

Some Inadequacies of the Press Law in 2016 - Current Status and Directions for Completion

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Abstract: The article will focus on analyzing and clarifying the inadequacies in the provisions of the 2016 Press Law such as: license revocation issues, regulations on export and import of printing newspapers, and scope of regulation. of the Press Law 2016...., At the same time, propose some measures to improve press law in the future.

Keywords: Journalism, Press Law, current situation of Press Law

1. Question

The Press Law was passed by the 13th National Assembly of the Socialist Republic of Vietnam, 11th Session on April 5, 2016, effective from January 1, 2017. To date, documents detailing the implementation of the Press Law have been fully issued with 02 Decrees and 04 Circulars (03 Circulars of the Ministry of Information and Communications, 01 Circular of the Ministry of Finance).

At the time of promulgation, the Press Law and its guiding documents created a legal corridor for press activities and activities related to the press to develop, press freedom, and freedom of speech. in the people's press is guaranteed and promoted within the framework of the Constitution and law; At the same time, quickly and promptly adjust many arising problems; Meet practical requirements in journalistic activities; Gradually improve the effectiveness and efficiency of state management of the press in the recent period; create favorable conditions for Vietnam's revolutionary journalism career to develop strongly. The Press Law stipulates quite fully, clearly, and in detail, creating conditions for professional journalistic activities, while also creating a legal corridor for agencies, organizations, and individuals to understand, cooperate, and support agencies. press agency, reporter's work. However, in the process of applying the law, a number of difficulties and inadequacies in application have been revealed that need to be analyzed, clarified and revised solutions proposed to suit the current digital transformation context.

2. Current status of legal regulations on the Press Law 2016

2.1. Regulations on revocation of press activity licenses

Based on Articles 18, 29 and 31 of the 2016 Press Law, there are regulations related to the issuance of various types of licenses in journalistic activities, as well as the revocation of licenses in certain cases such as: If the press agency is not established or has no journalistic products, the license will expire. This means that the license will be revoked by the Ministry of Information and Communications. Enforcement practice shows that even though the press agency is operating, it no longer ensures operating conditions, but the law still has no measures to revoke its license.

Due to the fact that in order to be licensed to operate, press agencies must make a request for a license, along with relevant commitments such as ensuring organization, personnel, facilities, techniques, etc. financial plan. However, during their operation, some press agencies have been licensed to operate, but have no head of the press agency, no operating budget, poor facilities, and some schools are in poor condition. In case there are no official reporters to conduct relevant activities. In general, the contribution to society of these press agencies is very limited, however, the consequences that can arise from these agencies are completely possible, such as taking advantage of their journalistic status to harass journalists. businesses to gain illegal profits for individuals. This suggests that there should be provisions to regulate the revocation of press agency licenses if the process has not achieved the commitments and effectiveness as proposed in the project.

In addition, Article 59 of the 2016 Press Law has adjusted issues related to handling violations in the field of journalism, although the law allows competent authorities to revoke licenses. through certain forms. However, the order and procedures for revoking operating licenses have not been clarified. Since then, the authorities have encountered many confusions in the application and implementation process, when the process of applying the license revocation according to Article 59 of the 2016 Press Law must also refer to the implementation according to relevant regulations. in the Law on Handling of Administrative Violations (Cao Vu Minh 2018).

2.2. Regulations on export and import of printing press

Pursuant to Article 54 of the 2016 Press Law, the export and import of printed newspapers is regulated as follows:

- (i) *Print newspapers legally published in Vietnam are allowed to export abroad.*
- (ii) *The import of printed newspapers is carried out through press export and import establishments licensed by the Ministry of Information and Communications.*
- (iii) *Print newspaper importers must register a list of imported newspapers with the Ministry of Information and Communications before importing.*
- (iv) *The head of a printing press import facility must organize an inspection of the imported press content before publishing and is responsible before the law for the printed press content he or she imports.*

Through that, it is recognized that the import of printed newspapers will be implemented through press export and import establishments, which will be censored and censored by the Ministry of Information and Communications. grant operating license . However, when analyzing this issue, the law still has certain "gaps", because there are still no adjustment provisions related to conditions, human resources, capital..., as well as the process. Procedures for registering operations so that establishments operating in the field of press import and export can be officially licensed to operate. This needs to be corrected and supplemented in a timely manner so that the application of the law is carried out in a consistent manner, as well as as a premise for establishments operating in this field to be able to complete their documents and procedures. proceed according to established requirements.

