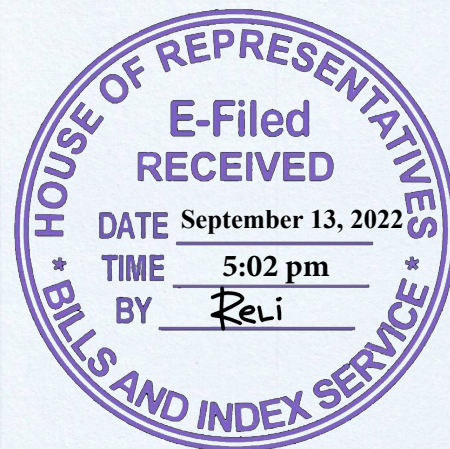


Republic of the Philippines
HOUSE OF REPRESENTATIVES
Quezon City

NINETEETH CONGRESS
First Regular Session

HOUSE BILL NO. 4775



Introduced by REP. REX GATCHALIAN

AN ACT
PROMOTING CONSUMER CHOICE AND FOSTERING COMPETITION IN THE
TELECOMMUNICATIONS INDUSTRY BY MANDATING THE UNLOCKING OF
MOBILE COMMUNICATION DEVICES

EXPLANATORY NOTE

Switching to another service provider for improved wireless services and better options is a consumer right. However, the exercise of this right is impaired by public telecommunications entities when they lock mobile communication devices to their respective networks. Locking these devices makes it difficult for consumers to take advantage of competitive and better offers available in the market because the process of unlocking mobile communication devices normally voids the devices' warranty.

In addition, locking not only deprives consumers the easy movement – using the same device – from their current telecommunications service provider to the one that best fits their needs and preferences. It also limits competition between and among industry players who are able to reduce subscriber turnover by using device locking as a deterrent, or even an irritant, to subscribers from switching providers.

While the National Telecommunications Commission has mandated the unlocking of mobile phones and devices under Memorandum Circular No. 01-05 2019 dated 31 May 2019, its applicability is limited to (1) postpaid devices which have complied with the applicable postpaid service contract; and (2) prepaid devices which have complied with the usage requirements or agreed terms and conditions.

This legislative proposal mandates the unlocking of mobile wireless devices within definitive six- and nine-month periods from the date of purchase of the device. Under this bill, the eligibility of such devices for unlocking does not depend on the imposition of different lock-in periods that unduly binds the consumer to the public telecommunications entity that no longer provides quality services.

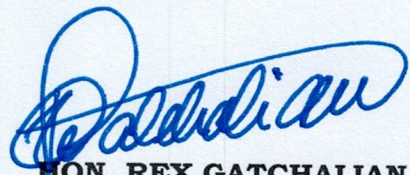
It also mandates the unlocking of subsidized units or those mobile wireless devices with accompanying subscription contracts before the lapse of the mandated nine-month period – on-demand for a fixed and reasonable unlocking fee without voiding their warranties. This allows consumers to effectively have their devices officially unlocked at any time without having to resort to third parties for unlocking and risking possible warranty issues.

Furthermore, the bill requires every public telecommunications entity or retailer of mobile wireless devices to provide every consumer sufficient information on (1) official channels for unlocking mobile wireless devices without voiding their warranties; and (2) the manner, method or fee associated with the process of unlocking these devices.

Existing business services and products affected by the implementation of this Act are given a six- (6) month transitory period from the effectivity of the implementing rules and regulations to comply with its requirements.

This legislation will contribute to the evolution of a more dynamic marketplace in the telecommunications industry where consumer choice is dictated by quality, price, and best value for money.

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



HON. REX GATCHALIAN
Representative
1st District, Valenzuela City

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

1 SECTION 1. *Short Title.* – This Act shall be known as the “*Network Freedom*
2 *Act.*”

3
4 SEC. 2. *Declaration of Policy.* – The State recognizes the vital role of
5 information and communications technology in nation-building. Under Article 2,
6 Title I of Republic Act No. 7394, otherwise known as the “Consumer Act of the
7 Philippines,” the State shall protect the interests of the consumer, promote his or her
8 welfare, and establish the standards of conduct for business and industry. Towards
9 this end, the State shall implement measures to achieve the following objectives: (1)
10 protect the consumer against deceptive, unfair, and unconscionable sales act and
11 practices; and (b) provide information and education to facilitate sound choice and
12 proper exercise of consumer rights.

13
14 SEC. 3. *Definition of Terms.* – As used in this Act:

15
16 (A) *Lock-in Period* refers to the duration of the mobile services subscription
17 contract between the public telecommunications entity and the
18 consumer within which the latter agrees to exclusively maintain a
19 monthly postpaid subscription with such entity.

20
21 (B) *Mobile Services Subscription Contract* refers to an agreement between a
22 public telecommunications entity and a consumer for a postpaid

1 subscription on the use of such entity's network for wireless
2 communications and other telecommunications services covering a
3 particular period of time.

4
5 (C) *Mobile Communication Device* refers to any wireless telephone handset,
6 tablet, or any other wireless device that operates on a wireless
7 telecommunications network.

