

HOUSE OF REPRESENTATIVES

House Bill No. 0297

Introduced by Representative Victor A. Yap

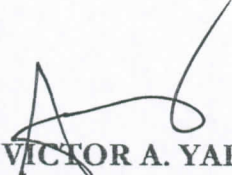
EXPLANATORY NOTE

With the advancement in communication technology, cellular phones are now common in every household, allowing us to keep in touch with our families, and to do business or work remotely. However, the convenience and availability of phones can also make people more susceptible to constant interruption and invasion of privacy. Subscribers regularly receive unsolicited calls and text messages, which may or may not be fraudulent, such as surveys, promotion of a product or service, solicitation, or awarding of a prize even when the recipient did not join any contest or raffle.

This bill seeks to establish a system of No Calls and No Text Messages Register that shall allow subscribers to manage and limit unwanted calls and text messages. It also aims to promote a fairer, more responsible and less intrusive practice of marketing.

It is imperative that the interest and privacy of mobile phone subscribers are protected, and that their right and freedom to choose their transactions are upheld.

For the foregoing reasons, the approval of this bill is earnestly sought.


VICTOR A. YAP
Representative, 2nd District of Tarlac

HOUSE OF REPRESENTATIVES

House Bill No.0297

Introduced by Representative Victor A. Yap

AN ACT
ESTABLISHING THE “NO CALL AND NO TEXT REGISTRATION” SYSTEM,
PROVIDING PENALTIES FOR VIOLATIONS THEREOF

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

CHAPTER I
TITLE AND DECLARATION OF POLICY

SECTION 1. Short Title. - This Act shall be known as the “No Call and No Text
Registration System Act.”

- SEC. 2. Declaration of Policy. - It is hereby declared the policy of the State:
- (a) To ensure the protection of the interest of mobile phone subscribers vis-a-vis unsolicited commercial speech;
 - (b) To ensure the establishment of standards of conduct for business and industry in sending text messages to subscribers;
 - (c) To promote the fundamental right of a mobile phone service subscriber to privacy; and
 - (d) To ensure the protection of subscribers from unwanted calls and texts inducing the purchase of goods or services and other forms of solicitation.

CHAPTER II
DEFINITION OF TERMS, MECHANISMS FOR THE ESTABLISHMENT OF A “NO CALL AND NO
TEXT REGISTRATION” SYSTEM

- SEC. 3. Definition of Terms. — As used in this Act:
- (a) Caller or sender refers to any person, and in the case of a juridical person, an employee or agent, who initiates a call or a text message for the purpose of making an outbound or unsolicited call or text message;
 - (b) Consent refers to a written contract signed by both the subscriber and a representative of the Public Telecommunications Entity (PTE) indicating that the subscriber opted to receive such commercial or promotional advertisement or push message;
 - (c) Negative option refers to a feature which shall enable a person to stop receiving any call and text from a caller and/or sender;
 - (d) No Call Register refers to the listing of Philippine telephone numbers to which a specified voice message shall not be sent;

- (e) No Text Register refers to the listing of Philippine telephone numbers to which a specified text message shall not be sent;
- (f) Outbound call or text refers to a telephone call or text message initiated by any caller or sender to induce the purchase of goods and services;
- (g) Prize refers to anything offered, or purportedly offered, and given, or purportedly given, to a subscriber by chance;
- (h) Subscribers refer to clients of telecommunications companies, whether under a prepaid or postpaid plan;
- (i) Text refers to any message sent via short message service (SMS);
- (j) Upselling refers to soliciting the purchase of goods or services following an initial transaction during a single telephone call or text message; and
- (k) Unsolicited call or text refers to a call or text message which is not initiated by the recipient of the call or message such as upselling, surveys, awarding of a prize when the recipient did not join or subscribe to any game or activity, or solicitation by any nonprofit and charitable institution, whether or not the call or text message induces the purchase of goods or services.

SEC. 4. Subscriber's Consent Prior to Sending Promotional Advertisements or Messages. - Commercial or promotional advertisements, or push messages may only be sent to a subscriber who has given prior consent or has specifically opted-in to receive said messages without additional cost. All commercial or promotional advertisements, or push messages must contain an accurate description of the message, identity and contact number of the PTE who sent or caused to send the message.

