

INDEPENDENT COMMUNICATIONS AUTHORITY OF SOUTH AFRICA

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**REGULATIONS ON PARTY ELECTION BROADCASTS, POLITICAL
ADVERTISEMENTS, THE EQUITABLE TREATMENT OF POLITICAL PARTIES
BY BROADCASTING LICENSEES AND RELATED MATTERS DURING
MUNICIPAL ELECTIONS**

I, Dr Stephen Mncube, Chairperson of the Independent Communications Authority of South Africa ("the Authority"), hereby confirm that the regulations contained herein were made in terms of section 4(3) (j) of the Independent Communications Authority of South Africa Act, 2000 (Act No.13 of 2000) read with sections 4(1), 56, 57, 58 and 59 of the Electronic Communications Act, 2005 (Act No.36 of 2005), and approved for final publication by the Council of the Authority.

DR STEPHEN MNCUBE
CHAIRPERSON

SCHEDULE

1. Definitions

In these regulations, any word or expression to which a meaning has been assigned in the Act will bear such meaning, unless the context indicates otherwise:

“the Act” means the Electronic Communications Act 2005, (Act No.36 of 2005);

“Constitution” means the Constitution of the Republic of South Africa, 1996;

“Current affairs programme” means a program which focuses on and includes comment on and interpretation and analysis of issues of immediate social, political or economic relevance and matters of international, national, regional and local significance;

“Election broadcast period” means the period within which party election broadcasts may be transmitted; such period commencing 120 hours after the allotment of time-slots by the Authority and ending 48 hours before polling commences;

“Electoral Act” means the Electoral Act, 1998 (Act No. 73 of 1998);

“Electoral Code” means the Electoral Code of Conduct as set out in Schedule 2 of the Electoral Act;

“Electoral Commission Act” means the Electoral Commission Act, 1996 (Act No 51 of 1996);

“ICASA Act” means the Independent Communications Authority of South Africa Act, 2000 (Act No. 13 of 2000);

“News” means programming which reports on news events of immediate social, political or economic relevance and on matters of international, national and local significance;

“PA” means political advertisement;

“Party” means a political party registered in terms of section 15 of the Electoral Commission Act, or any alliance of such registered political parties, that has nominated candidates;

“PEB” means a party election broadcast;

“SABC” means the South African Broadcasting Corporation, a statutory body established in terms of the Broadcasting Act, 1999 (Act No 4 of 1999)

2. Object of the regulations

The object of these regulations is to prescribe the framework and guidelines under which PEB(s) and PA(s) shall be conducted and carried by the broadcasting service licensee during the municipal elections.

3. Scope of the Regulations

These regulations are applicable:

- (a) during the election period;
- (b) to broadcasting service licensees; and
- (c) to a party contesting the municipal elections.

4. Party election broadcasts

- (1) PEB(s) must only be broadcast during the election broadcast period;

- (2) A party that seeks to broadcast a PEB must submit the same to the broadcasting service licensee at least five (5) days prior to the broadcast thereof;
- (3) A commercial or community broadcasting service licensee that seeks to broadcast PEB must inform the Authority, in writing, of its intention to do so five (5) days prior to the election broadcast period;
- (4) A broadcasting service licensee that is obliged, or intends to broadcast PEB must ensure that the PEB conforms to a technical quality acceptable to the Authority namely:
 - a) Audio and video recording shall be of the highest professional quality;
 - b) Audio and video recordings are to be supplied on compact disc (CD); and
 - c) Audio and video recordings will be clearly labelled, outlining the name of the political party and appointed nominee;

- (5) The technical standards are as follows;

Radio: Electronically in MP3 format or on CD format in broadcast quality standard; and

Television: On broadcast quality DVD playable on standard DVD player format or in broadcast quality Beta format;

- (6) A broadcasting service licensee, to whom a PEB has been submitted by a party for broadcast;
 - (a) Must not in any way edit or alter the content of the PEB;
 - (b) Ensure that all PEB(s) broadcast by it are clearly identified as such;

- (c) Ensure that all PEB(s) broadcast by it are identified or announced in a similar manner;
- (7) A broadcasting service licensee that rejects a PEB submitted to it by a party for broadcast must, within twenty four (24) hours of such rejection furnish the party concerned with written reasons for the rejection;
- (8) A party whose PEB has been rejected in terms of sub-regulation (6) may alter or edit the PEB and re-submit it to the broadcasting service licensee concerned at least seventy two (72) hours prior to it being broadcast;
- (9) Where the broadcasting service licensee has rejected a PEB and the party concerned has confirmed in writing to the broadcasting service licensee that it will not be re-submitting the PEB, then the broadcasting service licensee must within twenty four (24) hours of the said confirmation notify the Authority of such rejection and must submit written reasons for the rejection to the Authority;
- (10) A party whose PEB has been rejected and has no intention of altering or editing the PEB, may refer the matter to the Authority within twenty four (24) hours of being informed in writing of the rejection;
- (11) A party that submits a PEB to a broadcasting service licensee for broadcast must ensure that the PEB does not:
- (a) Contravene the provisions of the Municipal Electoral Act, the Electoral Act, the Electoral Code, the Constitution, the Act and the Broadcasting Act; and
 - (b) Contain any material that is calculated, or that in the ordinary course is likely, to provoke or incite any unlawful, illegal or criminal act, or that may be perceived as condoning or lending support to any such act;

