

Republic of the Philippines
HOUSE OF REPRESENTATIVES
Quezon City

EIGHTEENTH CONGRESS
First Regular Session

HOUSE BILL NO. 2311



Introduced by Honorable Wes Gatchalian

AN ACT
PROHIBITING ALL PUBLIC TELECOMMUNICATIONS ENTITIES AND
INFORMATION AND COMMUNICATIONS TECHNOLOGY PROVIDERS
FROM IMPOSING AN EXPIRATION PERIOD ON THE VALIDITY OF
PREPAID LOAD CREDITS AND THEIR FORFEITURE

EXPLANATORY NOTE

Memorandum Circular No. 03-07-2009 otherwise known as the *Guidelines on Prepaid Loads*, dated July 3, 2009 provided for the expiration periods of prepaid loads depending on the amount of credits purchased. Prepaid loads with higher value had longer expiration or validity period. This MC was amended by Joint Memorandum Circular No. 05-12-2017.¹ It prescribed the validity of prepaid load credits of all information and communications technology (ICT) providers and public telecommunications entities (PTEs) with a denomination of Php300 and above to one year effective last January 5, 2018, *but*, excluded from its coverage: (1) prepaid loads purchased for promos; and (2) bucket of services with specific period of use duly approved by the DTI and/or the NTC.

expiration or validity period.

In this day and time when telecommunication has been revolutionized

¹ Prescribing a One (1) Year Expiration Period for Prepaid Loads.

by technology to a higher new level, every person wants to stay connected. A scheme that imposes the expiration of prepaid credits and its forfeiture is anti-poor, unfair and discriminating to those whose hard-earned money matters the most. The amount that you load up, you expect of course to consume, but a system that is devised to forfeit the value of the loaded amount upon the expiration of a certain period only further enriches the service providers and puts the consumer at their mercy.

This bill proposes to make it a prohibited act to impose an expiration period on the validity of prepaid load credits and their eventual forfeiture, *however purchased and in whatever denomination*. This should give the consumer his money's full worth. It is important that the government find a balance between protecting the rights of a consumer where it does not also unduly hinder the industry from its gainful market or a return of their investment. In this wise, the telecommunications industry has at present an approximated 142 million prepaid subscriber, a faithful legion, a giant leap from the mere nine (9) million in 2009. These 142 million who clearly believe in the benefits of this digital revolution and who has now found the prepaid load credit an essential commodity in their everyday life and to whom this legislation we believe should largely be afforded.

In view of the foregoing, considerations, approval of this bill is earnestly sought.



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

1 Section 1. *Title.* – This Act shall be known as the “*Prepaid Load*
2 *Forever Act of 2019.*”

3
4 Sec. 2. *Declaration of Policy.* – It is hereby declared the policy of the
5 State to recognize the vital role of information and communications
6 technology in nation-building. It likewise recognizes the primary role of the
7 private sector as an engine of economic growth and guarantees the right of
8 individuals and private entities to own, establish, and operate economic
9 enterprises. However, as the Constitution provides that the use of property
10 bears a social function, the right of private entities is subject to the duty of
11 the State to intervene when the common good so requires – including
12 protecting the interest of consumers, promoting their general welfare, and
13 establishing standards of conduct of business and industry. Towards this
14 end, the State shall implement measures to protect the consumer against
15 unfair and unconscionable sales acts and practices, and provide

1 information and education to facilitate sound choice and proper exercise of
2 consumer rights.

3
4 Sec. 3. *Definition of Terms.* – As used in this Act:

- 5 a. *Active Prepaid Account* refers to a number with any activity
6 involving voice, short messaging system (SMS) or text, mobile data,
7 value added services (VAS), or any other telecommunications
8 service;
- 9 b. *Dormant Prepaid Account* refers to a number without any activity
10 involving voice, short messaging system (SMS) or text, mobile data,
11 value added services (VAS), or any other telecommunications
12 service within a period of one year;
- 13 c. *Information and Communications Technology* or *ICT* refers to the
14 totality of electronic means to access, create, collect, store,
15 process, receive, transmit, present, and disseminate information;
- 16 d. *Information and Communications Technology* or *ICT Provider* refers
17 to any entity in the ICT sector, which includes telecommunications
18 and broadcast information operators, ICT equipment
19 manufacturers, multimedia content developers and providers, ICT
20 solution providers, internet service providers, ICT training
21 institutions, software developers, and ICT-ES providers;
- 22 e. *Prepaid* refers to the type of account that requires its owners to
23 purchase load credits before telecommunications services can be
24 used;
- 25 f. *Prepaid Load Credit* refers to the monetary value or the
26 consumable amount loaded via prepaid card or electronic load to a
27 device that enables a subscriber to use telecommunications
28 services;
- 29 g. *Prepaid Subscriber* refers to any person, natural or juridical, who
30 avails of telecommunications services from a public
31 telecommunications entity and/or information and
32 communications technology provider by purchasing credit in
33 advance of service use. The purchased credit is used to pay for

