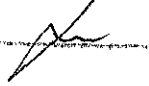


FOURTEENTH CONGRESS OF THE REPUBLIC)
OF THE PHILIPPINES)
Second Regular Session)

8 AUG 27 P3:11

SENATE
S. No. 2570

RECEIVED BY: 

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 and (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.

Miriam Defensor Santiago
MIRIAM DEFENSOR SANTIAGO

FOURTEENTH CONGRESS OF THE REPUBLIC)
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1 AN ACT
2 PROTECTING CONSUMERS OF PREPAID CALLING CARDS AND
3 PROHIBITING DECEPTIVE PRACTICES IN THE PRE-PAID PHONE CARD
4 INDUSTRY
5

6 *Be it enacted by the Senate and the House of Representatives of the Philippines in*
7 *Congress assembled:*
8

9 SECTION 1. *Short Title.* This Act may be known as the "Prepaid Calling Card
10 Consumer Protection Act of 2008.

11 SECTION 2. *Definitions.*

12 (a) COMMISSION- The term "Commission" means the National
13 Telecommunications Commission (NTC).

14 (b) FEES-

15 1. IN GENERAL- The term "fees" means all charges, fees, taxes, or
16 surcharges, including connection, hang-up, service, payphone, and
17 maintenance charges, which may be applicable to the use of a prepaid
18 telephone calling card or a prepaid telephone calling service used by a
19 consumer for calls originating within the Philippines.

20 2. EXCLUSION- The term "fees" does not include the applicable per
21 unit or per minute rate for the particular destination called by a
22 consumer.

23 (c) INTERNATIONAL PREFERRED DESTINATION- The term
24 "international preferred destination" means a specific international
25 destination named on a prepaid telephone calling card or on the packaging
26 material accompanying a prepaid telephone calling card.

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(d) PREPAID TELEPHONE CALLING CARD-

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

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

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

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

(e) PREPAID TELEPHONE CALLING CARD DISTRIBUTOR-

1. IN GENERAL- The term “prepaid telephone calling card distributor” means any entity, corporation, company, association, firm, partnership, or person that purchases prepaid telephone calling cards or services from a prepaid telephone calling card distributor or prepaid telephone calling service provider and sells, resells, issues, or distributes prepaid telephone calling cards for a

1 fee to one or more distributors of such cards or to one or more
2 retail sellers of such cards.

3 2. EXCLUSION- The term “prepaid telephone calling card
4 distributor” does not include any retail merchants or sellers of
5 prepaid telephone calling cards exclusively engaged in point-of-
6 sale transactions with end-user customers.

7 (f) PREPAID TELEPHONE CALLING SERVICE-

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

14 2. EXCLUSION- The terms “prepaid telephone calling service” and
15 “service” do not include any service that provides access to a
16 wireless telecommunications service account wherein the
17 purchaser has a preexisting relationship with the wireless service
18 provider or establishes a carrier-customer relationship via the
19 purchase of a prepaid wireless telecommunications service handset
20 package.

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

27 (h) WIRELESS TELECOMMUNICATIONS SERVICE- The term means
28 the offering of Wireless Telecommunications for a fee directly to the

1 public, or to such classes of users as to be effectively available directly
2 to the public, regardless of the facilities used.

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

5 (a) Rulemaking- Not later than 180 days after the date of the enactment of this
6 Act, the Commission shall prescribe regulations that require every prepaid
7 telephone calling service provider and prepaid telephone calling card
8 distributor to disclose, with respect to the terms and conditions of a prepaid
9 telephone calling card or service provided, sold, resold, issued, or distributed
10 by such service provider or distributor, as the case may be, the following:

- 11 1. The number of calling units or minutes of domestic calls provided by such
12 card or service at the time of purchase; or the peso value of such card or
13 service and the domestic interstate rate per minute provided by such card
14 or service at the time of purchase.
- 15 2. The applicable calling unit or per minute rates for all international
16 preferred destinations served by such card or service.
- 17 3. The applicable per minute rates for all individual international destinations
18 served by such card or service.
- 19 4. That the rates described in paragraph (3) may be obtained through the
20 prepaid telephone calling card provider's toll-free customer service
21 number or Internet website.
- 22 5. All terms and conditions pertaining to the use of such card or service,
23 including the following:
 - 24 i. The maximum amount and frequency of all fees.
 - 25 ii. Applicable policies relating to refund, recharge, decrement, and
26 expiration.

