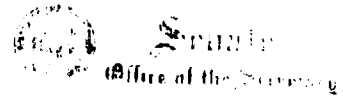



SEVENTEENTH CONGRESS OF THE]
REPUBLIC OF THE PHILIPPINES]
First Regular Session]



SENATE
S.B. No. 1237

REC'D BY: 

Introduced by SEN. WIN GATCHALIAN

AN ACT
REQUIRING PUBLIC TELECOMMUNICATIONS ENTITIES TO PROVIDE
NATIONWIDE MOBILE NUMBER PORTABILITY TO SUBSCRIBERS

EXPLANATORY NOTE

This legislation requires every Public Telecommunications Entity (PTE) to provide subscribers nationwide with Mobile Number Portability (MNP) to facilitate the easy movement of subscribers from one service provider to another without losing their existing mobile numbers. The ability to retain one's existing mobile number even when switching to another service provider will not only benefit the consumer in terms of the unprecedented convenience of maintaining a "mobile identity". It will spur competition and efficiency between and among PTEs who would have greater incentives to genuinely compete with each other, and to therefore provide the best value for their money. It will likewise encourage technological innovation, stimulate demand for telecommunications and boost economic growth¹ – creating a win-win situation for consumers and PTEs alike.

¹ See <https://www.npac.com/number-portability/what-is-lnp>. Last visited on October 28, 2016.

To be sure, the benefits of MNP to the telecommunications industry as a whole have long been recognized by various other countries, including the following:

MOBILE NUMBER PORTABILITY IN OTHER COUNTRIES²

YEAR	COUNTRY
1995	Singapore
1999	Hong Kong; Netherlands; United Kingdom
2000	Spain; Switzerland
2001	Denmark; Norway; Sweden; Macau
2002	Australia; Belgium; Germany; Italy; Portugal
2003	Finland; France; Ireland; USA; Luxembourg
2004	Greece; South Korea; Austria; Cyprus; Hungary; Iceland; Lithuania
2005	Estonia; Malta; Slovak Republic; Slovenia; Taiwan
2006	Croatia; Czech Republic; Japan; Oman; Poland; Saudi Arabia; South Africa
2007	Canada; Israel; Morocco; New Zealand; Pakistan
2008	Brazil; Bulgaria; Channel Islands; Egypt; Latvia; Macedonia; Malaysia, Mexico; Romania; Turkey
2009	Dominican Republic; Ecuador; Isle of Man
2010	Peru; Thailand
2011	Albania; Colombia; Georgia; Ghana; India; Kenya; Montenegro; Panama; Serbia
2012	Argentina; Bahrain; Belarus; Bosnia & Herzegovina; Cayman Islands; Chile; Gibraltar; Paraguay
2013	Azerbaijan; Bermuda; Cape Verde; Costa Rica; Kuwait; Moldova; Nigeria; Qatar; UAE
2014	Armenia, Honduras; Russia; Sudan
2015	Jamaica; El Salvador; Jamaica; Kazakhstan; Senegal; Tanzania
2016*	Afghanistan; Bangladesh; Cameroon; ECTEL; Iran; Rwanda; Sri Lanka; Trinidad & Tobago; Tunisia; Ukraine
2017*	Afghanistan; Barbados; Haiti; Rwanda; Vietnam

* Implementation underway/In planning

² Mobile Number Portability for PNG: Discussion Paper on Costs and Benefits: A Discussion Paper identifying the costs and benefits of the implementation of mobile number portability in Papua New Guinea as required pursuant to Section 189 of the National Information and Communications Technology Act, 2009. See <http://www.nicta.gov.pg/consultative-papers?task=download&id=242>. Last visited on October 28, 2016.

While there is no law requiring the implementation of MNP in the Philippines, it was reported in July 2005 that the National Telecommunications Commission (NTC) was supposed to have “come up with a proposed set of rules on number portability among fixed line and mobile phone operators.”³ Three years later, in September 2008, then NTC Director for its Common Carriers Authorization Department and now Deputy Commissioner, Edgardo V. Cabarrios, said that the NTC “shelved plans for mobile number portability in the market.” Cabarrios claimed that it was “technically feasible, but not financially viable” as it was “too costly on the part of the subscribers based on the recommendation of the agency’s technical working group.” It was not however clear whether such technical working group had taken submissions from number portability clearinghouses.⁴

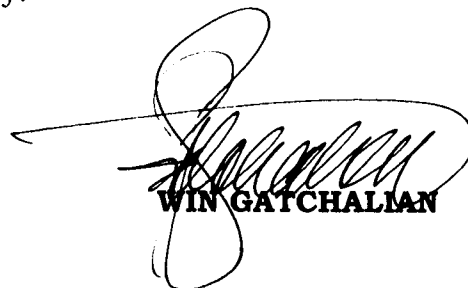
Since then, there has been no further attempt at implementing number portability in the Philippines despite the 8-year interregnum, the multiplier effects of technology and innovation in the telecommunications industry which would have made number portability more viable at present, and the best practices we could learn from other countries which have implemented number portability regardless of the level of economic development.

