

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



Senate
Office of the Secretary

'13 JUL -3 P2:23

SENATE
S. No. 385

RECEIVED BY: *Jin*

Introduced by Senator Miriam Defensor Santiago

EXPLANATORY NOTE

The prepaid calling industry certainly has come a long way. It is one of the leading money-makers and stock-market leaders in our economy. However, serious problems of consumers complaining that they cannot get the value of what they pay for in terms of the services offered by prepaid calling companies need to be given attention.

According to a leading cell-phone consumer advocacy group, the following are the abuses mostly committed by the prepaid calling industry: (1) diminishing load; (2) spam messages/unsolicited broadcast messages such as ring tones, promo offers; (3) expiration of free text; (4) revising of unlimited text promo; (5) charging for a whole minute or a fraction of a minute even if subscriber used a few seconds only; and (6) setting of expiration dates on prepaid call-text cards.

The primary objective of this bill is to stem the tide of what is viewed as widespread deceptive marketing practices by the prepaid calling card industry. Common complaints from consumers of pre-paid calling cards such as deducting from card balances, undisclosed or ambiguous service fees and advertising minutes of use that are never delivered – would be strictly prohibited. Some of the requirements are very similar to existing consumer protection laws and regulations already imposed in other countries.

This bill will require prepaid telephone calling service providers or prepaid telephone calling card distributors to disclose certain information, including the total value in dollars or the number of calling minutes, a description of all terms and conditions, and the service provider's name, customer service number, and hours of service. This bill will also make it unlawful for any

provider or distributor to impose any charge or fees not so disclosed or provide fewer minutes than disclosed.¹

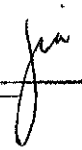
Miriam Defensor Santiago
MIRIAM DEFENSOR SANTIAGO
act

¹ This bill was originally filed in the Fourteenth Congress, Second Regular Session.



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SENATE
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1 AN ACT
2 PROTECTING CONSUMERS OF PREPAID CALLING CARDS AND PROHIBITING
3 DECEPTIVE PRACTICES IN THE PRE-PAID PHONE CARD INDUSTRY

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

4 SECTION 1. *Short Title.* – This Act shall be known as the “Prepaid Calling Card
5 Consumer Protection Act.”

6 SECTION 2. *Definition of Terms.* –

7 (a) COMMISSION- The term “Commission” means the National
8 Telecommunications Commission (NTC).

9 (b) FEES-

10 1. IN GENERAL- The term “fees” means all charges, fees, taxes, or surcharges,
11 including connection, hang-up, service, payphone, and maintenance charges,
12 which may be applicable to the use of a prepaid telephone calling card or a
13 prepaid telephone calling service used by a consumer for calls originating
14 within the Philippines.

15 2. EXCLUSION- The term “fees” does not include the applicable per unit or per
16 minute rate for the particular destination called by a consumer.

17 (c) INTERNATIONAL PREFERRED DESTINATION- The term “international
18 preferred destination” means a specific international destination named on a
19 prepaid telephone calling card or on the packaging material accompanying a
20 prepaid telephone calling card.

1 (d)PREPAID TELEPHONE CALLING CARD-

2 1. IN GENERAL- The terms "prepaid telephone calling card" mean any right of
3 use purchased in advance for a sum certain linked to an access number and
4 authorization code that enables a consumer to use a prepaid telephone calling
5 service. Such rights of use may be embodied on a card or other physical object
6 or may be purchased by an electronic or telephonic means through which the
7 purchaser obtains access numbers and authorization codes that are not
8 physically located on a card or other physical object.

9 2. EXCLUSION- The terms "prepaid telephone calling card" and "card" do not
10 include cards or other rights of use that provide access to—

11 (i) a telecommunications service with respect to which the card or other
12 rights of use and the telecommunications service are provided for free
13 or at no additional charge as a promotional item accompanying a
14 product or service purchased by a consumer; or

15 (ii) a wireless telecommunications service account with a wireless service
16 provider that the purchaser has a preexisting relationship with or
17 establishes a carrier-customer relationship with via the purchase of a
18 prepaid wireless telecommunications service handset package.