1 iii. Limitations, if any, on the use or period of time for which the
2 displayed, promoted, or advertised minutes or rates will be
3 available to the customer.

4 6. The name and address of such service provider.

5 7. A toll-free telephone number to contact the customer service department
6 of such service provider and the hours of service of such customer service
7 department.

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

11 1. CARDS- In the case of a prepaid telephone calling card, the disclosures
12 described in subsection (a) (other than paragraph (3) of such subsection)
13 shall be printed in plain English or Filipino in a clear and conspicuous
14 location on each prepaid telephone calling card or the packaging of such
15 card so that such disclosures are plainly visible to a consumer at the point
16 of sale.

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

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

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

5 SECTION 4. *Prohibited Acts.*

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

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

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

15 2. MINUTES AND RATES AS PROMOTED AND ADVERTISED-
16 With respect to a prepaid telephone calling card for a service of the
17 prepaid telephone calling service provider, to provide fewer minutes
18 than the number of minutes promoted or advertised, or to charge a
19 higher per minute rate to a specific destination than the per minute rate
20 to that specific destination promoted or advertised, on--

- 21 i. the prepaid telephone calling card;
22 ii. any point-of-sale material relating to the card; or
23 iii. other advertising related to the card or service.

24 3. MINUTES ANNOUNCED, PROMOTED, AND ADVERTISED
25 THROUGH VOICE PROMPTS- To provide fewer minutes than the
26 number of minutes announced, promoted, or advertised through any
27 voice prompt given by the prepaid telephone calling service provider

1 to a consumer at the time the consumer places a call to a dialed
2 destination with a prepaid telephone calling card or service.

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

7 i. before the date that is 1 year after the date on which such card or
8 service is first used; or

9 ii. in the case of a prepaid telephone calling card or service that permits
10 a consumer to purchase additional usage minutes or add additional
11 value to the card or service, before the date that is 1 year after the
12 date on which the consumer last purchased additional usage minutes
13 or added additional value to the card or service.

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

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

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

24 i. the per minute rate or value for each particular destination
25 called by the consumer; and

26 ii. fees that are disclosed as required by regulations prescribed
27 under section 3.

28 2. MINUTES AS PROMOTED AND ADVERTISED- To sell, resell,
29 issue, or distribute any prepaid telephone calling card that the

1 distributor knows provides fewer minutes than the number of minutes
2 promoted or advertised, or a higher per minute rate to a specific
3 destination than the per minute rate to that specific destination
4 promoted or advertised, on--

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

8 3. MINUTES ANNOUNCED, PROMOTED, OR ADVERTISED
9 THROUGH VOICE PROMPTS- To sell, resell, issue, or distribute a
10 prepaid telephone calling card that such distributor knows provides
11 fewer minutes than the number of minutes announced, promoted, or
12 advertised through any voice prompt given to a consumer at the time
13 the consumer places a call to a dialed destination with the prepaid
14 telephone calling card or service.

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

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

27 (c) Liability- A prepaid telephone calling service provider or a prepaid telephone
28 calling card distributor may not avoid liability under this section by stating
29 that the displayed, announced, promoted, or advertised minutes, or the per

1 minute rate to a specific destination, are subject to fees or charges, or by
2 utilizing other disclaimers or limitations.

3 SECTION 5. Penalties. –

4 (a) Any person who shall violate any provision of Section 4 of this Act shall upon
5 conviction, be subject to a fine of not less than One thousand pesos
6 (P1,000.00) but not more than Ten thousand pesos (P10,000.00) or
7 imprisonment of not less than two (2) months but not more than one (1) year,
8 or both upon the discretion of the court.

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

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

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

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

23 SECTION 6. *Authority of the Commission.* The Commission shall enforce this
24 Act in the same manner and by the same means as though all applicable terms and
25 provisions of the Public Telecommunications Policy Act of the Philippines were
26 incorporated into and made part hereof.

27 The Commission may prescribe regulations to carry out this Act.

28

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

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

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

10 Approved.