



Republic of the Philippines
OFFICE OF THE PRESIDENT

OPTICAL MEDIA BOARD

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OFFICE OF THE CHAIRMAN AND CEO MEMORANDUM CIRCULAR No. 2018-002

TO : ALL CONCERNED

RE : REGULATION OF THE MANUFACTURING, IMPORTATION, EXPORTATION, DISTRIBUTION, SALE, RENTAL, AND OTHER COMMERCIAL ACTIVITIES INVOLVING ALL TECHNICAL VARIATIONS OF OPTICAL AND MAGNETIC MEDIA

WHEREAS, RA 9239 defines Optical Media as “a storage medium or device in which information, including sounds and/or images, or software code, has been stored, either by mastering and/or replication, which may be accessed and read using a lens scanning mechanism employing a high intensity light source such as a laser or any such other means as may be developed in the future. The term shall include, but not be limited to, devices which shall be listed in the IRR of this Act, or as prescribed by the OMB.”

WHEREAS, the IRR of RA 9239 defines Magnetic Media as “a storage medium or device characterized by a base, usually plastic, coated with ferric oxide powder, in which visual and/or aural information, or software code, may be recorded or stored, including, but not limited to, magnetic tape, cassettes, video tape, diskettes and floppy discs or any technical variation thereof as may be determined by the Board”.

WHEREAS, USB Flash Drives or Thumb Drives, Secure Digital (SD) Cards, Network Attached Storage (NAS), External/Internal Hard Disk Drives (HDD), Solid State Drives (SSD), Cellular Phones, Tablet Computers, Portable Music Players, and Internet-Based File Storage and Synchronization Service fall within the purview of the above definitions, hereinafter collectively referred to as “**STORAGE DEVICES**”.

WHEREAS, the mentioned storage devices are being utilized nowadays by unscrupulous individuals for purposes of piracy.

NOW, THEREFORE, the regulation of the manufacturing, importation, exportation, distribution, sale, rental, and other commercial activities involving the above mentioned storage devices is essential in the nationwide campaign against piracy.

HENCEFORTH, pursuant to Board Resolution No. 18-03-04 and the powers and functions of the OMB under Section 10, subsections (a) and (c) of R.A. 9239 relative to the formulation of policies and granting and/or renewal of licenses, the following are hereby promulgated:

**REGULATION OF THE MANUFACTURING, IMPORTATION, EXPORTATION, DISTRIBUTION,
SALE, RENTAL, AND OTHER COMMERCIAL ACTIVITIES INVOLVING TECHNICAL VARIATIONS
OF OPTICAL AND MAGNETIC MEDIA**

Section 1. Registration Requirement – Entities, establishments and individuals engaged in the manufacturing, importation, exportation, distribution, sale, rental, and other commercial activities involving **STORAGE DEVICES**, for commercial purpose, are required to register and acquire the necessary license and/or permit with the Registration and Licensing Division (hereinafter referred to as “RLD”) of the Optical Media Board;

Section 2. Who are Required to Register - This Circular covers entities, institutions, sole proprietorships or similar establishments, including individuals, who are involved in manufacturing, importation, exportation, distribution, sale, rental, and other commercial activities of these **STORAGE DEVICES**.

Section 3. Commercial Purpose - For the purposes of this Circular, “Commercial Purpose” shall refer to all activities involving manufacturing, importation, exportation, distribution, sale, rental, and other commercial activities of these **STORAGE DEVICES**, with intent to profit in reference to Sec. 13(a) of RA 9239.

Section 4. Reportorial requirements - The mentioned entities or establishments shall maintain and keep a true and complete record of all transactions relating to the conduct of business pursuant to Section 1, Rule 8, Title II of the IRR of R.A. 9239. They shall likewise make the same available upon request of the OMB. Failure to maintain and keep the required records, or to make the same available for OMB personnel for purposes of inspection shall subject the mentioned entities to the corresponding penalties.

Section 5. Penalties - For purposes of this Memorandum Circular, the penalties that may be imposed shall be in accordance to Title IV, Rule 1, Section 1 (g) and (h), of the IRR of R.A. 9239, as the case may be.

- 5.1 Failure to comply with the licensing requirements as provided for by Section 1 hereof shall be deemed a violation of Title IV, Rule 1, Section 1 (h) of the IRR of R.A. 9239, punishable by suspension of operations of the establishment for a period of not less than one (1) month, but not more than three (3) months, confiscation of **STORAGE DEVICES** and/or a fine of not less than Php50,000.00, but not more than Php100,000.00.
- 5.2 Failure to comply with the reportorial requirements as provided for by Section 4 hereof shall be deemed a violation of Title IV, Rule 1, Section 1 (g) of the IRR of R.A. 9239, punishable with suspension of operations of the establishment for a period of not less than three (3) months, but not more than six (6) months

and/or a fine of not less than Php100,000.00, but not more than Php500,000.00.

- 5.3 In addition to the foregoing, the permits, licenses, or registration issued by national or local government units in favor of the mentioned entities and establishments, which are involved in the manufacturing, importation, exportation, distribution, sale, rental, and other commercial activities with respect to **STORAGE DEVICES** without the proper license from the Optical Media Board, shall automatically be cancelled, pursuant to Section 9, Rule 2, Title II of the Implementing Rules and Regulations of R.A. 9239, otherwise known as the "Optical Media Act of 2003" (IRR of R.A. 9239).

The provisions of R.A. 9239, otherwise known as the "Optical Media Act of 2003", as well as its Implementing Rules and Regulations, Memorandum Circulars, whenever applicable, and the Optical Media Board – Registration and Licensing Division's Schedule of Fees, shall likewise apply *mutatis mutandis* to **STORAGE DEVICES** as defined herein.

Section 6. Registration and Licensing of Other Government Agencies – Licenses and permits issued by the Optical Media Board's Registration and Licensing Division shall be for the purpose of complying with RA 9239 as well as its Implementing Rules and Regulations, and shall be without prejudice to the licensing and other legal requirements that may be imposed by law and other government agencies.

Section 7. Transitory Provisions - This Memorandum Circular shall apply prospectively without prejudice to pending applications in the Optical Media Board's Registration and Licensing Division from date of effectivity of this Memorandum Circular.

Section 8. Repeal - All orders, issuances, or parts thereof, which are inconsistent with the provisions of this Circular, are hereby repealed or modified accordingly.

Section 9. Severability - If any of the provisions of this Circular are declared invalid or unconstitutional, the other provisions of this circular are not affected thereby shall remain valid and subsisting.

Section 10. Effectivity - This circular shall take effect within fifteen (15) days from publication hereof.


Atty. Anselmo B. Adriano
Chairman & Chief Executive 