

SENATE
S. No. 1196

'19 NOV 26 P5:16

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Introduced by Senator Manuel "Lito" M. Lapid

AN ACT
ESTABLISHING A "DO NOT CONTACT" REGISTRY FOR PURPOSES OF
REGULATING THE SENDING OUT OF UNSOLICITED MESSAGES OR CALLS,
AND PROVIDING PENALTIES THEREOF

EXPLANATORY NOTE

Mobile phone use has been a staple of every-day life for most Filipinos. In fact, in 2017, the International Telecommunication Union (ITU) there are 120.1 Million mobile phone subscribers in the Philippines.¹ With our population estimated at 109 Million², there are now more mobile phone subscribers than the actual number of Filipinos. This is no surprise, since it is commonplace for a person to have two or more phones, or to use dual-sim phone units.

With the ubiquity of mobile phones comes along problems on privacy and data protection. It is a legislative milestone that our Legislative Branch had kept up with modern technology and passed the Data Privacy Act and the Cybercrime Prevention Act way back in 2012. However, there are still existing gaps and vulnerabilities on the regulatory framework currently in place for mobile phone use. For example, most of us are familiar or have even experienced first-hand the unchecked proliferation of unsolicited telemarketing messages and voice calls that offer products and services for sale. At times, they can be as irritating and persistent that we receive a barrage of messages or we get calls almost on a daily basis. This has to stop. They consume our time and flood our phone inboxes.

¹ https://www.theglobaleconomy.com/Philippines/Mobile_phone_subscribers/

² <https://rappler.com/nation/219798-philippine-population-2019>

Although the sending of unsolicited commercial communications is already penalized under the cybercrime law, the problem of enforcement lies on the fact that it would be too burdensome for a subscriber to report each and every instance of such crime and then prove the elements thereof. This proposed measure is filed in response to this problem. Under this bill, a Do Not Contact Registry will be established wherein phone users and subscribers may apply to have their phone numbers included. Inclusion into this Registry signifies that said phone number opts out or declines to receive any of the marketing or commercial messages covered by this Act. Thus, before a telemarketer, promotional company or any other business entity can send such messages, it has the duty to check and confirm first whether or not the intended recipients are in the Registry. A list of exempted messages is also contained in this bill and the sending of such messages is not prohibited under this Act. This bill also prohibits the concealment of calling line identity of a voice call containing a covered message. The National Telecommunications Commission is further mandated to establish a hotline, website and/or any other effective platform wherein individuals may call or otherwise submit their concerns or complaints regarding any violation of this Act.

In view of this, early passage of this bill is sought.



MANUEL "LITO" M. LAPID
Senator

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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 "Do Not Contact
2 Registry Act of 2019".

3 Sec. 2. *Establishment of a Do Not Contact Registry.* — The National
4 Telecommunications Commission (hereinafter referred to as "Commission") shall
5 establish a Do Not Contact (DNC) Registry of Philippine phone numbers for purposes
6 of this Act. The Registry shall be maintained in such form and contain such particular
7 information as the Commission deems necessary in carrying out the provisions of this
8 Act and in accordance with the law.

9 Sec. 3. *Application to the Registry.* — A subscriber or user of a Philippine phone
10 number may apply to the Commission, in a form and manner deemed most practicable
11 and efficient by the Commission:

12 (a) to add his/her phone number to the Registry; or

13 (b) to remove his/her phone number from the Registry.

14 Any person may apply to the Commission, in the form and manner required by
15 the Commission, to confirm whether any phone number is listed in the Registry.

1 Sec. 4. *Covered Messages.* – A covered message is a message whether in
2 sound, text, visual or other form, where, having regard to —

3 (a) the content of the message;

4 (b) the presentational aspects of the message;

5 (c) the content that can be obtained using the numbers, URLs or contact
6 information (if any) mentioned in the message; and

7 (d) if the phone number from which the message is made is disclosed to the
8 recipient (whether by calling line identity or otherwise), the content (if any) that can
9 be obtained by calling that number,

10 it would be concluded that the purpose, or one of the purposes, of the message
11 is —

12 (i) to offer to supply goods or services;

13 (ii) to advertise or promote goods or services;

14 (iii) to advertise or promote a supplier, or prospective supplier, of goods or
15 services;

16 (iv) to offer to supply land, real estate or an interest therein;

17 (v) to advertise or promote land, real estate or an interest therein;

18 (vi) to advertise or promote a supplier, or prospective supplier, of land, real
19 estate or an interest therein;

20 (vii) to offer to provide a business opportunity or an investment opportunity;

21 (viii) to advertise or promote a business opportunity or an investment
22 opportunity;

23 (ix) to advertise or promote a provider, or prospective provider, of a business
24 opportunity or an investment opportunity; or

25 (x) any other analogous purposes.

