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## GOVERNMENT NOTICES GOEWERMENTSKENNISGEWINGS

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**No. R. 426**

**1 April 1999**

### **INDEPENDENT BROADCASTING AUTHORITY**

#### **REGULATIONS RELATING TO THE DEFINITION OF ADVERTISING AND THE REGULATION OF INFOMERCIALS AND PROGRAMME SPONSORSHIP IN RESPECT OF BROADCASTING ACTIVITIES**

The Independent Broadcasting Authority, has under section 78(1) of the Independent Broadcasting Authority Act No. 153 of 1993, as amended, made the regulations in the Schedule.

## SCHEDULE

### 1. Definitions

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

1.1 "Act" means the Independent Broadcasting Authority Act, No. 153 of 1993;

1.2 "advertisement" means any material broadcast, in visual and/or audio form, for which the broadcaster receives a consideration, in cash or otherwise, and which promotes the interests of any person, product or service, provided that:

1.2.1 spot commercials, public service announcements for which the broadcaster receives a consideration, any material that would constitute an infomercial but for the fact that it is of two minutes' duration or less, that part of sponsorship packages which is constituted by spot commercials, and commercial features shall be regarded as being advertisements; but

1.2.2 public service announcements in respect of which the broadcaster does not receive any consideration, supply agreements, infomercials exceeding two minutes in duration, branded filler material which is of a public service nature, sponsorship elements which form part of in-programme material, presenters' credits and (in relation to competitions and self-promotions) programme competitions, branded promotional spots and self-promotion promos shall not be regarded as being advertisements;

1.3 "ASA" means the Advertising Standards Authority of South Africa;

- 1.4 "Authority" means the Independent Broadcasting Authority established by Section 3 of the Act;
- 1.5 "BMCC" means the Broadcasting Monitoring & Complaints Committee referred to in Section 21(1)(b) of the Act;
- 1.6 "branded filler material which is of a public service nature" means a visual and/or audio announcement transmitted by a broadcaster and aimed at imparting knowledge the dissemination of which is in the public interest, regardless of whether such announcement has the effect of promoting the interests of a commercial entity;
- 1.7 "branded promotional spot" means a promotional announcement transmitted by a broadcaster regarding a forthcoming programme or regarding a channel or station and which mentions or refers to an advertiser or a commercial entity;
- 1.8 "broadcaster" means a person who provides a broadcasting service under and in accordance with a broadcasting licence issued to it by the Authority under Chapter VI of the Act;
- 1.9 "commercial feature" means a stand-alone feature, unrelated to a programme, and which may take the form of (but is not limited to) a commercial competition, advertising feature or advertising programme which is primarily intended to promote the interests of one or more person, product, service or sponsor, regardless of duration, and excludes any programme competition;
- 1.10 "infomercial" means material of more than two minutes' duration, broadcast in visual and/or audio form, for which the broadcaster receives a consideration, in cash or otherwise, which is usually (but not necessarily) presented in a programme format, which promotes the interests of any person, product or service, which entails a direct offer of a product or service to a member or members of the public in return for payment, and which usually (but not necessarily) contains a

demonstration of the use of the product or service concerned, and includes material known as tele-shopping, home shopping, direct marketing and direct sales;

- 1.11 "news or current affairs programme" means a programme transmitted by a broadcaster in which it reports on news events or 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;
- 1.12 "performance period" means the period between 05h00 and 23h00 every day;
- 1.13 "presenters' credits" means any acknowledgement of the provision of hair products, clothing, accessories, make-up or other goods or services to a production company or broadcaster by a third party;
- 1.14 "prime time", in relation to a person who provides a television broadcasting service, means the period between 18h00 and 22h00 every day;
- 1.15 "product placement" means the depiction of, or a reference to, a product or service in material (other than an advertisement) broadcast, in visual and/or audio form, in respect of which the broadcaster and/or the producer of the material concerned receives payment or other valuable consideration, and which promotes the interests of any person, product or service;
- 1.16 "programme competition" means a competition that forms part of, or is linked to, a programme by way of a competition window, insert or slot, and which does not have the promotion of the commercial interests of a person, product or service as its primary purpose;
- 1.17 "programme sponsorship" means the direct or indirect financing, whether partial or total, of the production or transmission of broadcast

programme material by an advertiser or person with a view to promoting its own or another person's name, trade mark, image, activities or product;

1.18 "public service announcement" means a visual and/or audio announcement transmitted by a broadcaster and aimed at imparting knowledge or information the dissemination of which is in the public interest and/or which attempts to solicit support for, or create awareness of, any non-profit organisation or any other organisation which conducts activities in the public interest;

1.19 "self-promotion promo" means a promotional announcement transmitted by a broadcaster and which focuses on a forthcoming programme to be transmitted by that broadcaster, or on the broadcaster itself or one of its channels;

1.20 "sponsorship element" means marketing material which forms part of, or is superimposed on, broadcast programme material and includes (but is not necessarily limited to) on-screen corner logos, opening and closing billboards, stings, squeezebacks, the on-air depiction of, or referral to, any brand, product or name, ribbons and crawls, naming rights, and product placements;

1.21 "supply agreement" means any agreement that forms part of a programme purchasing contract concluded between a broadcaster and a programme provider and which usually, but not necessarily, specifies the amount and frequency of promotional material which the broadcaster is obliged to transmit before, during or after the transmission of the purchased programme material.

