



Republic of the Philippines
COMMISSION ON ELECTIONS
 Intramuros, Manila



EN BANC

RULES AND REGULATIONS IMPLEMENTING REPUBLIC ACT NO. 9006, OTHERWISE KNOWN AS THE "FAIR ELECTIONS ACT", IN CONNECTION WITH THE 09 MAY 2016 NATIONAL AND LOCAL ELECTIONS.

BAUTISTA, J. ANDRES D., *Chairman*
LIM, CHRISTIAN ROBERT S., *Commissioner*
PARREÑO, AL A., *Commissioner*
GUIA, LUIE TITO F., *Commissioner*
LIM, ARTHUR D., *Commissioner*
GUANZON, MA. ROWENA AMELIA V., *Commissioner*
ABAS, SHERIFF M., *Commissioner*

Promulgated:

X -----X

February 1, 2016

RESOLUTION No.

10049

WHEREAS, Republic Act No. 9006, otherwise known as the "Fair Elections Act," provides for the holding of free, orderly, honest, peaceful and credible elections through fair election practices;

WHEREAS, the said Act allows the publication or broadcast of political advertisements or propaganda for or against any candidate or political party;

WHEREAS, Section 3 of the said Act provides that election propaganda, whether on television, cable television, radio newspapers or any other medium shall be subject to the supervision and regulation of the Commission on Elections (hereafter, "COMELEC");

WHEREAS, Section 6.4 of the said Act directs the COMELEC to supervise in all instances the use and employment of press, radio and television broadcasting facilities insofar as the placement of political advertisements is concerned so as to give candidates equal opportunity under equal circumstances to make known their qualifications and position on public issues within the limits set forth in the Omnibus Election Code and Republic Act No. 7166;¹

WHEREAS, Section 13 of the same Act requires the COMELEC to promulgate the necessary rules and regulations for the implementation thereof; and

¹ An Act Providing for Synchronized National and Local Elections and for Electoral Reforms, Authorizing Appropriations Therefor, and for Other Purposes promulgated on November 26, 1991.

NOW, THEREFORE, the COMELEC, by virtue of the powers vested in it by the Constitution, the Omnibus Election Code, the Fair Elections Act, Republic Act Nos. 6646,² 7166,³ and other related laws, has RESOLVED, as it hereby RESOLVES, to promulgate the following Rules and Regulations.

SECTION 1. *Definitions* - As used in this Resolution:

1. "*Blog*" and "*collective blog*" refer to websites on which an individual or group of users, respectively, record news, opinions, and information, in varying degrees of regularity. A "*micro-blog*" refers to a blogging format which allows users to exchange small elements of content – referred to variously as posts, entries, or status updates – such as short sentences, individual images, or links to video material uploaded to the Internet.
2. "*Candidate*" refers to any person seeking an elective public office who has filed his or her certificate of candidacy, and who has not died, withdrawn his certificate of candidacy, had his or her certificate of candidacy denied due course or cancelled, or has been otherwise disqualified before the start of the campaign period for which he or she filed his certificate of candidacy. *Provided*, that, unlawful acts or omissions applicable to a candidate shall take effect only upon the start of the aforesaid campaign period.

It also refers to any registered national, regional, or sectoral party, organization or coalition thereof that has filed a manifestation of intent to participate under the party-list system, which has not withdrawn the said manifestation, or which has not been disqualified before the start of the campaign period.

3. "*Contractors*" and "*business firms*" refer to any person, natural or juridical, or firm to whom any electoral expenditure is made in accordance with Section 112 of the Omnibus Election Code and COMELEC Resolution No. 9991 dated 02 October 2015.
4. "*Election campaign*" or "*partisan political activity*" refers to an act designed to promote the election or defeat of a particular candidate or candidates to a public office, and shall include any of the following:
 - a. Forming organizations, associations, clubs, committees or other groups of persons for the purpose of soliciting votes and/or undertaking any campaign for or against a candidate;
 - b. Holding political caucuses, conferences, meetings, rallies, parades or other similar assemblies for the purpose of soliciting votes and/or undertaking any campaign or propaganda for or against a candidate;
 - c. Making speeches, announcements or commentaries, or holding interviews for or against the election of any candidate for public office;
 - d. Publishing, displaying or distributing campaign literature or materials designed to support or oppose the election of any candidate; or

² An Act Introducing Additional Reforms in the Electoral System and For Other Purposes promulgated on January 5, 1988.

³ Supra at note 1.

- e. Directly or indirectly soliciting votes, pledges or support for or against any candidate.

Personal opinions, views, and preferences for candidates, contained in blogs and micro-blogs shall not be considered as acts of election campaigning or partisan political activity unless expressed by government officials in the Executive Department, the Legislative Department, the Judiciary, the Constitutional Commissions, and members of the Civil Service.

5. "*Election survey*" refers to the measurement of opinions and perceptions of the voters as regards a candidate's popularity, qualifications, platforms or matters of public discussion in relation to the election, including voters' preference for candidates or publicly discussed issues during the campaign period.
6. "*Exit poll*" refers to a species of election survey conducted by a qualified individual or a group of individuals for the purpose of determining the probable result of an election by confidentially asking randomly selected voters for the names of candidates they have voted for, immediately after they have officially cast their ballots.
7. "*Media practitioner*" refers to a person who is not employed by a media entity but performs similar functions or has control over what is printed or broadcast, such as a talent or a block timer.

Persons who create online content for personal or collective blogs and micro-blogs shall be considered media practitioners for purposes of these Rules.

8. "*Mass media entities*" shall include entities in broadcast media, print media, outdoor media, and digital media (both Internet and mobile mass media).
9. "*Party*" refers to either a political party, whether national or sectoral party, or a coalition of parties, and party-list organizations duly registered/accredited with the COMELEC.
10. "*Political advertisement*" or "*election propaganda*" refers to any matter broadcasted, published, printed, displayed or exhibited, in any medium, which contains the name, image, logo, brand, insignia, color motif, initials, and other symbol or graphic representation that is capable of being associated with a candidate or party, and is exclusively intended to draw the attention of the public or a segment thereof to promote or oppose, directly or indirectly, the election of the said candidate or candidates to a public office. In broadcast media, political advertisements may take the form of spots, appearances on television shows and radio programs, live or taped announcements, teasers, and other forms of advertising messages or announcements used by commercial advertisers.

Political advertisements include matters not falling within the scope of personal opinion that appear on any Internet website, including, but not limited to, social networks, blogging sites, and micro-blogging sites, in return for consideration, or otherwise capable of pecuniary estimation.

SECTION 2. Campaign Periods. - For purposes of the 09 May 2016 National and Local Elections, the campaign periods shall be:

Elective Office	Start	End
Candidates for President, Vice President, Senator and Party-List groups participating in the party-list system of representation	09 February 2016 (Tuesday)	07 May 2016 (Saturday)
Candidates for Members of the House of Representatives, regional, provincial, city and municipal officials	25 March 2016 (Friday)	07 May 2016 (Saturday)

SECTION 3. *Prohibited Campaigning.* - It is unlawful for any person or for any political party, or association of persons to engage in an election campaign or partisan political activity on Maundy Thursday (24 March 2016), Good Friday (25 March 2016), the eve of Election Day (08 May 2016), and on Election Day (09 May 2016).

SECTION 4. *Prohibition against Foreign Intervention.* - It is unlawful for any foreigner, whether a juridical or natural person, to directly or indirectly aid any candidate, or political party, organization or coalition, or to take part in, or influence in any manner, any election, or to contribute or make any expenditure in connection with any election campaign or partisan political activity.

