



Senate
Office of the Secretary

25 AUG -7 P1 28

TWENTIETH CONGRESS OF THE
REPUBLIC OF THE PHILIPPINES
First Regular Session

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SENATE

S.B. No. 1096

Introduced by SEN. WIN GATCHALIAN

AN ACT
PROMOTING CONSUMER PROTECTION AND FOSTERING COMPETITION
IN THE TELECOMMUNICATIONS INDUSTRY BY MANDATING THE UNLOCKING
OF MOBILE WIRELESS DEVICES

EXPLANATORY NOTE

Switching to another service provider for improved wireless services and better options is a consumer right which is impaired by public telecommunications entities (PTE) when they lock mobile wireless devices to their respective networks. Such device locking makes it difficult for consumers to take advantage of competitive and better offers available in the market. Although there exist independent services from third parties that unlock the mobile device, this process would normally void its warranty.

Locking does not only deprive consumers the easy movement, using the same device, from their current telecommunications service provider to the one that best fits their needs and preferences, it also limits competition between and among industry players. Through device locking, industry players can reduce subscriber turnover even without improving their services or providing more competitive rates.

While the National Telecommunications Commission (NTC) has mandated the unlocking of mobile phones and devices under Memorandum Circular 01-05-2019 dated May 31, 2019, its applicability is limited to (1) postpaid devices after having complied with the contract period contained in the subscription agreements; and (2) prepaid devices after having complied with usage requirements or agreed terms and conditions.

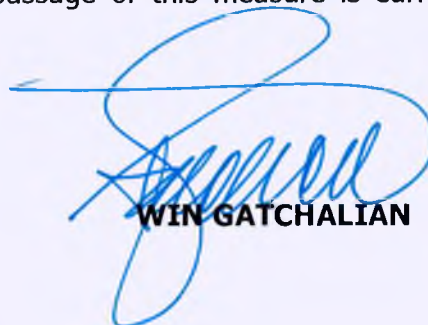
This legislative proposal mandates the unlocking of mobile wireless devices within definitive six- and nine-month periods from the date of purchase of the device. Under this bill, the eligibility of such devices for unlocking does not depend on the imposition of different lock-in periods that unduly binds the consumer to the public telecommunications entity (PTE) that no longer provides quality services.

It also mandates the unlocking of subsidized units or those mobile wireless devices with accompanying subscription contracts before the lapse of the mandated nine-month period, on demand and for a fixed and reasonable unlocking fee without voiding their warranties. This allows consumers to have their devices officially unlocked at any time, without resorting to third parties for unlocking and risking potential warranty issues.

Furthermore, the bill requires every PTE or retailer of mobile wireless devices to provide every consumer sufficient information on (1) official channels for unlocking mobile wireless devices without voiding their warranties; and (2) the manner, method or fee associated with the process of unlocking these devices.

This proposed legislation will contribute to the evolution of a more dynamic marketplace in the telecommunications industry where consumer choice is dictated by quality, price, and best value for money.

In view of the foregoing, the immediate passage of this measure is earnestly sought.



WIN GATCHALIAN

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OF MOBILE WIRELESS DEVICES**

*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 "Unlock My Mobile Act".

2
3 SEC. 2. *Declaration of Policy* – The State recognizes the vital role of information and
4 communications technology in nation-building. Article 2, Title I of Republic Act No. 7394,
5 otherwise known as the "Consumer Act of the Philippines" directs the State to protect the
6 interests of consumers, promote their welfare, and establish the standards of conduct for
7 business and industry. Towards this end, the State shall implement measures to achieve
8 the following objectives: (a) protect the consumer against deceptive, unfair, and
9 unconscionable sales act and practices; and (b) provide information and education to
10 facilitate sound choice and proper exercise of consumer rights.

11
12 SEC. 3. *Definition of Terms.* – As used in this Act, the following terms shall mean:

- 1 a) *Mobile Services Subscription Contract* refers to an agreement between a
2 public telecommunications entity (PTE) and a consumer for a postpaid
3 subscription on the use of such entity's network for wireless communications
4 and other telecommunications services covering a particular period of time.
- 5 b) *Lock-in Period* refers to the duration of the mobile services subscription
6 contract between the PTE and the consumer within which the latter agrees
7 to maintain a monthly postpaid subscription with such entity exclusively.
- 8 c) *Mobile Wireless Device* refers to any wireless telephone handset, tablet, or
9 any other wireless device that operates on a wireless telecommunications
10 network.
- 11 d) *Public Telecommunications Entity or PTE* refers to any duly enfranchised and
12 authorized public telecommunications entity that offers voice, short
13 messaging system (SMS) or text, mobile data, value-added services (VAS),
14 or any other mobile telecommunications services to the public for a fee.