It is the primary goal of this Act to make MNP a reality in the Philippines. Further, given how one’s mobile number is increasingly critical to establishing and maintaining one’s digital identity and ability to establish relations and transact with other citizens, this Act will also seek to recognize the ability of subscribers to change or switch service providers without losing their mobile numbers as a basic right.

³ See <http://www.philstar.com/business/285543/ntc-prepares-rules-phone-number-portability>. Last visited on October 28, 2016.

⁴ See <http://www.cellular-news.com/story/Regulatory/33392.php>. Last visited on October 28, 2016.

This legislation will “untether the consumers from [their] wireless network,”⁵ making it “easier than ever to cut the cord.”⁶ I urge the immediate approval of this bill and make mobile number portability a reality for every consumer everywhere in the country.

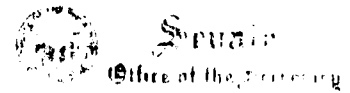


WIN GATCHALIAN

⁵ SEPARATE STATEMENT OF CHAIRMAN MICHAEL K. POWELL Re: In re Telephone Number Portability; CTIA Petitions for Declaratory Ruling on Wireline Wireless Porting Issues; CC Docket No. 95-116. See https://apps.fcc.gov/edocs_public/attachmatch/FCC-03-284A1.pdf. Last visited on October 28, 2016.

⁶ *Ibid.*

SEVENTEENTH CONGRESS OF THE]
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SENATE
S.B. No. 1237

RECEIVED BY: *[Signature]*

Introduced by SEN. WIN GATCHALIAN

**AN ACT
REQUIRING PUBLIC TELECOMMUNICATIONS ENTITIES TO PROVIDE
NATIONWIDE MOBILE NUMBER PORTABILITY TO SUBSCRIBERS**

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

1 **SECTION. 1. Short Title.** – This Act shall be known as the “*Mobile*
2 *Number Portability Act.*”
3

4 **SEC. 2. Declaration of Policy.** – It is the declared policy of the State
5 to recognize the primary role of the private sector as engine of economic
6 growth and guarantees the right of individuals and private groups, including
7 corporations, to own, establish and operate economic enterprises. Along
8 with this recognition, the 1987 Constitution under its provisions on National
9 Economy and Patrimony states that the use of property bears a social
10 function where all economic agents shall contribute to the common good.
11 The right of corporations to own, establish and operate economic enterprises
12 is therefore subject to the duty of the State to intervene when the common
13 good so demands – including the duty to regulate the acquisition,
14 ownership, use and disposition of private property through the regulation or
15 prohibition of monopolies and combinations in restraint of trade or unfair
16 competition.

1 **SEC. 3. Guiding Principles for Implementation.** – This Act declares
2 the following as guiding principles:

3 a. The basic premise behind a nationwide mobile number portability
4 system is to promote competition between and among public
5 telecommunications entities by giving consumers the freedom to choose and
6 to respond to quality, price and other relevant considerations without
7 changing their mobile numbers whenever they change service providers.

8 b. In addition to promoting consumer welfare, mobile number portability
9 is envisioned to provide powerful incentives for public telecommunications
10 entities to compete with each other and to provide consumers with the best
11 overall value that they can offer. It will also foster technological innovation
12 that will stimulate even greater demand for telecommunications products
13 and services and lead to a virtuous cycle of economic growth.

14

15 **SEC. 4. Definition of Terms.** – As used in this Act:

16 a. *Donor Provider* refers to the public telecommunications entity to whose
17 network the mobile number belongs at the time the subscriber makes an
18 application for porting.

19 b. *Mobile Number* refers to the number series assigned by a public
20 telecommunications entity to its postpaid and/or prepaid subscribers.

21 c. *Mobile Number Portability or MNP* refers to the ability of a subscriber,
22 whether postpaid or prepaid, to retain an existing mobile number when
23 moving from one public telecommunications entity to another without
24 impairment of quality, reliability or convenience.

25 d. *Mobile Postpaid Subscriber* refers to any person, natural or juridical,
26 who avails of the mobile telecommunications service under a prior
27 arrangement with a public telecommunications entity. The subscriber is
28 billed after the fact, according to the use of mobile services at the end of the
29 monthly billing cycle.

30 e. *Mobile Prepaid Subscriber* refers to any person, natural or juridical,
31 who avails of the mobile telecommunications service from a public
32 telecommunications entity by purchasing credit in advance of service use.

1 The purchased credit is used to pay for mobile phone services at the point
2 the service is accessed or consumed.

3 f. *Porting Application* refers to an application made by a mobile
4 subscriber to the Recipient Provider to move a mobile number from the
5 Donor Provider.

6 g. *Porting Process* refers to the process by which a subscriber moves a
7 mobile number from a Donor Provider to a Recipient Provider. In no case
8 shall the entire porting process take more than twenty-four (24) hours.