SECTION 5. *Authorized Expenses of Candidates and Parties.* - The aggregate amount that a candidate or party may spend for an election campaign shall be as follows:

- a. Candidates for President and Vice-President - Ten pesos (P10.00) for every registered voter
- b. For other candidates - Three pesos (P3.00) for every voter currently registered in the constituency where the candidate filed his certificate of candidacy;
- c. For candidates under the above paragraph (b) without any political party and without support from any political party - Five pesos (P5.00) for every voter currently registered in the constituency where the candidate filed his certificate of candidacy; and
- d. For Political Parties and party-list groups - Five pesos (P5.00) for every voter currently registered in the constituency or constituencies where it has official candidates.

SECTION 6. *Lawful Election Propaganda.* - Election propaganda, whether on television or cable television, radio, newspaper, the Internet or any other medium, is hereby allowed for all parties and for all *bona fide* candidates seeking national and local elective positions, subject to the limitation on authorized expenses of candidates and parties, observation of truth in advertising, and to the supervision and regulation by the COMELEC.

Lawful election propaganda shall include:

- a. Pamphlets, leaflets, cards, decals, stickers or other written or printed materials the size of which does not exceed eight and one-half (8 ½) inches in width and fourteen (14) inches in length;
- b. Handwritten or printed letters urging voters to vote for or against any particular political party or candidate for public office;

- c. Posters made of cloth, paper, cardboard or any other material, whether framed or posted, with an area not exceeding two (2) feet by three (3) feet;
- d. Streamers not exceeding three (3) feet by eight (8) feet in size displayed at the site and on the occasion of a public meeting or rally. Said streamers may be displayed five (5) days before the date of the meeting or rally and shall be removed within twenty-four (24) hours after said meeting or rally;
- e. Mobile units, vehicles motorcades of all types, whether engine or manpower-driven or animal-drawn, with or without sound systems or loud speakers and with or without lights;
- f. Paid advertisements in print or broadcast media subject to the requirements set forth in Section 4 hereof and the Fair Elections Act;
- g. In the headquarters or residences of candidates, lawful election paraphernalia may be displayed, but banners or streamers referred to in paragraph (d) above shall not be allowed; and
- h. All other forms of election propaganda not prohibited by the Omnibus Election Code or these rules.

Parties and candidates are hereby encouraged to use recyclable and environment-friendly materials and to avoid those that contain hazardous chemicals and substances in the production of their campaign and election propaganda.

Parties and candidates are hereby required to indicate in their printed campaign materials the phrase: "*This material should be recycled*". In local government units where local ordinances governing the use of plastic and other similar materials exist, parties and candidates shall comply with the same.

SECTION 7. Prohibited Forms of Election Propaganda. - During the campaign period, it is unlawful:

- a. To print, publish, post or distribute any newspaper, newsletter, newsweekly, gazette or magazine advertising, pamphlet, leaflet, card, decal, bumper sticker, poster, comic book, circular, handbill, streamer, sample list of candidates or any published or printed political matter, and to air or broadcast any election propaganda or political advertisement by television or radio or on the Internet for or against a candidate or group of candidates to any public office, unless they bear and be identified by the reasonably legible, or audible words "*political advertisement paid for,*" followed by the true and correct name and address of the candidate or party for whose benefit the election propaganda was printed or aired. It shall likewise be unlawful to publish, print or distribute said campaign materials unless they bear, and are identified by, the reasonably legible, or audible words "*political advertisements paid by,*" followed by the true and correct name and address of the payor.
- b. To print, publish, broadcast, display or exhibit any such election propaganda donated or given free of charge by any person or mass media entity to a candidate or party without the written acceptance of the said candidate or party, and unless they bear and be identified by the words "*printed free of charge,*" or "*airtime for this broadcast was provided free of charge by,*" respectively, followed by the true and correct name and address of the said mass media entity;

- c. To show, display or exhibit publicly in a theater, through a television station, or any public forum any movie, cinematography or documentary, including concert or any type of performance portraying the life or biography of a candidate, or in which a character is portrayed by an actor or media personality who is himself or herself a candidate;
- d. For any newspaper or publication, radio, television or cable television station, or other mass media entity, or any person making use of the mass media to sell or give free of charge print or advertising space or airtime for campaign or election propaganda purposes to any candidate or party in excess of the size, duration or frequency authorized by law or these Rules;
- e. For any radio, television, cable television station, announcer or broadcaster to allow the scheduling of any program, or permit any sponsor to manifestly favor or oppose any candidate or party by unduly or repeatedly referring to, or unnecessarily mentioning his name, or including therein said candidate or party; and
- f. To post, display or exhibit any election campaign or propaganda material outside of authorized common poster areas, in public places, or in private properties without the consent of the owner thereof.

Public places include any of the following:

1. Publicly-owned electronic announcement boards, such as light-emitting diode (LED) display boards located along highways and streets, liquid crystal display (LCD) posted on walls of public buildings, and other similar devices which are owned by local government units, government-owned or controlled corporations, or any agency or instrumentality of the Government;
2. Motor vehicles used as patrol cars, ambulances, and for other similar purposes that are owned by local government units, government-owned or controlled corporations, and other agencies and instrumentalities of the Government, particularly those bearing government license plates.
3. Public transport vehicles owned and controlled by the government such as the Metro Rail Transit (MRT), Light Rail Transit (LRT), and Philippine National Railway trains and the like.
4. Waiting sheds, sidewalks, street and lamp posts, electric posts and wires, traffic signages and other signboards erected on public property, pedestrian overpasses and underpasses, flyovers and underpasses, bridges, main thoroughfares, center islands of roads and highways;
5. Schools, public shrines, barangay halls, government offices, health centers, public structures and buildings or any edifice thereof;
6. Within the premises of public transport terminals, owned and controlled by the government, such as bus terminals, airports, seaports, docks, piers, train stations and the like.

The printing press, printer, or publisher who prints, reproduces or publishes said campaign materials, and the broadcaster, station manager, owner of the radio or television station, or owner or administrator of any website who airs or shows the political advertisements, without the required data or in violation of these rules shall be criminally liable with the candidate and, if applicable, further suffer the penalties of suspension or revocation of franchise or permit in accordance with law.

Nothing in these rules shall be construed as limiting the authority of the appropriate agencies and instrumentalities of the government to promulgate their own rules and regulations, regarding the posting of political print advertising on any regulated land, sea and air vehicle, including but not limited to public utility vehicles and tricycles.

SECTION 8. *Petition for Authority to Use Other Election Propaganda.* - Any person seeking authority to use other forms of election propaganda not covered by those enumerated in Section 6 hereof and not prohibited by law may file with the COMELEC, through the Clerk of the Commission, a verified petition in eight (8) legible copies, describing the election propaganda sought to be authorized with samples thereof.

Upon receipt of the petition, the Clerk of the Commission shall set it for hearing and shall send notice thereof to the petitioner. On the day following the receipt of the notice of hearing, the petitioner shall cause the publication of the petition, together with the notice of hearing, in two (2) newspapers of general circulation, and shall notify the COMELEC of such action.

If the COMELEC authorizes the use of the requested election propaganda, the authorization shall be published in two (2) newspapers of general circulation within one (1) week after the authorization has been granted.

