

Republic of the Philippines
HOUSE OF REPRESENTATIVES
Quezon City, Metro Manila

EIGHTEENTH CONGRESS
1st Regular Session

House Bill No. 659



Introduced by Hon. Francis Gerald Aguinaldo Abaya

EXPLANATORY NOTE

Cellular phones have become a necessity for most people and greatly influenced different social and economic transactions around the globe. Not only did it make communication easier but it also changed the way we interact with people. Convenience and availability are the primary advantages of this technology but at the same time, consumers also suffer from constant interruption and invasion of privacy. Unsolicited calls and text messages which may or may not be fraudulent have become one of the sources of consumers' frustration and may be considered a nuisance. While it is important to promote the interests of the private or business sector by allowing it to freely transact and endorse its goods and services, the government may interfere to protect consumers from trade malpractices and from substandard or hazardous products. This public duty is provided under Section 9, Article XVI of the 1987 Constitution. On the ground of public interest and order, the government may also intervene in market affairs to protect the public from exploitative business practices, misleading statements regarding products and services, and other unfair and intrusive advertisements against competitors and consumers.

Moreover, we are also familiar with various schemes that intend to defraud phone users by pretending that the recipient of the message won a prize in a promo when the recipient did not even join any game or activity of chance or by misrepresenting themselves as relatives of the recipient so they can ask him/her to reload their "new" roaming number.

This bill proposes to establish a system of No Calls and No Text Messages Registry that shall protect cellular phone subscribers from unwanted calls and text messages that disturb and disrupt the activities of any individual and, thereby promoting more responsible and accountable business practices of marketing and sales agents. It is imperative that phone users shall be given an option readily available to them to stop any unwanted call or text message in order to uphold their right and freedom to choose their transactions.

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


FRANCIS GERALD AGUINALDO ABAYA
Representative, First District, Cavite

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AN ACT ESTABLISHING THE 'NO CALLS 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:

1 **SECTION 1. *Short Title.*** – This Act shall be known as the “No Calls and No
2 Text Registration System Act”.

3 **SECTION 2. *Declaration of Policy.*** – It is the policy of the State:

- 4 a. To ensure the protection of the interest of the mobile phone subscribers
5 *vis-a-vis* unsolicited commercial speech;
- 6 b. To ensure the establishment of standards of conduct for business and
7 industry in sending text messages to subscribers;
- 8 c. To promote the fundamental right of a mobile phone service subscriber
9 to privacy; and
- 10 d. To ensure the protection of subscribers from unwanted calls and texts
11 inducing the purchase of goods or services and other forms of
12 solicitation.

13 **CHAPTER II**

14 **DEFINITION OF TERMS,**

15 **MECHANISMS FOR THE ESTABLISHMENT OF A**

16 **'NO CALL AND NO TEXT REGISTRATION' SYSTEM**

17 **SECTION 3. *Definition of Terms.*** – As used on this Act:

- 18 a.) *Caller or sender* refers to any person, and in the case of a juridical person,
19 an employee or agent, who initiates a call or a text message for the purpose
20 of making an outbound or unsolicited call or text message;

- 1 b.) *Consent* refers to a written contract signed by both the subscriber and a
2 representative of the Public Telecommunications Entity (PTE) indicating
3 that the subscriber opted to receive such commercial or promotional
4 advertisement or push message;
- 5 c.) *Negative option* refers to a feature which shall enable a person to stop
6 receiving any call and text from a caller or sender;
- 7 d.) *No Call Register* refers to the listing of Philippine telephone numbers to
8 which a specified voice message shall not be sent;
- 9 e.) *No Text Register* refers to the listing of Philippine telephone numbers to
10 which a specified text message shall not be sent;
- 11 f.) *Outbound call or text* refers to a telephone call or text message initiated by
12 any caller or sender to induce the purchase of goods and services;
- 13 g.) *Prize* refers to anything offered, or purportedly offered, and given, or
14 purportedly given, to a subscriber by chance;
- 15 h.) *Subscribers* refer to clients of telecommunication companies, whether under
16 a pre-paid or post-paid plan;
- 17 i.) *Text* refers to any message sent via short message service (SMS);
- 18 j.) *Upselling* refers to soliciting the purchase of goods and services following
19 an initial transaction during a single telephone call or text message;
- 20 k.) *Unsolicited call or text* refers to a call or text message which is not initiated
21 by the recipient of the call or text message such as, upselling, surveys,
22 award of prize when the recipient did not join or subscribe to any game or
23 activity or solicitation by any non-profit and charitable institution whether or
24 not the call or text message induce purchases of goods and services.

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

32 **SECTION 5. *Establishment of the No Call and No Text Registers.*** –
33 Pursuant to the foregoing, the National Privacy Commission, hereinafter referred to as
34 the Privacy Commission, shall establish a No Call Register and a No Text Register.

1 *Provided*, that, the identity of persons registered shall be kept highly confidential;
2 *Provided further*, that only the telephone numbers of registered persons may be
3 accessed from the registers.

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

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

13 **SECTION 7. *Removal of Numbers.*** – Telephone numbers registered in the No
14 Call and No Text Registers shall not be changed or removed except upon the request
15 of the owner in writing. Invalid or disconnected telephone numbers may be changed
16 or removed upon adequate validation by the Privacy Commission.

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

22 **SECTION 9. *Negative Option Requirement.*** – A person whose number is not
23 registered in the No Call and No Text Registers may manage and limit outbound and
24 unsolicited calls or text messaging through the negative option feature.