In addition, when analyzing issues related to activities of exporting and importing printed newspapers, it was found that in Clause 4, Article 54 of the 2016 Press Law, there are regulations on the heads of export establishments. Importers and exporters of printed newspapers must be organized to inspect the content related to imported publications and newspapers before releasing them to the market, and at the same time, this entity will also be responsible before the law. about content related to printed newspapers that the facility has imported and distributed on the market . This is necessary to avoid possible consequences if printed products carry false information, affecting other organizations. However, the Law does not have provisions regulating the professional standards of those who censor imported newspaper content . At the same time, with this issue, it is necessary to clarify the agencies and entities that have the function of coordinating to check information about imported press products instead of just relying on the opinion of one individual as currently.

2.3. Regarding the scope of regulation of the Press Law

In the context of strong digital economic development, it is recognized that the current Press Law has not yet comprehensively regulated all models and activities of the press and media. Because of the fact, the organization and operation according to the model of converged newsroom and multimedia communication; technology journalism, using artificial intelligence and providing content across borders; Converging human resources, infrastructure, technology, data sources, and content production to promote the synergy of many types of journalism, technology platforms, and new communication methods is the trend. development of modern journalism, but up to now the Press Law still does not fully cover it. While, in addition to the four types of journalism regulated by the Press Law, there still exist many types of information activities that are similar to journalism such as: Social networks, electronic information sites, and applications in journalism. providing information, videos, radio and television programs across borders and countries. Although these information channels can transmit content such as newspapers, television, etc., they have not been specifically regulated, leading to the existence of many information flows that are not strictly controlled.

Currently, the Ministry of Information and Communications has issued licenses for electronic press activities on domain names. However, due to the nature of this activity, many press agencies proactively build applications (apps) to self-distribute content on the internet or open additional channels to distribute journalistic content on social networking platforms in the future. countries and across borders such as channels on Youtube, TikTok, opening fanpages on Facebook, Lotus, Zalo..., not only limited to operating on the domain name as originally granted. This is thought to be an inevitable trend in the digital transformation of newspapers to spread journalistic content to readers in more comprehensive ways, in order to exploit advertising revenue for businesses.

However, this trend will pose many problems for management, especially when errors or disputes occur on cross-border platforms that do not comply with Vietnamese law. When, following the trend of electronic press agencies implementing multimedia, providing more videos and audio along with articles, leading to a situation where more and more electronic newspapers have become specialized media pages, videos, radio sites, and organizations that produce news and television articles broadcast on the internet at domain names licensed to

operate electronic newspapers, on the basis of being licensed with the additional form of “media”. The fact that electronic newspapers are currently licensed to carry out additional forms of media is competing directly with radio and television stations, leading to difficulties for the stations during their operations.

In addition, due to the development of broadband internet, there have appeared many services providing television content (including: movies, music shows, TV shows - TV shows) on demand on the internet (call (OTT VOD) provided by foreign businesses across borders into Vietnamese territory, for a fee such as: Netflix, iFlix, Wetv, Spotify... Content provided on the services is translated into Vietnamese, without going through an agency. A press agency with a license to operate radio and television edits and controls according to the provisions of the Press Law, Decree No. 06/2016/ND-CP dated January 18, 2016 of the Government on management and supply provision and use of radio and television services. In addition, domestic video sharing social networks (such as: Zing TV, Keeng Movies...) improperly implement social network licenses, providing OTT VOD services (mainly movies, radio programs, television), not edited or controlled by a press agency licensed to operate radio or television. Some social networks charge viewers through membership upgrades. Some subjects take advantage of only providing VOD to avoid having to comply with the provisions of Decree No. 06/2016/ND-CP. Many public service units (typically Vietnam Television Station) have a need to provide radio and pay television services - OTT TV to sell the station's products but are not licensed under the provisions of this Law. stipulated in Article 51 of the Press Law. From the above issue, the Press Law needs to have appropriate management regulations to ensure a common and fair development ground between the press and other forms of media, as well as to regulate newly arising issues of the develop.