9 h. *Public Telecommunications Entity or PTE* refers to any duly
10 enfranchised and authorized public telecommunications entity that offers
11 voice, short messaging system (SMS or text), mobile data, value added
12 services (VAS) or any other telecommunications services to the public for a
13 fee.

14 i. *Recipient Provider* refers to the public telecommunications entity that
15 will be providing mobile telecommunications service to the subscriber after
16 porting.

17 j. *Subscriber* refers to any person, natural or juridical, who avails of the
18 mobile telecommunications service from a public telecommunications entity.

19
20 **SEC. 5. *Obligation of Public Telecommunications Entities to***
21 ***Provide Mobile Number Portability.*** – It shall be the obligation of every
22 PTE to provide nationwide MNP to all mobile subscribers, whether postpaid
23 or prepaid. In no case, under penalty of law as provided hereunder, shall the
24 benefits of MNP to a mobile subscriber who has decided to switch from one
25 service provider to another be delayed, withheld, refused or otherwise not
26 delivered by more than twenty-four (24) hours from the time such mobile
27 subscriber completes his or her porting application.

28
29 **SEC. 6. *Obligation of Public Telecommunications Entities to Set***
30 ***Up a Mechanism for Mobile Number Portability.*** – Every PTE shall, within
31 the period stated under the implementing rules and regulations of this Act,
32 set up a mechanism for the purpose of implementing MNP. It shall
33 interconnect directly or indirectly with the infrastructure, facilities, systems

1 or equipment of other PTEs and not install network features, functions or
2 capabilities that will impede the implementation of a nationwide MNP
3 system.

4
5 **SEC. 7. *Obligation of the Recipient Provider.*** – The Recipient
6 Provider shall complete the porting process within a period of twenty-four
7 (24) hours from the time of receipt of the mobile number porting application
8 from the subscriber. Within such 24-hour period, it must transmit the
9 mobile number porting application to the Donor Provider for the purpose of
10 clearing the mobile number for porting. Upon notification that the mobile
11 number has been cleared for porting, it shall immediately activate the
12 subscriber’s ported number under its network.

13
14 **SEC. 8. *Obligation of the Donor Provider.*** – The Donor Provider
15 shall, within the same 24-hour period provided under Section 7 of this Act,
16 clear the mobile number for porting. It shall however continue to provide all
17 subscribed telecommunications services to the subscriber until the mobile
18 number has been completely ported to the Recipient Provider. The porting
19 process shall be deemed complete upon the subsequent activation of the
20 mobile number under the network of the Recipient Provider.

21
22 **SEC. 9. *Cost of Mobile Number Portability.*** – Every PTE shall
23 provide mobile number portability to subscribers completely free of charge.

24
25 **SEC. 10. *Penalties.*** – For every failure to comply with, or for every
26 instance of violation of any provision of this Act, the PTE shall pay a fine of
27 Three Hundred Thousand Pesos (₱300,000.00) for the first offense, and a
28 fine of Five Hundred Thousand Pesos (₱500,000.00) for the second offense.
29 In case of a subsequent offense, the penalty shall be a fine of One Million
30 Pesos (₱1,000,000.00) and revocation of the PTE’s franchise to operate.

31
32 **SEC. 11. *Implementing Rules and Regulations (IRR).*** – Within
33 ninety (90) days from the effectivity of this Act, the National

1 Telecommunications Commission, in coordination with other concerned
2 agencies, shall promulgate rules and regulations and other issuances as
3 may be necessary to ensure the effective implementation of this Act.

4 The rules and regulations shall provide an expeditious framework to
5 govern all relevant aspects of MNP including, but not limited to, the
6 following factors: 1) the period of time to be given for PTEs to comply with
7 the provisions of this Act and set up a mechanism for the purpose of
8 implementing nationwide MNP; 2) the specific rights and obligations of the
9 Donor and Recipient Providers, and other parties to the porting process; 3)
10 the coordinated procedure to be followed by each party in processing a
11 mobile number porting application, including the specific time limits given
12 to every party to complete the required steps in the entire porting process
13 which process shall, in no case, exceed twenty-four (24) hours; and, 4) the
14 measures to ensure the least amount of disruption of service to the
15 consumer when implementing mobile number portability.

16
17 **SEC. 12. Separability Clause.** – If any provision of this Act is held
18 invalid or unconstitutional, the other provisions not affected thereby shall
19 remain in full force and effect.

20
21 **SEC. 13. Repealing Clause.** – All laws, decrees, executive orders,
22 proclamations, rules and regulations, and issuances, or parts thereof which
23 are inconsistent with the provisions of this Act, are hereby repealed,
24 amended or modified accordingly.

25
26 **SEC. 14. Effectivity Clause.** – This Act shall take effect fifteen (15)
27 days after its publication in the *Official Gazette* or in at least two (2)
28 newspapers of general circulation.

Approved,