

Republic of the Philippines
HOUSE OF REPRESENTATIVES

SEVENTEENTH CONGRESS
First Regular Session

House Bill No. **3584**



Introduced by Representative Gloria Macapagal-Arroyo

THE WIRELESS TELEPHONE CONSUMER PROTECTION ACT OF 2016

EXPLANATORY NOTE

Since 1997, wireless telephone service has expanded immensely. Considered a luxury a decade ago, now more than thirty five million Filipinos use wireless telephone service in conduct of their business and daily routine. But despite its many advantages, a handful of consumer systematic abuses have surfaced ranging from the terms and conditions of wireless telephone service, poor service quality, billing errors, termination of service, and lack of effective procedures for redress of consumer grievances.

Most consumers buy wireless phones for business and personal use. Competition among telecommunications companies throughout the country has helped bring down the prices of wireless phones and made it more accessible. The use of wireless phones has become so integral in people's lives that the mere mention of being separated from their wireless devices is unacceptable. Some consumers have opted to keep wireless phones as their primary phone line for ease of accessibility. Although many consumers are content with their wireless phones and its corresponding contract of service, consumer complaints have continued to increase which reflects that wireless telephone service in the country still needs improvement.

The proposed legislation is a step towards that direction. It realizes the growing importance of wireless telephone service and establishes basic consumer rights and remedies that will apply equally to all providers, so that there will be a level playing field amongst providers to promote healthy competition to benefit Filipino consumers.

In view of the importance of this bill, its expeditious passage into law is earnestly sought.


REP. GLORIA MACAPAGAL-ARROYO
Second District, Pampanga

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

Section 1. Title - This Act shall be known as the "Wireless telephone Consumer Protection Act of 2016."

Section 2. Definitions - For purposes of this Act, the following definitions shall apply:

- a) Commission - means the National Telecommunication Commission (NTC).
- b) Internet - means the shared global computing network. A network based on standards including Internet Protocol (IP), Simple Mail Transfer Protocol (SMTP) and the Domain Name System (DNS), which enables global communications between all connected computing devices. It provides the platform for web services and the World Wide Web.
- c) Wireless telephone service - means commercial mobile radio service.
- d) Wireless telephone service provider or provider - means any entity that provides wireless telephone service in the country.
- e) Wireless telephone number information - means the telephone number, electronic address and any other identifying information by which a calling party may reach a subscriber to commercial mobile services, and which is assigned by a wireless telephone service provider to such subscriber.

Section 3. Information Requirement - within 180 days following the effective date of this Act, the Commission shall adopt rules and regulations requiring that any publication, including publication on the Internet, of a wireless telephone service provider concerning the terms of its plans or contracts for wireless telephone service shall set forth, in a plain and conspicuous manner, the following information:

- 1) Information on charges, including the originating location of the call, monthly base charge, per minute charges for minutes not included in the plan, and the method of calculating minutes charged;
- 2) Information on the minutes included in the plan, including allowable minutes during daytime on weekdays, allowable minutes during nights and weekends, or any other differing charges for long-distance, roaming, incoming and directory assistance;
- 3) Information on plan or contract terms including length of contract, early or other termination fees, trial periods, and start up fees;
- 4) Information on taxes to be collected by the provider for, and paid to the national, local, or other governmental agency;
- 5) Information on surcharges imposed by the provider for the costs of compliance with regulations or for other purposes; and

- 6) Any other information that the Commission considers appropriate to ensure that consumers of wireless telephone service are fully informed of the terms of the plan or contract.

The wireless telephone service providers shall provide the information required by this section to a consumer prior to entering into any contract with a consumer for wireless telephone service.

Section 4. Information on Service Coverage - Each wireless telephone service provider shall make available maps showing the wireless telephone service area of such provider and the wireless telephone service area of such provider within the country. Such maps shall contain the maximum practicable level of granularity and shall be updated quarterly.

Each map of a service area required under subsection a. of this section shall be provided to a consumer:

- 1) Upon the request of the consumer; and
- 2) Whenever a plan or contract for the service is entered into.

Each map of a service area required under subsection a. of this section shall be available:

- 1) On the internet website of the provider concerned; and
- 2) On the internet website of the Commission.

Section 5. Monitoring - the Commission shall monitor the quality of wireless telephone service providers based on the following standards;

- 1) Dropped calls;
- 2) Blocked calls;
- 3) Known coverage gaps (including average signal strength) or dead zones;
- 4) Predicted street level signal strength; and
- 5) Any other matters the Commission considers appropriate.

In monitoring the quality of wireless telephone service under subsection a. of this section, the Commission shall establish an Internet website which allows the public to submit their comments and views to the Commission on the quality of such service. The commission shall also accept written complaints by mail.

Section 6. Availability of Information - the Commission shall make information available to wireless telephone service providers and the public on a semiannual basis concerning the quality of wireless telephone service of the provider.

Section 7. Extension of contract - An extension of contract for wireless telephone service shall not be valid unless the extension of the contract is in writing and is signed by the subscriber, or confirmed in writing and signed by the subscriber within seven days of receipt by the subscriber.

Section 8. Notice of Change of Terms - A wireless telephone service provider shall provide subscribers with written notice of any change in rates, terms or conditions of service at least thirty (30) days before the change is to take effect. If any such change will result in higher rates or more restrictions on service or otherwise will result in a material, adverse change for such subscriber, the subscriber may, within such 30-day period, terminate the service without penalty and receive a pro rata refund of the charges, if any, paid for the handset used for the service. The notice of change shall inform the subscriber of the right to terminate the contract, the right to a handset refund, and the steps to take to implement such termination.