## 2. Application

2.1 These regulations are binding on every broadcaster who provides a television broadcasting service and, to the extent that they are applicable, taking into account the nature of a sound broadcasting



service and the nature of the obligations imposed by these regulations, on every broadcaster who provides a sound broadcasting service.

2.2 Every broadcaster shall, in addition to complying with these regulations, comply with the Code of Advertising Practice of the ASA, as required by Section 57(1) of the Act.

2.3 To the extent that there may be any inconsistency between these regulations and the Code of Advertising Practice of the ASA in respect of any matter which falls within the jurisdiction of the Authority, these regulations shall prevail.

### 3. Advertising

3.1 The definition of "advertisement" set out in regulation shall be applicable to all broadcasters.

3.2 The definition of "advertisement" set out in regulation 1 shall be used by the Authority to distinguish between programme material, advertisements, infomercials and programme sponsorships transmitted by broadcasters, for the purposes of:

3.2.1 ensuring compliance by broadcasters with these regulations;

3.2.2 determining whether jurisdiction in respect of complaints concerning material transmitted by broadcasters vests in the BMCC or the ASA;

3.2.3 in the case of broadcasters who provide a television broadcasting service, regulating the amount of advertising that may be transmitted.

3.3 Any broadcaster who transmits a programme competition, a branded promotional spot, branded filler material, a self-promotion promo or a

sponsorship element in the form of the on-air depiction of, or referral to, any brand, product or name, shall ensure that the primary purpose of the broadcast of such material is to promote the broadcaster or the programme concerned, rather than the commercial interests of the person, product or service referred to in the course of such transmission.

- 3.4 Transmission elements such as continuity announcements and station identification, in the form of on-screen logos, signature tunes and the like, do not constitute advertisements.

#### **4. Infomercials**

- 4.1 No broadcaster may transmit any infomercials during prime time or during the transmission of, or in breaks during the transmission of, any children's programme.
- 4.2 Every broadcaster shall ensure that all infomercials transmitted by it are presented and labelled in such a manner that it will be clear to the audience that such infomercials do not constitute programme material.
- 4.3 No channel may transmit infomercials for more than two hours during the performance period in any one day.
- 4.4 The provisions of this regulation 4 shall not apply to any dedicated infomercial channel which may obtain a broadcasting licence from the Authority in accordance with the applicable provisions of the Act.

#### **5. Programme Sponsorship**

- 5.1 Every broadcaster who derives benefit from a programme sponsorship shall ensure that, in relation to the relevant sponsored programme, editorial control remains with that broadcaster.

- 5.2.1 in respect of every programme sponsorship obtained or accepted by it, enter into a written sponsorship contract with the sponsor which shall provide that the sponsor shall not be entitled in any way to influence the content or scheduling of the sponsored programme;
- 5.2.2 on the Authority's request furnish the Authority with copies of sponsorship contracts concluded by that broadcaster.
- 5.3 A broadcaster who provides a television broadcasting service shall not obtain or accept any programme sponsorship from any person in respect of any news or current affairs programme.
- 5.4 Notwithstanding regulation 5.3, a broadcaster who provides a television broadcasting service shall be entitled to obtain or accept a programme sponsorship in respect of a weather forecast or sports results bulletin which constitutes part of a news programme broadcast by that broadcaster.
- 5.5 Any depiction of, or referral to, the name, logo, product or service of a person who provides a programme sponsorship to a broadcaster, whether before, during or after the broadcast of the relevant programme, shall be subordinate to the content of the programme material to ensure that undue prominence is not given to that name, logo, product or service.
- 5.6 No broadcaster shall permit any product placement in any news or current affairs programme transmitted by it.
- 5.7 Product placement in programming other than news and current affairs shall be subordinate to the content of the programme material.
- 5.8 No broadcaster shall accept any programme sponsorship from any person who is prohibited by any legislation from procuring the



transmission by a broadcaster of any advertisement, infomercial or other marketing material.

- 5.9 In all cases of programme sponsorship, the broadcaster shall, before and after the transmission of the sponsored programme, state clearly the nature of the sponsor's association with the relevant sponsored programme. Preference should be given to descriptions such as "sponsored by" or "in association with" as opposed to descriptions such as "brought to you by" or "with compliments of".

## **6. Effective date**

- 6.1 These regulations, insofar as they relate to advertisements, shall take effect on 1 April 1999 provided that, until 1 October 1999, commercial features shall be deemed not to constitute advertisements.
- 6.2 These regulations, insofar as they relate to infomercials and programme sponsorship, shall take effect on 1 April 2000.

## **7. Short title**

These regulations may be cited as the Independent Broadcasting Authority (Advertising, Infomercials and Programme Sponsorship) Regulations, 1999.

**INDEPENDENT BROADCASTING AUTHORITY****REGULATIONS AND GUIDELINES RELATING TO PARTY ELECTION  
BROADCASTS AND POLITICAL ADVERTISEMENTS DURING THE  
ELECTION PERIOD FOR THE 1999 GENERAL ELECTIONS**

The Independent Broadcasting Authority, has under section 78(1) of the Independent Broadcasting Authority Act No. 153 of 1993, as amended, made the regulations in the Schedule.

