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Laws and regulations governing organization and function of media in Vietnam

(Presented at the Workshop on Media Regulations for New Times, organised by AMIC on April 15 - 18, 1998 in Bangkok)

1. General regulatory framework

1.1. Constitutional basis

The fundamental legal provisions governing organization and function of media in Vietnam are found in the Constitution of Vietnam. The Law on the Press has indicated that its legal basis is formed by the Articles 4, 67 and 83 of the Constitution of 1980, which is, with a minor adjustment, equal to the Articles 4, 69 and 83 of the current Constitution of 1992.

The essence of the three above constitutional provisions comprises of the following points:

a. The citizens are entitled to the freedom of opinion and speech, freedom of the press and the right on information.

b. Those freedoms and rights and the mechanism of enjoying and protecting them shall be stipulated by laws made by the legislative and by regulations adopted by the government.

c. The Communist Party of Vietnam is the only force leading the State and the society, whereby all of the Party’s organizations must operate within the framework of the Constitution and the laws.

Based on that constitutional fundament, the legislative has enacted the Law on the Press, which has been published and coming into force as of January 2, 1990.

Two years later, the Government has adopted the Decree No. 133-HDBT dated April 20, 1992 providing the details for implementing the Law on Press.

The three above legal documents provide the general legal framework for all forms and activities of media in Vietnam.

1.2. Contents of the legal framework governing media in Vietnam.

1.2.1. Commitment by the State to guarantee the freedoms and rights of citizens

"The State shall create favorable conditions for citizens to enjoy their freedom of the press and of speech in the media, and for the media to fulfill its role. The press and journalists operate within the framework of laws, and are protected by the State; neither organization, nor individual shall limit, impede the operation of the media and journalists. No body is allowed to misuse the freedom of the press and of speech in the media in order to attack the interests of the State, collectives and individuals. The press shall not go through any review before being printed or sent into the air." (Article 2, Law on the Press)

1.2.2. Contents of the freedom of the press, freedom of speech in media
"Citizens are entitled to:
. being informed through the media on all aspects of the situation of the country and the world;
. maintaining contacts with, giving information to, sending news, articles, photographs and other works to press organizations and journalists without pre-examination by any organization or individual, under their own responsibility before the laws;
. expressing their views on the situation of the country and the world;
. contributing their ideas to the making and the implementation of the Party’s orientations and the policies and the State’s laws;
. publicizing their ideas, criticisms, recommendations, complaints and excusations relating to organizations and members of the Party and the State in the media.” (Article 4, the Law on the Press)

1.2.3. Obligations of the press
. “The press is obligated:
1. to print or send into the air the citizens’ contributions, and in case of declining to do so, to reply and give reasons for the declination;
2. to answer or request organizations or officials to answer by letters or by publishing in the media the response to recommendations, complaints or excusations from the citizens.” (Article 5, the Law on the Press)

. Under the Articles 6, Law on the Press, the press is obligated to: truthfully inform on all aspects of the situation of the country and the world; promote and publish the Party’s orientations and policies, the State’s laws, the cultural, scientific, technical achievements of the country and the world; reflect and guide public opinions; serve as a tribune of the freedom of speech of the citizens; introduce good exemplary attitudes and fight against violations of laws or other social evils; contribute to mutual understanding between the nations and the peoples and the cause of the world for peace, national independence, democracy and social progress;
. In case of carrying false, distorted information, or information which is defamatory and damages honor or reputation of any organization or individual, the press is obligated to rectify and apologize, or publicize the rectification of that organization or individual; if the press denies to rectify, or to provide an insufficient rectification, or declines to carry the rectification of the violated organization or individual without reasonable grounds, that organization or individual is entitled to complain with the supervisors of the press or bring a lawsuit before the judicial court (Article 9, Law on the Press).

1.2.4. Rights of the press (Article 2, 7 and 8, Law on the Press)
. right of being informed: organizations are entitled and obligated to provide the media with information to help the media have access into accurate and timely
information, and responsible before the laws for the contents of that information; as to lawsuits which are being investigated or still waiting for a judgment, the organizations in concern are entitled to deny to disclose, but the media are allowed to carry information from their own sources and bear the responsibility before the laws.

. right of non-disclosure: the media have the right and the obligation not to disclose the name of the person having provided them with information, if doing so will damage that person, except when it is necessary for the investigation and conviction of serious crimes and a request has been made by the Chief of the Provincial Prosecution Bureau or the Chief Judge of the Provincial Court.

. right of being replied: the heads of the media have the right to request the organizations or their officials replying the matters raised by the media; the latter are obligated to reply in the media.

. right of being protected by the State: the press operating in compliance with the laws cannot be limited or obstructed by any organization or individual and are protected by the State.

. right of non-review: media works are not subject to any review before being printed or sent into the air.

