

SEVENTEENTH CONGRESS OF THE )  
REPUBLIC OF THE PHILIPPINES )  
*Second Regular Session* )

SENATE

S.B. No. 1643

18 JAN -9 P6:16

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Introduced by SEN. WIN GATCHALIAN

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**AN ACT**  
**PROMOTING CONSUMER PROTECTION AND FOSTERING**  
**COMPETITION IN THE TELECOMMUNICATIONS INDUSTRY BY**  
**PROHIBITING THE LOCKING OF MOBILE WIRELESS DEVICES TO A**  
**PUBLIC TELECOMMUNICATIONS ENTITY**

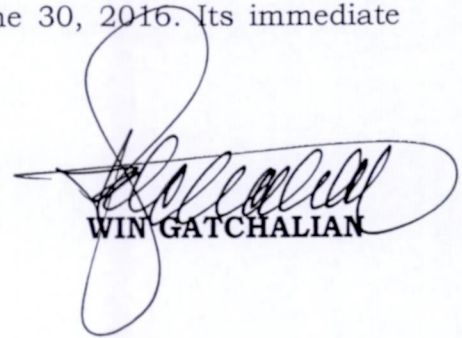
**EXPLANATORY NOTE**

Switching to another service provider for improved wireless services and better options is a consumer right which is negated by public telecommunications entities when they lock 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 devices or services from third parties that unlock the mobile device, this process would normally void its warranty.

This legislation prohibits public telecommunications entities from locking their mobile devices, whether sold as a unit or issued under a mobile communications service contract, to their respective networks. Network locking does not only deprive consumers the easy movement – using the same device – from one public telecommunications entity to the one that best fits their needs. It limits competition between and among industry players who may be able to reduce subscriber turnover by using

device locking as a deterrent, or even an irritant, to subscribers from switching providers. This bill will contribute to the evolution of a truly dynamic marketplace in the telecommunications industry where consumer choice is dictated by quality, price and best value for money.

This is a Senate counterpart bill to House Bill No. 22 filed by Representative Francis Gerald A. Abaya on June 30, 2016. Its immediate approval is earnestly sought.



WIN GATCHALIAN

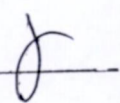
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*Be it enacted by the Senate and the House of Representatives of the Philippines in Congress assembled:*

1       **SECTION. 1. Short Title.** – This Act shall be known as the “*Network*  
2 *Freedom Act*”.

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

14

15       **SEC. 3. Definition of Terms.** – As used in this Act:

- 1 a. *Mobile Communications Service Contract* refers to an agreement  
2 between a public telecommunications entity and a consumer for a  
3 postpaid subscription on the use of such entity's network facilities  
4 for wireless communications and other internet applications  
5 services covering a particular period of time. Such contract may  
6 include the provision of a mobile communications device or devices  
7 free of charge upon the condition that the consumer shall maintain  
8 its subscription with the public telecommunications entity over a  
9 period of time which is otherwise called as the "lock-in period".
- 10 b. *Lock-in Period* refers to the duration of the mobile communications  
11 service contract between the public telecommunications entity and  
12 the consumer within which the latter agrees to exclusively  
13 maintain a monthly postpaid subscription with such entity.
- 14 c. *Mobile Wireless Device* refers to any wireless telephone handset,  
15 wireless device, or any other device that operates on a wireless  
16 telecommunications network.
- 17 d. *Public Telecommunications Entity or PTE* refers to any duly  
18 enfranchised and authorized public telecommunications entity that  
19 offers voice, short messaging system (SMS or text), mobile data,  
20 value added services (VAS) or any other telecommunications  
21 services to the public for a fee.

22

23 **SEC. 4. Prohibition Against Locking Mobile Wireless Devices to a**  
24 **Public Telecommunications Entity.** – A public telecommunications entity  
25 shall be prohibited from locking mobile wireless devices to its network,  
26 whether such device is sold as a unit or issued under a mobile  
27 communications service contract.

28

29 **SEC. 5. Penalties.** – For every failure to comply with, or for every  
30 instance of violation of any provision of this Act, the PTE shall pay a fine of  
31 not less than One Hundred Thousand Pesos (₱100,000.00) up to Three  
32 Hundred Thousand Pesos (₱300,000.00) for the first offense, and a fine of

1 not less than Four Hundred Thousand Pesos (P400,000.00) up to Six  
2 Hundred Thousand Pesos (P600,000.00) for the second offense. In case of a  
3 subsequent offense, the penalty shall be a fine of not less than Seven  
4 Hundred Thousand Pesos (P700,000.00) up to One Million Pesos  
5 (P1,000,000.00) and revocation of the PTE's franchise to operate.

6  
7 **SEC. 6. Implementing Rules and Regulations.** – The Department of  
8 Trade and Industry, in coordination with the National Telecommunications  
9 Commission, the Department of Information and Communications  
10 Technology, the Philippine Competition Commission, and other concerned  
11 agencies shall, within (90) days from the effectivity of this Act, promulgate  
12 and submit the implementing rules and regulations (IRR) for the effective  
13 implementation of this Act.

14  
15 **SEC. 7. Separability Clause.** – If any provision of this Act is held  
16 invalid or unconstitutional, the other provisions not affected thereby shall  
17 remain in full force and effect.

18  
19 **SEC. 8. Repealing Clause.** – All laws, decrees, executive orders,  
20 proclamations, rules and regulations, and issuances, or parts thereof which  
21 are inconsistent with the provisions of this Act, are hereby repealed,  
22 amended or modified accordingly.

23  
24 **SEC. 9. Effectivity Clause.** – This Act shall take effect fifteen (15)  
25 days after its publication in the *Official Gazette* or in at least two (2)  
26 newspapers of general circulation.

27  
28 Approved,