1 telecommunications services at the point the service is accessed or
2 consumed;

3 h. *Public Telecommunications Entity* or *PTE* refers to any duly
4 authorized public telecommunications entity that offers voice,
5 short messaging system (SMS) or text, mobile data, value added
6 services (VAS), or any other telecommunications services to the
7 public for a fee; and

8 i. *Telecommunications* refers to any process which enables a
9 telecommunications entity to relay and receive voice, data,
10 electronic messages, written or printed matter, fixed or moving
11 pictures, words, music or visible or audible signals, or any control
12 signals of any design and for any purpose by wire, radio, or other
13 electromagnetic, spectral, optical or technological means.

14
15 Sec. 4. *Prohibited Acts.* – The following shall constitute prohibited acts
16 of any PTE or ICT provider and are hereby declared to be unlawful:

17 a. Imposition of an expiration period on the validity of unused
18 prepaid load credits, whether purchased via prepaid card or
19 electronic load;

20 b. Forfeiture of such prepaid load credits on an active prepaid
21 account, save for the purpose of availing of the mobile number
22 portability service; and

23 c. Refusal to give a refund to any prepaid subscriber whose load
24 credits were forfeited without any valid cause.

25 In view of paragraph b, a prepaid account that has become dormant
26 shall be deducted one peso for every day of inactivity from its remaining
27 load credits until such credits are fully consumed.

28
29 Sec. 5. *Penal Provision.* – Any director, officer, employee, or agent of a
30 PTE or ICT provider providing prepaid telecommunications services who
31 shall violate any of the acts mentioned under Sec. 4 hereof shall, upon
32 conviction, be subject to the penalty of a fine of not less than One Hundred
33 Thousand Pesos (PhP 100,000.00) but not to exceed One Million Pesos (PhP

1 1,000,000.00) or imprisonment of not less than two (2) years but not more
2 than six (6) years, or both, upon the discretion of the court.

3 If the violation was committed by or in the interest of a juridical
4 person duly licensed to engage in business in the Philippines, the following
5 penalties shall be imposed:

6 a. First offense – a fine of Five Hundred Thousand Pesos (PhP
7 500,000.00);

8 b. Second offense – a fine of One Million Pesos (PhP 1,000,000.00)
9 plus suspension of license to engage in business for a period of
10 thirty (30) days; and

11 c. Third offense – a fine of Two Million Pesos (PhP 2,000,000.00) plus
12 immediate revocation of license to engage in business.

13
14 Sec. 6. *Implementing Rules and Regulations (IRR).* – Within ninety (90)
15 days from the effectivity of this Act, the National Telecommunications
16 Commission shall coordinate with the Department of Information and
17 Communications Technology and the Department of Trade and Industry to
18 promulgate rules and regulations and other issuances as may be necessary
19 to ensure the effective implementation of this Act, including the issuance of
20 proper and adequate information dissemination of its contents and benefits
21 to the general public.

22 The IRR issued pursuant to this Act shall take effect fifteen (15) days
23 after its publication in a newspaper of general circulation.

24
25 Sec. 7. *Separability Clause.* – If any provision of this Act is held
26 invalid or unconstitutional, the other provisions not affected thereby shall
27 remain in full force and effect.

28
29 Sec. 8. *Repealing Clause.* – All laws, decrees, executive orders,
30 proclamations, rules and regulations, and issuances, or parts thereof which
31 are inconsistent with the provisions of this Act, are hereby repealed,
32 amended or modified accordingly.

1 Sec. 9. *Effectivity.* – This Act shall take effect fifteen (15) days after its
2 publication in the Official Gazette or in any newspaper of general
3 circulation.

4 Approved,