SEC. 5. Establishment of No Call and No Text Registers. - Pursuant to the foregoing, the National Privacy Commission, hereinafter referred to as the Privacy Commission, shall establish a No Call Register and a No Text Register: Provided, That, the identity of persons registered shall be kept highly confidential: Provided, further, That only the telephone numbers of registered persons may be accessed from the registers.

SEC. 6. Registration in the No Call and No Text Registers. - A subscriber may manage and limit the outbound and unsolicited calls and text messages that he may receive by registering a telephone number in the No Call and No Text Registers upon presentation of a government identification and proof of exclusive ownership over a particular telephone number, and upon payment of a fee as determined by the Privacy Commission: Provided, That the registration of mobile numbers of a subscriber below eighteen (18) years of age may be done by his parent or legal guardian.

Such registration shall be valid for a period of one (1) year, subject to renewal.

SEC. 7. Removal of Numbers. — Telephone numbers registered in the No Call and No Text Registers shall not be changed nor removed except upon the request of the owner in writing. Invalid or disconnected telephone numbers may be changed or removed upon adequate validation by the Privacy Commission.

SEC. 8. Opt-out Mechanism. — PTEs shall provide a mechanism for subscribers to opt-out any time from the broadcast messaging service at no cost to the subscriber or recipient. The opt-out mechanism must enable the subscriber or recipient to indicate the decision not to receive any commercial or promotional advertisement or push message from the PTE.

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2 **SEC. 9. Negative Option Requirement.** — A person whose number is not registered in
3 the No Call and No Text Registers may manage and limit outbound and unsolicited calls or text
4 messaging through the negative option feature.

5 All mobile phone callers or text message senders shall set up a negative option which shall
6 be available to the recipient immediately upon answering the call, or at the beginning of the text after
7 providing the required information under Section 10 of this Act.

8 Upon selection of the negative option feature, the caller or sender shall not make any further
9 step to persuade the recipient and immediately end the call or stop sending any text message to the
10 recipient. The recipient shall report and register the name and the number of the person, company
11 or organization who made the call or sent the message to the No Call and No Text Registers in
12 order to make the caller or sender liable for violation of this Act for any subsequent call or text
13 message. This prohibition shall apply to the caller or sender regardless of the goods or services
14 offered and the telephone number used to contact the recipient.

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16 **SEC. 10. Requirement for a Caller or Sender.** - No person shall make an outbound or
17 unsolicited call or text message unless such person:

- 18 (a) Registers and thereafter, obtains a certified true copy of the No Call and No Text
19 Registers from the Privacy Commission: *Provided*, That the Privacy Commission shall
20 have the power to set reasonable fees for the reproduction of these registries; and
21 (b) Discloses the full name of the caller or sender, the company, or organization for whose
22 benefit the call or text message is being made, and the telephone number of a fixed
23 line where such identity can be established and verified.

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25 **SEC. 11. Responsibility of Caller or Sender.** - It shall be the responsibility of any caller or
26 sender to register under Section 10 hereof and to get information on the numbers which are
27 registered in the No Call and No Text Registers. Possession of a certified true copy of the No Call
28 and No Text Registers prior to the date the call is made or text message is sent shall be considered
29 prima facie evidence of knowledge on the part of the caller or sender.

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32 **CHAPTER III**
33 **PROHIBITED ACTS, FINES AND PENALTIES**

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35 **SEC. 12. Prohibited Acts.** - Non-registration of the caller or sender as required under
36 Section 10 of this Act shall be considered a violation of this Act.

37 Except otherwise provided in this Act, no person, whether natural or juridical, shall make:

- 38 (a) An unsolicited call to any telephone number listed in the No Call Register; and
39 (b) An unsolicited text to any telephone number listed in the No Text Register.

40
41 The PTE who shall give the special access numbers of their subscribers to commercial or
42 marketing agencies without the latter's consent shall be held liable under this Act.

43 The use of an automatic dialer or any electronic device that automatically or randomly
44 contacts telephone numbers is prohibited.

45 Any violation of this section shall constitute the crime of unauthorized processing as defined
46 and penalized under Sections 25(a) and 25(b) of the Data Privacy Act of 2012, without prejudice to a
47 further fine that may be imposed by the Privacy Commission as provided for in this Act.