1.2.5. Conducts proscribed to the press

The press is proscribed to:

. inspire acts against the State of the Socialist Republic of Vietnam or to damage the united block of the people,

. propagate violence, aggressive wars, hatred between the ethnic communities and the peoples, sexy conduct, immorality or crimes,

. disclose state secrets, military secrets, secrets involving security, economy, foreign affairs and other secrets stipulated by the laws,

. carry information not in compliance with the truth, or libelous information aiming at damaging honor and reputation of organizations or citizens.

1.2.6. Journalists (Article 14)

1.2.6.1. Criteria

. possessing Vietnamese nationality

. having permanent residence in Vietnam

. meeting political, moral and professional criteria required by the State

. operating or collaborating permanently with a press organization and obtaining the certificate of journalist

1.2.6.2. Rights and obligations of journalists (Article 15)

. right and obligation to provide truthful information, to reflect ideas and wishes of the people, and to contribute to the implementation of the freedom of the press and of speech in the media of the citizens

. right of professional operation in the territory of Vietnam
obligation to be responsible for the contents of the media works; right to reject to work on or to participate in a media work which does not comply with the Law on the Press
right to enjoy certain priorities necessary for professional operation stipulated by the government
right of being protected from threat or attack against their life, damage of their honor and dignity, seize of their equipment or material, obstruction in their legal professional operation
obligation not to misuse their title to violate the laws

2. Laws and regulations governing TV, radio broadcasters, satellite/cable

2.1. State administration of TV and radio broadcasters (governed by the Interministerial Circular No 06/1997/TTLB dated November 28, 1997)

2.1.1. Administering bodies
The Ministry of Culture and Information is in charge of administering the operation of the media.
The General Post Department is in charge of administering frequencies and wireless transmitters.

2.1.2. Criteria for operating TV or radio broadcasters
In order to operate a TV or radio broadcaster, it is necessary to apply for:
. a license for media operation issued by the Ministry of Culture and Information,
. a license for using frequencies and radio transmitters.
The administering bodies are obligated to issue the license within 30 days, or to deny it enclosed with a writing giving the reasons for the denial.

2.2. State administration of satellite/cable operation

2.2.1. Operation of satellite TV programs receiver (TVRO)
Under the Decree No 877/Ttg dated November 11, 1996 of the Prime Minister, only a certain circle of people or organizations are allowed to operate a TVRO for receiving TV programs of foreign countries. Those are:
. as to local organizations or people: government offices and officials from the provincial level and up; daily newspapers, newspapers serving foreign affairs, newspapers run by the central political-social organizations; hotels of two stars and up,
. as to foreign entities and individuals: diplomatic, international, non-governmental, economic, consulting organizations of foreign countries; 100% foreign-invested or joint-ventured companies recruiting foreign employees; permanent offices of foreign news agencies or newspapers.
A license issued by the Ministry of Culture and Information is to be obtained for operating a TVRO.

2.2.2. Operation of an MMDS
Organizations and individuals allowed to operate an MMDS are:
. the above-mentioned entities and individuals,
. any foreign organization or individual working or living permanently in Vietnam,
. hotels or guesthouses recommended by the General Department of Tourism.
The Vietnam Television in collaboration with the Ministry of Culture and Information is responsible for issuing the license, installing the MMDS cable and controlling the operation of an MMDS in compliance with the laws.

3. Laws and regulations governing Internet
3.1. Right to access to internet
Under the Decree No 21-CP dated March 5, 1997, any organization or individual in Vietnam is allowed to have access to internet when meeting certain requirements stipulated by that Decree.

3.2. Administration of Vietnam Internet
The Vietnamese Government unitarily administers and controls Internet network in Vietnam as well as services of that network, international outgoing gates, and all information coming into that network.

3.3. Forms of internet services in Vietnam
The services provided by Vietnam Internet are e-mail, data files transfer, distant retrieval and other ways of retrieval of data.

3.4. Proscriptions relating to the use of Vietnam Internet
It is proscribed to use Internet for:
. inspiring acts against the State of the Socialist Republic of Vietnam, or damaging the solidarity of the nation;
. encouraging violence, propagandizing aggression wars or hatred between the nations and peoples, propagating reactionary ideology or culture, sexy or immoral ways of life, crimes, social evils, superstition, damaging of good habits or traditions;
. disclosing the Party’s secrets and secrets regarding the State, the Army, national security, nationa economy, foreign affairs, private life of the citizens or other secrets stipulated by the laws;
. providing untruthful information, distorting the national history, negating revolutionary achievements, assaulting national great persons or heros, libelling or assaulting reputation of organization, honor and dignity of citizens.

3.5. Licensing the use of internet
. To operate as IAP, ISP: licensed by the General Post Department.
. To operate as ICP: licensed by the Ministry of Culture and Information.
. Individual Internet users: no license is required, just signing a contract with ISP.

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