



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

'22 JUL 25 A10 :47

RECEIVED BY: _____

SENATE

S.B. No. 809

Introduced by SEN. WIN GATCHALIAN

**AN ACT
PROHIBITING ALL PUBLIC TELECOMMUNICATIONS ENTITIES AND
INFORMATION AND COMMUNICATIONS TECHNOLOGY PROVIDERS FROM
IMPOSING AN EXPIRATION PERIOD ON THE VALIDITY OF PREPAID LOAD
CREDITS AND THEIR FORFEITURE**

EXPLANATORY NOTE

This legislation seeks to make the expiration and forfeiture of all denominations of prepaid load credits a thing of the past. It will have an impact on **153,143,696** prepaid subscribers as of March 2022 – that is **97.1%** of the total number of mobile subscribers¹ in the country as of the first quarter of 2022 – who stand to lose their hard-earned prepaid load credits due to non-use before the expiration period.

1

	Globe*	PLDT**	TOTAL
POSTPAID	2,508,180	2,055,653 of which: Smart: 1,584,121 Sun: 471,532	4,563,833 (2.9%)
PREPAID	84,919,678 of which: Globe: 43,286,370 TM: 41,633,308	68,224,018 of which: Smart: 26,229,708 TNT: 41,994,310	153,143,696 (97.1%)
Q1 2022 TOTAL Mobile Subscribers***	87,427,858	70,279,671	157,707,529 (100.0%)

* Globe Telecom Inc. and PLDT Inc. SEC Form 17-Q 2022 (March 31, 2022)

The National Telecommunications Commission (NTC)², the Department of Information and Communications Technology (DICT)³, and the Department of Trade and Industry (DTI)⁴, pursuant to their respective mandates, signed on December 20, 2017 Joint Memorandum Circular No. 05-12-2017.⁵ It prescribed the validity of prepaid load credits of all information and communications technology (ICT) providers and public telecommunications entities (PTEs) with a denomination of PhP300 and above to one year effective last January 5, 2018. The following were excluded from its coverage: (1) prepaid loads purchased for promos; and (2) bucket of services with specific period of use duly approved by the DTI and/or the NTC.

The 2017 circular amended Memorandum Circular No. 03-07-2009⁶ which provided for the expiration periods of prepaid loads depending on the amount of credits purchased. Prepaid loads with higher value had longer expiration or validity period. This system was based on an analysis conducted in 2009 involving 75.57 million prepaid subscribers with the corresponding carrying cost per prepaid subscriber of around PhP3 per day.⁷ As more than 90% of the costs of the networks are fixed, the carrying cost per subscriber decreases as the subscribers multiply.⁸

Ten years after the 2009 study, the number of prepaid subscribers has almost doubled from around 75 million to the present 153 million – a clear indication of how the prepaid call and text industry has immensely penetrated the everyday lives of Philippine consumers – making prepaid load an essential commodity. Sustaining a scheme that imposes the expiration of prepaid credits that were purchased by the consumers' hard-earned money forces them to consume their prepaid load, albeit unnecessarily, to get the full value of the credits or risk forfeiture and be left with zero load⁹ – a waste of the prepaid subscriber's money; an income for the PTE and the ICT provider.

*** Covers phone and broadband subscribers.

² Republic Act No. 7925, otherwise known as the Public Telecommunications Policy Act of the Philippines.

³ Republic Act No. 10884, otherwise known as the Department of Information and Communications Technology Act of 2015.

⁴ Republic Act No. 7394, otherwise known as the Consumer Act of the Philippines.

⁵ Prescribing a One (1) Year Expiration Period for Prepaid Loads.

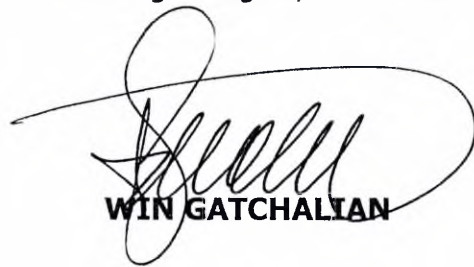
⁶ Otherwise known as Guidelines on Prepaid Loads, dated July 3, 2009.

⁷ NTC-DICT-DTI Joint Memorandum Circular No. 05-12-2017.

⁸ *Ibid.*

⁹ <http://www.congress.gov.ph/press/details.php?pressid=10516>

This bill thus makes it a prohibited act to impose an expiration period on the validity of all denominations of prepaid load credits – whether purchased via prepaid card or electronic load – and the eventual forfeiture of such credits on an active prepaid account. Every peso spent by the consumer to purchase prepaid load credits must be usable until fully consumed. In protecting the consumer’s every single peso, the telecommunications industry will help in enabling the mobile economy bring the rapid technological changes and benefits of the digital revolution within the reach of the poor and disadvantaged, thereby creating prosperous and inclusive societies. I hope that this legislation will be an instrument in realizing this goal, and I earnestly seek for its immediate approval.