Section 9. Cancellation of Contract – A contract for wireless service may be canceled upon the request of the subscriber for any reason during the first 30 days. There shall be no penalty or other costs to the subscriber for any cancellation during these 30 days, except that the subscriber shall be responsible for the cost of the service used during the time period that the contract was in effect.

Section 10. Billing – A wireless telephone service provider shall provide bills for wireless telephone services that are clearly organized and clearly describe in plain language the products and services for which charges are imposed, and that conform to format standards established by the Commission.

Section 11. Taxes – Taxes and fees which are required by the law, or local ordinance or regulation to be collected from the subscriber shall be set forth in separate section of the bill and shall be itemized separately. This section of the bill shall only contain charges that the provider is required to be recovered from subscribers pursuant to law.

Section 12. Roaming Charges – Roaming or off-network charges shall be itemized on the subscriber's bill within sixty (60) days of the call being placed, and such roaming or off-network charges shall identify the date and originating location of the call.

Section 13. Request for Billing Statement – Upon the request of a subscriber, a wireless telephone service provider shall provide an itemized bill to the subscriber without any charges.

Section 14. Charges on Unauthorized Use – Charges associated with the use of wireless telephone equipment or services shall not be the liability of the subscriber if such use was unauthorized by the subscriber due to loss or theft, provided that such loss or theft is promptly reported to the wireless telephone service providers and subscribers.

Section 15. Rules and Regulations on Complaints – The Commission shall adopt rules and regulations as may be necessary to allow subscribers to file complaints with the Commission with regard to billing disputes between wireless telephone service providers and subscribers.

Section 16. Non-termination of Service – A wireless telephone service provider shall refrain from terminating a subscriber's service for nonpayment as long as the subscriber's billing complaint is pending before the Commission and for fifteen (15) days thereafter, or for such period as the Commission for good cause shall establish, provided that as a condition of continued service during the pendency of any such dispute, the subscriber shall pay the undisputed portions of any bill for service and any amounts the Commission determines are necessary to fairly compensate the wireless telephone provider for services rendered while the complaint is pending and 15 days thereafter.

Section 17. Publication of Information – A wireless telephone service provider, or any direct or indirect affiliate or agent of a provider, providing the name and wireless telephone number information of a subscriber for inclusion in any directory of any form, or selling, leasing, licensing or sharing the contents of any directory database, or any portion or segment thereof, shall not include the wireless telephone number information of any subscriber without first obtaining the express consent of that subscriber. The provider's form for obtaining the subscriber's express consent shall meet all of the following requirements:

- 1) It shall be a separate document that is not attached to any other document;
- 2) It shall be signed and dated by the subscriber;

- 3) It shall be unambiguous and legible, and shall conspicuously disclose that, by signing the form, the subscriber consents to having the subscriber's wireless telephone number information sold or licensed as part of a list of subscribers and having the subscribers wireless telephone number information included in a publicly available directory; and
- 4) If under the subscriber's calling plan the subscriber may be billed for receiving unsolicited calls or text messaging from a telemarketer, the provider's form shall be unambiguous and legible, and shall conspicuously disclose that, by consenting to have the subscriber's wireless telephone number information sold or licensed as part of a list of subscribers or to be included in a publicly available directory, the subscriber may incur additional charges for receiving unsolicited calls or text messages.

Section 18. Revocation of Consent - A subscriber who provides express prior consent pursuant to the preceding section may revoke that consent at any time. A wireless telephone service provider shall comply with the subscriber's request to opt out within a reasonable period of time, not to exceed sixty (60) days.

Section 19. Exceptions - The provisions of Section 17 shall not apply to the following parties for the purposes indicated:

- 1) To a collection agency, to the extent disclosures made by the provider are exclusively for the collection of the subscriber's unpaid debt to the provider;
- 2) To any law enforcement agency;
- 3) To a lawful process issued by the court under the law;
- 4) To a telephone company providing service between service areas for the provision to the subscriber or telephone service between service areas, or to third parties for the limited purpose of providing billing services;
- 5) To a telephone company to effectuate a subscriber's request to transfer the customer's assigned telephone number from the customer's existing provider of telecommunications services to a new provider of telecommunications services; and
- 6) To the Commission pursuant to its jurisdiction and control over wireless telephone providers.

Section 20. Penalties - Any director, officer or agent of a corporation who shall authorize, order or perform any of the acts or practices constituting in whole or in part a violation of Section 3, and who has knowledge or notice of noncompliance received by the corporation from the Commission, shall upon conviction, be subject to a fine of not less than One hundred thousand pesos (P100,000.00) but not more than One Million Pesos (P1,000,000.00) or imprisonment of not less than six (6) years but not more than twelve (12) years, or both upon the discretion of the court.

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

Section 21. Authority of the Commission - the Commission shall enforce this Act in the same manner and by the same means as though all applicable terms and provisions of the Public Telecommunications Policy Act of the Philippines were incorporated into and made part hereof. The Commission may prescribe regulations to carry out this Act.

Section 22. Separability Clause - If any provision or part thereof, is held invalid or unconstitutional, the remainder of the law or the provision not otherwise affected shall remain valid and subsisting.

Section 23. Repealing Clause - Any law, presidential decree or issuance, executive order, letter of instruction, administrative order, rule or regulation contrary to, or inconsistent with the provisions of this Act is hereby repealed, modified or amended accordingly.

Section 24. Effectivity Clause - This Act shall take effect fifteen (15) days after its publication in at least two (2) newspapers of general circulation.

Approved,