## SCHEDULE

### 1. Definitions

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

- 1.1 "Act" means the Independent Broadcasting Authority Act, No. 153 of 1993;
- 1.2 "advertisement" means a political advertisement as defined in the Act;
- 1.3 "Authority" means the Independent Broadcasting Authority established by Section 3 of the Act;
- 1.4 "BMCC" means the Broadcasting Monitoring & Complaints Committee referred to in section 21(1)(b) of the Act;
- 1.5 "broadcaster" means a person who provides a broadcasting service under and in accordance with a broadcasting licence issued to it by the Authority under Chapter VI of the Act, provided that:
  - 1.5.1 in respect of advertisements and election broadcasts, the word "broadcaster" shall not include any person who so provides a television broadcasting service; and
  - 1.5.2 in the case of any broadcaster who is licensed to provide more than one broadcasting service, the word "broadcaster" shall refer to each such broadcasting service;
- 1.6 "Commission" means the Electoral Commission established by section 3 of the Electoral Commission Act;
- 1.7 "Constitution" means the Constitution of the Republic of South Africa, Act No. 108 of 1996;

- 1.8 "election broadcast" means a party election broadcast as defined in the Act;
- 1.9 "election broadcast period" means the period within which party election broadcasts may be transmitted; such period may not begin prior to the closing of the submission of the lists of candidates, as referred to in section 27 of the Electoral Act, and may not extend beyond 48 hours of the polling day;
- 1.10 "election period" means the period as defined in Section 1 of the Act;
- 1.11 "Electoral Act" means the Electoral Act, No. 73 of 1998;
- 1.12 "Electoral Code" means the Electoral Code of Conduct set out in Schedule 2 of the Electoral Act;
- 1.13 "Electoral Commission Act" means the Electoral Commission Act, No 51 of 1996;
- 1.14 "news or current affairs programme" means a programme transmitted by a broadcaster in which it reports on news events or which focuses on, or includes comment on or interpretation or analysis of, issues of social, political or economic relevance or matters of international, national, regional or local significance;
- 1.15 "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 and submitted a list or lists of those candidates in accordance with section 27 of the Electoral Act, and includes any organisation that, group of people which, or person who, acts in support of such a registered political party;
- 1.16 "polling day" means the day proclaimed by the President in terms of section 49(2) of the Constitution, as read with section 17 of the

Electoral Act, as being the day on which voting for the National Assembly will take place;

1.17 "prime time" means the periods set out in Annexure "A";

1.18 "SABC" means the South African Broadcasting Corporation;

## **2. Interpretation**

Every person interpreting or applying these Regulations shall do so in a manner that is consistent with, gives effect to and takes into account the provisions of the Constitution, the Act and the Electoral Code.

## **3. General provisions in respect of advertisements and election broadcasts**

3.1 Any party that wishes to have an advertisement or an election broadcast transmitted by a broadcaster shall submit that advertisement or election broadcast to the broadcaster concerned:

3.1.1 in a form and manner that complies with that broadcaster's technical standards acceptable to that broadcaster;

3.1.2 in completed form, ready for broadcast; and

3.1.3 at least 96 hours before the time when that advertisement or election broadcast is to be transmitted.

Every broadcaster, other than the SABC, must indicate to the Authority whether or not it will transmit election broadcasts by not later than 31 March 1999.

3.3 Every broadcaster that is required, or intends, to transmit advertisements or election broadcasts shall, by no later than 31 March 1999, notify the Authority in writing of its technical standards as



broadcaster's technical standards are unreasonable, the Authority shall notify that broadcaster accordingly in writing and shall direct that broadcaster to amend its technical standards.

3.4 Every advertisement or election broadcast submitted by a party to a broadcaster for transmission shall be prepared by, or at the instance and request of, that party.

3.5 No broadcaster to whom an advertisement or election broadcast has been submitted by a party shall in any way edit or alter that advertisement or election broadcast, whether before or after transmission.

3.6 Every broadcaster to whom an advertisement or election broadcast has been submitted by a party for transmission shall be entitled to reject and refuse to transmit that advertisement or election broadcast if it does not comply with the broadcaster's reasonable technical standards, with these Regulations, the Act or with the Electoral Code.

3.7 Any broadcaster who rejects any advertisement or election broadcast submitted to it by a party for transmission shall, within 24 hours of such submission:

3.7.1 furnish the party that submitted the advertisement or election broadcast concerned to that broadcaster with written reasons for such rejection, and that party shall be entitled to alter or edit the advertisement or election broadcast and again submit it to the broadcaster concerned at least 24 hours before the time when it is to be transmitted;

3.7.2 in the event of the broadcaster rejecting an altered or edited advertisement or election broadcast in terms of Regulation 3.7.1, notify the Authority of such rejection by furnishing the Authority with a copy of the written reasons given for that rejection.

- 3.7.3 any party whose election broadcast has been rejected by a broadcaster under this regulation may refer the matter to the Authority in terms of Regulation 6.
- 3.8 A party that submits an advertisement or election broadcast to a broadcaster for transmission shall ensure that the advertisement or election broadcast does not:
- 3.8.1 contravene the provisions of item 9 of the Electoral Code; or
- 3.8.2 contain any material that is calculated, or that in the ordinary course of things 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.
- 3.9 Neither any party that submits an advertisement or an election broadcast to a broadcaster for transmission, nor any member or official of any such party, shall have any claim against that broadcaster arising from the transmission by it of that advertisement or election broadcast.
- 3.10 Every party that submits an advertisement or an election broadcast to a broadcaster for transmission shall be deemed to have indemnified that broadcaster against any cost, damage or loss incurred or sustained by that broadcaster as a result of any claim which a third party may bring against it arising from the transmission of that advertisement or election broadcast by that broadcaster.
- 3.11 Neither any party, nor any member or official of any party, shall have any claim against a broadcaster arising from the transmission by that broadcaster of any advertisement or election broadcast.
- 3.12 No advertisements or election broadcasts may be transmitted after the end of the election broadcast period.