19 (e) PREPAID TELEPHONE CALLING CARD DISTRIBUTOR-

20 1. IN GENERAL- The term "prepaid telephone calling card distributor"
21 means any entity, corporation, company, association, firm, partnership, or
22 person that purchases prepaid telephone calling cards or services from a
23 prepaid telephone calling card distributor or prepaid telephone calling
24 service provider and sells, resells, issues, or distributes prepaid telephone
25 calling cards for a fee to one or more distributors of such cards or to one or
26 more retail sellers of such cards.

27 2. EXCLUSION- The term "prepaid telephone calling card distributor" does
28 not include any retail merchants or sellers of prepaid telephone calling

1 cards exclusively engaged in point-of-sale transactions with end-user
2 customers.

3 (f) PREPAID TELEPHONE CALLING SERVICE-

4 1. IN GENERAL- The terms “prepaid telephone calling service” and
5 “service” mean any telecommunications service, paid for in advance by a
6 consumer, that allows a consumer to originate voice telephone calls
7 through a local, long distance, or toll-free access number and authorization
8 code, whether manually or electronically dialed.

9 2. EXCLUSION- The terms “prepaid telephone calling service” and
10 “service” do not include any service that provides access to a wireless
11 telecommunications service account wherein the purchaser has a
12 preexisting relationship with the wireless service provider or establishes a
13 carrier-customer relationship via the purchase of a prepaid wireless
14 telecommunications service handset package.

15 (g) PREPAID TELEPHONE CALLING SERVICE PROVIDER- The term
16 “prepaid telephone calling service provider” means any entity, corporation,
17 company, association, firm, partnership, or person providing prepaid
18 telephone calling service to the public using its own, or a resold,
19 telecommunications network or voice over Internet technology.

20 (h) WIRELESS TELECOMMUNICATIONS SERVICE- The term means the
21 offering of Wireless Telecommunications for a fee directly to the public, or to
22 such classes of users as to be effectively available directly to the public,
23 regardless of the facilities used.

24 SECTION 3. *Required Disclosures Of Prepaid Telephone Calling Cards Or Services.* -

25 (a) Rulemaking- Not later than 180 days after the date of the enactment of this Act, the
26 Commission shall prescribe regulations that require every prepaid telephone calling
27 service provider and prepaid telephone calling card distributor to disclose, with
28 respect to the terms and conditions of a prepaid telephone calling card or service

1 provided, sold, resold, issued, or distributed by such service provider or distributor, as
2 the case may be, the following:

- 3 1. The number of calling units or minutes of domestic calls provided by such card or
4 service at the time of purchase; or the peso value of such card or service and the
5 domestic interstate rate per minute provided by such card or service at the time of
6 purchase.
- 7 2. The applicable calling unit or per minute rates for all international preferred
8 destinations served by such card or service.
- 9 3. The applicable per minute rates for all individual international destinations served
10 by such card or service.
- 11 4. That the rates described in paragraph (3) may be obtained through the prepaid
12 telephone calling card provider's toll-free customer service number or Internet
13 website.
- 14 5. All terms and conditions pertaining to the use of such card or service, including
15 the following:
 - 16 i. The maximum amount and frequency of all fees.
 - 17 ii. Applicable policies relating to refund, recharge, decrement, and
18 expiration.
 - 19 iii. Limitations, if any, on the use or period of time for which the displayed,
20 promoted, or advertised minutes or rates will be available to the customer.
- 21 6. The name and address of such service provider.
- 22 7. A toll-free telephone number to contact the customer service department of such
23 service provider and the hours of service of such customer service department.

24 (b) Clear and Conspicuous Disclosure of Required Information and Language
25 Requirements- The regulations prescribed under subsection (a) shall include
26 requirements as follows:

- 27 1. CARDS- In the case of a prepaid telephone calling card, the disclosures described
28 in subsection (a) (other than paragraph (3) of such subsection) shall be printed in
29 plain English or Filipino in a clear and conspicuous location on each prepaid

1 telephone calling card or the packaging of such card so that such disclosures are
2 plainly visible to a consumer at the point of sale.

