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

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SENATE
S. No. **1844**

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Introduced by Senator Miriam Defensor Santiago

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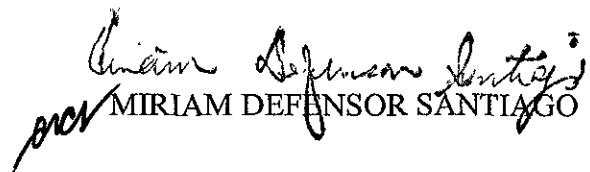<div align="center">

EXPLANATORY NOTE

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The Constitution, Article II, Section 24, provides:

> The State recognizes the vital role of communication and information in nation building.

The Internet has become a critical mode of global communication and now presents unprecedented opportunities for the development and growth of global commerce and an integrated worldwide economy. However, the receipt of unsolicited commercial e-mail may result in undue monetary costs to recipients who cannot refuse to accept such mail and who incur costs for storage of such mail, or for the time spent accessing, reviewing, and discarding such mail, or of both.

This bill seeks to protect the consumers and service providers from the misuse of computer facilities by others sending unsolicited commercial electronic mail over such facilities.[*]

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**MIRIAM DEFENSOR SANTIAGO**

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[*] This bill was re-filed during the Thirteenth Congress, First Regular Session.

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1                             AN ACT
2  TO PROTECT CONSUMERS AND SERVICE PROVIDERS FROM THE MISUSE OF
3  COMPUTER FACILITIES BY OTHERS SENDING UNSOLICITED COMMERCIAL
4                       ELECTRONIC MAIL

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

7        SECTION 1. *Short Title.* – This Act shall be known as the "E-Mail User Protection Act

8  of 2007."

9        SECTION 2. *Declaration of Policy.* – It is the policy of the State to recognize the vital

10  role of communication and information in nation building.

11        SECTION 3. *Definition of Terms.* – As used in this Act, the terms:

12        (A) *Electronic Mail Address.* –

13               (1) *In General.* – "Electronic mail address" means a destination, commonly

14  expresses as a string of characters, to which electronic mail can be sent or delivered.

15               (2) *Inclusion.* – In the case of the Internet, the term "electronic mail address" may

16  include an electronic mail address consisting of a user name of mailbox, commonly

17  referred to as the "local part", and a reference to an Internet domain, commonly referred

18  to as the "domain part".

19        (B) "Initiates the transmission," in the case of an electronic mail message, means the

20  action of the original sender of the message and not to any intervening computer service that may

21  handle or retransmit the message, unless the intervening computer service retransmits the

22  message with an Internet to engage in activities prohibited by this Act.

1    (C) "Interactive Computer Service" means any information service, system, or access

2    software provider that provides or enables computer access by multiple users to a computer

3    server, including specifically a service or system that provides access to the Internet and such

4    systems operated or services offered by libraries or educational institutions.

5    (D) "Internet" means all computer and telecommunications facilities, including

6    equipment and operating software, which comprise the interconnected network of networks that

7    employ the Transmission Control Protocol/Internet Protocol, or any predecessor or successor

8    protocols to such protocol, to communicate information of all kinds by wire or radio.

9    (E) "Internet Domain" means a specific computer system, commonly referred to as

10   "host", or collection of computer systems attached to or able to be referenced from the Internet

11   which are assigned a specific reference point on the Internet, commonly referred to as the

12   "Internet domain name", and registered with an organization recognized by the computer

13   industry as a registrant of Internet domain.

14   (F) "Mailing List" means a computer program that provides electronic mailing list

15   management functions, including functions that allow individuals to subscribe and unsubscribe

16   to and from electronic mailing lists.

17   (G) "Mail Filtering Tool" means any computer program, procedure, or mechanism used

18   by an individual recipient or interactive computer service to block, return, reroute, or otherwise

19   screen or sort incoming electronic mail messages.

20   (H) "Servers" means any computer or program that provides support or services of any

21   kind, including mailboxes, to other computers.

22   (I) "Unsolicited Commercial E-mail Message" means any electronic mail other than –

23   (1) Electronic mail sent by persons to recipients with whom they have a direct or

24   indirect relationship, including a prior business relationship; or

25   (2) Mail sent by a source to a recipient where such recipient, or someone

26   authorized by him, has at any time affirmatively requested communication from that

27   source.

2

1　SECTION 4. *Restrictions on the Use of Unsolicited E-Mail.* –

2　(A) *Violations Directed at Interactive Computer Services.* –

3　(1) For purposes of this subsection, a violation is defined as each initiation of a

4　transmission without regard to the number of electronic mail addresses to

5　which the transmission is sent.