#### **4. Specific provisions in respect of election broadcasts**

- 4.1 Election broadcasts may only be transmitted during the election broadcast period.
- 4.2 Every broadcaster who transmits election broadcasts shall:
  - 4.2.1 make available, on every day throughout the election broadcast period four time-slots of two minutes each for the transmission of election broadcasts, provided that the Authority shall be entitled to prescribe by regulation an increased number of daily time-slots for the transmission of election broadcasts;
  - 4.2.2 do so in accordance with the sequence and timing prescribed by the Authority in terms of Regulation 5;
  - 4.2.3 ensure that all election broadcasts transmitted by it are clearly identified as election broadcasts;
  - 4.2.4 ensure that all election broadcasts transmitted by it are identified or announced in a similar manner both at their introduction and at their conclusion.
- 4.3 No single election broadcast transmitted by a broadcaster shall exceed two minutes in duration.
- 4.4 No broadcaster may transmit an election broadcast immediately before or after another election broadcast or immediately before or after an advertisement.
- 4.5 No party shall be obliged to use the air-time allocated to it in terms of Regulation 5 for the transmission of election broadcasts, provided that:

- 4.5.1 any air-time allocated to but not used by a party shall be forfeited;
- 4.5.2 if any party does not wish to use any air-time allocated to it, such air-time shall not be allocated to another party but shall be used by the broadcaster concerned for the purpose of transmitting conventional programming or material;
- 4.5.3 if any party does not wish to use any air-time allocated to it, the broadcaster concerned shall not, during the relevant time-slot, transmit any advertisement or election broadcast previously transmitted on behalf of that party, or in any way vary the sequence or scheduling of election broadcast transmissions determined in accordance with these Regulations.
- 4.6 Neither any broadcaster nor any party shall permit or engage in any interference with, or trading in, the sequence or scheduling of election broadcast transmissions determined in accordance with these Regulations.

## **5. Allocation of air-time in respect of election broadcasts**

- 5.1 Air-time in respect of election broadcasts shall be allocated by the Authority to the various parties contesting the national and provincial elections on the basis of the respective formulae set out in Annexure B.
- 5.2 The Authority shall, as soon as may be reasonably practicable, after the date referred to in section 27(1) of the Electoral Act, publish a notice setting out the air-time allocation in respect of election broadcasts.
- 5.3 Once the submissions of-lists of candidates has been closed under section 27 of the Electoral Act the Authority shall;

- 5.3.1 determine the sequence in which election broadcasts are to be transmitted for the entire election broadcast period;
- 5.3.2 notify the broadcasters concerned in writing of such sequence.
- 5.4 The determination which is to be made by the Authority in terms of Regulation 5.3 shall be made:
  - 5.4.1 by the drawing of lots;
  - 5.4.2 in the presence of an official of the Commission designated by the Commission for that purpose.
- 5.5 The Authority shall notify the representatives referred to in Regulation 7.1 of the time when and place where the determination referred to in Regulation 5.3 will be made, and such representatives shall be entitled to be present when such determination is made.

## **6. Mediation**

- 6.1 In the event of a broadcaster rejecting or refusing to transmit any advertisement or election broadcast submitted to it by a party for transmission, the party may:
  - 6.1.1 refer the matter to the Authority in writing within 24 hours of being notified by the broadcaster of such rejection and the Authority shall attempt to resolve the matter in any manner it may consider appropriate;
  - 6.1.2 in the event of the Authority being unable to resolve a matter in terms of Regulation 6.1.1 it shall refer the matter to the BMCC and the BMCC shall deal with the matter in accordance with any procedure which the BMCC may consider appropriate.



6.2 In the event of any dispute arising between any party and any broadcaster, in respect of any matter governed by these Regulations, or in the event of any person being aggrieved by any act performed by any person in terms of these Regulations, or in the event of any dispute arising regarding the interpretation or application of these Regulations, any person who has a material interest in the matter shall be entitled to refer the matter to the Authority within 24 hours of the dispute or grievance arising.

6.2.1 the Authority shall attempt to resolve the dispute or grievance in any manner it may consider appropriate;

6.2.2 in the event of the Authority being unable to resolve a matter in terms of Regulation 6.2.1 it shall refer the matter to the BMCC and the BMCC shall deal with the matter in accordance with any procedure which the BMCC may consider appropriate.

6.3 No person may seek relief in a court of law in respect of any rejection, dispute or grievance arising from the interpretation or application of these regulations unless the applicable procedures set out in these Regulations have been exhausted.

## 7. General

7.1 Every broadcaster and every party shall:

7.1.1 nominate a person who shall be the representative of that broadcaster or party in respect of all matters regulated by, or arising from, these Regulations;

7.1.2 by no later than 9 April 1999 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 that person.