3 2. ONLINE SERVICES- In the case of a prepaid telephone calling service that
4 consumers access and purchase via the Internet, the disclosures described in
5 subsection (a) (other than paragraph (4) of such subsection) shall be displayed in
6 plain English or Filipino in a clear and conspicuous location on the Internet site
7 from which the consumer purchases such service.

8 3. ADVERTISING AND OTHER PROMOTIONAL MATERIAL- The disclosures
9 described in subsection (a) (other than paragraph (3) of such subsection) shall be
10 printed on any advertising for the prepaid telephone calling card or service,
11 including on any signs for display by retail merchants, any promotional emails,
12 any Internet site used to promote such card or service, and on any other
13 promotional material.

14 (c) Additional Regulations- The Commission may, subject to existing laws and
15 regulation, prescribe such other regulations as the Commission determines are
16 necessary to protect consumers of prepaid telephone calling cards and services.

17 SECTION 4. *Prohibited Acts.* -

18 (a) Prepaid Telephone Calling Service Provider- It shall be unlawful for any prepaid
19 telephone calling service provider to do any of the following:

20 1. UNDISCLOSED FEES AND CHARGES- To assess or deduct from the
21 balance of a prepaid telephone calling card any fee or other amount for use of
22 the prepaid telephone calling service, except--

- 23 i. the per minute rate or value for each particular destination called by the
24 consumer; and
25 ii. fees that are disclosed as required by regulations prescribed under section 3.

26 2. MINUTES AND RATES AS PROMOTED AND ADVERTISED- With
27 respect to a prepaid telephone calling card for a service of the prepaid
28 telephone calling service provider, to provide fewer minutes than the number

1 of minutes promoted or advertised, or to charge a higher per minute rate to a
2 specific destination than the per minute rate to that specific destination
3 promoted or advertised, on--

- 4 i. the prepaid telephone calling card;
- 5 ii. any point-of-sale material relating to the card; or
- 6 iii. other advertising related to the card or service.

7 3. MINUTES ANNOUNCED, PROMOTED, AND ADVERTISED THROUGH
8 VOICE PROMPTS- To provide fewer minutes than the number of minutes
9 announced, promoted, or advertised through any voice prompt given by the
10 prepaid telephone calling service provider to a consumer at the time the
11 consumer places a call to a dialed destination with a prepaid telephone calling
12 card or service.

13 4. EXPIRATION- Unless a different expiration date is clearly disclosed pursuant
14 to the disclosure requirements of regulations prescribed under section 3, to
15 provide, sell, resell, issue, or distribute a prepaid telephone calling card or
16 service that expires--

- 17 i. before the date that is 1 year after the date on which such card or service is
18 first used; or
- 19 ii. in the case of a prepaid telephone calling card or service that permits a
20 consumer to purchase additional usage minutes or add additional value to
21 the card or service, before the date that is 1 year after the date on which the
22 consumer last purchased additional usage minutes or added additional value
23 to the card or service.

24 5. CHARGES FOR UNCONNECTED CALLS- To assess any fee or charge for
25 any unconnected telephone call. For purposes of this paragraph, a telephone
26 call shall not be considered connected if the person placing the call receives a
27 busy signal or if the call is unanswered.

