Republic of the Philippines
HOUSE OF REPRESENTATIVES
Quezon City, Metro Manila

EIGHTEENTH CONGRESS
1st Regular Session

House Bill No. 654

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Introduced by Hon. Francis Gerald Aguinaldo Abaya

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EXPLANATORY NOTE

The practice by mobile phone and data service providers in locking devices as part of a wireless contract is one of the most significant sources of consumer frustration with wireless services.

Although independent devices or services from third parties that unlock the mobile device exist, these processes would normally void the warranty of the mobile device. Device locking makes it difficult for consumers to take advantage of the competitive offers available in the market. Furthermore, it limits the ability of the consumers to avoid roaming charges while travelling abroad, because it prevents them from using another service provider's services.

This bill proposes to allow consumers to request for the unlocking of their devices, for free, or for a reasonable fee. In the end, it seeks to contribute to a more dynamic marketplace by promoting consumer choice and wireless competition.

In view of the above, the immediate passage of this bill is sought.

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FRANCIS GERALD AGUINALDO ABAYA
Representative, First District, Cavite
Republic of the Philippines
HOUSE OF REPRESENTATIVES
Quezon City

EIGHTEENTH CONGRESS
First Regular Session

House Bill No. 654

Introduced by Hon. Francis Gerald Aguinaldo Abaya

AN ACT PROMOTING CONSUMER PROTECTION ON THE PURCHASE OF MOBILE COMMUNICATION DEVICES BY ALLOWING CONSUMERS TO UNLOCK THE MOBILE WIRELESS DEVICES PRIOR TO THE EXPIRATION OF THE LOCK-IN PERIOD UNDER THE MOBILE COMMUNICATION SERVICE CONTRACT

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

SECTION 1. Short Title. — This Act shall be known as the “Consumer Protection on Mobile Communication Service Contract”.

SECTION 2. Declaration of Policy. — The State recognizes the vital role of information and communications technology in nation building, and consistent with the provisions of Article 2, Title I of the Consumer Act of the Philippines, the State shall protect the interests of the consumer, promote the general welfare and establish standards of conduct for business and industry. Towards this end, the State shall implement measures to achieve the following objectives:

(a) Protection against deceptive, unfair and unconscionable sales acts and practices; and

(b) Provision of information and education to facilitate sound choice and the proper exercise of rights by the consumer.

SECTION 3. Definition of Terms. — As used in this Act: and

(a) Mobile communication service contract refers to an agreement between a mobile communication and data network service provider and a consumer for a post-paid subscription on the use of the provider’s network facilities for wireless communications and other internet applications services covering a particular period of time. Such contract may include the provision of mobile communication device or devices free of charge upon the condition that the consumer shall maintain its subscription with the service provider over a period of time otherwise known as the “lock-
in period"; and

(b) Lock-in period refers to the term of the contract between the service provider
and the consumer wherein the latter must maintain monthly subscription at an agreed
period to the exclusion of other service providers.

SECTION 4. Prohibition against Lock-in Period Provision in Mobile
Communication Service Contract. – A mobile communication and data network
service provider that provides a locked device to the consumer, as part of a subscription
contract, shall:

(a) For subsidized devices, unlock the communication device or give consumers
the means to unlock the device at the rate provided by the service provider or any of its
designated service agent, upon request prior to the expiration of the lock-in period of the
device. After the lock-in period, unlocking of the device shall be free and automatic; and

(b) For unsubsidized devices, unlock the device upon purchase.

SECTION 5. Penalties. – Any violation of the provisions of this Act shall be
punished with a fine ranging from five thousand pesos (P5,000.00) to five hundred
thousand pesos (P500,000.00), at the discretion of the court. An additional penalty of
suspension of its operation shall likewise be imposed on any dealer, retailer, or seller
who fails to comply with the provisions of this Act.

SECTION 6. Implementing Rules and Regulations. – The Department of Trade
and Industry (DTI) in coordination with the National Telecommunications Commission
(NTC) and other concerned agencies shall, within ninety (90) days from the effectivity of
this Act, promulgate the implementing rules and regulations (IRR) for the effective
implementation of this Act.

SECTION 7. Separability Clause. – If any provision or part hereof is held invalid
or unconstitutional, the other provisions not otherwise affected shall remain valid and
subsisting.

SECTION 8. Repealing Clause. – All laws, decrees, issuances, orders, letters of
instruction, rules and regulations or portions thereof contrary to or inconsistent with any
of the provisions of this Act are hereby repealed, modified, or amended accordingly.

SECTION 9. Effectivity. – This Act shall take effect fifteen (15) days after its
publication in the Official Gazette or in two (2) newspapers of general circulation.

Approved,