SECTION 9. *Requirements and/or Limitations on the Use of Election Propaganda through Mass Media.* - All parties and bona fide candidates shall have equal access to media time and space for their election propaganda during the campaign period, subject to the following requirements and/or limitations:

a. Broadcast Election Propaganda

The duration of air time that a candidate, or party may use for their broadcast advertisements or election propaganda shall be, as follows:

For Candidates/Registered Political parties for a National Elective Position	Not more than a total of one hundred twenty (120) minutes of television advertising, on a per originating station basis, whether appearing on national, regional, or local, free or cable television, and one hundred eighty (180) minutes of radio advertising, on a per originating station basis, whether airing on national, regional, or local radio, whether by purchase or donation.
For Candidates/Registered Political parties for a Local Elective Position	Not more than a total of sixty (60) minutes of television advertising, on a per originating station basis, whether appearing on national, regional, or local, free or cable television, and ninety (90) minutes of radio advertising, on a

	per originating station basis, whether airing on national, regional, or local radio, whether by purchase or donation.
--	---

In cases where two or more candidates or parties whose names, initials, images, brands, logos, insignias, color motifs, symbols, or forms of graphical representations are displayed, exhibited, used, or mentioned together in the broadcast election propaganda or advertisements, the length of time during which they appear or are being mentioned or promoted will be counted against the airtime limits allotted for the said candidates or parties.

In like manner, the cost of the length of time during which individual candidates, groups of candidates, or parties appear or are being mentioned or promoted, shall be computed as a fraction of the total cost of the advertisement, and such fraction shall be considered their respective expenditures, to be deducted from the total cost of the advertisement.

The balance shall be counted against the expenditure limits of whoever paid for the advertisements or to whom the said advertisements were donated.

Appearance or guesting by a candidate on any bona fide newscast, bona fide news interview, bona fide news documentary, if the appearance of the candidate is incidental to the presentation of the subject or subjects covered by the news documentary, or on-the-spot coverage of bona fide news events, including but not limited to events sanctioned by the COMELEC, political conventions, and similar activities, shall not be deemed broadcast election propaganda within the meaning of this provision. For purposes of monitoring by the COMELEC and ensuring that parties and candidates were afforded equal opportunities to promote their candidacy, the broadcast mass media entities shall give prior notice to the COMELEC, through the appropriate Regional Election Director (RED), or in the case of the National Capital Region (NCR), the Education and Information Department (EID) If such prior notice is not feasible or practicable, the notice shall be sent within twenty-four (24) hours from the first broadcast or publication. Nothing in the foregoing sentence shall be construed as relieving broadcasters, in connection with the presentation of newscasts, news interviews, news documentaries, and on-the-spot coverage of news events, from the obligation imposed upon them under Sections 11 and 14 of these Rules.

b. Printed or Published Election Propaganda

The maximum size of print advertisements for each candidate, whether for a national or local elective positions, or party shall be, as follows:

In broadsheets	One fourth (1/4) page
In tabloids	One half (1/2) page

Two or more candidates, political parties, or party-list organizations may cause the publication of coordinated print advertisements, featuring more than one candidate, political party, or party-list organization, provided that the size and frequency limitations provided for in this paragraph shall apply to each candidate, political party, or party-list appearing, mentioned, or promoted in such a coordinated advertisement.

The cost of coordinated print advertisements shall be pro-rated among each candidate, political party, or party-list organization appearing in each advertisement, and shall be reported by them accordingly.

Print advertisements, whether procured by purchase or given free of charge, shall not be published more than three (3) times a week per newspaper, magazine, or other publication during the campaign period.

c. Online Election Propaganda

The maximum size of online propaganda for each candidate, whether for a national or local elective position, or party shall be as follows:

Name	Width/pixels	Height/pixels	Aspect Ratio
<i>Rectangles and Pop-ups</i>			
Medium	300	250	1.2
Square Pop-up	250	250	1
Vertical Rectangle	240	400	1.67
Large Rectangle	336	280	1.2
Rectangle	180	150	1.2
3:1 Rectangle	300	100	3
Pop-Under	720	300	2.4
<i>Banners and Buttons</i>			
Full Banner	468	60	7.8
Half Banner	234	60	3.9
Micro-Bar	88	31	2.84
Button 1	120	90	1.33
Button 2	120	60	2
Vertical Banner	120	240	2
Square Button	125	125	1
Leaderboard	728	90	8.09
<i>Skyscrapers</i>			
Wide skyscraper	160	600	3.75
Skyscraper	120	600	5
Half-Page ad	300	600	2

Said online advertisement, whether procured by purchase or given free of charge, shall not be published more than three times a week per website during the campaign period. For this purpose, the exhibition or display of the online advertisement for any length of time, regardless of frequency, within a 24 hour period, shall be construed as one instance of publication.

Broadcast programs which are the main content of online streaming or video website pages shall not be considered online election propaganda.

d. Common requirements/limitations:

1. Any printed or published, and broadcast election propoganda for or against a candidate or group of candidates to any public office shall bear and be identified by the reasonably legible or audible words "*political advertisement paid for,*" followed by the true and correct name and address of the candidate or party for whose benefit the election propoganda was printed or aired. It shall also bear and be identified by the reasonably legible, or audible words "*political advertisement paid by,*" followed by the true and correct name and address of the payor. This rule shall apply to online advertisements.

The notices required in the immediately preceding paragraph shall be considered reasonably legible on printed materials, if it complies with the following:

- (i) The notice must be of sufficient type size to be clearly readable by the reader of the information.

A notice in twelve (12)-point type size satisfies the size requirement of this paragraph when it is used for signs, posters, flyers, newspapers, magazines, or other printed material that measure no more than two (2) feet by three (3) feet.

- (ii) The notice must be contained in a printed box, set apart from the other contents of the sign, poster, flyer, or newspaper advertisement.

- (iii) The notice must be printed with a reasonable degree of color contrast between the background and the printed statement. A notice satisfies the color contrast requirement of this paragraph if it is printed in black text on a white background or if the degree of color contrast between the background and the text of the notice is no less than the color contrast between the background and the largest text used in the communication.

The notices required in the immediately preceding paragraph shall be considered reasonably legible on television, if it complies with the following:

- (i) The notice must appear in letters equal to or greater than four (4) percent of the vertical picture height;

- (ii) The notice must be visible for the duration of the broadcast advertisement; and

- (iii) The notice must appear with a reasonable degree of color contrast from the background. A notice satisfies the color contrast requirement of this paragraph if it is displayed in black text on a white background or if the degree of color contrast between the background and the text of the notice is no less than the color contrast between the background and the largest type size used in the communication.

2. If the space for printed or published election propoganda is donated by the publishing firm, or the airtime for broadcast election propoganda is given free of charge by the radio, or television station or cable television, they shall bear and be identified by the reasonably legible or audible words "*printed free of charge,*" or "*airtime for this broadcast was provided free of charge by,*" respectively, followed by the true and correct name and address of the said publishing firm or broadcast entity. This rule shall apply to online advertisements.



3. For the immediately preceding purpose, each broadcast entity and website owner or administrator shall submit to the COMELEC, certified true copies of broadcast logs, certificates of performances, affidavits of publication or other analogous records that can only be generated after broadcast or publication, for review and verification of the frequency, date, time and duration of advertisements aired for any candidate or party through:

For Broadcast Entities in the NCR - The EID, which in turn shall furnish copies thereof to the Campaign Finance Office of the COMELEC within five (5) days from receipt thereof.

For Broadcast Entities outside of the NCR - The City/Municipal Election Officer concerned, who in turn shall furnish copies thereof to the EID, which in turn shall furnish copies thereof to the Campaign Finance Office of the COMELEC within five (5) days from the receipt thereof.

For website owners or administrators - The City/Municipal Election Officer concerned, who in turn, shall furnish copies thereof to the EID, which in turn shall furnish copies thereof to the Campaign Finance Office of the COMELEC within five (5) days from the receipt thereof.

All broadcast and digital mass media entities shall preserve their broadcast logs or analogous records for a period of five (5) years from the date of broadcast or publication for submission to the COMELEC whenever required.

