPRESENTATIVES
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NINETEENTH CONGRESS
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HOUSE BILL NO. 4251

Introduced by: **REP. TOBIAS “TOBY” M. TIANGCO**

**AN ACT ESTABLISHING THE ‘NO CALL, NO TEXT, AND NO E-MAIL
REGISTRATION SYSTEM’ AND PROVIDING PENALTIES FOR VIOLATIONS
THEREOF**

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

CHAPTER 1

TITLE AND DECLARATION OF POLICY

SECTION 1. *Short Title.* – This Act shall be known as the “No Call, No Text, and No Email Registration System Act.”

SEC. 2. *Declaration of Policy.* – It is hereby declared the policy of the State to:

- a) Protect the interest of mobile phone subscribers and electronic mail (e-mail) users *vis-à-vis* unsolicited commercial speech;
- b) Provide a standard of conduct for business and industry in sending text messages and e-mails to subscribers;
- c) Promote the fundamental right of a mobile phone service subscriber and e-mail user to privacy; and
- d) Protect subscribers from unwanted calls, texts and e-mails inducing the purchase of goods or services and other forms of solicitation.

CHAPTER II

DEFINITION OF TERMS, MECHANISMS FOR THE ESTABLISHMENT OF A 'NO CALL, NO TEXT, AND NO E-MAIL REGISTRATION' SYSTEM

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

- a) *Caller or sender* refers to any person, and in the case of a juridical person, an employee or agent, who initiates a call, a text message or an e-mail for the purpose of making an outbound or unsolicited call, text message or e-mail;
- b) *Consent* refers to a written contract signed by both the subscriber and a representative of the public telecommunications entity (PTE) indicating that the subscriber opted to receive such commercial or promotional advertisement or push message;
- c) *E-mail* refers to any message distributed by electronic means from one computer user to one or more recipients via a network.
- d) *Negative option* refers to a feature which shall enable a person to stop receiving any call, text or e-mail from a caller or sender;
- e) *No Call Registry* refers to the listing of Philippine telephone numbers to which a specified voice message shall not be sent;
- f) *No E-mail Registry* refers to the listing of Philippine e-mail addresses to which a specified e-mail shall not be sent;
- g) *No Text Registry* refers to the listing of Philippine telephone numbers to which a specified text message shall not be sent;
- h) *Outbound call, text or e-mail* refers to a telephone call, text message or e-mail initiated by any caller or sender to induce the purchase of goods and services;
- i) *Prize* refers to anything offered, or purportedly offered, and given, or purportedly given, to a subscriber by chance;

- j) *Subscribers* refer to clients of telecommunications companies, whether under a pre-paid or post-paid plan;
- k) *Text* refers to any message sent via short message service (SMS);
- l) *Upselling* refers to soliciting the purchase of goods or services following an initial transaction during a single telephone call, text message or e-mail;
- m) *Unsolicited call, text or e-mail* refers to a call, a text message or an e-mail which is not initiated by the recipient of the call or message such as upselling, surveys, awarding of a prize when the recipient did not join or subscribe to any game or activity, or solicitation by any non-profit and charitable institution, whether or not the call, text message or e-mail induces the purchase of goods or services.

SEC. 4. *Subscriber's Consent Prior to Sending Promotional Advertisements or Messages.* – Commercial or promotional advertisements, or push messages may only be sent to a subscriber who has given prior consent or has specifically opted-in to receive said messages without additional cost. All commercial or promotional advertisements, or push messages must contain an accurate description of the message, identity and contact number of the PTE who sent or caused to send the message.

SEC. 5. *Establishment of No Call, No Text, and No E-mail Registries.* – The National Privacy Commission, hereinafter referred to as the Privacy Commission, shall establish a No Call Registry, No Text Registry, and a No E-mail Registry: *Provided*, That, the identity of persons registered shall be kept highly confidential: *Provided, further*, that only the telephone numbers and the e-mail addresses of registered persons may be accessed from the registries.

