

Headline	Mass media exclusive to Filipinos		
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Section	Business	Journalist	Kris Marian D. Banzon
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Mass media exclusive to Filipinos

“No law shall be passed abridging the freedom of speech, of expression, or of the press, or the right of the people peaceably to assemble and petition the government for redress of grievances.” This provision in the 1987 Constitution gives ample protection to mass media practices in the Philippines to discuss publicly and truthfully any matters of public interest without prior restraint.

In *GMA Network Inc. vs. Commission on Elections* dated Sept. 2, 2014, the Supreme Court held that the guaranty of freedom to speak is useless without the ability to communicate and disseminate what is said. Moreover, where there is a need to reach a large audience, the need to access the means and media for such dissemination becomes critical.

TOP OF MIND



KRIS MARIAN D. BANZON

What is mass media then? In Department of Justice Opinion No. 40, series of 1998, mass media refers to any medium of communication designed to reach the masses and that tends to set the standards, ideals and aims of the masses, the distinctive features of any mass media undertaking being the dissemination of information and ideas to the public, or a

portion thereof.

Also, in Republic Act 7394 or the Consumer Act of the Philippines, mass media denotes the means or methods used to convey advertising messages to the public such as television, radio, magazines, cinema, billboards, posters, streamers, hand bills, leaflets, mails and the like.

Aside from television, radio, and magazines, internet and mobile technology have become popular platforms for mass media. In fact, this emerging trend has been recognized by the Securities and Exchange Commission (SEC).

In the Philippines, the ownership and management of mass media are limited to Filipino citizens, or to corporations, cooperatives or associations, wholly-owned and managed by such citizens as enshrined in the Constitution. Furthermore, under Executive Order No. 184 or the 10th Regular Foreign Investment Negative List, no foreign equity is allowed in mass media except recording.

Why is there a need for such citizenship requirement? As pronounced in SEC-OGC Opinion No. 11-14 dated June 2, 2014, the reason for such requirement is to prevent the use of mass media by aliens to influence public opinion to the detriment of the best interest of the nation.

The nature of the activities, specifically the dissemination of information and ideas to the public, will ultimately determine whether a corporation is engaged in mass media.

In SEC-OGC Opinion No. 15-14 dated July 7, 2014, the SEC stated that the production, marketing, and dissemination by Information Capital Technology Ventures Inc. (ICTVI) of media in digital format to the public constitute mass media activities. Thus, the foreign equity prohibition on mass media entities is applicable to ICTVI.

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It is noteworthy that the SEC, in the aforesaid opinion, defined digital media as any media that exists in a computer-readable format and can reside on a local device, such as CD, DVD or hard drive, or a remote location like a website. Furthermore, digital media is capable of being streamed, downloaded or stored on formats, including CD and DVD.

Then, in SEC-OGC Opinion No. 17-16 dated July 11, 2016, the SEC declared that HDI Admix Inc. (HDI) is a mass media entity because it provides a medium to convey advertising messages to the public. HDI disseminates advertising messages by leasing out or subleasing advertising spaces, such as waiting sheds, billboard structures, electronic LED displays and other fixed or movable structures where advertisements can be displayed.

For the said reason, HDI is subject to the foreign equity limitations imposed by the Constitution.

Recently, the SEC opined in SEC-OGC Opinion No. 17-07 dated July 24, 2017 that Audiowav Media Inc. (Audiowav), is an entity engaged in mass media because it provides its clients with a digital platform to reach out to their target markets and convey to them customized messages and point-of-purchase advertising through digital media signage and/or the audio playback thereof. These messages and advertising content although not created by Audiowav itself, are disseminated by Audiowav through a digital platform and made accessible through compatible Audiowav devices.

As such, Audiowav is required per constitutional provision to be limited to Filipino citizens or to corporations, cooperatives, or associations, wholly-owned and managed by such citizens.

Based on the foregoing, the abovementioned entities are engaged in the business of mass media since they disseminate information to the public through the following means: producing and marketing digital information, leasing out or subleasing advertising spaces in which advertisements are displayed, and providing a digital platform for clients to reach out to their target markets and convey to them messages through digital media signage.

For the purpose of determining the extent of allowable foreign equity participation, the SEC in SEC-OGC Opinion No. 17-07 distinguished an advertising agency from a mass media entity. Advertising agencies do not actually distribute the materials they prepare as they have to utilize or avail of the facilities of mass media, such as newspapers, radio, or television, for information dissemination.

In this regard, advertising agencies falling under this category are not treated as mass media since they do not operate or control any medium of communication aimed at reaching or influencing the masses.

Conversely, if the advertising agency actually disseminates information, then such agency is engaged in the business of mass media, which must fall within the purview of the constitutional limitation.

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The role of media in our society cannot be downplayed. People rely heavily on mass media as their source of significant, relevant and up-to-date information. Definitely, the media has a strong impact on how people think and feel. Hence, to avoid any unwarranted influence on the public, it is necessary that the ownership of mass media is limited to Filipinos.

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