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GOVERNMENT NOTICES • GOEWERMENTSKENNISGEWINGS

INDEPENDENT COMMUNICATIONS AUTHORITY OF SOUTH AFRICA

NO. 245

25 FEBRUARY 2019

**Independent Communications Authority of South Africa**

350 Witch-Hazel Avenue, Eco Point Office Park

Eco Park, Centurion.

Private Bag X10, Highveld Park 0169

AMENDMENT TO THE REGULATIONS ON PARTY ELECTIONS BROADCAST, POLITICAL ADVERTISEMENTS, THE EQUITABLE TREATMENT OF POLITICAL PARTIES BY BROADCASTING LICENSEES AND RELATED MATTERS, 2014

I, Rubben Mohlaloga, Chairperson of the Independent Communications Authority of South Africa ("the Authority"), hereby publish the amendment to the regulations on party elections broadcast, political advertisements, the equitable treatment of political parties by broadcasting licensees and related matters, 2014 made by the Authority in terms of section 4(3)(j) of the Independent Communications Authority of South Africa Act (Act No. 13 of 2000) read with section 4(1), (4)(a) and (b) and sections 56, 57, 58 and 59 of the Electronic Communications Act, 2005 (Act No. 36 of 2005).

A handwritten signature in black ink, appearing to read 'Rubben Mohlaloga', written over a horizontal line.

MR RUBBEN MOHLALOGA
CHAIRPERSON**SCHEDULE**

1. Definitions

In these regulations "the Regulations" means the regulations published by Government Notice No. 101 of 2014.

2. Amendment of regulation 4 of the Regulations

Regulation 4 of the Regulations is hereby amended by the substitution for the sub-regulations 14 and 15 of the following sub-regulations:

"(14) A broadcasting service licensee that broadcasts PEB must:

- (a) make available, every day, throughout the election broadcast period, ten (10) time-slots of fifty (50) seconds each for the broadcast of PEB, excluding the top and tail disclaimer;
- (b) do so in accordance with the sequence and timing that will be determined by the Authority upon allocation of airtime slots after the publication of these regulations;
- (c) ensure that all PEB broadcasts are clearly identified; and
- (d) ensure that all PEB broadcasts are announced in a similar manner.

(15) A PEB must not exceed fifty (50) seconds in duration."

3. Amendment of regulation 6 of the Regulations

Regulation 6 of the Regulations is hereby amended by the addition of the following sub-regulation:

“(12) A broadcasting service licensee that broadcasts PA must ensure that all PA broadcasts are:

- (a) clearly identified through a top and tail disclaimer; and
- (b) are announced in a similar manner.”

4. Short Title and Commencement

These regulations are called the National and Provincial Party Elections Broadcasts and Political Advertisements Amendment Regulations, 2019 and will come into force upon publication in the Government Gazette.

5. Amendment of Annexure C of the Regulations

The following annexure is hereby substituted for Annexure C of the Regulations:

“ANNEXURE C

Technical standards and quality

(1) Audio and video recordings will be clearly labelled, outlining the name of the political party and nominated representative.

(2) The technical standards are as follows;

- **Television**
 - 16:9 HD format; and
 - Delivered by File Transfer Protocol, Hard drive or USB.
- **Radio**
 - Format: MP3 or MP2;
 - Sample rate: 48 KHz;

- o Bit rate: 384 kbps;
- o Stereo - Left and Right channels; and
- o Delivered by USB.”



Independent Communications Authority of South Africa

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POLITICAL PARTIES BY BROADCASTING LICENSEES AND RELATED
MATTERS, 2014**

REASONS DOCUMENT

FEBRUARY 2019

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1. INTRODUCTION

1.1 The Independent Communications Authority of South Africa (“the Authority” or “ICASA”) has initiated a process to review and amend the National and Provincial Party Elections Broadcasts and Political Advertisements Regulations, 2014¹ (“the Regulations”), in light of the upcoming 2019 national and provincial elections.

1.2 When reviewing regulations, the Authority is guided by the Constitution of the Republic of South Africa, 1996, the Broadcasting Act, 1999 (Act No. 4 of 1999), the Independent Communications Authority of South Africa Act, 2000 (Act No. 13 of 2000), and the Electronic Communications Act, 2005 (Act No. 36 of 2005) (“ECA”). In particular, the Authority is empowered by sections 56, 57, 58 and 59 of the ECA to regulate Party Election Broadcasts (PEBs), Political Advertisements (PAs) and the equitable treatment of political parties by Broadcasting Service Licensees (BSLs) during an election period.

2. BACKGROUND

The Authority published the draft regulations on 31 August 2018² as per legislative mandate, to solicit inputs from stakeholders. Subsequent to that the Authority conducted provincial workshops with stakeholders from 17 - 28 September 2018. The Authority received only one (1) submission on the draft regulations from the South African Broadcasting Corporation (SABC) by the closing date of 15 October 2018.