Certified true copies of broadcast logs, certificates of performance, certificates of acceptance, or other analogous records shall be submitted, as follows:

<i>Candidates for National Positions</i>	1st Report	<i>3 weeks after start of campaign period</i>	March 2 - 9
	2nd Report	<i>3 weeks after 1st filing week</i>	March 31 - April 7
	3rd Report	<i>1 week before election day</i>	April 26 - May 2
	Last Report	<i>Election week</i>	May 9 - 16
<i>Candidates for Local Positions</i>	1st Report	<i>1 week after start of campaign period</i>	April 1 - 8
	2nd Report	<i>1 week after 1st filing week</i>	April 16 - 23
	3rd Report	<i>Election week</i>	May 9 - 16
	Last Report	<i>1 week after election day</i>	May 17 - 24

For subsequent elections, the schedule for the submission of reports shall be prescribed by the COMELEC.

SECTION 10. *Written Acceptance of Election Propaganda and/or Political Advertisements.* - Election propaganda materials donated or contributed by any person to a candidate or party shall not be printed, published or broadcasted, or exhibited, unless they are accompanied by the written acceptance by said candidate or party, through the party treasurer.

Such written acceptance of the donated election propaganda materials must be personal to the candidate or party treasurer, and cannot be delegated to their duly authorized representatives designated to receive donations or contributions.

SECTION 11. *Reporting Requirements to be Submitted by Mass Media Entities, Contractors and Business Firms.* - Pursuant to Resolution No. 9991⁴, the following should be submitted to the COMELEC:

- a. *For Mass Media Entities:* All copies of advertising contracts must be clear, legible, encoded, and must be accompanied by a Summary Report of Advertising Contracts which will serve as the cover report for all the advertising contracts submitted by the mass media entity on that day.

The copy of advertising contracts attached to the Summary Report of Advertising Contracts must be clear and legible, and must contain the following information:

- i. the period when the political advertisement is scheduled to be published, broadcasted, or exhibited;
- ii. the date when the contract was entered into;
- iii. the name and signature of the person who placed the advertisement, regardless of whether said person is a contributor or donor, or the duly authorized representative of the candidate or party;
- iv. the name and signature of the candidate or party who will benefit from the advertisement as a sign of acceptance;
- v. the particulars of the political advertisement (e.g. the size of the advertisement as published on periodicals, duration of the advertisement as published on periodicals, duration of the advertisement in terms of airtime, frequency, number of spots, and program or timeslot, etc.);
- vi. the serial number of the official receipt issued to the candidate or party by the mass media entity; and
- vii. the amount or consideration paid for the advertisement contract.

It must likewise be supported by a copy of the official receipt issued to the contributor or donor, candidate or party, who paid for the advertising contract.

Mass media entities with offices within the NCR must make their submissions directly to the Campaign Finance Office of the COMELEC. For mass media entities located outside of the NCR, they must furnish a copy of the advertising contracts in accordance with the formal requirements stated in Resolution No. 9991 to the nearest COMELEC Field Office. The COMELEC Field Officer concerned shall then be responsible for sending the soft copy of said submissions via electronic mail to the Campaign Finance Office within twenty four (24) hours upon receipt.

⁴ Otherwise known as the "Omnibus Rules & Regulations Governing Campaign Finance & Disclosure in connection with the 09 May 2016 National and Local Elections and All Subsequent National & Local Elections Thereafter" promulgated on 02 October 2015.

It shall be the duty of the Campaign Finance Office in case of national candidates and parties, and the concerned COMELEC Field Officer for local candidates and parties, to formally notify mass media entities that the latter's failure to comply with the mandatory provisions of this Section shall be considered an election offense punishable pursuant to Section 13 of the Fair Elections Act.

- b. For Mass Media Entities, Contractors and Business Firms: every person giving a contribution, whether in cash or in kind, to any candidate, political party or party-list group or their duly authorized representatives, shall file with the nearest COMELEC Field Office a Report of Contributions, in duplicate, within thirty (30) days following the day of the election.

The forms, contents, and venue for filing of the Report of Contributions shall be those provided in Section 2, Rule 5, of Resolution No. 9991.

The candidates, political party, or party-list group who received the contributions, whether in cash or in kind, may, together with their campaign finance submissions, file the Reports of Contributions on behalf of their donors and contributors.

Failure of the contributors or donors to comply with this Section, in connection with Section 1 Rule 5 of Resolution No. 9991, shall constitute an election offense under Section 99 in relation to Section 262 of the Omnibus Election Code.

SECTION 12. *Fair and Accurate Reporting.* - All members of the news media, television, radio, print, or online, shall scrupulously report the news, taking care not to suppress essential facts or distort the truth by omission or improper emphasis. They shall recognize the duty to air the other side and the duty to correct substantive errors promptly and without prejudice to the right of said broadcast entities to air accounts of significant news or newsworthy events and views on matters of public interest.

SECTION 13. *No Suspension of Franchise.* - No franchise or permit to operate a radio or television station shall be granted or issued, suspended or cancelled during the election period, except by the COMELEC.

SECTION 14. *COMELEC Space and Time for Announcement of Candidates.* - The COMELEC shall procure print space and air time as follows:

- a. Print Space

The COMELEC shall, through the EID, procure print space in at least three (3) national newspapers of general circulation, wherein candidates for national office can announce their candidacies. Such space shall be allocated free of charge equally and impartially to all candidates for national office on three different calendar days, as follows:

1 st day	within the first week of the campaign period
2 nd day	within the fifth week of the campaign period
3 rd day	within the tenth week of the campaign period

b. Air Time

The COMELEC shall, through the EID, also procure free air time from at least three (3) national television networks and three (3) national radio networks wherein candidates for national office can announce their candidacies.

Air time shall be allocated free of charge equally and impartially to all candidates for national office on three (3) different calendar days, as follows:

1 st day	within the first week of the campaign period
2 nd day	within the fifth week of the campaign period
3 rd day	within the tenth week of the campaign period

Each advertisement shall be for a maximum duration of thirty (30) seconds, or in the form of interviews or campaign speeches at time limits to be set by the COMELEC in consultation with the said candidates or the parties;

Costs of production for political advertisements shall be borne by the candidate or political party, but the speeches or interviews shall be free of charge and the moderator shall be a COMELEC Official, or one designated by the COMELEC for the purpose.

SECTION 15. *Space and Time for COMELEC Information Dissemination.* - The COMELEC shall furthermore procure print space and air time as follows:

a. Print Space

The COMELEC shall, through the RED, or in the case of the NCR, the EID, upon payment of just compensation, procure print space in at least one (1) newspaper of general circulation in the province or city which shall be known as "COMELEC Space" to be utilized exclusively for public information dissemination on election-related concerns. In the absence of said newspaper of general circulation, publication shall be done in any other magazine or periodical in the province or city.

b. Airtime

The COMELEC shall, through the RED, or in the case of NCR, the EID, also procure air time free of charge in at least one (1) major broadcasting station or entity in every province or city which shall be known as "COMELEC Time" to be utilized exclusively for public information dissemination on election-related concerns. In the absence of a major station or entity, broadcasting shall be done in any radio or television station in the province or city.

Each radio, television or broadcasting station chosen by the RED or the EID Director, as the case may be, shall provide airtime including primetime at least sixty (60) minutes daily.

SECTION 16. *Right to Reply* - All registered parties and candidates shall have the right to reply to charges published or aired against them. The reply shall be given publicity by the newspaper, television, and/or radio station which first printed or aired the charges with the same prominence or in the same page or section, or in the same time slot as the first statement.