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

29 Upon selection of the negative option feature, the caller or sender shall not
30 make any further step to persuade the recipient and immediately end the call or stop
31 sending any text message to the recipient. The recipient shall report and register the
32 name and the number of the person, company or organization who made the call or
33 sent the message to the No Call and No Text Registers in order to make the caller or
34 sender liable for violation of this Act for any subsequent calls or text message. This

1 prohibition shall apply to the caller or sender regardless of other goods or services
2 offered and other telephone number used to contact the recipient.

3 **SECTION 8. *Information Requirement of the Caller or Sender.*** – It shall be
4 unlawful to make an outbound or unsolicited call or text message without disclosing
5 the full name of the person making the call or sending the text message, the company,
6 or organization for whose benefit the call or text message is being made, and the
7 telephone number of a fixed line where such identity can be established and verified:
8 *Provided*, That noncompliance with this section shall constitute an outright violation of
9 and shall be punishable under this Act.

10 **SECTION 9. *Removal of Numbers.*** – Telephone numbers registered in the No
11 Calls and No Text Registry shall not be changed or removed except upon the request
12 of the owner in writing and those invalid or disconnected telephone numbers upon
13 adequate validation of the NTC

14 **SECTION 10. *Requirement for a Caller or Sender.*** – No person shall make
15 an outbound or unsolicited call or text message unless such person:

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

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

30 **CHAPTER III**

31 **PROHIBITED ACTS, FINES, AND PENALTIES**

32 **SECTION 12. *Prohibited Acts.*** – Non-registration of the caller or sender as
33 required under Section 10 of this Act shall be considered a violation of this Act.

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

3 a. An unsolicited call to any telephone number listed in the No Call Register;
4 and

5 b. An unsolicited text to any telephone number listed in the No Text Register.

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

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

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

15 **SECTION 13. *Exceptions.*** – This Act shall not apply to a caller or sender under
16 the following circumstances:

17 1. In representation of a public agency who is not promoting any of its
18 programs for commercial purpose;

19 2. Action undertaken in a personal capacity;

20 3. Action prompted by a necessity to respond to an emergency that
21 threatens the life, health or safety of any individual;

22 4. When the sole purpose of the call or text is to –

23 a. Facilitate, complete or confirm a transaction that the recipient of
24 the message has previously agreed to enter with the sender;

25 b. Provide warranty information, product recall information or safety
26 or security information with respect to a product or service
27 purchased or used by the recipient of the message;

28 c. Deliver goods or services, including product updates or upgrades,
29 that the recipient message is entitled to receive under the terms
30 of the transaction that the recipient previously agreed to enter with
31 the sender.

32 5. When with reference to an ongoing purchase or use by the recipient of
33 goods or services offered by the sender, the sole purpose of the call or
34 text is to –

- a. Notify a change in its terms or features;
 - b. Notify a change in the standing or status of the recipient of the message; or
 - c. Provide, at regular periodic intervals, account balance information or other type of account statement with respect to a subscription, membership, account, loan or comparable ongoing commercial relationship;
6. When its sole purpose is to conduct market research or market survey;
 7. When sent to an organization other than an individual acting in a personal or domestic capacity, for any purpose of receiving organization;
 8. When done by duly recognized charities, religious institutions, or educational institutions which are not considered as telemarketers, non-profit organizations, and other exempt organizations under appropriate rules and regulations; or
 9. As may be identified from time to time by the Privacy Commission.

SECTION 14. *Filing of Complaint.* – Complainants may initially file their complaints with the PTE, which shall act on all complaints received within fifteen (15) days from receipt of such complaints.

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

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

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

SECTION 16. *Penalties.* – Without prejudice to administrative sanctions that may be imposed 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)

1 for each violation. *Provided*, that its officers directly responsible for the
2 violation shall suffer the penalty or fine of not less than Fifty thousand pesos
3 (P50,000.00) nor more than One hundred thousand pesos (P100,000.00);
4 or

- 5 b. For a natural person, a fine of not less than Fifty thousand pesos
6 (P50,000.00) but not more than One hundred thousand pesos
7 (P100,000.00).

8 **SECTION 16. *Charges and Fees.*** – The Privacy Commission shall, within one
9 hundred (100) days from the promulgation of this Act, develop and promulgate a
10 schedule of fees and charges it may collect from entities who shall access the No Call
11 and No Text Registers.

12 **CHAPTER IV**
13 **FINAL PROVISIONS**

14 **SECTION 18. *Appropriations.*** – The Privacy Commission shall immediately
15 include in its programs the implementation of this Act, the initial funding of which
16 shall be charged against its current year's appropriations. Thereafter, such sums as
17 may be necessary for the continued implementation of this Act shall be included in
18 the Annual General Appropriations Act.

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

22 **SECTION 20. *Separability Clause.*** – If any part or provision of this Act shall
23 be held unconstitutional or invalid, the other provisions hereof that are not affected
24 thereby shall continue to be in full force and effect.

25 **SECTION 21. *Repealing Clause.*** – All other laws, decrees, executive orders,
26 proclamations, and administrative regulations or parts thereof which are inconsistent
27 herewith are hereby repealed or modified accordingly.

28 **SECTION 22. *Effectivity.*** – This Act shall take effect fifteen (15) days after its
29 complete publication in the Official Gazette or in a newspaper of general circulation.

30
31 Approved,