1 **SEC. 13. Exceptions.** - This Act shall not apply to a caller or sender under the following
2 circumstances:

- 3 (a) In representation of a public agency who is not promoting any of its programs for
4 commercial purpose;
- 5 (b) Action undertaken in a personal capacity;
- 6 (c) Action prompted by a necessity to respond to an emergency that threatens the life,
7 health or safety of any individual;
- 8 (d) When the sole purpose of the call or text is to:
- 9 (1) Facilitate, complete or confirm a transaction that the recipient of the message has
10 previously agreed to enter with the sender;
- 11 (2) Provide warranty information, product recall information or safety or security
12 information with respect to a product or service purchased or used by the recipient of
13 the message;
- 14 (3) Deliver goods or services, including product updates or upgrades, that the
15 recipient message is entitled to receive under the terms of the transaction that the
16 recipient previously agreed to enter with the sender;
- 17 (e) When with reference to an ongoing purchase or use by the recipient of goods or
18 services offered by the sender, the sole purpose of the call or text is to:
- 19 (1) Notify a change in its terms or features;
- 20 (2) Notify a change in the standing or status of the recipient of the message; or
- 21 (3) Provide, at regular periodic intervals, account balance information or other type
22 of account statement with respect to a subscription, membership, account, loan or
23 comparable ongoing commercial relationship;
- 24 (f) When its sole purpose is to conduct market research or market survey;
- 25 (g) When sent to an organization other than an individual acting in a personal or domestic
26 capacity, for any purpose of receiving organization;
- 27 (h) When done by duly recognized charities, religious institutions, or educational
28 institutions which are not considered as telemarketers, nonprofit organizations, and
29 other exempt organizations under appropriate rules and regulations; or
- 30 (i) As may be identified from time to time by the Privacy Commission.
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32 **SEC. 14. Filing of Complaint.** - Complainants may initially file their complaints with the
33 PTE, which shall act on all complaints received within fifteen (15) days from receipt of such
34 complaints.

35 Complainants who are not satisfied with the action of the PTE may bring the matter to the
36 Privacy Commission.

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38 **SEC. 15. Liability of Caller or Sender.**- A caller or sender who commits any violation
39 under Sections 4, 9, and 10 of this Act shall be held solely liable. If the caller or sender acted for the
40 benefit of another person, natural or juridical, and with authority from the latter, they shall be both
41 held separately liable for the violation. However, if the caller or sender acted for the benefit of
42 another person, natural or juridical, without authority from the latter, the former shall be held solely
43 liable.

44 Any caller or sender who calls or sends a text message to a subscriber who is in the No Call
45 and No Text Registers shall be fined for each call or text.

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47 **SEC. 16. Penalties.** — Without prejudice to administrative sanctions that may be imposed
48 by the Privacy Commission, or to civil or criminal liability, any person found to be in violation of

any provision of this Act or its implementing rules and regulations, shall be imposed the following penalties:

- (a) For a juridical person, a fine of not less than Fifty thousand pesos (P50,000.00) nor more than One hundred thousand pesos (P100,000.00) for each violation: *Provided*, That its officers directly responsible for the violation shall suffer the penalty of fine of not less than Fifty thousand pesos (P50,000.00) but not more than One hundred thousand pesos (P100,000.00); or
- (b) For a natural person, a fine of not less than Fifty thousand pesos (P50,000.00) but not more than One hundred thousand pesos (P100,000.00).

SEC. 17. Fees and Charges. - The Privacy Commission shall, within one hundred (100) days from the promulgation of this Act, develop and promulgate a schedule of fees and charges it may collect from entities who shall access the No Call and No Text Registers.

CHAPTER IV FINAL PROVISIONS

SEC. 18. Appropriations. - The Privacy Commission shall immediately include in its programs the implementation of this Act, the initial funding of which shall be charged against its current year's appropriations. Thereafter, such sums as may be necessary for the continued implementation of this Act shall be included in the annual General Appropriations Act.

Proceeds from penalties herein imposed shall accrue to the General Fund.

SEC. 19. Implementing Rules and Regulations. - Within ninety (90) days from the effectivity of this Act, the Privacy Commission shall promulgate the necessary rules and regulations for the effective implementation of this Act.

SEC. 20. Separability Clause. - If any part or provision of this Act shall be held unconstitutional or invalid, other provisions hereof that are not affected thereby shall continue to be in full force and effect.

SEC. 21. Repealing Clause. - All other laws, decrees, executive orders, proclamations and administrative regulations, or parts thereof inconsistent herewith are hereby repealed or modified accordingly.

SEC. 22. Effectivity. - This Act shall take effect fifteen (15) days after its publication in the Official Gazette or in any newspaper of general circulation.

Approved,