



REPUBLIC OF THE PHILIPPINES
NATIONAL TELECOMMUNICATIONS COMMISSION
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MEMORANDUM CIRCULAR

NO. 01-05-2019

Subject: RULES AND REGULATIONS ON UNLOCKING OF MOBILE PHONES AND DEVICES

WHEREAS, Section 24, Article II of the 1987 Philippine Constitution declares that the State recognizes the vital role of communication and information in nation-building;

WHEREAS, Executive Order No. 546, series of 1979 created the National Telecommunications Commission with mandate to supervise and regulate public telecommunications networks and services;

WHEREAS, Republic Act No. 7925 (RA 7925), otherwise known as the “*Public Telecommunications Policy Act*” likewise recognizes the vital role of telecommunications to national development and security and declares that the “*National Telecommunications Commission (NTC) shall be the principal administrator of this Act and as such shall take the necessary measures to implement the policies and objectives set forth in this Act*” and “*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, Republic Act No. 10844 (RA 10844), otherwise known as the “Department of Information and Communications Technology (DICT) Act of 2015”, provides that the DICT shall be the primary policy, planning, coordinating, implementing, and administrative entity of the Executive Branch of the government that will plan, develop, and promote the national ICT development agenda;

WHEREAS, the DICT issued Memorandum Order (MO) No. 004 series of 2018 dated 14 December 2018 entitled “Mandatory Unlocking of Mobile Phones and Devices After Lock-In Period and Compliance with Terms and Conditions Contained in Subscription Agreements”;

WHEREAS, mobile phones and device locks are meant to ensure that devices can only be used on the networks of specific service providers;

WHEREAS, Public Telecommunications Entities (PTEs) with wireless or mobile services offer their subscribers mobile phones and devices, free-of-charge or at subsidized cost, in exchange for a fixed lock-in period;

WHEREAS, mobile phone and device users, after having complied with the terms and conditions of the subscription agreement within the agreed lock-in period and are the absolute owners of the mobile phones or devices, should have the option of changing between compatible wireless service providers giving the consumer greater freedom and flexibility while increasing incentives for service providers to improve and innovate;

NOW, THEREFORE, pursuant to RA 7925, RA 10844, Executive Order No. 546 series of 1979, and after due consideration of the comments, recommendations, and position papers received in the course of the requisite public hearing, the following rules to govern the unlocking of mobile phones and devices after the lock-in period and compliance with the terms and conditions contained in the subscription agreements are hereby promulgated:

SECTION 1. Definition of Terms

- 1.1 **"Unlocking"** a mobile phone or device refers only to disabling software that prevents a consumer from activating a device designed for one provider's network on another provider's network even if that network is technologically compatible. Unlocking a cell phone allows consumers to utilize their cell phone from one network to another compatible network.
- 1.2 **"Public telecommunications entity" (PTE)** refers to any person, firm, partnership or corporation, government or private, engaged in the provision of telecommunications services to the public for compensation.
- 1.3 **"Original Equipment Manufacturer" (OEM)** refers to a company that manufactures or develops something that is sold by another company, i.e. hardware and/or software.

SECTION 2. Obligations of PTE

- 2.1 **Disclosure.** Each PTE shall post on its website its clear, concise, and readily accessible policy on mobile phone or device unlocking.
- 2.2 **Postpaid Unlocking Policy.** PTEs, upon request, shall unlock mobile phones or devices or provide the necessary information to unlock their devices, for customers and former customers in good standing and individual owners of eligible devices after the fulfillment of the applicable postpaid service contract, device financing plan or payment of an applicable early termination fee;
- 2.3 **Prepaid Unlocking Policy.** PTEs, upon request, shall unlock mobile phones or devices or provide the necessary information to unlock their devices provided that usage requirements or agreed terms and conditions are complied.
- 2.4 **Notice.** PTEs that lock devices shall clearly notify customers that their devices are eligible for unlocking at the time when their devices are eligible for unlocking or automatically unlock devices remotely when devices are eligible for unlocking, without additional fee. Notice to prepaid customers may occur at point of sale, at the time of eligibility, or through a clear and concise statement of the policy on the PTE's website.
- 2.5 **Response Time.** Within two (2) business days after receiving a request, PTEs shall unlock eligible mobile phones or devices or initiate a request to the OEM to unlock the eligible device, or provide an explanation of why the device does not qualify for unlocking, or why the PTE reasonably needs additional time to process the request.