2.4. Regulations on representative offices and permanent reporters

Based on Article 22 of the 2016 Press Law, which regulates the conditions and operations of representative offices and resident reporters, in recent times, there have been shortcomings such as:

Firstly, the Press Law does not have regulations limiting the number of representative offices, permanent reporters or the size of press agencies that can establish representative offices, as well as how many can be established. office; It is these inadequacies that lead to the current status quo One person can still represent and act as the head of many different representative offices , which does not represent the function and role of the office representative . Because of this lack of strict regulations, some scientific journals have taken advantage and opened many representative offices. In terms of function, these offices do not appoint permanent reporters to focus on their activities. Research activities and relevant scientific information, but mainly focus on exploiting negative and inadequacy issues of the locality.

Second, the representative office model is not unified in our country today, as some representative offices will set up offices in a province and city to represent a locality. However, there are also cases where a representative office can represent an entire region including many provinces. In addition, there are still many representative offices that only have the Head of the Office with a journalist license, with a team of reporters in the office who do not have journalism expertise or experience as collaborators, and do not meet the requirements. required for the capacity and qualifications of journalists. Many representative offices were established but were not funded by the press agency or held lease contracts in their names; reporters and collaborators did not have a contract or were paid social insurance through the press agency. criteria, causing difficulties in determining what a representative office is qualified to operate. Through this, the law should also clarify that the Head of the representative office is granted a seal to be proactive in the office's operational activities, and the recruitment of human resources to operate in the office is also an issue that needs to be considered. and specific regulations in the current period .

2.5. Regulations on scientific journals

Clause 16, Article 3 and Clause 2, Article 14 of the 2016 Press Law stipulate the concept and objects of establishing scientific magazines. Accordingly, scientific magazines currently account for 37% of the total number of press agencies, more specific than other conventional press products with the main function of publishing scientific research results and informing the public. information about specialized scientific activities. However, the provisions of the Press Law on scientific magazines are not sufficient to create a basis for the development of this product; There are no regulations on criteria and conditions for ensuring scientific quality, and the responsibilities of the governing agency in ensuring scientific quality are not yet specified.

The majority of scientific journals operate under a subsidy mechanism from the governing agency, with negligible funding and almost no commercial revenue. Many governing bodies of scientific journals do not establish press agencies but only mobilize personnel from affiliated departments and divisions to concurrently work on publishing the magazine. At that time, the staff of these journals were often concurrently held by researchers, lecturers, professors, doctors, and experts with scientific degrees and degrees. For scientific magazines, the leader plays an important role. Although given priority in terms of eligibility for a press card, he

or she needs to have prestige and deep expertise to be able to take charge and edit, approve and publish articles with high scientific research content. In many cases, the head or intended head of a journal may be a reputable person in the scientific research world, but does not fully meet the conditions of political standards or age of appointment. For the first time, causing difficulties in the search for the head of a scientific journal as well as in the appointment of physicians.

2.6. Regulations on dissolution and bankruptcy of press agencies

In essence, agencies and organizations can proceed with procedures related to dissolution or bankruptcy if they operate ineffectively. However, up to now, the Press Law has no regulations related to the termination or dissolution of the legal entity of a press agency after the Ministry of Information and Communications has revoked its press operation license. In fact, a press agency that no longer has an operating license still has a legal entity to handle related obligations such as finance, property, labor, insurance, tax obligations, etc. completely separate from professional journalistic activities. In many cases, the complete resolution of problems that arise after the end of journalistic activities can take many years; There are cases of taking advantage of legal status and using seals to perform other tasks.

In addition, regarding the dissolution of public service units, there are regulations in Decree 120/2020/ND-CP dated October 7, 2020 of the Government regulating the establishment and organization of public service units. Again, dissolve the public service unit. However, reality shows that there are many press agencies that belong to associations and institutes, and are not public enterprises, so this regulation cannot be applied. In addition, procedures related to bankruptcy only apply to businesses and cooperatives established in the territory of Vietnam. Thus, in case a press agency becomes insolvent and is declared bankrupt by a competent authority, there is currently no process for implementing bankruptcy procedures according to the 2014 Bankruptcy Law .

