



NTC-DICT-DTI JOINT MEMORANDUM CIRCULAR
No. 05-12-2017

**SUBJECT: PRESCRIBING A ONE (1) YEAR EXPIRATION PERIOD
 FOR PREPAID LOADS**

WHEREAS, the 1987 Constitution recognizes the vital role of communication and information in nation-building;

WHEREAS, pursuant to Republic Act No. 7925, or otherwise known as the *Public Telecommunications Policy Act of the Philippines*, the National Telecommunications Commission (NTC) is the agency mandated to promote consumer welfare by facilitating access to telecommunications services whose infrastructure and network must be geared towards the needs of individual and business users;

WHEREAS, RA 7925 further states that a healthy competitive environment shall be fostered, one in which telecommunications carriers are free to make business decisions and interact with one another in providing telecommunications services, with the end in view of encouraging their financial viability while maintaining affordable rates”;

WHEREAS, pursuant to Republic Act No. 10884, otherwise known as the *Department of Information and Communications Technology Act of 2015*, the Department of Information and Communications Technology (DICT) is the agency mandated to formulate, recommend and implement national policies, plans, programs and guidelines that will promote the development and use of Information and Communications Technology with due consideration to the advantages of convergence and emerging technologies;

WHEREAS, pursuant to Republic Act No. 7394, otherwise known as the Consumer Act of the Philippines, the Department of Trade and Industry (DTI) is the agency mandated to protect the consumers against deceptive, unfair and unconscionable sales acts or practices and from misleading advertisements and fraudulent sales promotions, other than those falling under the jurisdiction of the Department of Health;

WHEREAS, pursuant to its mandate, NTC issued Memorandum Circular No. 03-07-2009 or otherwise known as the *Guidelines on Prepaid Loads* which provides for the expiration periods of prepaid loads depending on the amount of the loads;

WHEREAS, there is a need to amend Memorandum Circular No. 03-07-2009 because based on analysis conducted in 2009 when the number of subscribers was 75.57 million, the carrying cost per prepaid subscriber was around PHP3.00 per day;

WHEREAS, more than 90% of the costs of the networks are fixed, the carrying cost per subscriber decreases as the number of subscribers increases;

WHEREAS, as of end December 2016 there were around 130 million cellphone subscribers;

NOW, THEREFORE, pursuant to existing laws, and to afford subscribers more time to use their loads, the NTC, DICT and DTI hereby promulgate the following regulatory guidelines:

SECTION 1. Definition of Terms. For the purposes of this Regulation, the following terms shall be defined as follows:

- a. *Bucket of services* is a unit of storage to include an array of services such as but not limited to calls, SMS, internet/data or content that are purchased by a subscriber for a specific volume, value and/or duration.
- b. *ICT or Information and Communications Technology* means the totality of electronic means to access, create, collect, store, process, receive, transmit, present and disseminate information;
- c. *ICT Provider*- refers to any entity in the ICT Sector, which includes telecommunications and broadcast information operators, ICT equipment manufacturers, multimedia content developers and providers, ICT solution providers, internet service providers, ICT training institutions, software developers and ICT-ES providers;
- d. *ICT Sector*- refers to the industry engaged in providing goods and services primarily intended to fulfill or enable the function of information processing and communication by electronic means;
- e. *One (1) year*- shall consist of three hundred sixty-five days (365).
- f. *Prepaid service* is a service enabling subscribers to avail of telecommunications services through various means such as top up from prepay cards featuring a mobile refill service or through electronic reloading.
- g. *Promotions* refer to the entire set of activities, which communicate the product, brand or service to make people aware, attract or induce to buy the product, in preference over others by offering during a limited time discounts and/or cheaper rates of telecommunications services.
- h. *Public telecommunications entity* is any person, firm, partnership or corporation, government or private, engaged in the provision of telecommunications services to the public for compensation.
- i. *Telecommunications* refers to any process which enables a telecommunications entity to relay and receive voice, data, electronic messages, written or printed matter, fixed or moving pictures, words, music or visible or audible signals or any control signals of any design and for any purpose by wire, radio or other electromagnetic, spectral, optical or technological means; and
- j. *Top-up* refers to the adding of credit value to enable a subscriber to a prepaid telecommunications service, such as to make calls, send SMS and or internet/data.

SECTION 2. Scope. This Memorandum Circular shall cover all prepaid loads of all ICT providers and public telecommunications entities.

SECTION 3. Expiration of Prepaid Load. Prepaid loads of whatever amount shall expire one (1) year from date of top-up of prepaid loads.

The one (1) year validity of the prepaid loads shall be reckoned from the date of the latest top-up.

Public telecommunications entities may offer longer validity or expiry period for prepaid loads.

SECTION 4. Exclusion. Prepaid loads purchased for promos and bucket of services with specific period of use duly approved by the Department of Trade and Industry (DTI) and/or the National Telecommunications Commission (NTC) shall be excluded from the coverage of this Memorandum Circular.

SECTION 5. Violations and Penalties. All violations of this Memorandum Circular on the period of expiry for prepaid loads shall be penalized in accordance with the pertinent provisions of the Public Telecommunications Policy Act of the Philippines, the DICT Act of 2015, their IRR, and other relevant laws, rules and regulations of the NTC and DICT.

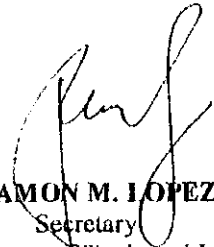
All violations on False, deceptive and misleading advertisement and promotions on prepaid load and buckets of services shall be penalized in accordance with the pertinent provisions of the *Consumer Act of the Philippines*, its IRR, and other relevant laws, rules and regulations of the DTI.

SECTION 6. Repealing Clause. All rules and regulations of the DTI, NTC, and DICT not consistent with this Order are hereby repealed or amended accordingly.

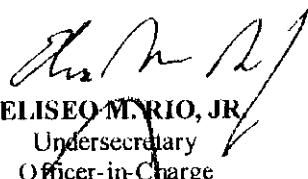
SECTION 7. Separability Clause. Any circular, memorandum, order, guidelines, rules or any parts thereof inconsistent herewith are considered superseded or amended.

SECTION 8. Effectivity. This Circular shall take effect fifteen (15) days after publication in a newspaper of general circulation and three (3) certified true copies are furnished the UP Law Center.

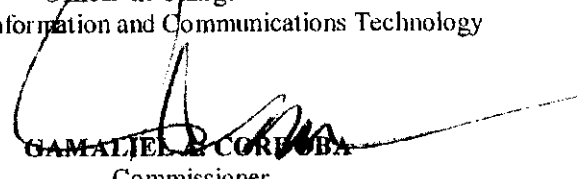
Quezon City, Philippines 20 December 2017



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