- 7.2 The chief executive officer, news and current affairs director, head of sales and marketing and programme manager (or the persons occupying similar positions or responsible for performing the functions normally performed by persons occupying those positions) of every broadcaster shall take reasonable steps to ensure compliance by that broadcaster with these Regulations to the extent that they may be applicable to that broadcaster.
- 7.3 Every broadcaster who transmits news or current affairs programmes in respect of the elections shall do so in an impartial and objective manner and in a manner which, treats all parties fairly. In complying with this obligation, broadcasters should have regard to the guidelines set out in Annexure C.
- 7.4 Any person who contravenes or fails to comply with these regulations shall be guilty of an offence.

## 8. Short title

These regulations may be cited as the Independent Broadcasting Authority (1999 General Elections) Regulations, 1999.

## **ANNEXURES**

Annexure A: List of regional and national SABC stations as well as their prime listenership times.

Annexure B: Formulae for airtime allocation in respect of election broadcasts

Annexure C: Guidelines for broadcasters

**ANNEXURE A****LIST OF REGIONAL AND NATIONAL STATIONS AS WELL AS THEIR  
PRIME LISTERNERSHIP TIMES****1. REGIONAL BREAKDOWN OF SABC RADIO STATIONS****GAUTENG**

RADIO SONDERGRENSE (AFRIKAANS STEREO)

SAFM

RADIO 2000

UKHOZI FM (ZULU)

IKWEKWEZI FM (NDEBELE)

UMHLOBO WENENE FM (XHOSA)

LIGWALAGWALA FM (SWAZI)

THOBELA FM (LEBOWA)

RADIO MOTSWEDING

PHALAPHALA FM (VENDA)

LESEDI FM (SESOTHO)

RADIO METRO

RADIO 5

RADIO LOTUS

MUNGHANA LONANE FM (TSONGA)

**NORTHERN PROVINCE**

RADIO SONDERGRENS

SAFM

RADIO 5FM

IKWEKWEZI FM (NDEBELE)

RADIO METRO

THOBELA FM (LEBOWA)

RADIO 2000

RADIO MOTSWEDING

MUNGHANA LONANE FM (TSONGA)

PHALAPHALA FM (VENDA)

**EASTERN CAPE**

RADIO SONDERGRENS

SAFM

RADIO 2000

UMHLOBO WENENE FM (XHOSA)

MOTSWEDING FM

5FM

LESEDI FM (SESOTHO)

METRO

TBCC

RADIO CISCHEI

**NORTHERN CAPE**

RADIO SONDERGREENSE

SAFM

RADIO 2000

UMHLOBO WENENE FM (XHOSA)

MOTSWEDING FM

5FM

**KWAZULU-NATAL**

RADIO SONDERGREENSE

SAFM

RADIO 2000

UMHLOBO WENENE FM (XHOSA)

5FM

LESEDI FM (SESOTHO)

METRO

TBCC

RADIO LOTUS

UKHOZI FM (ZULU)

**NORTH WEST**

RADIO SONDERGREENSE

SAFM

RADIO 2000

RADIO MOTSWEDING

UMHLOBO WENENE FM (XHOSA)



**MPUMALANGA**

RADIO SONDERGREENSE

SAFM

RADIO 2000

UKHOZI FM (ZULU)

IKWEKWEZI FM (NDEBELE)

LIGWALAGWALA FM (SWAZI)

RADIO 5FM

RADIO METRO

THOBELA FM (LEBOWA)

RADIO LOTUS

RADIO BOP

LESEDI FM (SESOTHO)

MUNGHANA LONANE FM (TSONGA)

**WESTERN CAPE**

GOOD HOPE STEREO

RADIO SONDERGREENSE

SAFM

RADIO 2000

UMHLOBO WENENE FM (XHOSA)

RADIO 5

METRO

RADIO LOTUS

**FREE STATE**

RADIO SONDERGREUSE (AFRIKAANS STEREO)

SAFM

RADIO LESIDI FM (SESOTHO)

RADIO 5FM

RADIO METRO

RADIO 2000

RADIO UKHOZI FM (ZULU)

RADIO LEBOWA UMHLOBO WENENE FM (XHOZA)

RADIO MOTSWEDING

**2. SABC RADIO STATIONS' PRIME LISTENERSHIP TIMES<sup>1</sup>**

<sup>1</sup> Source: SAARF Radio Audience Measurement Survey of November 1998

ALL SABC RADIO STATIONS	PRIME TIME	
	WEEKDAYS	WEEKENDS
RADIO SONDERGRENSE (AFRIKAANS STEREO)	06H00 - 09H00 12H00 - 16H00	06H00 - 09H00
SAFM	06H00 - 09H00	06H00 - 12H00
RADIO 2000	05H00 - 09H00 15H00 - 18H00	15H00 - 17H00
UKHOZI FM (ZULU)	05H00 - 09H00 15H00 - 18H00	05H00 - 09H00 15H00 - 18H00
IKWEKWEZI FM (NDEBELE)	05H00 - 09H00 12H00 - 15H00	05H00 - 12H00
UMHLOBO WENENE FM (XHOSA)	05H00 - 09H00 15H00 - 18H00	05H00 - 12H00
LIGWALAGWALA FM (SWAZI)	06H00 - 12H00	05H00 - 09H00
THOBELA FM (LEBOWA)	05H00 - 12H00	06H00 - 12H00
RADIO MOTSWEDING	05H00 - 09H00 18H00 - 21H00	05H00 - 12H00
PHALAPHALA FM (VENDA)	05H00 - 09H00 12H00 - 15H00	05H00 - 12H00
LESEDI FM (SESOTHO)	06H00 - 12H00	05H00 - 12H00
RADIO METRO	06H00 - 12H00	06H00 - 15H00
RADIO 5	06H00 - 12H00	10H00 - 14H00
RADIO LOTUS	06H00 - 12H00	06H00 - 12H00
MUNGHANA LONANE FM (TSONGA)	12H00 - 18H00	05H00 - 12H00
GOOD HOPE FM	09H00 - 15H00	09H00 - 12H00