3. Recommendation for completion

Amending and supplementing the Press Law is a necessary step to thoroughly resolve and overcome existing problems, obstacles, inadequacies and ensure compliance with the actual development of the field of journalism and communication in the period. current paragraph. Accordingly, a number of measures will be proposed to be improved as follows:

First, amend and supplement Article 18 and Article 31 of the Press Law in the direction of revoking its operating license when a press agency does not ensure the conditions as prescribed in Article 17 and Article 30 of the Press Law; Clause 2, Article 59 of the Press Law specifically stipulates the order and procedures for revoking licenses when handling violations.

Second, amend and supplement Article 15 of the Press Law in the direction of enhancing the role and powers of the press governing body; The governing body ensures resources and manages, monitors and evaluates activities. Additional measures to handle the responsibilities of heads and relevant individuals of the governing agency when violations occur at the press agency.

Third, consider amending the name of the Press Law to “Law on Press and Communications”, expanding the scope of regulation to cover all types of modern media; clarify the concept and promote the development of the press - media complex and the press ecosystem; the concept of “editor, newspaper owner”...; Adjust regulations on press agency models, types of press, information and communication, thereby supplementing appropriate management regulations. At the same time, supplement regulations on management of content related to types of activities providing information content on electronic information pages and social networks; clearly stipulate the conditions for establishment, operation, roles and tasks of the general website; Adjust regulations on providing radio and television content and providing radio and television transmission services in accordance with practice and manage in a modern way, applying digital technology.

Fourth, amend and supplement the Press Law in the direction of creating a legal corridor to build mechanisms and policies to encourage the development of domestic digital technology platforms and distribution of press information content; develop key multimedia media agencies, press and media complexes, and newspapers on digital platforms; Build tools/platforms to collect, process data, evaluate, forecast, reflect journalistic quality, build social media evaluation index based on the impact of on-air news content cyber attacks from newspapers to ensure objectivity and honesty to serve press management; build reader data; automate production and content editing processes; applying technology to enhance content quality and improve user experience; develop models of linkages between the press and technology companies, telecommunications carriers, advertising businesses, and cross-border platforms; Focus on human resource training and international cooperation to promote digital transformation.

Fifth, amend and supplement Article 54 in the direction of assigning the Ministry of Foreign Affairs as the foreign press management agency to manage print newspaper import activities, ensuring that the imported press

content is consistent with the government. Vietnam's press books and laws. At the same time, amend and supplement Clause 1, Article 21 of the Press Law in the direction of regulating the types of activities, scale and operating methods of press agencies accordingly, including for press agencies under the Ministry of Industry and Trade. social organizations, socio-professional organizations, research institutes, as well as regulations to promote new press economic models, structural transformation and diversification of press revenue, and development Electronic journalism model that charges content fees.

Sixth, amend and supplement Article 22 of the Press Law in the direction of clearly defining a number of general models of representative offices suitable to the structure, organization and scale of the press agency; regulate the number of representative offices and permanent reporters corresponding to the size of the press agency; Supplementing conditions, structure, powers, duties and powers of representative offices and heads of representative offices. According to regulations, scientific research journals do not open representative offices or appoint permanent reporters; Supplementing the condition that reporters from representative offices must have an official contract with the press agency; Specifying regulations on the number of independent permanent reporters in each locality is 01 person...

Seventh, Plan to amend and supplement regulations on scientific journals:

Option 1: Amend and supplement the Press Law in the direction of distinguishing scientific journals from other journalistic products. Regulations on scientific criteria and conditions for establishing scientific journals. Create a specific mechanism for the model, operating budget, and financial mechanism of scientific journals; Standards and conditions for heads of scientific journals need to be specific compared to other press agencies.

Option 2: Amend and supplement the Press Law in the direction of not regulating publications that publish scientific research or scientific articles as press agencies, not subject to the Press Law. In addition, it is also necessary to amend and supplement clauses 3, 6 and 15, Article 3 of the Press Law in the direction of clearly distinguishing print newspapers and magazines, electronic newspapers and electronic magazines. Clarifying the connotation of the concept, nature of information, and periodic publication time of magazines and e-magazines.

Eighth, Supplementing regulations on conditions, order, and procedures for dissolution and bankruptcy of press agencies ; Responsibilities of relevant agencies, organizations and individuals. These are thought to be necessary issues to create a complete law on the press, avoiding shortcomings due to lack of legal basis for application in the current period.

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