

MEMORANDUM CIRCULAR

No. 08-08-2004A

SUBJECT: ADDITIONAL RULES AND REGULATIONS ON THE PURCHASE, SALE, LEASE AND/OR RETAIL OF MOBILE PHONES

Pursuant to the provisions of the Radio Control Law, Act No. 3846, as amended, Executive Order No. 546, and Republic Act 7925, MC 08-08-2004 is hereby amended, the full text shall now be promulgated as MC 08-08-2004A, as follows:

1. PURPOSE

The primary purpose of this Circular is to enable the NTC to monitor and effectively regulate the purchase, sale, lease and/or retail of mobile phone units, parts and accessories thereof, in the interest of the public.

2. DEFINITION OF TERMS

- 2.1 Commission – National Telecommunications Commission.
- 2.2 Mobile phone – a handheld radio communications device employing cellular mobile telephone system (CMTS) and similar technologies, popularly referred to as cellular phones or cell phones, capable of transmitting and receiving voice, data and other multimedia services by means of radio waves.
- 2.3 Mobile Phone Supplier/Distributor (MPSD) – a person or entity accredited by the Commission to engage in the importation of mobile phones, including parts and accessories thereof from manufacturers and in the sale/distribution thereof to mobile phone dealers.
- 2.4 Mobile Phone Dealer (MPD) – a person or entity authorized by the Commission to purchase mobile phones, locally, including parts and accessories thereof from mobile phone supplier/distributor and engage in the sale to end users/customers. An MPD may put up as many branches which shall pay the corresponding permit fees as provided for herein below.
- 2.5 Mobile Phone Retailer/Reseller (MPRR) – a person or entity registered with the Commission to buy mobile phones, including parts and accessories

thereof from mobile phone dealer and engages in a limited scale in the buy and sell to end users/customers for a limited period.

3. GENERAL PROVISIONS

- 3.1 No person shall engage in the business of a MPD, MPSD and MPRR without first securing the necessary accreditation/permit/registration certificate from the Commission.
- 3.2 No MPD and MPRR shall keep on stock mobile phones which are illegally acquired, and/or without NTC type-approval/type acceptance labels/stickers on the mobile phones.
- 3.3 MPD and MPRR shall register with the Commission all their available mobile phone units in their stock and/or possession by submitting the list of its International Mobile Equipment Identity (IMEI) code on a monthly basis. Likewise, they shall also submit a list of all available subscriber identification module (SIM) numbers in their stock and/or possession.
- 3.4 The Regional Offices of the Commission shall furnish the Telecommunication Planning and Development Department (TPDD), this Commission of all monthly sales and stock report submitted by authorized MPD.
- 3.5 All applicants to become authorized MPD, MPSD and MPRR shall apply and secure the required accreditation/permit or registration from the Commission.
- 3.6 Existing and duly accredited/authorized Customer Premises Equipment (CPE) distributors/suppliers and radio dealers who may want to engage in the purchase, sale and and/or retail of mobile phones, including parts and accessories, thereof, shall apply for MPD and comply with the requirements set forth under Section 5 of this Circular. Any entity wishing to be mobile phone suppliers/distributors shall be accredited by the Commission pursuant to MC 1-04-88.
- 3.7 All existing establishments engaged in the business of purchasing, selling, leasing and/or retailing mobile phones without valid permits/registration certificates or accreditation from the Commission shall within thirty (30) days from effectivity of this Circular apply and secure the permits required by this Circular. Failure to do so, shall subject any person or entity operating any such establishment to closure and the imposition of appropriate fines until the required permit/registration certificate is secured.

4. OPERATING GUIDELINES FOR AUTHORIZED MOBILE PHONE DEALERS AND RETAILERS/RESELLERS

- 4.1 All grantees of permits authorized to operate as an MPD, and MPRR shall in the purchase, sale, lease and/or retail of mobile phone units, parts and its accessories strictly comply with the provision of this Circular and other existing radio laws, rules, and regulations.
- 4.2 An MPD and MPRR shall not acquire, purchase, sell, lease and/or retail mobile phones from any unauthorized or illegal source.
- 4.3 An MPD and MPRR shall not advertise the purchase, sale, lease and/or retail of mobile phone units, parts and accessories coming from any unauthorized or illegal source.
- 4.4 An MPD and MPRR shall properly identify its business and location by posting conspicuously at the entrance of its premises a signboard of at least 50cm x 100cm dimension, which shall indicate clearly its registered business name, the type of services it offers, its full business address and the MPD permit number.
- 4.5 An MPD and MPRR shall not have in its possession an inventory/stock of mobile phone units, parts and accessories from any unauthorized and illegal sources.
- 4.6 An MPD shall submit a monthly sales and stock report to the Commission.