8
9 (D) *Public Telecommunications Entity* or *PTE* refers to any duly enfranchised
10 and authorized public telecommunications entity that offers voice,
11 short messaging system (SMS) or text, mobile data, value added
12 services (VAS), or any other mobile telecommunications services to the
13 public for a fee.

14
15 (E) *Unlocking* refers to the disabling of the software on a mobile
16 communication device that prevents a consumer from activating a
17 device designed for one provider's network on another provider's
18 network even if that network is technologically compatible. Unlocking
19 a mobile communication device allows consumers to utilize their device
20 across multiple compatible networks.

21
22 SEC. 4. *Mandating the Unlocking of Unsubsidized Mobile Communication*
23 *Devices within Six Months from Date of Purchase.* – A PTE or retailer of mobile
24 communication devices may sell such devices as unsubsidized units or without any
25 accompanying mobile services subscription contract while locked to a specific
26 network: *Provided*, That these devices shall be automatically unlocked on or before
27 the sixth month from the date of purchase: *Provided, further*, That it shall be the
28 obligation of the PTE or retailer of mobile communication devices to provide official
29 channels for unlocking mobile communication devices without voiding their
30 warranties in accordance with Sec. 6 of this Act.

31
32 SEC. 5. *Mandating the Unlocking of Subsidized Mobile Communication*
33 *Devices within Nine Months from Date of Purchase; No Extension of Lock-in Period for*
34 *Subsidized Devices without Prior Approval of the National Telecommunications*
35 *Commission; Unlocking on-Demand; Warrant Coverage.* – a PTE or retailer of mobile
36 communication devices may sell such devices as subsidized units or with
37 accompanying mobile services subscription contract while locked to a specific

1 network: *Provided*, That the total lock-in period for subsidized devices shall in no
2 case exceed the period of nine (9) months: *Provided, further*, That there shall be no
3 extension of the lock-in period of subsidized devices without prior approval of the
4 National Telecommunications Commission; *Provided, furthermore*, That after the
5 completion of the lock-in period or upon full payment of the device, the PTE shall
6 unlock the device, or give the consumer the means to unlock the same, on-demand,
7 and completely free of charge: *Provided, finally*, That before the completion of the
8 lock-in period, the PTE shall unlock the device, or give the consumer the means to
9 unlock the same, on-demand, and for a fixed and reasonable unlocking fee.

10
11 Mobile communication devices that have been unlocked under this section
12 shall continue to be covered by their respective warranties.

13
14 SEC. 6. *Obligation of Public Telecommunications Entities or Retailers to*
15 *Provide Official Channels for Unlocking Mobile Communication Devices Without Voiding*
16 *Warranties.* – Every PTE or retailer of mobile communication devices shall, following
17 the terms and conditions under the implementing rules and regulations of this Act,
18 provide official channels for unlocking mobile communication devices without
19 voiding their warranties.

20
21 For purposes of transparency, sufficient information on the manner, method
22 or fee associated with the process of unlocking these devices shall be provided to
23 every consumer, stipulated in writing, and made an integral part of the mobile
24 services subscription contract.

25
26 SEC. 7. *Administrative Penalties.* – For every failure to comply with, or
27 for every instance of violation of any provision of this Act, the PTE shall pay a fine of
28 not less than One Hundred Thousand Pesos (₱100,000.00) up to Three Hundred
29 Thousand Pesos (₱300,000.00) for the first offense, and a fine of not less than Four
30 Hundred Thousand Pesos (₱400,000.00) up to Six Hundred Thousand Pesos
31 (₱600,000.00) for the second offense. In case of a subsequent offense, the penalty
32 shall be a fine of not less than Seven Hundred Thousand Pesos (₱700,000.00) up to
33 One Million Pesos (₱1,000,000.00) and revocation of the PTE's franchise to operate.

34
35 SEC. 8. *Implementing Rules and Regulations.* – The National
36 Telecommunications Commission, in coordination with the Department of Trade and

1 Industry, the Department of Information and Communications Technology, the
2 Philippine Competition Commission, and other concerned agencies shall, within
3 sixty (60) days from the effectivity of this Act, promulgate and submit the
4 implementing rules and regulations (IRR) for its effective implementation. The IRR
5 shall not preclude the NTC from issuing subsequent circulars, rules and regulations
6 to make the unlocking process more convenient for the consumer.

7
8 SEC. 9. *Transitory Provision.* – Existing business services and products
9 affected by the implementation of this Act shall be given a six- (6) month transitory
10 period from the effectivity of the IRR to comply with the requirements of this Act.

11
12 SEC. 10. *Separability Clause.* – If any provision of this Act is held invalid
13 or unconstitutional, the other provisions not affected thereby shall remain in full
14 force and effect.

15
16 SEC. 11. *Repealing Clause.* – All laws, decrees, executive orders,
17 proclamations, rules and regulations, and issuances, or parts thereof which are
18 inconsistent with the provisions of this Act, are hereby repealed, amended, or
19 modified accordingly.

20
21 SEC. 12. *Effectivity Clause.* – This Act shall take effect fifteen (15) days
22 after its publication in the *Official Gazette* or in any newspaper of general circulation.

23
24 Approved,