### **3. NATIONAL RADIO STATIONS**

Due to their availability in all nine provinces the following SABC radio stations are regarded as national broadcasters:

- RADIO SONDERGRENSE
- SAFM
- RADIO METRO
- 5 FM
- RADIO 2000

### **4. OTHER BROADCASTERS**

Community and Private/ Commercials broadcasters can elect whether to broadcast political adverts and party election broadcasts. A list of these stations will be made available to all political parties as soon as these broadcasters have indicated their intentions.

**ANNEXURE B****NATIONAL AND REGIONAL STATIONS FORMULAE TO CALCULATE THE  
ALLOCATION OF PARTY ELECTION BROADCASTS****INTRODUCTION**

The Independent Broadcasting Authority has exclusive responsibility for allocating to contesting political parties party election broadcasts on public broadcast radio stations and on any other stations choosing to broadcast party election broadcasts.

The Act directs the Authority to ensure contesting parties are treated equitably. Equitable treatment is defined in South African law and international precedent as fair.

In keeping with the general principle of equitability and in recognition of the fact that the interests of the South African public are paramount, the Authority has adopted the international convention that the public is entitled to hear more from and about political parties more likely to influence policy decisions affecting the electorate, nationally and provincially.

In terms of this principle and international practice, parties likely to contribute to policy decisions affecting South Africans directly either as, or as part of, national and provincial governments, or as official oppositions in these forums will thus be allocated more Party Election Broadcasts than those unlikely to play these roles.

To achieve this the Authority has adapted the formula used to allocate Party Election Broadcasts in the 1994 elections to take account of the fact that most political parties have an historical track record of parliamentary representation.

Three factors have been taken into account when developing the formula by which parties will be allocated Party Election Broadcast slots:

The need for all parties to be heard by voters who could vote for them.

This factor serves as a numerical filter, to ensure that the electorate is afforded an opportunity to hear all parties potentially exercising influence in policy decisions affecting their lives.

This factor serves to limit the time differential between parties occupying and contesting a large number of seats and those contesting fewer seats.



- Historical record – current seats in national parliament and provincial legislatures
- The number of seats parties are contesting nationally and provincially

In developing the formula for allocating Party Election Broadcasts, the Authority has taken account of the fact that South African radio stations cover different provincial legislative areas.

All national stations, covering all nine provincial legislative areas, will thus be required to carry Party Election Broadcasts from parties contesting national assembly seats, and from parties contesting seats in any or all of the provincial legislatures.

Party Election Broadcasts are allocated on a points system, with points accruing to each party on the basis of a minimum and equal allocation to all parties contesting the election, its historical record, and the number of seats it is contesting.

The maximum number of points will be secured by a party contesting all national assembly seats, both national and provincial lists, and all seats in all nine provinces and with a strong 1994 performance.

National Party Election Broadcast points are allocated in direct proportion to the number of national list National Assembly seats contested and the number of provincial list National Assembly seats contested.

Provincial Party Election Broadcast point are allocated on a sliding scale, depending on the number of provinces in which a party is contesting seats, and the number of seats contested in each province.

Fairness requires that the differential between new, untested parties and established parties is relatively low. The basic, equal allocation to all parties is thus relatively large, accounting for approximately a quarter of the optimum number of points available to a party.

Party Election Broadcast allocation will be calculated only once registration of political parties and candidates has been closed.

The Authority can in its discretion consider using of recent public opinion polls and other such factors as it may deem necessary in order to determine Party Election Broadcast allocation. In keeping with its commitment to transparency, the Authority shall make known to participating parties and the general public what additional factors it has taken into account.

**National Stations' Formula**

<b>Basic Allocation</b>	
All parties contesting seats in the National Assembly.	<b>20 points</b>
<b>Number of Seats Currently Held</b>	
Based on current seats in the National Assembly pro rata, or on opinion polls or on any other factor that the Authority may deem necessary.	<b>35 points</b>
<b>National Allocation List</b>	
Based on the number of candidates fielded by a party on the national assembly list, with 200 securing 15 points and those fielding fewer candidates securing points on a pro rata basis.	<b>15 points</b>
<b>National Assembly Regional List Allocation</b>	
Based on the number of candidates fielded by a party on the national assembly's regional list, with 200 securing 15 points and those fielding fewer candidates securing points on a pro rata basis.	<b>15 points</b>
<b>Provincial List Allocation</b>	
Based on the number of provincial legislature candidates fielded by each party throughout the country, with a party fielding the maximum securing 15 points and parties fielding fewer candidates securing points on a pro rata basis.	<b>15 points</b>