SEC. 6. *Registration in the No Call, No Text, and No E-mail Registries.* – A subscriber may manage and limit the inbound and unsolicited call, text and e-mail messages that maybe received by registering a telephone number in the No Call and No Text Registries or an e-mail address in the No E-mail Registry upon presentation of a government identification and proof of exclusive ownership over a particular telephone number or e-mail address, and upon payment of a fee as determined by the Privacy Commission: *Provided*, That the registration of mobile numbers of a subscriber or e-mail address of a user below eighteen (18) years of age may be done by the user's parent or legal guardian. Such registration shall be valid for a period of one (1) year, subject to renewal.

SEC. 7. *Removal of Numbers and E-mail Addresses.* – Telephone numbers and e-mail addresses registered in the No Call, No Text, and No E-mail Registries shall not be changed nor removed except upon the request of the owner in writing. Invalid or disconnected telephone numbers and e-mail addresses may be changed or removed upon adequate validation by the Privacy Commission.

SEC. 8. *Opt-out mechanism.* – All PTEs shall provide a mechanism for subscribers to opt out any time from the broadcast messaging service at no cost to the subscriber or recipient. The opt-out mechanism must enable the subscriber or recipient to indicate the decision not to receive any commercial or promotional advertisement or push message from the PTE.

SEC. 9. *Negative Option Requirement.* – A person whose number is not registered in the No Call and No Text Registries or whose e-mail is not registered in the No E-mail Registry may manage and limit outbound and unsolicited calls, text messaging or e-mails through the negative option feature. All mobile phone callers or text message senders shall set up a negative option which shall be available to the recipient immediately upon answering the call, or at the beginning of the text or the e-mail after providing the required information under Section 10 of this Act. Upon selection of the negative option feature, the caller or sender shall not make any further step to persuade the recipient and immediately end the call or stop sending any text message or e-mail to the recipient. The recipient shall report and register the name and the number of the person, company or organization who made the call, sent the message or e-mail to the No Call, No Text, and No E-mail Registries in order to make the caller or sender liable for violation of this Act for any subsequent call, text message or e-mail. This prohibition shall apply to the caller or sender regardless of the goods or services offered and the telephone number or e-mail address used to contact the recipient.

SEC. 10. *Requirement for a Caller or Sender.* – No person shall make an outbound or unsolicited call, text message or e-mail unless such person:

- a) Registers and thereafter, obtains a certified true copy of the No Call, No Text, and No E-mail Registries from the Privacy Commission: *Provided*, That the Privacy Commission shall have the power to set reasonable fees for the reproduction of these registries; and
- b) Discloses the full name of the caller or sender, the company, or organization for whose benefit the call, text message or e-mail is being made, and the telephone number of a fixed line where such identity can be established and verified.

SEC. 11. *Responsibility of Caller or Sender.* – It shall be the responsibility of any caller or sender to register under Section 10 hereof and to get information on the numbers and e-mail addresses which are registered in the No Call, No Text, and No E-mail Registries. Possession of a certified true copy of the No Call, No Text, and No E-mail Registries prior to the date the call is made, or the text message or e-mail is sent shall be considered *prima facie* evidence of knowledge on the part of the caller or sender.

CHAPTER III

PROHIBITED ACTS, FINES, AND PENALTIES

SEC. 12. *Prohibited Acts.* – Non-registration of the caller or sender as required under Section 10 of this Act shall be considered a violation of this Act.

Except otherwise provided in this Act, no person, whether natural or juridical, shall make:

- a) An unsolicited call to any telephone number listed in the No Call Registry;
- b) An unsolicited text to any telephone number listed in the No Text Registry; and
- c) An unsolicited e-mail to any e-mail address listed in the No E-mail Registry.

The PTE that shall give the special access to numbers or e-mail addresses of their subscribers to commercial or marketing agencies without the latter's consent shall be held liable under this Act. The use of an automatic dialer or any electronic device that automatically or randomly contacts telephone numbers is prohibited. Any violation of this section shall constitute the crime of unauthorized processing as defined and penalized under Sections 25(a) and 25(b) of the Data Privacy Act of 2012, without prejudice to a further fine that may be imposed by the Privacy Commission as provided for in this Act.