15 SEC. 4. *Mandating the Unlocking of Unsubsidized Mobile Wireless Devices within Six*
16 *Months from Date of Purchase.* – A PTE or retailer of mobile wireless devices may sell
17 such devices as unsubsidized units or without any accompanying mobile services
18 subscription contract while locked to a specific network: *Provided,* That these devices
19 shall be automatically unlocked on or before the sixth month from the date of purchase:
20 *Provided, further,* That it shall be the obligation of the PTE or retailer of mobile wireless
21 devices to provide official channels for unlocking mobile wireless devices without voiding
22 their warranties in accordance with Section 6 of this Act.

23
24 SEC. 5. *Mandating the Unlocking of Subsidized Mobile Wireless Devices within Nine*
25 *Months from Date of Purchase; No Extension of Lock-in Period for Subsidized Devices*
26 *without Prior Approval of the National Telecommunications Commission; Unlocking on-*
27 *Demand; Warranty Coverage.* – A PTE or retailer of mobile wireless devices may sell such
28 devices as subsidized units or with accompanying mobile services subscription contract
29 while locked to a specific network: *Provided,* That the total lock-in period for subsidized

1 devices shall in no case exceed the period of nine (9) months: *Provided, further,* That
2 there shall be no extension of the lock-in period for subsidized devices without prior
3 approval of the National Telecommunications Commission (NTC): *Provided, furthermore,*
4 That after the completion of the lock-in period or upon full payment of the device, the
5 PTE shall unlock the device, or give the consumer the means to unlock the same, on-
6 demand, and completely free of charge: *Provided, finally,* That before the completion of
7 the lock-in period, the PTE shall unlock the device, or give the consumer the means to
8 unlock the same, on-demand, and for a fixed and reasonable unlocking fee.

9 Mobile wireless devices that have been unlocked under this Section shall continue
10 to be covered by their respective warranties.

11
12 SEC. 6. *Obligation of Public Telecommunications Entities or Retailers to Provide*
13 *Official Channels for Unlocking Mobile Wireless Devices Without Voiding Warranties.* –
14 Every PTE or retailer of mobile wireless devices shall, following the terms and conditions
15 under the implementing rules and regulations of this Act, provide official channels for
16 unlocking mobile wireless devices without voiding their warranties.

17 For purposes of transparency, sufficient information on the manner, method or fee
18 associated with the process of unlocking these devices shall be provided to every
19 consumer, stipulated in writing, and made an integral part of the mobile services
20 subscription contract.

21
22 SEC. 7. *Administrative Penalties.* – For every failure to comply with or for every
23 instance of violation of any provision of this Act, the PTE shall pay a fine of not less than
24 One Hundred Thousand Pesos (Php 100,000.00) but not more than Three Hundred
25 Thousand Pesos (Php 300,000.00) for the first offense, and a fine of not less than Four
26 Hundred Thousand Pesos (Php 400,000.00) but not more than Six Hundred Thousand
27 Pesos (Php 600,000.00) for the second offense. In case of a subsequent offense, the
28 penalty shall be a fine of not less than Seven Hundred Thousand Pesos (Php 700,000.00)
29 but not more than One Million Pesos (Php 1,000,000.00) and revocation of the PTE's
30 license to operate.

1 SEC. 8. *Implementing Rules and Regulations.* – The NTC, in coordination with the
2 Department of Trade and Industry (DTI), the Department of Information and
3 Communications Technology (DICT), the Philippine Competition Commission (PCC), and
4 other concerned agencies shall, within sixty (60) days from the effectivity of this Act,
5 promulgate and submit the implementing rules and regulations (IRR) for its effective
6 implementation. The IRR shall not preclude the NTC from issuing subsequent circulars,
7 rules and regulations to make the unlocking process more convenient for the consumer.
8

9 SEC. 9. *Transitory Provisions.* – Existing business services and products affected by
10 the implementation of this Act shall be given a six (6)-month transitory period from the
11 effectivity of the IRR to comply with the requirements of this Act.
12

13 SEC. 10. *Separability Clause.* – If for any reason, any part or provision of this Act is
14 declared invalid or unconstitutional, the remaining parts or provisions not affected shall
15 remain in full force and effect.
16

17 SEC. 11. *Repealing Clause.* – All laws, presidential decrees, executive orders, rules
18 and regulations contrary to or inconsistent with the provisions of this Act are hereby
19 repealed or modified accordingly.
20

21 SEC. 12. *Effectivity.* – This Act shall take effect fifteen (15) days after its publication
22 in the Official Gazette or in any newspaper of general circulation.

Approved,