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

1 SECTION 1. *Title.* – This Act shall be known as the “*Prepaid Load Forever Act.*”

2
3 SEC. 2. *Declaration of Policy.* – It is hereby declared the policy of the State to
4 recognize the vital role of information and communications technology in nation-
5 building. It likewise recognizes the primary role of the private sector as an engine of
6 economic growth and guarantees the right of individuals and private entities to own,
7 establish, and operate economic enterprises. However, as the Constitution provides
8 that the use of property bears a social function, the right of private entities is subject
9 to the duty of the State to intervene when the common good so requires – including
10 protecting the interest of consumers, promoting their general welfare, and
11 establishing standards of conduct of business and industry. Towards this end, the
12 State shall implement measures to protect the consumer against unfair and

1 unconscionable sales acts and practices, and provide information and education to
2 facilitate sound choice and proper exercise of consumer rights.

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

- 5 a. *Active Prepaid Account* refers to a number with any activity involving voice,
6 short messaging system (SMS) or text, mobile data, value added services
7 (VAS), or any other telecommunications service;
- 8 b. *Dormant Prepaid Account* refers to a number without any activity involving
9 voice, short messaging system (SMS) or text, mobile data, value added
10 services (VAS), or any other telecommunications service within a period of
11 one year;
- 12 c. *Information and Communications Technology* or *ICT* refers to the totality
13 of electronic means to access, create, collect, store, process, receive,
14 transmit, present, and disseminate information;
- 15 d. *Information and Communications Technology* or *ICT Provider* refers to any
16 entity in the ICT sector, which includes telecommunications and broadcast
17 information operators, ICT equipment manufacturers, multimedia content
18 developers and providers, ICT solution providers, internet service providers,
19 ICT training institutions, software developers, and ICT-ES providers;
- 20 e. *Prepaid* refers to the type of account that requires its owners to purchase
21 load credits before telecommunications services can be used;
- 22 f. *Prepaid Load Credit* refers to the monetary value or the consumable amount
23 loaded via prepaid card or electronic load to a device that enables a
24 subscriber to use telecommunications services;
- 25 g. *Prepaid Subscriber* refers to any person, natural or juridical, who avails of
26 telecommunications services from a public telecommunications entity
27 and/or information and communications technology provider by purchasing
28 credit in advance of service use. The purchased credit is used to pay for

1 telecommunications services at the point the service is accessed or
2 consumed;

3 h. *Public Telecommunications Entity* or *PTE* refers to any duly authorized
4 public telecommunications entity that offers voice, short messaging system
5 (SMS) or text, mobile data, value added services (VAS), or any other
6 telecommunications services to the public for a fee; and

7 i. *Telecommunications* refers to any process which enables a
8 telecommunications entity to relay and receive voice, data, electronic
9 messages, written or printed matter, fixed or moving pictures, words, music
10 or visible or audible signals, or any control signals of any design and for any
11 purpose by wire, radio, or other electromagnetic, spectral, optical, or
12 technological means.

13
14 SEC. 4. *Prohibited Acts.* – The following shall constitute prohibited acts of any
15 PTE or ICT provider and are hereby declared to be unlawful:

- 16 a. Imposition of an expiration period on the validity of unused prepaid load
17 credits, whether purchased via prepaid card or electronic load;
18 b. Forfeiture of such prepaid load credits on an active prepaid account, save
19 for the purpose of availing of the mobile number portability service; and
20 c. Refusal to give a refund to any prepaid subscriber whose load credits were
21 forfeited without any valid cause.

22 In view of paragraph b, a prepaid account that has become dormant shall be
23 deducted one peso for every day of inactivity from its remaining load credits until such
24 credits are fully consumed.

25
26 SEC. 5. *Penal Provision.* – Any director, officer, employee, or agent of a PTE or
27 ICT provider providing prepaid telecommunications services who shall violate any of
28 the acts mentioned under Sec. 4 hereof shall, upon conviction, be subject to the
29 penalty of a fine of not less than One Hundred Thousand Pesos (PhP100,000.00) but

1 not to exceed One Million Pesos (PhP1,000,000.00) or imprisonment of not less than
2 two (2) years but not more than six (6) years, or both, upon the discretion of the
3 court.

4 If the violation was committed by or in the interest of a juridical person duly
5 licensed to engage in business in the Philippines, the following penalties shall be
6 imposed:

- 7 a. First offense – a fine of Five Hundred Thousand Pesos (PhP500,000.00);
- 8 b. Second offense – a fine of One Million Pesos (PhP1,000,000.00) plus
9 suspension of license to engage in business for a period of thirty (30) days;
10 and
- 11 c. Third offense – a fine of Two Million Pesos (PhP2,000,000.00) plus
12 immediate revocation of license to engage in business.

13
14 *SEC. 6. Implementing Rules and Regulations (IRR).* – Within ninety (90) days
15 from the effectivity of this Act, the National Telecommunications Commission shall
16 coordinate with the Department of Information and Communications Technology and
17 the Department of Trade and Industry to promulgate rules and regulations and other
18 issuances as may be necessary to ensure the effective implementation of this Act,
19 including the issuance of proper and adequate information dissemination of its
20 contents and benefits to the general public.

21 The IRR issued pursuant to this Act shall take effect fifteen (15) days after its
22 publication in a newspaper of general circulation.

23
24 *SEC. 7. Separability Clause.* – If any provision of this Act is held invalid or
25 unconstitutional, the other provisions not affected thereby shall remain in full force
26 and effect.

27

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

4

5 SEC. 9. *Effectivity.* – This Act shall take effect fifteen (15) days after its
6 publication in the Official Gazette or in any newspaper of general circulation in the
7 Philippines.

Approved,