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HOUSE OF REPRESENTATIVES

House Bill No. **2869**

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Introduced by Representative Victor A. Yap

EXPLANATORY NOTE

Wireless telephone services are fast becoming the standard in many Filipino homes and businesses. Competition between Telecommunication Companies (Telcos) has driven down the price of such services and technological advance has likewise made devices much more affordable. However, there is a lack of consumer protection in this area, and it is necessary for the state to legislate, in the interest of consumers, and to ensure that competition in this area occurs on a level playing field.

Among the common complaints raised are (a) consumer issues on the terms and conditions under which the wireless telephone services are provided; (b) poor service quality; (c) billing errors; (d) service interruption and maintenance issues; and (e) lack of effective procedures to address consumer complaints. Hence, the necessity of this proposed measure to establish consumer remedies.

Given the growing need for stability and efficiency in wireless telephone services, this measure will likewise establish such standards as are necessary to ensure the public interest while balancing the need for maintaining a competitive environment that fosters innovation and growth amongst Telcos.

In view of the foregoing public interest, the immediate passage of this bill is earnestly sought.


VICTOR A. YAP

Representative, 2nd District of Tarlac

HOUSE OF REPRESENTATIVES

2869

House Bill No. _____

Introduced by Representative Victor A. Yap

AN ACT

PROTECTING CONSUMERS OF WIRELESS TELEPHONE SERVICES

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

1 **SECTION 1. Title.** – This Act shall be known as the “Wireless Telephone Consumer
2 Protection Act”.

3
4 **SECTION 2. Definitions.** - For purposes of this Act, the following terms shall:

5
6 (a) **Commission** – means the National Telecommunications Commission (NTC);

7 (b) **Internet** – means the shared global computing network. A network based on
8 standards including Internet Protocol (IP), Simple Mail Transfer Protocol (SMTP)
9 and the Domain Name System (DNS), which enables global communications
10 between all connected computing devices. It provides the platform for web
11 services and the World Wide Web;

12 (c) **Wireless telephone service** – means commercial mobile radio service;

13 (d) **Wireless telephone service provide or provider** – means any entity that
14 provides wireless telephone service in the country; and

15 (e) **Wireless telephone number information-** means the telephone number,
16 electronic address and any other identifying information by which a calling party
17 may reach a subscriber to commercial mobile services, and which is assigned by a
18 wireless telephone service provider to such subscriber.

19
20 **SECTION 3. Information Requirement.** – Within one-hundred eighty (180) days
21 following the effectivity of this Act, the Commission shall adopt rules and regulations
22 requiring that any publication, including publication on the internet, of a wireless telephone
23 service provider concerning the terms of its plans or contracts for wireless telephone service
24 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 of the minutes included in the plan, including allowable minutes during the daytime on weekdays, allowable minutes during nights and weekends, or any other differing charges for long-distance, roaming and directory assistance;
- (3) Information on plan 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 for other purposes; and
- (6) Any other information the Commission considers appropriate to ensure the 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 of area of such provider and the wireless telephone service area of such provider within the country. Such maps shall contain the maximum predictable level of granularity and shall be updated quarterly.

Each map of a service area 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 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 standard:

- (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, the Commission shall establish a 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 semi-annual basis concerning the quality of wireless telephone service of the provider.

SECTION 7. *Extension of Contract.* – An extension of a 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 (7) 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 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 material, adverse change for such subscriber, the subscriber may, within such thirty (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 handset refund, and the steps to take to implement such a 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 days. There shall be no penalty or other costs to the subscriber for any cancellation during these thirty (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.

1
2 **SECTION 11. *Taxes.*** – Taxes and fees which are required by the law, or local
3 ordinance or regulation to be collected from the subscriber shall be set forth in a separate
4 section of the bill and shall be itemized separately. This section of the bill shall only contain
5 charges that the provider is required to be recovered from the subscribers pursuant to law.
6

7 **SECTION 12. *Roaming Charges.*** – Roaming or off-network charges shall be
8 itemized on the subscriber's bill within sixty (60) days of the call being placed, and such
9 roaming or off-network charges shall identify the date and originating location of the call.
10

11 **SECTION 13. *Request for Billing Statement.*** – Upon the request of the subscriber, a
12 wireless telephone service provider shall provide an itemized bill to the subscriber at no cost
13 to the subscriber.
14

15 **SECTION 14. *Charges on Unauthorized Use.*** – Charges associated with the use of
16 wireless telephone equipment or services shall not be the liability of the subscriber if such
17 use was unauthorized by the subscriber due to loss or theft, provided that such loss or theft is
18 promptly reported to the wireless telephone service provider.
19

20 **SECTION 15. *Rules and Regulations on Complaints.*** – The Commission shall
21 adopt rules and regulations as may be necessary to allow subscribers to file complaints with
22 the Commission with regard to billing disputes between wireless telephone service providers
23 and subscribers.
24

25 **SECTION 16. *Non-termination of service.*** – A wireless telephone service provider
26 shall refrain from terminating a subscriber's service for nonpayment so long as the
27 subscriber's billing complaint is pending before the Commission and for fifteen (15) days
28 thereafter, or for such period as the Commission for good cause shall establish: Provided,
29 that as a condition of continued service during the pendency of such dispute, the subscriber
30 shall pay the undisputed portions of any bill for service and any amount the Commission
31 determines as necessary to fairly compensate the wireless telephone providers for services
32 rendered while the complaint is pending and fifteen (15) days thereafter.
33

34 **SECTION 17. *Publication of Information.*** – A wireless telephone service provider,
35 or any direct or indirect affiliate or agent of a provider, providing the name and wireless
36 telephone number information of a subscriber for inclusion in any directory of any form, or
37 selling, leasing, licensing or sharing the contents of any directory database, or any portion or
38 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 subscriber's 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 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 of the telephone service between service areas, or 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.

1 **SECTION 20. *Penalties.*** – Any director, officer or agent of a corporation who shall
2 authorize, order or perform any of the acts or practices constituting in whole or in part a
3 violation of Section 3, and who has knowledge or notice of noncompliance received by the
4 corporation from the Commission, shall upon conviction, be subject to a fine of not less than
5 One Hundred Thousand Pesos (P100,000) but not more than One Million Pesos
6 (P1,000,000) or imprisonment of not less than six (6) years but not more than twelve (12)
7 years, or both upon the discretion of the court.
8

9 In case the violation is committed by, or in the interest of a juridical person duly
10 licensed to engage in business in the Philippines, such license to engage in business shall be
11 immediately revoked.
12

13 **SECTION 21. *Authority of the Commission.*** – The Commission shall enforce this
14 Act in the same manner and by the same means as though all applicable terms and
15 provisions of the Public Telecommunications Policy Act of the Philippines were
16 incorporated into and made part thereof. The Commission may prescribe regulations to carry
17 out this Act.
18

19 **SECTION 22. *Separability Clause.*** – If any provision or part thereof is held invalid
20 or unconstitutional, the remainder of the law or the provision not otherwise affected shall
21 remain valid and subsisting.
22

23 **SECTION 23. *Repealing Clause.*** - All laws, presidential decrees or issuance,
24 executive order, letter of instruction, administrative order, rule or regulation contrary to, or
25 inconsistent with the provision of this Act is hereby repealed, modified or amended
26 accordingly.
27

28 **SECTION 24. *Effectivity.*** - This Act shall take effect fifteen (15) days from the date
29 of its publication in the Official Gazette or in at least two (2) newspapers of general
30 circulation.
31

32 *Approved,*