Registered parties and candidates may invoke the right to reply by submitting within a non-extendible period of thirty-six (36) hours from first broadcast or publication, a formal verified claim against the mass media entity to the COMELEC, through the appropriate RED, or in the case of the NCR, the EID. The claim shall include a detailed enumeration of the circumstances and occurrences which warrant the invocation of the right of reply and must be accompanied by supporting evidence, such as a copy of the publication or recording of the television or radio broadcast, as the case may be. The claimant must likewise furnish a copy of the verified claim and its attachments to the mass media entity concerned prior to the filing of the claim with the COMELEC.

The COMELEC, through the appropriate RED or the EID, shall review the formal verified claim within thirty-six (36) hours from receipt thereof, and if circumstances warrant, endorse the same to the mass media entity involved, which shall, within twenty-four (24) hours, submit its report to the RED or EID, as the case may be, explaining the action it has taken to address the claim. The mass media entity must likewise furnish a copy of the said report to the claimant invoking the right to reply. Should the claimant insist that his/her right to reply was not addressed, he/she may file the appropriate petition and/or complaint before the COMELEC Main Office.

SECTION 17. *Rates for Political Propaganda*. - During the election period, media outlets shall charge parties and candidates a discounted rate for their election propaganda over the average rates charged during the first three (3) quarters of the calendar year preceding the elections, as follows:

- a. For television - Thirty percent (30%);
- b. For radio - Twenty percent (20%);
- c. For print - Ten percent (10%)

SECTION 18. *Regulation of Election Propaganda through Mass Media*. - In all instances, the COMELEC shall supervise the use and employment of press, radio, online, and television facilities insofar as the placement of political advertisements is concerned to ensure that candidates are given equal opportunity under equal circumstances to make known their qualifications and their stand on public issues within the limits set forth in the Omnibus Election Code, the Fair Elections Act, and these Rules.

SECTION 19. *Posting of Campaign Materials*. - Parties and candidates may post lawful campaign material in:

- a. Authorized common poster areas in public places, subject to the requirements and/or limitations set forth in the next following section; and
- b. Private property, provided that the posting has the consent of the owner thereof and that the applicable provisions of Section 6 herein are complied with.

The posting of campaign materials in public places outside of the designated common poster areas, on private property without the consent of the owner or in violation of Section 6 hereof, and in those places enumerated under Section 7 (f) of these Rules and the like, is prohibited. Persons posting the same shall be liable together with the

candidates and other persons who caused the posting. It will be presumed that the candidates and parties caused the posting of campaign materials outside the common poster areas if they do not remove the same within three (3) days from notice issued by the Election Officer of the city or municipality where the election propaganda is posted or displayed. (Annex "D" of COMELEC Resolution 9616, series of 2013)

Members of the Philippine National Police and other law enforcement agencies called upon by the Election Officer or other COMELEC officials shall apprehend the violators caught in the act, and file the appropriate charges against them.

SECTION 20. Common Poster Areas. - Parties and independent candidates may, upon authority of the COMELEC, through the City or Municipal Election Officer concerned, construct common poster areas, at their expense, wherein they can post, display, or exhibit their election propaganda to announce or further their candidacy subject to the following requirements and/or limitations:

- a. A common poster area does not refer to a post, a tree, the wall of a building or an existing public structure that is in active use, but a structure, the location and number of which are specified below, that is temporarily set up by candidates or political parties for the exclusive purpose of displaying their campaign posters;
- b. In no instance shall an Election Officer designate as common poster areas, any trees, plants, shrubs located along public roads, in plazas, parks, school premises or in any other public grounds. In cases where parties and candidates still persist in displaying, posting, or exhibiting of their campaign or election propaganda on trees and plants, they shall be prosecuted for violation of these Rules, without prejudice to the institution of a criminal complaint for the violation of Republic Act No. 3571.⁵
- c. Each party and independent candidate, with prior consent from the COMELEC, may put up common poster areas in every barangay, subject to the following limitations:

5,000 registered voters or less	1 common poster area
For every increment of 5,000 registered voters, or a fraction thereof, thereafter	1 additional common poster area

- d. Such common poster areas shall be allowed by the Election Officer only in selected public places such as plazas, markets, barangay centers and the like, where posters may be readily seen or read, and with the heaviest pedestrian and/or vehicular traffic in the city or municipality;
- e. The Election Officer shall make, and post in his office, a list of the common poster areas in each city or legislative district in said city or municipality, indicating therein their exact locations, and furnish each political party or candidate copies

⁵ An Act to Prohibit the Cutting, Destroying or Injuring of Planted or Growing Trees, Flowering Plants and Shrubs or Plants of Scenic Value along Public Roads, in Plazas, Parks, School Premises or in Any Other Public Ground promulgated on June 21, 1963.

of said list at the latter's expense, and also the Provincial Election Supervisor and the EID Director;

- f. The Election Officer shall comply with his obligations in the immediately preceding paragraph not later than five (5) days before the start of the campaign period for national elections and failure to do so shall make him liable for gross neglect of duty;
- g. The size of each common poster area shall not exceed the following dimensions:
 - a. *For political parties and party-list groups.* – twelve (12) by sixteen (16) feet, or its equivalent but not exceeding a total area of 192 square feet; and
 - b. *For independent candidates* – four (4) by six (6) feet or its equivalent but not exceeding a total area of twenty four (24) square feet.
- h. The sizes of individual posters that may be posted in each common poster area shall not exceed two (2) by three (3) feet. However, in case of space limitations, posters of candidates of political parties may be reduced to a uniform size to accommodate all candidates. This regulation is also violated by making single letters of names having the maximum size or lesser and then putting them together to form a size exceeding two (2) by three (3) feet;
- i. The individual posters posted in the poster areas shall contain the phrase: *"This material should be recycled"*.
- j. The common poster areas allocated to parties and independent candidates shall not be used by other parties and independent candidates even with the consent of the former;
- k. The common poster areas put up for party-list groups, organizations and/or coalitions thereof shall be allocated at the ratio of one (1) common poster area for every thirty-two (32) party-list groups, organizations and/or coalitions thereof;
- l. In case there are less than thirty-two (32) party-list groups, organizations and/or coalitions, applying to put up the common poster areas, the Election Officer concerned shall reduce the size of the common poster area depending on the total number of applicants thereof, provided that each group is entitled to post one two (2) feet by three (3) feet poster;
- m. In case there are more than thirty-two (32) party-list groups, organizations and/or coalitions applying to put up common poster areas, the Election Officer concerned shall determine the appropriate number and size of common poster areas to equitably accommodate the total number of applicants, subject to the provisions of the immediately two (2) preceding paragraphs;
- n. Parties and independent candidates shall file their applications to construct common poster areas with the Officer of the City/Municipal Election Officer concerned within five (5) days from the effectivity of this Resolution; otherwise they must accept the listing prepared by the Election Officer.
- o. Within five (5) days after the elections and without need of notice, the parties and candidates which applied for the putting up of common poster areas shall tear down the same at their own expense and restore the site into its original

condition. Non-performance of this obligation shall be deemed a violation of the law and regulation on the observance of common poster areas for which the candidate or party concerned shall be liable.

- p. No lawful election propaganda materials shall be allowed outside the common poster areas except on private property with the consent of the owner or in such other places mentioned in these Rules. Any violation hereof shall be punishable as an election offense.
- q. In all cases, the parties shall agree among themselves how their individual posters in the common poster areas shall be placed. In case no agreement is reached, the Election Officer concerned shall determine said placement by the drawing of lots.
- r. The Election Officer shall act on all applications for common poster areas within three (3) days from receipt thereof. For this purpose, he shall determine whether the proposed common poster area sites are public places with heavy pedestrian or vehicular traffic, or business or commercial centers, or densely populated areas, and equitably and impartially allocate the sites to ensure maximum exposure of the lawful propaganda materials of all parties and independent candidates.
- s. Any party or independent candidate aggrieved by the action of the Election Officer may appeal the same within two (2) days from receipt of the order of said Election Officer to:
 - 1. The Provincial Election Supervisors; or
 - 2. The Regional Election Director, in the case of the National Capital Region (NCR).
- t. The Provincial Election Supervisor or Regional Election Director concerned shall decide the appeal within two (2) days from receipt thereof, furnishing copies of the decision to the parties concerned and to the Law Department of the COMELEC. The decision shall be final and executory.