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- (12) A party that submits a PEB for broadcast to a broadcasting service licensee is deemed to have indemnified the broadcasting service licensee against incurred costs, damages, losses, and third party claims arising from the broadcast or non-broadcast thereof;
- (13) A broadcasting service licensee that broadcasts PEB(s) must:
- (a) Make available, every day, throughout the election broadcast period, four (4) time-slots not exceeding two (2) minutes each;
- (14) A PEB must not exceed two (2) minutes in duration;
- (15) Content broadcast as PA cannot be broadcast as PEB and visa versa;
- (16) A broadcasting service licensee must not transmit a PEB immediately before or after another PEB or PA;
- (17) PEB air-time allocated to but not used by a party shall be forfeited by the party concerned;
- (18) If a party fails to deliver the PEB to the broadcasting service licensee before the expiry of five (5) days prior to the broadcasting thereof, then the party is deemed to have forfeited its allocated airtime;
- (19) In the event that a party elects to forfeit its allocated PEB air-time, then such air-time must not be allocated to another party but must be used by the broadcaster concerned for the purpose of broadcasting its normal programming or material;
- (20) In the event that a party does not wish to use its allocated PEB air-time, the broadcasting service licensee concerned must not, during the relevant time-slot, in any way vary the sequence or scheduling of PEB(s);

- (21) A broadcasting service licensee or party must not permit or engage in any interference with, or trade-offs in the sequence or scheduling of PEB(s).

5. Allocation of air-time in respect of party election broadcasts

Air-time in respect of party election broadcasts shall be allocated by the Authority to the various parties contesting the municipal elections on the basis of the respective formulae set out in annexure A.

6. Political Advertising

- (1) PA must only be broadcast during the election period and no later than forty eight (48) hours before polling commences;
- (2) A broadcasting service licensee, to whom a PA has been submitted by a party for broadcast, must not in any way edit or alter the advertisement;
- (3) A broadcasting service licensee who rejects a PA submitted to it by a party for broadcast must, within twenty four (24) hours of such rejection furnish the party concerned with written reasons for the rejection; and
- (a) The party concerned may alter or edit the PA and re-submit the PA to the broadcasting service licensee concerned at least seventy two (72) hours prior to it being broadcast;
- (4) Where the broadcasting service licensee has rejected a PA and the party concerned has confirmed in writing to the broadcasting service licensee that it will not be re-submitting the advertisement, then the broadcasting service licensee must within twenty four (24) hours of receiving the confirmation, notify the Authority in writing of such rejection and must submit written reasons for the rejection to the Authority;

- (5) A party whose PA has been rejected and has no intention of altering or editing the advertisement, may refer the matter to the Authority within twenty four (24) hours of being informed of the rejection;
- (6) A party that submits a PA to a broadcasting service licensee for broadcast must ensure that the advertisement does not:
- (a) Contravene the provisions of the Municipal Electoral Act, the Electoral Act, the Electoral Code, the Constitution, the Act and the Broadcasting Act; and
 - (b) contain any material that is calculated, or that in the ordinary course is likely, to provoke or incite any unlawful, illegal or criminal act, or that may be perceived as condoning or lending support to any such act;
- (7) A party that submits a PA for broadcast to a broadcasting service licensee, is deemed to have indemnified the broadcasting service licensee against incurred costs, damages, losses, and third party claims arising from the broadcast or non-broadcast thereof.

7. Complaints

In the event of any person being aggrieved by any PA or PEB such person may lodge a complaint with the Authority within forty eight (48) hours after such broadcast has occurred.

8. General

- (1) Every broadcasting service licensee and party must:
- (a) Nominate a person who must be the representative of that broadcasting service licensee or party in respect of all matters regulated by, or arising from, these Regulations;

- (b) Within thirty (30) days of the publication of these regulations notify the Authority in writing of the name, physical and postal address, telephone number and, where available, cellular phone number and e-mail address of the nominated person.

9. Penalty

Failure by a broadcasting service licensee to comply with these Regulations will result in a fine not exceeding one million Rands (R 1 000 000, 00).

10. Short title and Commencement

These Regulations are called Municipal Elections Party Elections Broadcasts and Political Advertisements Regulations, 2011 and shall commence on publication in the Government Gazette.

ANNEXURE A**FORMULA TO CALCULATE THE ALLOCATION OF PARTY ELECTION BROADCASTS FOR THE 2011 MUNICIPAL ELECTIONS**

Time allocation will be calculated only when registration of political parties has been closed.

Basic Allocation

Political parties contesting the municipal elections in 2011 will be allocated a minimum of **2 min/1 slot**.

Additional Allocation

An additional allocation of minutes will be based on a Proportional Split (that is number of municipal seats currently held by a political party in accordance with seats held from the previous elections).

Once the basic allocation is completed then the remainder of minutes will be allocated according to the following formula:

$$Y = ((A/B) * 100) C$$

where

Y reflects additional minutes,

A is the number of current seats held by a party at municipal level,

B is the total number of municipal seats as recorded by the IEC,

C is time available after finalising the Basic Allocation.