28 (b) Prepaid Telephone Calling Card Distributor- It shall be unlawful for any prepaid
29 telephone calling card distributor to do any of the following:

- 1 1. UNDISCLOSED FEES AND CHARGES- To assess or deduct from the
2 balance of a prepaid telephone calling card any fee or other amount for use of
3 the prepaid telephone calling service, except--
- 4 i. the per minute rate or value for each particular destination called by
5 the consumer; and
 - 6 ii. fees that are disclosed as required by regulations prescribed under
7 section 3.
- 8 2. MINUTES AS PROMOTED AND ADVERTISED- To sell, resell, issue, or
9 distribute any prepaid telephone calling card that the distributor knows
10 provides fewer minutes than the number of minutes promoted or advertised, or
11 a higher per minute rate to a specific destination than the per minute rate to
12 that specific destination promoted or advertised, on--
- 13 i. the prepaid telephone calling card;
 - 14 ii. any point of sale material relating to the card; or
 - 15 iii. other advertising relating to the card or service.
- 16 3. MINUTES ANNOUNCED, PROMOTED, OR ADVERTISED THROUGH
17 VOICE PROMPTS- To sell, resell, issue, or distribute a prepaid telephone
18 calling card that such distributor knows provides fewer minutes than the
19 number of minutes announced, promoted, or advertised through any voice
20 prompt given to a consumer at the time the consumer places a call to a dialed
21 destination with the prepaid telephone calling card or service.
- 22 4. EXPIRATION- Unless a different expiration date is clearly disclosed pursuant
23 to the disclosure requirements of regulations prescribed under section 3, to
24 provide, sell, resell, issue, or distribute a prepaid telephone calling card that
25 expires—
- 26 i. before the date that is 1 year after the date on which such card or
27 service is first used; or
 - 28 ii. in the case of a prepaid telephone calling card or service that permits a
29 consumer to purchase additional usage minutes or add additional value

1 to the card or service, before the date that is 1 year after the date on
2 which the consumer last purchased additional usage minutes or added
3 additional value to the card or service.

4 (c) Liability- A prepaid telephone calling service provider or a prepaid telephone calling
5 card distributor may not avoid liability under this section by stating that the displayed,
6 announced, promoted, or advertised minutes, or the per minute rate to a specific
7 destination, are subject to fees or charges, or by utilizing other disclaimers or
8 limitations.

9 SECTION 5. Penalties. –

10 (a) Any person who shall violate any provision of Section 4 of this Act shall upon
11 conviction, be subject to a fine of not less than One Thousand Pesos (₱1,000.00) but
12 not more than Ten Thousand Pesos (₱10,000.00) or imprisonment of not less than
13 two (2) months but not more than one (1) year, or both upon the discretion of the
14 court.

15 If the offender is an alien, he shall be deported after service of sentence and
16 payment of fine without further deportation proceedings.

17 (b) In case the offender is a naturalized citizen, he shall, in addition to the penalty
18 prescribed herein, suffer the penalty of cancellation of his naturalization certificate
19 and its registration in the civil register and immediate deportation after service of
20 sentence and payment of fine.

21 (c) Any director, officer or agent of a corporation who shall authorize, order or perform
22 any of the acts or practices constituting in whole or in part a violation of Article 18,
23 and who has knowledge or notice of noncompliance received by the corporation from
24 the concerned department, shall be subject to penalties to which that corporation may
25 be subject.

26 In case the violation is committed by, or in the interest of a foreign juridical person
27 duly licensed to engage in business in the Philippines, such license to engage in
28 business in the Philippines shall immediately be revoked.

1 SECTION 6. *Authority of the Commission.* – The Commission shall enforce this Act in
2 the same manner and by the same means as though all applicable terms and provisions of the
3 Public Telecommunications Policy Act of the Philippines were incorporated into and made part
4 hereof.

5 The Commission may prescribe rules and regulations to carry out this Act.

6 SECTION 7. *Separability Clause.* – If any provision, or part thereof, is held invalid or
7 unconstitutional, the remainder of the law or the provision not otherwise affected shall remain
8 valid and subsisting.

9 SECTION 8. *Repealing Clause.* – Any law, presidential decree or issuance, executive
10 order, letter of instruction, administrative order, rule, or regulation contrary to, or inconsistent
11 with the provisions of this Act is hereby repealed, modified or amended accordingly.

12 SECTION 9. *Effectivity Clause.* – This Act shall take effect fifteen (15) days after its
13 publication in at least two (2) newspapers of general circulation.

Approved,