**Regional Stations' Formula**

<b>Basic Allocation</b>	
All the parties contesting seats in the National Assembly.	<b>20 points</b>
<b>Number of seats currently held</b>	
Based on current seats in the National Assembly and in the relevant provincial legislatures pro rata, and on any opinion polls or on any other factor that the Authority may deem necessary.	<b>35 points</b>
<b>National Assembly Allocation List</b>	
Based on the number of candidates fielded by a party on the national assembly list, with 200 candidates securing 15 points and those fielding fewer candidates securing points on a pro rata basis.	<b>15 points</b>
<b>National Assembly's Regional List Allocation</b>	
Based on the number of candidates fielded by a party on the national assembly's regional list, with 200 candidates securing 15 points and those fielding fewer candidates securing points on a pro rata basis.	<b>15 points</b>
<b>Provincial List</b>	
Based on the number of provincial legislature candidates fielded by each party throughout the country, with parties fielding the maximum securing 15 points and parties fielding fewer candidates securing points on a pro rata basis.	<b>15 points</b>

**ANNEXURE C****GUIDELINES****1. INTRODUCTION**

These guidelines are intended to outline a general approach that should be adopted by broadcasting licensees in their coverage of the 1999 general elections. General elections are an important public event and they clearly fall within the area of news and current affairs. Broadcasting licensees are encouraged, in the public interest, to provide a full, impartial, and independent coverage of the elections.

The Authority does not intervene in the news and programming operations of the broadcasters. Broadcasters' role during elections does not differ from their normal journalistic role during non-election periods. Normal ethical considerations will continue to apply. A distinguishing feature of the election period is the obligation to achieve equitable coverage of political parties without abdicating news value judgements.

**2. EDITORIAL MATTERS**

Section 61 of the Act lays down specific requirements for the treatment of political parties during the election period by broadcasters in their editorial programming. The requirements are:

- (1) "If, during an election period, the coverage of any broadcasting service extends to the field of elections, political parties and issues relevant thereto, the broadcasting licensee concerned shall afford reasonable opportunities for the discussion of conflicting views and shall treat all political parties equitably.
- (2) In the event of any criticism against a political party being leveled in a particular programme of any broadcasting service without such party having been afforded an opportunity to respond thereto in such programme or without the view of such political party having been reflected therein, the broadcasting licensee concerned shall be obliged to afford such a party a reasonable opportunity to respond to criticism.
- (3) If, within 48 hours before the commencement of the polling period or during the polling period, a broadcasting licensee intends broadcasting a programme in which a

particular political party is criticized, the licensee shall ensure that the political party is given a reasonable opportunity to respond thereto in the same programme, or to do so as soon as reasonably practicable thereafter".

The Authority advises broadcasters to take special care during the final 48 hours prior to election day. There will be limited time for broadcasters to ensure that political parties' right of reply is honoured during this period. Broadcasters should, therefore, ensure that parties are given time to reply, should this be necessary, within the same programme during this period.

### **3. Equitable Treatment**

Four principles of equitability:

#### **3.1.1 Equitable treatment does not mean equal treatment**

The Authority will not expect broadcasting services to distort their news values and processes by giving the same weight to small or one-person parties as they do to serious contenders for a place in national or provincial government.

#### **3.1.2 Equitable treatment means fair treatment**

Each broadcasting service will be expected to treat parties fairly. Equitable treatment is unlikely to be achieved in a single programme but can be achieved in a series of programmes.

#### **3.1.3 Each broadcast service should be consistent in its treatment of contesting parties**

Each broadcasting service should be consistent in its treatment of contesting parties and of conflicting views.

### **3.1.4 Broadcasters must seek out information.**

Broadcasters should recognise their obligation to the electorate to provide a full and accurate record of events and developments. Broadcasters should not rely on political parties to bring information to them, but should actively seek out information. Failure to do so will give parties with greater resources inequitable amounts of news coverage.

### **3.2 Principles to be adhered to:**

To further assist broadcasters in fulfilling the requirements of the Act the following principles will apply:

#### **3.2.1 Fairness**

- ◆ All news coverage should be fair to all interests concerned;
- ◆ Care should be taken to balance the exposure given to the non-political activities of candidates (such as attendance at functions, sporting events etc).
- ◆ All parties should receive equitable treatment on current affairs programmes. If the programme intends to feature party representatives, parties contesting the elections must be invited, with reasonable notice, to participate either in the same programme or in a series of programmes.
- The requirement that broadcasters give an opportunity for conflicting views to be heard should not be interpreted as a requirement that all parties be heard on any subject, only that all views be heard. Nor is it a requirement that all views be heard on the same programme.

#### **3.2.2 The right of reply to broadcast criticism**

Each broadcaster should afford all political parties reasonable opportunity to respond to criticism broadcast by that broadcaster. However, affording parties reasonable time to respond should not amount to forcing broadcasters to turn their editorial programmes into a series of replies and replies-to-replies.

There should be a distinction between demands for the right to reply to mild or rhetorical criticism, which properly forms part of the cut and thrust of robust political contest; and demands for the right to reply to criticisms which result in clear and immediate damage to a political party.

With regard to rhetorical criticisms, broadcasters must have the flexibility to incorporate responses into their formal news patterns. With regard to damaging criticisms, broadcasters should give the offended party an opportunity to respond. The party should be afforded the earliest and most appropriate opportunity to do so. Broadcasters should, however, not allow political parties to use their right to reply to criticism to manipulate or distort the general principle of equitability.