¹ Party Elections Broadcast, Political Advertisements, the Equitable Treatment of Political Parties by Broadcasting Licensees and Related Matters, 17 February 2014. Government Gazette No.37350, Volume 584

² Draft amendment to the National and Provincial Party Election Broadcasts and Political Advertisement Regulations 2014, 31 August 2018, Government Gazette No.41870, Volume 905

3. ANALYSIS OF THE SUBMISSION

SABC

Implications of the regulations on the SABC

3.1 The SABC expressed that during the 2016 municipal elections they learned valuable lessons and would like for those lessons to be taken into consideration by the Authority going into the 2019 National Elections, this to ensure effective mandate delivery by the SABC during the elections. The SABC stated that the regulations will affect its radio, television and online services as during the elections they will be required to broadcast political advertisements and party election broadcasts, with no focus on the online platform as the Authority does not regulate over them, however they are not barred from carrying election related content.³

Marking of PEB's and PA's

3.2 The SABC requested that PEB's and PA's must be clearly identified, on both technical labelling and how they are introduced on air. They further explained that correct labelling of submitted material assists broadcasters to easily identify the content before broadcast.⁴

3.3 PA's and PEB's should only have opening billboards, as in the previous elections, broadcasters were expected to air opening and closing billboards which turned to clutter the message. The SABC submitted that with only the opening billboards the message will still be clear.⁵

3.4 The Authority is of the view that the broadcaster must provide an introductory and closing message (top and tail) identifying the beginning and the end of the PEB/PA to ensure that viewers and/or

³ SABC: Written Submission on ICASA's Draft amendment to the National and Provincial party elections broadcasts and political advertisements regulations, 12 October 2018, p 2

⁴ Ibid, p 2

⁵ Ibid, p 2

listeners can distinguish the PEB/PA from other programming content.

Broadcast of PA's both on radio and television

3.5 The SABC submitted that Regulations should be explicit about the time at which PA's can start being broadcast, previously they had to deal with political parties accusing the SABC of unjustifiably rejecting their PA's. Therefore, the SABC requests that the regulations be explicit as to when the PA's can be transmitted i.e. specified start of "election period" and clarification on whether political parties must have been registered by then.⁶

3.6 PAs must only be broadcast during the election period and no later than forty-eight (48) hours before polling commences. The election period starts upon the proclamation of the elections by the President of the Republic through a gazette.

PEB allocations on TV

3.7 The SABC indicated that during the previous local government elections their financial loss was exacerbated by allocated timeslots not used by political parties on both radio and television. Slots not used on television were worth R5 741 500 while radio lost potential revenue of R7 397 310.⁷

3.8 The SABC submitted that PEB's be excluded on television because it is easier to close a gap on radio than it is on television. It should be noted that the reasons why radio lost a lot of revenue than television during the 2016 Elections, was because they were local government elections, and political parties were only targeting their constituencies. The same scenario is not likely to prevail for the national elections, solely because political parties target the entire country.⁸

⁶ Ibid, p 2-3

⁷ Ibid, p 3

⁸ Ibid, p 3

3.9 The SABC therefore submitted that during the regulation development process, the Authority should consider the financial viability of the SABC in accordance with Section 2(t) of the Electronic Communications Act of 2005 ("ECA"). Furthermore, section 57(2) of the ECA enjoins the Authority to take into account the financial and programming implications of the SABC when the time, the duration and the scheduling of PEB's are being determined. Thus, the above-mentioned negative implications should be considered in the interest of the SABC's financial viability.⁹

3.10 Due to the scope and national importance of the elections, television broadcasting becomes central as a platform for political parties to communicate their election manifestos.

Length of PEB's

3.11 The SABC is in agreement with the Authority that regulations be amended to allow for only 50 seconds broadcast of PEB's instead of the previous one minute.¹⁰

Technical format

3.12 SABC submitted that the technical format of material submitted by parties for broadcast should also be compatible with the SABC's internal systems. The material must be submitted to the SABC seven (7) working days before the date of broadcast for both radio and television.¹¹

3.13 Specifications of the formats are as follows:¹²

- **Television**

Material needs to be delivered in 16:9 HD format

Material needs to be delivered by File Transfer Protocol

⁹ Ibid, p 3

¹⁰ Ibid, p 3

¹¹ Ibid, p 4

¹² Ibid, p 4

Material needs to be delivered in a hard drive or USB

- **Radio**

Material needs to be delivered in;

- Format: MP3 or MP2.
- Sample rate: 48 KHz.
- Bit rate: 384 bps.
- USB
- Stereo - Left and Right channels.

The specifications are made to ensure proper broadcasting of all PA's and PEB's.

3.14 The PEB will be submitted 5 working days prior to being broadcast as 7 working days will reduce the overall number of PEB slots available. Audio and video recordings will be clearly labelled, outlining the name of the political party and appointed nominee. The Authority have decided that the audio recordings can be submitted in MP2 or MP3.

3.15 The Authority states that the specifications be as follows:

- **Television**
 - **16:9 HD format; and**
 - **Delivered by File Transfer Protocol, Hard drive or USB.**
- **Radio**
 - **Format: MP3 or MP2;**
 - **Sample rate: 48 KHz;**
 - **Bit rate: 384 bps;**
 - **Stereo - Left and Right channels; and**
 - **Delivered by USB.**

4. CONCLUSION

These regulations provide a framework outlining the responsibilities of the BSLs and political parties during the election period. Therefore, the most important aspect for the regulations during the election period, is finding the right balance between the respect for editorial independence and the need for rules to guarantee that media coverage is balanced.

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