

THIRTEENTH CONGRESS OF)
THE REPUBLIC OF THE PHILIPPINES)
First Regular Session)

5 FEB -7 A9 51

SENATE

RECEIVED BY: _____

P.S. Res. No. 169

INTRODUCED BY HONORABLE MAR ROXAS

A RESOLUTION

URGING THE APPROPRIATE SENATE COMMITTEES TO CONDUCT AN INQUIRY, IN AID OF LEGISLATION, INTO THE PRACTICE OF SOME TELECOMMUNICATION COMPANIES OF SENDING RANDOM SPAM MESSAGES TO SUBSCRIBERS USING SHORT MESSAGING SERVICES (SMS) AND MULTIMEDIA MESSAGING SERVICE (MMS) WITHOUT THE LATTER'S CONSENT AND APPROVAL, WITH THE END IN VIEW OF PROVIDING REMEDIAL MEASURES TO ADDRESS THE POSSIBLE INVASION OF PRIVACY AND THE POTENTIAL PROBLEM IT MIGHT CAUSE IN THE EFFICIENT DELIVERY AND RECEIPT OF MESSAGES;

WHEREAS, Article II, Section 24 of the Constitution mandates that the State recognizes the vital role of communication and information in nation-building. This policy is likewise embodied in Section 2 of Republic Act No. 8792 or the Electronic Commerce Law;

WHEREAS, Section 3, paragraph (e) of the Implementing Rules and Regulations of the Electronic Commerce Law provides for the protection of users. Particularly, it is provided therein that the protection of users, in particular with regard to privacy, confidentiality, anonymity, and content control, shall be pursued through policies driven by choice, individual empowerment, and industry-led solutions;

WHEREAS, despite the aforementioned state policy and protections set by law, there is a prevalence of random and unsolicited messages, otherwise known as 'spam messages', from telecommunication firms to their subscribers via short messaging services (SMS) and multimedia messaging services (MMS);

WHEREAS, these random and unsolicited messages cause inconvenience and prejudice the rights of subscribers to good and prompt service, value for their money and freedom from false misrepresentations;

WHEREAS, according to the international marketing information group Taylor Nelson Sofres (TNS), the Philippines leads among Asian countries in the use of short message service (SMS) or text messages, with mobile phone users sending an average of 252 messages per month;

WHEREAS, the TNS study likewise reveals that out of 8,164 respondents aged 15 to 65 years old surveyed in Australia, China, Hong Kong, Japan, Korea, Philippines, Taiwan and Thailand from December 2000 until February 2001, 26.5% of the Philippine adult population answered to having a mobile phone. Moreover, the same study revealed that 58% of the average-earning population answered to having a mobile phone;

WHEREAS, in an article written by Kent Wertime in Asiaweek, mobile text messaging is proving to be as popular as ordinary conversation. Consequently, the advertising community now sees the mobile phone as one of the most pervasive and effective marketing tools ever;


WHEREAS, the US-based Wireless Advertising Association has defined the practice constituting offensive spam as those which include messages intentionally sent to any subscriber's wireless mobile device without explicit subscriber permission and without clear identification of the sender, forging of a message originator, and forwarding or propagating chain letters;

WHEREAS, in the Philippines, prepaid and postpaid subscribers have complained about spam messages sent by telecommunication companies who push for new services to their subscribers or encourage them to participate in promos through unsolicited text-message advertisements.

WHEREAS, such messages, by their very nature of being unsolicited, causes inconvenience and invasion of privacy, most especially when these subscribers, who opted to discontinue the receipt of spam text messages, continue to receive them despite their disapproval of such receipt;

WHEREAS, in view of the fact that a mobile phone is a personal device for communication, and has been considered as an important tool in establishing and maintaining contact with others, be it for personal, social or business purposes, there is a need to protect the right to the privacy of communication of our people, against unreasonable flooding of messages in their mobile phones without their consent and approval;

NOW THEREFORE, BE IT RESOLVED, AS IT IS HEREBY RESOLVED, to urge the appropriate Senate Committees to conduct an inquiry, in aid of legislation, into the practice of some telecommunication companies of sending random spam messages to subscribers using short messaging services (SMS) and multimedia messaging services (MMS) without the latter's consent and approval, with the end in view of providing remedial measures to address the possible problem it might cause in the efficient delivery and receipt of messages;


MAR Roxas
Senator