



NINETEENTH CONGRESS OF THE]
REPUBLIC OF THE PHILIPPINES]
First Regular Session]

'22 JUL 25 A11 :25

SENATE

RECEIVED BY: _____

S.B. No. 813

Introduced by SEN. WIN GATCHALIAN

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

EXPLANATORY NOTE

Switching to another service provider for improved wireless services and better options is a consumer right which is impaired by public telecommunications entities (PTE) when they lock mobile wireless devices to their respective networks. Such device locking makes it difficult for consumers to take advantage of competitive and better offers available in the market. Although there exist independent devices or services from third parties that unlock the mobile device, this process would normally void its warranty.

Locking does not only deprive 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 01-05-2019 dated May 31, 2019, its applicability is limited to (1) postpaid devices after having

complied with the contract period contained in the subscription agreements; and (2) prepaid devices after having complied with usage requirements or agreed terms and conditions.

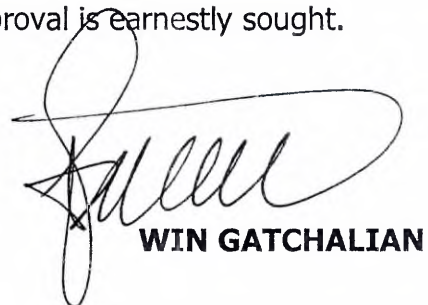
This legislative proposal mandates the unlocking of mobile wireless devices within definitive six- and nine-month periods from the date of purchase of the device. Under this bill, the eligibility of such devices for unlocking does not depend on the imposition of different lock-in periods that unduly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

It also mandates unlocking of subsidized units or those mobile wireless devices with accompanying subscription contracts before the lapse of the mandated nine-month period – on-demand and 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 PTE 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 six (6) months 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. Its immediate approval is earnestly sought.



WIN GATCHALIAN



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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 "*Unlock My Mobile Act.*"

2

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

12

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

1 a. *Mobile Services Subscription Contract* refers to an agreement between a
2 public telecommunications entity (PTE) and a consumer for a postpaid subscription
3 on the use of such entity's network for wireless communications and other
4 telecommunications services covering a particular period of time.

5 b. *Lock-in Period* refers to the duration of the mobile services subscription
6 contract between the PTE and the consumer within which the latter agrees to
7 exclusively maintain a monthly postpaid subscription with such entity.

8 c. *Mobile Wireless Device* refers to any wireless telephone handset, tablet,
9 or any other wireless device that operates on a wireless telecommunications network.

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

14
15 SEC. 4. *Mandating the Unlocking of Unsubsidized Mobile Wireless Devices*
16 *within Six Months from Date of Purchase.* – A PTE or retailer of mobile wireless devices
17 may sell such devices as unsubsidized units or without any accompanying mobile
18 services subscription contract while locked to a specific network: *Provided,* That these
19 devices shall be automatically unlocked on or before the sixth month from the date of
20 purchase: *Provided, further,* That it shall be the obligation of the PTE or retailer of
21 mobile wireless devices to provide official channels for unlocking mobile wireless
22 devices without voiding their warranties in accordance with Sec. 6 of this Act.

23
24 SEC. 5. *Mandating the Unlocking of Subsidized Mobile Wireless Devices within*
25 *Nine Months from Date of Purchase; No Extension of Lock-in Period for Subsidized*
26 *Devices without Prior Approval of the National Telecommunications Commission;*
27 *Unlocking on-Demand; Warranty Coverage.* – A PTE or retailer of mobile wireless
28 devices may sell such devices as subsidized units or with accompanying mobile
29 services subscription contract while locked to a specific network: *Provided,* That the
30 total lock-in period for subsidized devices shall in no case exceed the period of nine

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

9 Mobile wireless devices that have been unlocked under this Section shall
10 continue to be covered by their respective warranties.

11
12 *SEC. 6. Obligation of Public Telecommunications Entities or Retailers to Provide*
13 *Official Channels for Unlocking Mobile Wireless Devices Without Voiding Warranties. –*
14 Every PTE or retailer of mobile wireless devices shall, following the terms and
15 conditions under the implementing rules and regulations of this Act, provide official
16 channels for unlocking mobile wireless devices without voiding their warranties.

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

21
22 *SEC. 7. Administrative Penalties. –* For every failure to comply with, or for every
23 instance of violation of any provision of this Act, the PTE shall pay a fine of not less
24 than One Hundred Thousand Pesos (₱100,000.00) up to Three Hundred Thousand
25 Pesos (₱300,000.00) for the first offense, and a fine of not less than Four Hundred
26 Thousand Pesos (₱400,000.00) up to Six Hundred Thousand Pesos (₱600,000.00) for
27 the second offense. In case of a subsequent offense, the penalty shall be a fine of not
28 less than Seven Hundred Thousand Pesos (₱700,000.00) up to One Million Pesos
29 (₱1,000,000.00) and revocation of the PTE's franchise to operate.

1

2 SEC. 8. *Implementing Rules and Regulations.* – The National
3 Telecommunications Commission, in coordination with the Department of Trade and
4 Industry, the Department of Information and Communications Technology, the
5 Philippine Competition Commission, and other concerned agencies shall, within sixty
6 (60) days from the effectivity of this Act, promulgate and submit the implementing
7 rules and regulations (IRR) for its effective implementation. The IRR shall not preclude
8 the NTC from issuing subsequent circulars, rules and regulations to make the
9 unlocking process more convenient for the consumer.

10

11 SEC. 9. *Transitory Provision.* – Existing business services and products affected
12 by the implementation of this Act shall be given six (6) months transitory period from
13 the effectivity of the IRR to comply with the requirements of this Act.

14

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

18

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

22

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

25

26 *Approved,*