6　(2) It shall be a violation of this Act, punishable under subparagraph (C)(1), for

7　any person –

8　(a) To intentionally initiate the transmission of an unsolicited

9　commercial e-mail message from an unregistered or fictitious Internet

10　domain, or an unregistered or fictitious electronic mail address, for the

11　purpose of –

12　(i) Preventing replies to such message through the use of

13　standard reply mechanisms in the recipient's electronic mail

14　system; or

15　(ii) Preventing receipt of standard notices of non-delivery;

16　(b) To intentionally use or distribute a computer program or other

17　technical mechanism or procedure intending to disguise the source of

18　unsolicited commercial e-mail messages or to disable or circumvent a mail

19　filtering tool;

20　(c) To intentionally distribute, through computer software or in any

21　other manner, a collection or list of electronic mail addresses knowing that

22　the collection or list contains addresses of persons who have previously

23　requested removal from the list;

24　(d) To intentionally register, create, or cause to be created an

25　Internet domain under false pretenses or to apply for, register, or otherwise

26　obtain the use of an Internet electronic mail account for the sole or

27　primary purpose of disguising the source of unsolicited electronic mail

28　messages;

3

1               (e) To direct an unsolicited e-mail message through the server of

2         an interactive computer service provider to one or more subscribers of the

3         interactive computer service, knowing or having reason to know that such

4         action is in contravention of the rules of the interactive computer service

5         with respect to unsolicited commercial e-mail messages;

6               (f) Knowing or having reason to know that such action is in

7         contravention of the rules of an interactive computer service, to access the

8         server of such interactive computer service and to use a computer program

9         to collect service for the purpose of sending such subscribers unsolicited

10         commercial e-mail or selling or distributing the list collected or obtained.

11 (B) *Violations Directed at Individuals.* –

12         (1) For purposes of this subsection, a violation is defined as each electronic mail

13 address which receives a transmission.

14         (2) It shall be a violation of this Act, punishable under subsection (C)(2), for any

15 person –

16               (a) to fail to comply with the request of the recipient of an electronic mail

17         message, made to the sender or electronic mailing list manager, as appropriate, to

18         cease sending electronic messages to the recipient in the future;

19               (b) to initiate the transmission of an unsolicited commercial e-mail

20         message to a recipient despite having been given prior notice, either directly or

21         through a standard method developed, adopted, or modified by an Internet

22         standard setting organization, to better facilitate pre-emptive consumer control

23         over unsolicited, commercial e-mail, that the recipient does not wish to receive

24         such messages.

25 (C) *Liability for Violations* – Any person or entity who violates any provision of

26 paragraph (A) or (B) shall be liable to any injured party for such relief as is set out below.

27         (1) *Relief for Interactive computer Services.* – In an action under this section for

28         violation of paragraph (A), relief may include --

(a) Such preliminary and other equitable or declaratory relief as may be appropriate;

(b) For actual monetary loss from a violation, statutory damages of not more than One Hundred Thousand Pesos (P100,000.00) for each violation, and, if the court finds that the defendant's actions were particularly egregious, willful, or knowing, the court may, in its discretion, increase the amount of an award to an amount equal to not more than ten (10) times the amount available; and

(c) Reasonable attorneys' fees and other litigation costs reasonable incurred.

(2) *Relief for Individuals.* –

(a) In an action under this section for violation of paragraph (B), relief shall be sought in an action brought by the injured party.

(b) Whenever an official or an agency designated by the State, has reason to believe that any person has engaged or is engaging in a pattern or practice of transmitting unsolicited commercial e-mail in violation of this section or the regulations prescribed under this section, the State may bring an action for such relief as may be appropriate.

(c) In an action under this subsection, appropriate relief includes –

(i) An injunction or such preliminary and other equitable or declaratory relief as may be appropriate;

(ii) An action to recover statutory Twenty Thousand Pesos (P20,000.00) in damages for each violation; or

(iii) both actions.

(d) If the court finds the defendant's action were particularly egregious, willful, or knowing, the court may, in its discretion, increase amount of the award to an amount equal to not more than ten times the amount available in subparagraph (C)(2)(c) of this Section.

(e) Reasonable attorney's fees and other litigation costs reasonably incurred.

1    SECTION 5. *Separability Clause.* – If any provision or part hereof, is held invalid or

2    unconstitutional, the remainder of the law or the provision not otherwise affected shall remain

3    valid and subsisting.

4    SECTION 6. *Repealing Clause.* – Any law, presidential decree or issuance, executive

5    order, letter of instruction, administrative order, rule or regulation contrary to, or inconsistent

6    with, the provision of this Act is hereby repealed, modified, or amended accordingly.

7    SECTION 7. *Effectivity Clause.* – This Act shall take effect fifteen days (15) days after

8    its publication in at least two (2) newspapers of general circulation.

9    Approved,