26 A person who authorizes another person to offer, advertise or promote the first
27 person's goods, services, land, real estate, interest or opportunity shall be deemed to
28 have authorized the sending of any message sent by the second person that offers,

1 advertises or promotes that first person's goods, services, land, real estate interest or
2 opportunity.

3 A person who takes reasonable steps to stop the sending of any message
4 referred to in that subsection shall be deemed not to have authorized the sending of
5 the message.

6 Sec. 5. *Exempt Messages.* – A covered message shall not include the following:

7 (a) any message sent by a public agency under, or to promote, any program
8 or project carried out by any public agency which is not for a commercial purpose;

9 (b) any message sent by an individual acting in a personal or domestic
10 capacity;

11 (c) any message which is necessary to respond to an emergency that
12 threatens the life, health or safety of any individual;

13 (d) any message the sole purpose of which is —

14 (i) to facilitate, complete or confirm a transaction that the recipient
15 of the message has previously agreed to enter into with the sender;

16 (ii) to provide warranty information, product recall information or
17 safety or security information with respect to a product or service purchased or
18 used by the recipient of the message; or

19 (iii) to deliver goods or services, including product updates or
20 upgrades, that the recipient of the message is entitled to receive under the
21 terms of a transaction that the recipient has previously agreed to enter into
22 with the sender;

23 (e) any message the sole purpose of which is to provide information or
24 notification regarding a subscription, membership, account, loan or comparable
25 ongoing commercial relationship involving the ongoing purchase or use by the
26 recipient of goods or services offered by the sender;

27 (f) any message the sole purpose of which is to conduct market research
28 or market survey; or

1 (g) any message sent to an organization other than an individual acting in
2 a personal or domestic capacity, for any purpose of the receiving organization.

3 Sec. 6. *Duty to Check the Registry.* – After thirty (30) days from the
4 establishment of the Registry, no person shall send a covered message through text,
5 voice call or any other format addressed to a phone number unless the person had,
6 before sending the covered message, received confirmation from the Commission that
7 the phone number is not listed in the Registry.

8 Sec. 7. *Exemption for Existing Contractual Relationship and Opt-out Facility.* –
9 Organizations which have an existing contractual relationship with a subscriber or user
10 of a phone number may send marketing messages on similar or related products,
11 services and memberships to that phone number without complying with the duty to
12 check against the Registry, provided that each exempt message must also contain an
13 opt-out facility that the subscriber or user may use to opt out from receiving such
14 telemarketing messages.

15 Sec. 8. *Non-concealment of Calling Line Identity.* – Any person who makes a
16 voice call containing a covered message or causes a voice call containing a covered
17 message to be made or authorizes the making of a voice call containing a covered
18 message, shall not do any of the following:

19 (a) conceal or withhold from the recipient the calling line identity of the sender;

20 (b) perform any operation or issue any instruction in connection with the
21 sending of the covered message for the purpose of, or that has the effect of,
22 concealing or withholding from the recipient the calling line identity of the sender.

23 Sec. 9. *Penalty.* – Any person who contravenes Sections 6 and/or 8 of this Act
24 shall be guilty of the offence of Unsolicited Commercial Communications penalized
25 under Section 4 (c) (3) of Republic Act No. 10175, otherwise known as the “Cybercrime
26 Prevention Act of 2012”.

27 Sec. 10. *Platform for Complaints.* – The Commission shall establish a hotline,
28 website and/or any other effective platform wherein individuals may call or otherwise
29 submit their concerns or complaints regarding any violation of this Act.

1 Sec. 11. *Implementing Rules and Regulations.* – To carry out the provisions of
2 this Act, the Commission, in coordination with the National Privacy Commission (NPC),
3 Office of Cybercrime of the Department of Justice (DOJ), and other relevant
4 government agencies, shall, within sixty (60) days from the effectivity of this Act, issue
5 the implementing rules and regulations for this Act.

6 Sec. 12. - *Separability Clause.* - Should any provision of this Act or the
7 application thereof to any person or circumstance be held invalid, the other provisions
8 or sections of this Act shall not be affected thereby.

9 Sec. 13. - *Repealing Clause.* – All laws, decrees, executive orders, rules and
10 regulations or parts thereof which are inconsistent with this Act are hereby repealed,
11 amended or modified accordingly.

12 Sec. 14. *Effectivity Clause.* - This Act shall take effect fifteen (15) days following
13 its publication in the Official Gazette or in at least two (2) newspapers of general
14 circulation.

15 Approved,