SECTION 21. *Establishment of Headquarters.* - Every registered political party, sectoral organization or coalition participating in the party-list system or candidate may be allowed to establish a limited number of headquarters subject to the following limitations:

- a. A registered party with national constituency and a national candidate may establish one (1) headquarters in each province or highly urbanized city;
- b. A registered political party with regional constituency may establish one (1) headquarters in each province or highly urbanized city in the region;
- c. A registered political party with provincial constituency and a provincial candidate may be allowed to establish one (1) headquarters in each municipality;
- d. Congressional candidates may be allowed to establish one (1) headquarters in the legislative district they seek to represent. Should their legislative district be composed of several municipalities, they may be allowed to establish one (1) headquarters per municipality;
- e. City candidates may be allowed to establish one (1) headquarters per councilor district;

- f. Municipal candidates may be allowed to establish one (1) headquarters for the entire municipality.
- g. Lawful election propaganda may be displayed at headquarters subject to the limitations provided for in SEC. 6 (g) hereof.

SECTION 22. *Submission of List of Location of Headquarters.* - All parties and candidates shall submit within five (5) days from their establishment, the list showing the specific locations and addresses of all their headquarters, to the following offices:

- a. National parties and candidates - Law Department
- b. Provincial parties and candidates - Provincial Election Supervisor
- c. City and Municipal parties and candidates - Election Officer
- d. Parties and Candidates in the NCR - Regional Election Director

The Official of the COMELEC to whom the list of headquarters is submitted shall furnish copies thereof to the Law Department and the EID, within five (5) days from receipt of the list.

SECTION 23. *Headquarters Signboard.* - Before the start of the campaign period, only one (1) signboard, not exceeding three (3) feet by eight (8) feet in size, identifying the place as the headquarters of the party or candidates is allowed to be displayed. Parties may put up the signboard announcing their headquarters not earlier than five (5) days before the start of the campaign period. Individual candidates may put up the signboard announcing their headquarters not earlier than the start of the campaign period. Only lawful election propaganda material may be displayed or posted therein and only during the campaign period.

SECTION 24. *Prohibition on the Removal, Destruction or Defacement of Lawful Election Propaganda.* - During the campaign period, it is unlawful for any person to remove, destroy take down or, in any manner, deface or tamper with, or prevent the distribution of any lawful election propaganda enumerated in Section 6 hereof.

SECTION 25. *Removal, Confiscation, or Destruction of Prohibited Propaganda Materials.* - Any prohibited form of election propaganda shall be summarily stopped, confiscated, removed, destroyed, or torn down by COMELEC representatives, at the expense of the candidate or political party for whose apparent benefit the prohibited election propaganda materials have been produced, displayed, and disseminated.

Any person, party, association, government agency may file with the COMELEC, through its field office, a petition to confiscate, remove, destroy and/or stop the distribution of any propaganda material on the ground that the same is offensive to public morals, libelous, illegal or subversive.

The COMELEC, after summary hearing, shall resolve the petition within three (3) days from the time it is submitted for decision. Where the parties concerned cannot be contacted or are unknown or refuse to appear at the hearing, the COMELEC may decide the petition *ex parte*.

The COMELEC may, *motu proprio*, immediately order the removal, destruction and/or confiscation of any prohibited propaganda material, or those materials which contain statements or representations that are illegal, libelous, offensive to public morals, subversive or which tend to incite sedition or rebellion.

SECTION 26. *Creation of Task Force to Tear Down and Remove Unlawful Election Materials.* - There is hereby created a task force in each city and municipality, to tear down and remove all unlawful election materials composed of the Election Officer as Chairman, the Station Commander of the Philippine National Police as Vice Chairman, and a representative from the Department of Public Works and Highways as Member.

The Task Force shall have the following duties and functions:

- a. To tear down and remove campaign propaganda materials posted in public places outside the common poster areas;
- b. To tear down and remove all prohibited forms of campaign materials wherever posted or displayed;
- c. To monitor and watch out for persons posting or distributing said unlawful election paraphernalia and to arrest said persons caught in the act; and
- d. To make a report of said activities done by them.

Subject to the approval of the COMELEC, the Task Force members may establish rules and regulations for the implementation of their tasks and for ensuring compliance thereof, including requiring the candidates, political parties or party-lists groups to provide the contact numbers of the person in charge of the propaganda material, and establishment of proper methods to identify the propaganda materials to be removed.

SECTION 27. *Removal of Prohibited Propaganda Materials Before the Start of the Campaign Period.* - All prohibited forms of election propaganda as described in Section 7 of these Rules shall be removed, or caused to be removed, by said candidate or party at least seventy-two (72) hours before the start of the campaign period; otherwise, the said candidate or party shall be presumed to have committed the pertinent election offense during said campaign period for national candidates or for local candidates, as the case may be.

The prohibited forms of propaganda contemplated in this Section include any names, images, logos, brands, insignias, color motifs, initials, and other forms of identifiable graphical representations placed by incumbent national and local officials on any public structures or places as enumerated in Section 7 (g) of these Rules.

SECTION 28. *Election Surveys.* - During the election period, any person, whether natural or juridical, candidate or organization may conduct an election survey. Should they decide to publish the said survey for public consumption, they must likewise publish the following information:

- a. The name of the person, candidate, party, or organization that commissioned, paid for, or subscribed to the survey;
- b. The name of the person, polling firm or survey organization which conducted the survey;
- c. The period during which the survey was conducted, the methodology used, including the number of individual respondents and the areas from which they were selected, and the specific questions asked;
- d. The margin of error of the survey;
- e. For each question where the margin of error is greater than that reported under paragraph d the margin of error for that question; and
- f. A mailing address and telephone number at which the sponsor can be contacted to obtain a written report regarding the survey in accordance with the next succeeding paragraph.

The survey, together with raw data gathered to support its conclusions shall be available for inspection, copying and verification by the COMELEC. Any violation of this Section shall constitute an election offense.

SECTION 29. *Exit Polls.* - Exit polls may only be taken subject to the following requirements:

- a. Pollsters shall not conduct their surveys within fifty (50) meters from the polling place;
- b. Pollsters shall wear distinctive clothing and prominently wear their identification cards issued by the organization they represent;
- c. Pollsters shall inform the voters that they may refuse to answer; and
- d. The results of the exit polls may be announced after the closing of the polls on election day, and must identify the total number of respondents and the places where they were taken. Said announcement shall state that the same is unofficial and does not represent a trend.

SECTION 30. *Rallies, Meetings and Other Political Activities.* - Subject to the requirements of local ordinances on the issuance of permits, any political party or any candidate, individually or jointly with other aspirants, may hold peaceful political meetings, rallies or other similar activities during the campaign period.

Any party or candidate shall notify the election officer concerned of any public rally to be held in the city or municipality. The notice must be submitted three (3) working days prior to the date thereof, and must include the venue and exact address, and within seven (7) working days thereafter submit to the election officer a Statement of Expenses incurred in connection therewith. The prescribed forms for Notice of Public Rally and Statement of Expenses are provided in COMELEC Resolution No. 9476.⁶

SECTION 31. *Application for Permit to Hold Public Meetings, Rallies or Other Political Activities.* - All applications for permits to hold public meetings, rallies and other similar political activities shall be filed with the authorized city or municipal official who shall acknowledge receipt thereof in writing. Immediately after its filing, the application shall be posted in a conspicuous place in the city hall or municipal building.