5. PERMITS, REGISTRATION AND FILING OF APPLICATIONS

- 5.1 No person or entity shall purchase, sell, retail and/or resell mobile phones, including parts and accessories without a valid MPDP /MPRR Registration Certificate issued by the Commission.
- 5.2 An application for MPDP/MPRR Registration Certificate may be filed with the Regional Office in which applicant does business, with the accompanying documents in compliance with NTC requirements.
- 5.3 Requirements for MPD
 - 5.3.1 Duly certified true copy of SEC Registration Certificate and the Articles of Incorporation or DTI Registration Certificate and Business Permit from appropriate Local Government Units authorizing the MPD to engage in the purchase, sale, lease and/or retail of mobile phones, including parts and accessories thereof.

- 5.3.2 Copy of valid dealership agreement with Mobile phone distributor/supplier accredited by the Commission
 - 5.3.3 List of stocks of spare parts and accessories sufficient enough to cover the warranty of mobile phone units for at least six (6) months or in accordance with the Dealership Agreement.
 - 5.3.4 Proof of paid-up capitalization in the amount of at least PHP100,000.00.
- 5.4 Requirements for MPRR Registration Certificate
- 5.4.1 Duly certified true copy of SEC Registration Certificate and the Articles of Incorporation or DTI Registration Certificate and Business Permit from appropriate Local Government Units authorizing the MPRR to engage in the purchase, resell and retail of mobile phones, including parts and accessories thereof.
 - 5.4.2 Proof of capitalization in the amount of at least PhP 50,000.00 which may consist of certificate of deposit from a bank, certification by the treasurer of the corporation or by the partners or by the owners of its business assets which may be verified by the Commission.
 - 5.4.3 A Certificate of Stall Lease Agreement for the conduct of its business activity.
- 5.5 The following fees and charges shall apply:
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| Filing Fee | PHP 500.00 |
| MPD Permit Fee | PHP 2,500.00/year |
| MPD Branch Permit Fee | PhP 1,500.00/yr/branch |
| MPRR Registration Fee | PhP 1,500.00/year |
| Mobile Phone Supplier/
Distributor Accreditation | PhP 2,500.00/year |
| Inspection Fee | PHP 1,500.00/year |
- 5.6 Non payment of any of the required fees shall be a ground for the denial, disapproval, suspension and/or revocation of permits.

6. VALIDITY OF PERMIT

A permit/registration issued to a qualified MPD/MPRR shall be valid for a period of one (1) year, renewable upon presentation of continued compliance with the above-mentioned requirements.

7. CONDUCT OF INSPECTION

- 7.1 The NTC technical staff shall conduct inspection prior to the approval and issuance of MPDP and MPRR registration to verify conformance with the minimum requirements specified in this Circular.
- 7.2 All non-conformances found shall be noted and made known to the authorized officials of the entity and/or applicant.
- 7.3 Applicant with noted deficiency shall be given a grace period of thirty (30) days to correct the non-conformance, and shall notify the Commission for the schedule of re-inspection within the same period.

8. ADMINISTRATIVE SANCTIONS

Any violation of this Circular by any person, corporation or entity and/or the making of any false statements in the application or before the Commission shall be dealt with in accordance with this Circular and existing rules and regulations to include suspension, cancellation and revocation of permits, the closure of the operation or establishment and/or the imposition of the following fines:

- 8.1 Illegal purchase, sale, lease and/or retail of mobile phone acquired from any illegal source. PHP 5000.00
(per unit/violation)
- 8.2 Purchase, sale, lease and/or retail of mobile phones without NTC type approval/type acceptance labels/stickers PHP 5000.00
(per unit/violation)
- 8.3 Illegal importation of mobile phone, parts and accessories thereof PHP 5000.00
(per unit)
- 8.4 MPD/MPRR operating without valid NTC Permit PHP5000.00 to include the closure of the establishment

9. PROCEDURE FOR THE SUSPENSION, CANCELLATION OR REVOCATION OF PERMIT

The Commission may suspend, cancel or revoke the permit of any authorized supplier/dealer of mobile phone units, parts and accessories, found to have

violated any provision of this Circular and other existing rules and regulations of the Commission.

Upon a complaint filed by any party or violation report from any authorized personnel of the Commission, the Commission may file an administrative case and direct respondent to Show Cause within fifteen (15) days from receipt of the Order why his operation and/or permit should not be suspended, cancelled or revoked and to appear and produce evidence on the date and time stated therein. Pending hearing and final determination of the case, the Commission may immediately issue a **Cease and Desist** order, as circumstances so warrant. Moreover, the Commission may suspend the permit when, in its judgment, it is necessary to protect public interest.

10. REPEALING CLAUSE

Any circular, memorandum, order or parts thereof inconsistent with the provisions of this Circular shall be deemed amended or superseded accordingly.

11. EFFECTIVITY

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

Quezon City, Philippines, January 24, 2005

RONALD OLIVAR SOLIS
Commissioner

KATHLEEN G. HECETA
Deputy Commissioner

JORGE V. SARMIENTO
Deputy Commissioner

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