



08 June 2007

MEMORANDUM CIRCULAR

No. 05-06-2007

SUBJECT : CONSUMER PROTECTION GUIDELINES

The following rules and regulations are hereby prescribed pursuant to the National Telecommunications Commission's mandate under E.O. 546, Act 3846, E.O. 436, R.A. 7925 and their implementing rules on consumer protection in order to promote consumer welfare and protection.

Section 1. SCOPE AND COVERAGE

- 1.1 All Broadcast, Cable Television (CATV), and Public Telecommunications Entities (PTEs) including Value Added Service (VAS) and Content Providers (CPs);
- 1.2 All providers, suppliers, mobile service centers and sellers of telecommunications, radio telecommunications, broadcast and cable television equipment, accessories and other paraphernalia, including radio dealers and mobile phone suppliers;
- 1.3 All consumers, end-users, subscribers or any person otherwise adversely affected by telecommunications, broadcast, and CATV operators and providers.

Section 2. CONSUMER RIGHTS

- 2.1 A subscriber of any of the entities mentioned in Section 1.1 hereof shall have a right to be treated equally as other similarly situated consumers.
- 2.2 Any data supplied by the consumer shall be treated as confidential by the entity or service provider mentioned under Section 1.1 hereof and shall not be used for purposes not authorized by him. Upon subscription, he shall be informed of his right to privacy and the manner by which his data would be protected. In cases where a public directory listing of subscribers is regularly published by the service provider, the consumer shall be given the option not to be listed in succeeding publications.

- 2.3 A consumer or subscriber cannot be deemed to be charged for, subject to, or part of any service or promotion thereof prior to his express agreement, which shall be in written form if practicable, to participate, join, use, subscribe to or avail of a service or promotion thereof. Neither shall a consumer be charged for the time during which a continuing or continuous service, such as cable TV signal, was interrupted through no fault of the subscriber.
- 2.4 A subscriber can only be charged according to the rates, terms and conditions he has agreed to.
- 2.5 A subscriber has the right to select only the services, channels he opts to avail of. He shall neither be provided a service nor be forced to continue availing a service without his express agreement, which shall be in written form if practicable. This, however, does not preclude the subscriber from seeking redress from the Commission should the service provider violate the provisions of their contract or abuse its rights.
- 2.6 All terms and conditions of service shall be disclosed to the consumer. He shall have the right to opt-out from a post-paid service without a penalty within thirty (30) days from the start or commencement of subscription. Add-ons bundled by the service provider with the service are not considered part of the service.
- 2.7 A subscriber shall be sent a notice, which shall be in written form if practicable, at least thirty (30) days in advance of any intended change that may affect his service agreements or non-term contracts. Notices to post-paid subscribers shall be individual while those for pre-paid subscribers may be done through publication in a newspaper of general circulation. No PTE/CATV provider-initiated change may take affect without such prior notice and unless allowed by applicable law, NTC rules and regulations.
- 2.8 Subscribers of pre-paid services shall be provided with a free mechanism to verify the remaining credit balance for the subscribed service.
- 2.9 Subscribers of post-paid services shall be provided with simple, clear, accurate, timely and complete bills and other related information.
- 2.10 In case of complaints related to billing for post-paid or loss of credit for pre-paid, the service provider has the burden of proving that the complainant made or authorized an unverified charge for a product or service.
- The service provider must submit evidence based on a record of affirmative subscriber authorization, a demonstrated pattern of knowledgeable past use, or other persuasive evidence of authorization.

Within thirty days from receipt of the complaint, the service provider shall either verify and advise the subscriber of the subscriber's authorizations of the disputed charge or undertake to credit the disputed charge and any associated late charges or penalties to the subscriber's bill or credit.

2.11 Pending investigation on a complaint, the complainant shall not be required to pay; the disputed charge(s) or any associated late charge(s) or penalties; the charge may not be sent to collection; and no adverse credit report may be made based on non-payment of that charge. The PTE may not suspend the service for the non-payment of the disputed charge(s) while investigation is pending.

2.12 The provisions on item 810 of NTC MC No. 8-9-95 [Implementing Rules and Regulations of R.A. 7925], NTC MC No. 3-3-05A, and other pertinent rules and regulations promoting consumer protection and welfare shall also be strictly complied with.

Section 3. **FILING COMPLAINTS WITH THE NTC**

3.1 Consumers shall bring their complaints directly to the service providers. Service providers shall conduct a thorough investigation and promptly act on the complaints. They shall endeavor to allow complaints to be received over the phone and shall keep a record of all written or phone-in complaints.

3.2 A consumer shall have the option of filing the complaint with the Commission if his service provider fails to address his complaint within thirty (30) days after notifying his service provider of his complaint. The complaint filed with the Commission shall be in the form prescribed for the purpose. Complaint Forms are available at the One Stop Public Assistance Center (OSPAC) of the NTC Main Office, Regional Offices and/or can be downloaded from the NTC website.

3.3 The OSPAC shall facilitate the resolution and disposition of all consumer complaints related to the provision of services by entities and/or service providers enumerated in Section 1.1 and 1.2 hereof.

3.4 The NTC shall inform the complainant of the action taken on the complaint. The complaint shall be decided within fifteen (15) days from the time the investigation was terminated or submitted for resolution.

Section 4. **NTC ACCESS TO INFORMATION**

4.1 Entities referred to under Sections 1.1 and 1.2 of this Circular shall designate at least one representative who shall promptly provide all

necessary information requested by and respond to queries from the NTC in connection with pending complaints. The name/s, contact number/s and business address/es of their representative/s shall be submitted to the NTC.

4.2 NTC queries shall be done with the express consent of the subscriber and shall be limited to information the Commission deems necessary to resolve the complaint. NTC shall be provided with copies of subscriber-carrier service agreements and contracts, bills, carrier solicitations, subscriber authorizations, correspondence between the service provider and subscriber, applicable third party verifications, records of telecommunications traffic, similar logbooks, and all other relevant information or documentation within ten (10) days from the date of request.

Section 5. ADMINISTRATIVE AND PENAL SANCTIONS

Non-compliance with and/or violation of this Circular shall be dealt with appropriate administrative and penal sanctions provided by law.

Section 6. REPEAL CLAUSE

This supersedes any and all existing Orders, Circulars, Memoranda or any part thereof inconsistent herewith.

Section 7. EFFECTIVITY

This Circular takes effect fifteen (15) days after publication in a newspaper of general circulation and the UP Law Center having been furnished three (3) copies hereof.

(Signed)
ABRAHAM R. ABESAMIS
Commissioner

(Signed)
JORGE V. SARMIENTO
Deputy Commissioner

(Signed)
JAIME M. FORTES, JR.
Deputy Commissioner