The official before whom the application is filed shall submit to the Election Officer concerned on the first working day of each week the list of applications, if any, filed during the previous week and the action taken thereon.

SECTION 32. *Action on Application for Permit.* - Within three (3) days after the filing of an application for permit to hold public meetings, rallies or other political activities, the local authority concerned shall act in writing on said application. Any application not acted upon within three (3) days from the date of its filing shall be deemed approved.

In acting on the application, the approving official shall give all candidates and parties equal and fair opportunity as to date, time and place, to hold public political meetings or rallies. In the last week of the campaign period, all independent candidates and

⁶ Rules and Regulations Governing Campaign Finance and Disclosure in Connection With the 13 May 2013 National and Local Elections and Subsequent Elections Thereafter promulgated on June 22, 2012.

parties shall be entitled to hold at least one public meeting or rally, in the public plaza or place where public political meetings or rallies are usually held.

An application for permit shall be denied only on the ground that a prior written application by another candidate or party has been approved. Denial or any application may be appealed to the Provincial Election Supervisor, or to the Regional Election Director, for cases in the National Capital Region, who shall decide the same within forty-eight (48) hours after the filing of the appeal, and shall give notice of the decision to the parties. The decision shall be final and executory.

SECTION 33. *Prohibited Acts During Public Meetings.* - It is unlawful for any candidate, party or any person to give or accept, free of charge, directly or indirectly, transportation, food and drinks, or anything of value during and within the five (5) hours before and after a public meeting, rally, or other political activity, or to give or contribute, directly or indirectly, money or things of value for such purpose.

SECTION 34. *Mass Media Columnist, Announcer or Personality Running for Public Office or is a Campaign Volunteer.* - Any mass media columnist, commentator, announcer, or reporter, who is a candidate for any elective public office, a party-list nominee, or is a campaign volunteer for or employed or retained in any capacity by any candidate or party shall be deemed resigned, if so required by their employer, or shall take a leave of absence from his/her work as such during the campaign period; Provided, that after he/she has filed his/her certificate of candidacy but before the campaign period, it shall be his/her obligation not to use his/her media work for premature election campaign or partisan political activity: Provided, finally, that any media practitioner who, while not himself/herself a candidate, is an official of a political party or a member of the campaign staff of a candidate or party shall not use his/her time or space to favor any candidate or party.

SECTION 35. *Deputization* - The COMELEC hereby deputizes the Philippine Information Agency (PIA), Kapisanan ng mga Brodkaster ng Pilipinas (KBP), Philippine Association of Private Telephone Companies (PAPTELCO), Outdoor Advertising Association of the Philippines (OAAP), and the Telecommunication Operators of the Philippine (TOP) to conduct, in coordination with the EID, regular information campaigns on the proper use of any medium of communication.

The COMELEC hereby deputizes Local Government Units and the Department of Public Works and Highways to prevent, remove, destroy, confiscate or tear down any prohibited propaganda materials without any partiality.

SECTION 36. *Applicability to Filipino Overseas Voting.* - This Resolution shall apply in a suppletory character wherever applicable to all resolutions on campaigning abroad under Republic Act No. 9189.⁷

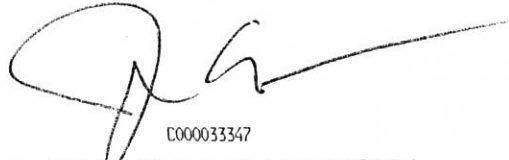
SECTION 37. *Election Offense.* - Any violation of the Fair Elections Act and these Rules shall constitute an election offense punishable under the first and second paragraph of Section 264 of the Omnibus Election Code in addition to administrative liability, whenever applicable. Any aggrieved party may file a verified complaint for violation of these Rules with the COMELEC Law Department.

⁷ An Act Providing for a System of Overseas Absentee Voting by Qualified Citizens of the Philippines Abroad, Appropriating Funds Therefor, and for Other Purposes promulgated on February 13, 2003.

SECTION 38. Effectivity. - This Resolution shall take effect on the (7th) seventh day after its publication in two (2) daily newspapers of general circulation. This Resolution supersedes all previous resolutions inconsistent herewith.

SECTION 39. Publication and Dissemination. - The EID shall cause the publication of this Resolution in at least two (2) newspapers of general circulation, and furnish copies thereof to all COMELEC field offices, and to the presidents or secretary-generals of all parties, candidates, mass media entities, and deputized offices.

SO ORDERED.



C000033347

J. ANDRES D. BAUTISTA
Chairman

*Concur with dissent.
See Dissenting Opinion on matters
I dissent.*


CHRISTIAN ROBERT S. LIM
Commissioner

Voted in favor


AL A. PARRENO
Commissioner


LUIS TITO F. GUIA
Commissioner


ARTHUR D. LIM
Commissioner

*Took no part in the
discussions - O, B.*


MA. ROWENA AMELIA V. GUANZON
Commissioner


SHERIFF M. ABAS
Commissioner



Republic of the Philippines
COMMISSION ON ELECTIONS
Intramuros, Manila

EN BANC

**RULES AND REGULATIONS
IMPLEMENTING REPUBLIC
ACT NO. 9006, OTHERWISE
KNOWN AS THE "FAIR
ELECTIONS ACT", IN
CONNECTION WITH THE 09
MAY 2016 NATIONAL AND
LOCAL ELECTIONS.**

x ----- x

LIM, C.R.S.:

Lim
Promulgated: February 1, 2016
Lim

DISSENTING OPINION

The undersigned registers his dissent to certain provisions of the RULES AND REGULATIONS IMPLEMENTING REPUBLIC ACT No. 9006, OTHERWISE KNOWN AS THE "FAIR ELECTIONS ACT" IN CONNECTION WITH THE 09 MAY 2016 NATIONAL AND LOCAL ELECTIONS, as follows:

1. *Requirement of eight (8) copies of a Petition for Authority to Use Other Election Propaganda.* In Section 8 of the Rules, the number of copies required of any person who intends to file a *Petition for Authority to Use Other Election Propaganda* is set at eight (8) legible copies. This is contrary to the EFFICIENT USE OF PAPER RULE as provided in *Resolution No. 9576*. Section 4 (a) of the said Resolution reads:

Section 4. *Copies to be Filed.* – Unless otherwise directed by the Commission *En Banc* or any of its Divisions, the number of Commission-bound papers that a party is required or desire to file shall be as follows:

(a) For the Commission *En Banc* or Division, two (2) original copies with the complete annexes.

