

**EIGHTEENTH CONGRESS OF THE
REPUBLIC OF THE PHILIPPINES**
First Regular Session

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SENATE

S.B. No. 170

RECEIVED

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 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 devices or 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 who are able to reduce subscriber turnover by using device locking as a deterrent, or even an irritant, to subscribers from switching providers.

While the National Telecommunications Commission 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.

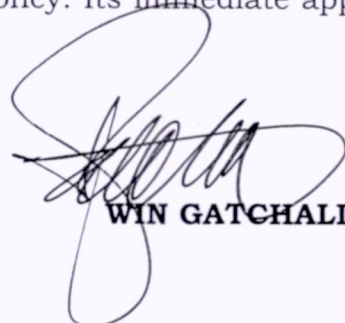
This legislative proposal mandates the unlocking of mobile wireless devices within **definitive** six- and nine-month periods from the date of purchase of the device. Under this bill, the eligibility of such devices for unlocking does not depend on the imposition of different lock-in periods that unduly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

It also mandates 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 effectively have their devices officially unlocked at any time without having to resort to third parties for unlocking and risking possible warranty issues.

Furthermore, the bill requires every public telecommunications entity 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.

Existing business services and products affected by the implementation of this Act are given six (6) months transitory period from the effectivity of the implementing rules and regulations to comply with its requirements.

This 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. Its immediate approval is earnestly sought.




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

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

30
31 Sec. 5. *Mandating the Unlocking of Subsidized Mobile Wireless Devices*
32 *within Nine Months from Date of Purchase; No Extension of Lock-in Period for*
33 *Subsidized Devices without Prior Approval of the National Telecommunications*

1 *Commission; Unlocking on-Demand; Warranty Coverage.* – A PTE or retailer of
2 mobile wireless devices may sell such devices as subsidized units or with
3 accompanying mobile services subscription contract while locked to a
4 specific network: *Provided*, That the total lock-in period for subsidized
5 devices shall in no case exceed the period of nine (9) months: *Provided*,
6 *further*, That there shall be no extension of the lock-in period for subsidized
7 devices without prior approval of the National Telecommunications
8 Commission: *Provided, furthermore*, That after the completion of the lock-in
9 period or upon full payment of the device, the PTE shall unlock the device,
10 or give the consumer the means to unlock the same, on-demand, and
11 completely free of charge: *Provided, finally*, That before the completion of the
12 lock-in period, the PTE shall unlock the device, or give the consumer the
13 means to unlock the same, on-demand, and for a fixed and reasonable
14 unlocking fee.

15 Mobile wireless devices that have been unlocked under this section
16 shall continue to be covered by their respective warranties.

17
18 *Sec. 6. Obligation of Public Telecommunications Entities or Retailers to*
19 *Provide Official Channels for Unlocking Mobile Wireless Devices Without*
20 *Voiding Warranties.* – Every PTE or retailer of mobile wireless devices shall,
21 following the terms and conditions under the implementing rules and
22 regulations of this Act, provide official channels for unlocking mobile
23 wireless devices without voiding their warranties.

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

28
29 *Sec. 7. Administrative Penalties.* – For every failure to comply with, or
30 for every instance of violation of any provision of this Act, the PTE shall pay
31 a fine of not less than One Hundred Thousand Pesos (₱100,000.00) up to
32 Three Hundred Thousand Pesos (₱300,000.00) for the first offense, and a
33 fine of not less than Four Hundred Thousand Pesos (₱400,000.00) up to Six

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

5
6 Sec. 8. *Implementing Rules and Regulations.* – The National
7 Telecommunications Commission, in coordination with the Department of
8 Trade and Industry, the Department of Information and Communications
9 Technology, the Philippine Competition Commission, and other concerned
10 agencies shall, within sixty (60) days from the effectivity of this Act,
11 promulgate and submit the implementing rules and regulations (IRR) for its
12 effective implementation. The IRR shall not preclude the NTC from issuing
13 subsequent circulars, rules and regulations to make the unlocking process
14 more convenient for the consumer.

15
16 Sec. 9. *Transitory Provision.* – Existing business services and products
17 affected by the implementation of this Act shall be given six (6) months
18 transitory period from the effectivity of the IRR to comply with the
19 requirements of this Act.

20
21 Sec. 10. *Separability Clause.* – If any provision of this Act is held
22 invalid or unconstitutional, the other provisions not affected thereby shall
23 remain in full force and effect.

24
25 Sec. 11. *Repealing Clause.* – All laws, decrees, executive orders,
26 proclamations, rules and regulations, and issuances, or parts thereof which
27 are inconsistent with the provisions of this Act, are hereby repealed,
28 amended, or modified accordingly.

29
30 Sec. 12. *Effectivity Clause.* – This Act shall take effect fifteen (15) days
31 after its publication in the *Official Gazette* or in any newspaper of general
32 circulation.

33 Approved,