### **3.2.3 Coverage of government**

During the election period, broadcasters must recognise that government officials are in a position to use their incumbency to advance their electoral prospects.

During the election period, broadcasters should regard with particular caution any statement or action by an official of an incumbent party. In particular, broadcasters need to ensure that, during the election period, they do not afford the policies of incumbent parties greater legitimacy than they would afford those policies or actions if the party were not in government.

### **3.2.4 Civil servants**

No action or statement by any civil servant should benefit or prejudice any political party.

### **3.2.5 Coverage of non-participating organisations**

In providing reasonable opportunity for the discussion of conflicting views, non-participating political parties and organisations affiliated to alliances should not be excluded from debates and news bulletins. They should be included in terms of normal journalistic practice – when the topic is one in which they have a material interest. However, they should not be included with such frequency that they distort the general principle of equitability between registered, contesting parties.

### **3.2.6 Coverage of election results**

Broadcasters, particularly the public broadcaster, have an obligation to inform the electorate of the election results, as they become available. Coverage of election results may also



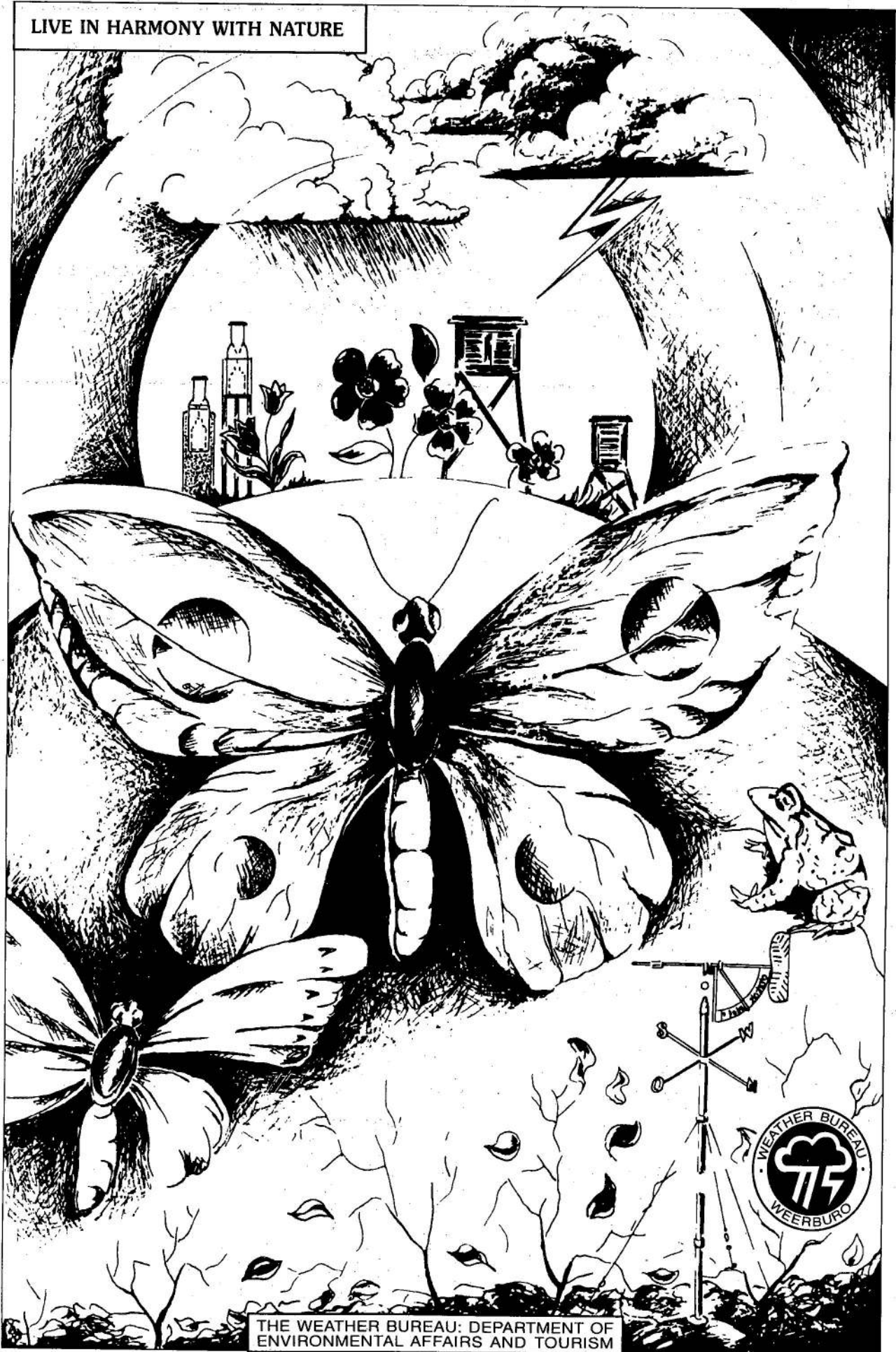
include comment, analysis and interpretation. Special care should be taken to ensure the accuracy of all results broadcast.

## **CONCLUSION**

The guidelines in essence therefore will provide a framework to broadcasters covering the elections within which the system of Party Election Broadcasts and political advertising will operate.

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