2. *The adoption of a “per originating station basis” interpretation of the airtime limit rule in Section 9 (a) for broadcast election propaganda.* The undersigned maintains that the interpretation of the airtime limit rule should still be on “total aggregate basis”, notwithstanding the ruling of the Supreme Court in *GMA Network Inc. v. Commission on Elections* (G.R. No. 205357, 02 September 2014). The Commission can still adopt a total aggregate rule for airtime limits as long as there is reasonable basis for doing so. In the *GMA* case, it must be noted that Section 6.2. (a) and (b) of Republic Act No. 9006 (RA 9006), the legal bases of the airtime limits, were **not invalidated or declared as unconstitutional**. The undersigned believes that there is reasonable basis to adopt the total aggregate interpretation of the airtime allocation, which is to harmonize both RA 9006 and the expenditure limit set by RA 7166. As held by the Supreme Court: “...it is a principle in statutory construction that a statute should be construed not only to be consistent with itself but also to harmonize with other laws on the same subject matter, as to form a complete, coherent and intelligible system. This principle is consistent with the maxim, *interpretare et concordare leges legibus est optimus interpretandi modus* or every statute must be so construed and harmonized with other statutes as to form a uniform system of jurisprudence. In other words, every effort must be made to harmonize seemingly conflicting laws. It is only when harmonization is impossible that resort must be made to choosing which law to apply.”¹

To allow the airtime limits to be construed on a per originating station basis would be an implicit approval by the COMELEC for candidates and parties to breach the expenditure limit. Such is an absurdity that must be avoided. As held in *NPC Drivers & Mechanics Association v. National Power Corp.* (G.R. No. 156208, 03 December 2009):

It is well settled that courts are not to give a statute a meaning that would lead to absurdities. If the words of a statute are susceptible

¹ *Dreamwork Construction, Inc. v. Janiola et al.*, G.R. No. 184861, 30 June 2009; citing R.E. Agpalo, STATUTORY CONSTRUCTION 97 (4th ed., 1998) at pages 269-270; *Algura v. The Local Government Unit of the City of Naga*, G.R. No. 150135, 30 October 2006; *Valencia v. Court of Appeals*, G.R. No. 122363, 29 April 2003; *Bañares v. Balising*, G.R. No. 132624, 13 March 2000; *Cabada v. Alunan III*, G.R. No. 119645, 22 August 1996; *Republic v. Asuncion*, G.R. No. 108208, 11 March 1994; *Corona v. Court of Appeals*, G.R. No. 97356, 30 September 1992.

of more than one meaning, the absurdity of the result of one construction is a strong argument against its adoption, and in favor of such sensible interpretation. We test a law by its result. A law should not be interpreted so as not to cause an injustice. There are laws which are generally valid but may seem arbitrary when applied in a particular case because of its peculiar circumstances. We are not bound to apply them in slavish obedience to their language. The court may consider the spirit and reason of the statute, where a literal meaning would lead to absurdity, contradiction, injustice, or would defeat the clear purpose of the lawmakers.

Also in *Municipality of Nueva Era v. Municipality of Marcos, Ilocos Norte*, (G.R. No. 169435, 27 February 2008):

Statutes are to be construed in the light of the purposes to be achieved and the evils sought to be remedied. Thus, in construing a statute, the reason for its enactment should be kept in mind and the statute should be construed with reference to the intended scope and purpose. The court may consider the spirit and reason of the statute, where a literal meaning would lead to absurdity, contradiction, injustice, or would defeat the clear purpose of the lawmakers.

It must be noted that the expenditure limits for candidates and parties in the upcoming elections are still based on Section 13 of Republic Act No. 7166, and the rates have not been amended since its enactment in 1991. By adopting a "per originating station" interpretation of the airtime limit, the Commission is encouraging candidates and parties to go beyond the expenditure limits set by law.

3. *Clarification in the use of video advertisements on the Internet.* In the last paragraph of Section 9 (c), broadcast programs which are made the content of online streaming or video website pages (*i.e.* YouTube, Vimeo, etc.) were exempted from the definition of "online election propaganda". However, the undersigned takes judicial notice of fact that the online streaming websites and social network sites offer advertising services, which come at a cost to persons who wish to avail of said services. Therefore, the content generated by the availing of the websites' advertising services, such as YouTube ads, sponsored posts on FaceBook, sponsored tweets on

Twitter, and the like should still be considered online election propaganda.

4. *Report of Contributions are NOT required of Mass Media Entities, Contractors and Business Firms UNLESS they had indeed made political contributions and donations to candidates and parties.* In Section 11 (b), the Rules required Mass Media Entities, Contractors, and Business Firms to submit a Report of Contributions. This is not accurate. They should file their Reports of Contractors and Business Firms, using Form RCF, in accordance with Rule 11 of *Resolution No. 9991*, also known as THE OMNIBUS RULES ON CAMPAIGN FINANCE. The legal basis for this requirement is found in Section 112 of the Omnibus Election Code, which reads:

Section 112. Report of Contractor and Business Firms. -- Every person or firm to whom any electoral expenditure is made shall, within thirty days after the day of the election, file with the Commission a report setting forth the full names and exact addresses of the candidates, of political parties, and other persons incurring such expenditures, the nature or purpose of each expenditure, the date and costs thereof, and such other particulars as the Commission may require. The report shall be signed and sworn to by the supplier or contractor, or in case of a business firm or association, by its president or general manager.

It shall be the duty of such person or firm to whom an electoral expenditure is made to require every agent of a candidate or of the treasurer of a political party to present written authority to incur electoral expenditures in behalf of such candidate or treasurer, and to keep and preserve at its place of business, subject to inspection by the Commission or its authorized representatives, copies of such written authority, contracts, vouchers, invoices and other records and documents relative to said expenditures for a period of three years after the date of the election to which they pertain.

It shall be unlawful for any supplier, contractor or business firm to enter into contract involving election expenditures with representatives of candidates or political parties without such written authority.

5. *Deputation of private organizations outside the powers provided to the Commission on Elections in Section 2 (4), Article IX-C of the 1987 Constitution.* In Section 35, it is noted that certain organizations deputized by the Rules are private organizations with

no clear rules of accountability to the Commission. It is the position of the undersigned that the Commission's power of deputation is limited to "law enforcement agencies and instrumentalities of Government, including the Armed Forces of the Philippines", and there is no legal authority for the Commission to designate private citizens and organizations as deputies. In fact, in Section 52 (b) of the Omnibus Election Code (OEC), "civilian home defense forces" were explicitly excluded from the list of agencies that the Commission can designate as deputies.

However, this comment should not be taken to mean that the undersigned does not value the contributions of civil society to the electoral process. In lieu of deputation, the undersigned believes that the Commission is still allowed to **enlist the assistance** of civil society groups, as stated in Section 52 (k) of the Omnibus Election Code:

- (k) Enlist non-partisan group or organizations of citizens from the civic, youth, professional, educational, business or labor sectors known for their probity, impartiality and integrity with the membership and capability to undertake a coordinated operation and activity to assist it in the implementation of the provisions of this Code and the resolutions, orders and instructions of the Commission for the purpose of ensuring free, orderly and honest elections in any constituency.

Such groups or organizations shall function under the direct and immediate control and supervision of the Commission and shall perform the following specific functions and duties:

A. Before Election Day:

1. Undertake an information campaign on salient features of this Code and help in the dissemination of the orders, decisions and resolutions of the Commission relative to the forthcoming election.
2. Wage a registration drive in their respective areas so that all citizens of voting age, not otherwise disqualified by law may be registered.
3. Help cleanse the list of voters of illegal registrants, conduct house-to-house canvass if necessary, and take the appropriate legal steps towards this end.
4. Report to the Commission violations of the provisions of this Code on the conduct of the political campaign, election propaganda and electoral expenditures.

B. On Election Day:

1. Exhort all registered voters in their respective areas to go to their polling places and cast their votes.

2. Nominate one watcher for accreditation in each polling place and each place of canvass who shall have the same duties, functions and rights as the other watchers of political parties and candidates. Members or units of any citizen group or organization so designated by the Commission except its lone duly accredited watcher, shall not be allowed to enter any polling place except to vote, and shall, if they so desire, stay in an area at least fifty meters away from the polling place.
3. Report to the peace authorities and other appropriate agencies all instances of terrorism, intimidation of voters, and other similar attempts to frustrate the free and orderly casting of votes.
4. Perform such other functions as may be entrusted to such group or organization by the Commission.

The designation of any group or organization made in accordance herewith may be revoked by the Commission upon notice and hearing whenever by its actuations such group or organization has shown partiality to any political party or candidate, or has performed acts in excess or in contravention of the functions and duties herein provided and such others which may be granted by the Commission.

Respectfully submitted.



CHRISTIAN ROBERT S. LIM
Commissioner