SEC. 13. *Exceptions.* – This Act shall not apply to a caller or sender under the following circumstances:

- a) In representation of a public agency who is not promoting any of its programs for commercial purpose;
- b) Action undertaken in a personal capacity;
- c) Action prompted by a necessity to respond to an emergency that threatens the life, health or safety of any individual;
- d) When the sole purpose of the call, text or e-mail is to –
 - 1) Facilitate, complete or confirm a transaction that the recipient of the message has previously agreed to enter with the sender;
 - 2) Provide warranty information, product recall information or safety or security information with respect to a product or service purchased or used by the recipient of the message;

- 3) Deliver goods or services, including product updates or upgrades, that the recipient message is entitled to receive under the terms of the transaction that the recipient previously agreed to enter with the sender;
- e) When with reference to an ongoing purchase or use by the recipient of goods or services offered by the sender, the sole purpose of the call, text or e-mail is to –
 - 1) Notify a change in its terms or features,
 - 2) Notify a change in the standing or status of the recipient of the message, or
 - 3) Provide, at regular periodic intervals, account balance information or other type of account statement with respect to a subscription, membership, account, loan or comparable ongoing commercial relationship;
 - f) When its sole purpose is to conduct market research or market survey;
 - g) When sent to an organization other than an individual acting in a personal capacity, for whatever purpose of the receiving organization;
 - h) When done by duly recognized charities, religious institutions, or educational institutions which are not considered as telemarketers, non-profit organizations, and other exempt organizations under appropriate rules and regulations; or
 - i) Other acts that may be identified by the Privacy Commission.

SEC. 14. *Filing of Complaint.* – Complainants may initially file their complaints with the PTE, which shall act on all complaints received within fifteen (15) days from receipt of such complaints. Complainants who are not satisfied with the action of the PTE may bring the matter to the Privacy Commission.

SEC. 15. *Liability of Caller or Sender.* – A caller or sender who commits any violation under Sections 4, 9, and 10 of this Act shall be held solely liable. If the caller or sender acted for the benefit of another person, natural or juridical, and with authority from the latter, they shall be both held separately liable for the violation. However, if the caller or sender acted for the benefit of another person, natural or juridical, without authority from the latter, the former shall be held solely liable. Any caller or sender who calls, sends a text message or e-mail to a subscriber who is in the No Call, No Text, and No E-mail Registries shall be fined for each call, text or e-mail.

SEC. 16. *Penalties.* – Without prejudice to administrative sanctions that may be imposed by the Privacy Commission, or to civil or criminal liability, any person found to be

in violation of any provision of this Act or its implementing rules and regulations, shall be imposed the following penalties:

- a) For a juridical person, a fine of not less than Fifty thousand pesos (P50,000) nor more than One hundred thousand pesos (P100,000.00) for each violation: *Provided*, That its officers directly responsible for the violation shall suffer the penalty of fine of not less than Fifty thousand pesos (P50,000.00) but not more than One hundred thousand pesos (P100,000.00); or
- b) For a natural person, a fine of not less than Fifty thousand pesos (P50,000.00) but not more than One hundred thousand pesos (P100,000.00).

SEC. 17. *Charges and Fees.* – The Privacy Commission shall, within one hundred (100) days from the enactment of this Act, develop and promulgate a schedule of fees and charges it may collect from entities who shall access the No Call, No Text, and No E-mail Registries.

CHAPTER IV

FINAL PROVISIONS

SEC. 18. *Appropriations.* – The Privacy Commission shall immediately include in its programs the implementation of this Act, the initial funding of which shall be charged against its current year's appropriations. Thereafter, such sums as maybe necessary for the continued implementation of this Act shall be included in the Annual General Appropriations Act.

Proceeds from penalties herein imposed shall accrue to the General Fund.

SEC. 19. *Implementing Rules and Regulations.* – Within ninety (90) days from the effectivity of this Act, the Privacy Commission shall promulgate the necessary rules and regulations for the effective implementation of this Act.

SEC. 20. *Separability Clause.* – If any part or provision of this Act shall be held unconstitutional or invalid, other provisions hereof that are not affected thereby shall continue to be in full force and effect.

SEC. 21. *Repealing Clause.* – All other laws, decrees, executive orders, proclamations and administrative regulations, or parts thereof inconsistent herewith are hereby repealed or modified accordingly.

SEC. 22. *Effectivity.* – This Act shall take effect fifteen (15) days after its publication in the *Official Gazette* or in a newspaper of general circulation.

Approved.