



UNIVERSITI TEKNOLOGI MARA

**AUDIO-VISUAL ADVERTISEMENT:
LOOKING AT THE LAW**

LAW 533: HONOURS PROJECT PAPER

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ABSTRACT

In section 3(3) of Communication and Multimedia Act 1998, the provision stated that in Malaysia, the internet cannot be censor. This provision showed that Malaysia has approved the advertisement in the internet can not be control. People around the world can advertise their product in Malaysia easily on the internet. Under section 9 of Broadcasting Act stated that any broadcast come from outside country must get approval from the minister. However in this it doesn't state the definition of broadcasting. This provision was actually was not applicable in Malaysia because there are still advertisement which been banned after it been published. Those two provisions have some lacking; it is when it comes to the broadcasting in the internet. The internet cannot be censored but the broadcasting act stated that any broadcast should get the approval from the minister. Freedom of expression that been stated in article 10 of Federal Constitution were saying that every citizen have the right of expression. However we cannot determine whether this article includes the audio-visual advertisement or all kind of advertisement. There are no specific provisions for the audio-visual advertisement in Malaysia. It shows that broadcasting is not important for government.

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Many advertisements are produced nowadays whereby subsequently, they would be displayed in the media for every week. Over the years, broadcast stations and networks transmit the greatest amount of advertisements in the country as a whole. Every new advertisement is getting improved as compared to the old advertisements. It is an evidence of the development of technologies and their utilities in order to ensure better quality advertisements.

Advertisements in Malaysia also cannot be exempted from the revolution of development whereby many media which are acted as a medium in order to broadcast advertisement can be seen as one of the factors for the development of advertisement. As regards on this, there are laws that govern advertisement. For instance, the need of laws to regulate the advertising process prior to its approval in order to be transmitted in the audio-visual media as well as to ensure that the contents of advertisement are proper and reliable to the public generally as well as in accordance with the laws.

Malaysia has its supreme law which is well-know as Federal Constitution whereby it is the higher law of the country. One of the contents of the Constitution is the basic or fundamental rights of the individual and it will only be amended by a two-third majority of the total numbers of the legislature.¹ In view of jurisprudence, in accordance with natural law, all laws must conform with the higher law and according to Hans Kelsen in his grundnorm theory, the higher law or known as grundnorm is validating all the sub-norms.² Therefore, in the context of Malaysian Legal System, all subordinate laws shall be enacted and amended in line with the Federal Constitution in order to evade any conflict of laws as well as to ensure that non-contradiction of provisions in any matters. For example, Federal Constitution shall be the mother law and the highest law in the federation and other law such as advertisement law should refer back to the Federal Constitution.

¹ Pheng L.M, *General Principles of Malaysian Law*, published by Penerbit Fajar Bakti Sdn. Bhd., Fifth Edition, 2005, p19.

² G Riddall MA, *Jurisprudence*, published by Malayan Law Journal Sdn Bhd, Kuala Lumpur, 1991.