

ICASA
National and Provincial
Elections Report
2019

ICASA



ICASA'S ELECTIONS MONITORING LEADERSHIP

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SECTION 1

PROJECT REPORT

1 INTRODUCTION

South Africa is a democratic country governed by the Constitution and the rule of law. Section 1(d) of the Constitution¹ states that the Republic of South Africa is one, sovereign, democratic state founded on the following values: Universal adult suffrage, a national common voters roll, regular elections and a multi-party system of democratic government, to ensure accountability, responsiveness and openness. Once every five (5) years, South Africa affords its citizens an opportunity to cast their votes during the National and Provincial Government Elections by voting for the party of their choice, thus determine the ruling party in accordance with the Constitution of the Republic. The 2019 National and Provincial Elections held on 8 May not only marked the 5th National and Provincial Elections monitored by the Regulator since its inception in 1995, but also the 6th Elections since the dawn of democracy.

Forty-eight (48) political parties contested the 2019 National Elections and two hundred and sixty-seven (267) political parties contested Elections at Provincial level. According to the Independent Electoral Commission ("IEC") results, the African National Congress ("ANC") emerged as the leading party followed by the Democratic Alliance ("DA") and the Economic Freedom Fighters ("EFF") at third place.

The increased number of political parties contesting the National and Provincial Elections demonstrates a maturing democracy and active citizenry and their willingness to be active participants during the Elections. The maturing democracy goes hand in hand with the growing awareness among citizens, indicating that their participation in the Elections is one of the tools to ensure accountability by their political representatives. Over the years, as the political needs and wants of citizens develop, there has been an increase of political parties that participate in the Elections, seeking to win the votes of citizens. Growth is equally facilitated by fair coverage of Elections which is monitored by the Authority.

¹ The Constitution of the Republic of South Africa, 1996

1.1 Background

Section 192 of the Constitution requires national legislation to establish an independent authority to regulate broadcasting in the public interest, and to ensure fairness and a diversity of views broadly representing South African society. Therefore, the Independent Broadcasting Authority Act No. 153 of 1993 (the "IBA Act") was enacted to establish the Independent Broadcasting Authority ("IBA") to regulate broadcasting in the public interest.

In 2000, the ICASA Act was enacted to repeal the IBA Act and Telecommunications Act No. 103 of 1996. This led to amalgamation of the IBA and the South African Telecommunications Regulatory Authority ("SATRA") to form a new regulator called the Independent Communications Authority of South Africa ("ICASA"), regulating for broadcasting, telecommunications and postal services.

Section 2(s)(i) of the ECA states that the ICASA's regulations must ensure that broadcasting services, viewed collectively, promote the provision and development of a diverse range of sound and television broadcasting services on a national, regional and local level, that cater for all language and cultural groups and provide entertainment, education and information.

1.2 Legislative Framework

Sections 56, 57, 58 and 59 of the Electronic Communications Act No. 36 of 2005 (the "ECA"), as amended, are the primary provisions that empower the Authority to regulate and monitor Party Elections Broadcasts ("PEBs"), Political Advertisements ("PAs") and treatment of political parties by broadcasting Licensees during the election period. Coupled with these sections of the ECA, are the Regulations on Party Election Broadcasts, Political Advertisements, the Equitable treatment of Political Parties by Broadcasting Licensees and Related Matters, 2014² as amended (the "2014 Amended Regulations").

Section 2 of the ECA sets out the primary objects of the legislation and require the Authority, in its regulatory framework, to ensure amongst others; that

² Government Gazette No. 42249 Notice No. 245 of 25 February 2019

broadcasting services, viewed collectively, provide for regular news services; actuality programmes on matters of public interest; programmes on political issues of public interest; and programmes on matters of international, national, regional and local significance.

Additionally, the Constitution, serves as the central legislative framework which the Authority uses to regulate Elections as it guarantees the protection of the rights as set out in Chapter 2 thereof, including but not limited to the right to freedom of expression³.

It is within this legislated jurisdiction that the Authority's report provides a detailed account of the extent to which broadcasting service Licensees covered Elections, giving effect to the above mentioned constitutionally enshrined right to vote. The report draws on information and recorded material submitted by individual and community broadcasting service Licensees who elected to participate during the Elections process over and above the South African Broadcasting Corporation (SABC), which is enjoined in terms of section 57 of the ECA to cover Elections and specifically broadcast PAs and PEBs during the election period.

1.3 Process and Methodology

1.3.1 The Process

1.3.1.1 Council Committee of ICASA

A Committee of Council, the Elections Monitoring Committee ("the Committee") was established in terms of Section 17 of the ICASA Act No. 13 of 2000 as amended (the "ICASA Act") to deal with the monitoring of broadcasting Licensees' coverage of the 2019 National and Provincial Elections. The Committee comprised two (2) Councillors as well as representatives from Compliance and Consumer Affairs ("CCA"), Policy Research and Analysis ("PRA"), Licensing and Legal, Risk and CCC divisions. The Committee commenced its work on 26 February 2019 after the publication of the 2014 amended Regulations.

³ Section 16 of the Constitution

1.3.1.2 Workshops, Number of Participating Licensees and Monitored Period

The Authority conducted workshops with broadcasting service Licensees from 01-15 March 2019 across all the nine (9) provinces. The purpose of the workshops was to educate and inform Licensees of their rights and obligations during the election period.

The monitoring of broadcasters' coverage of the 2019 National and Provincial Elections commenced on 11 March 2019 (with actual recorded broadcast content from 03 February until 24 May 2019) and ended on 08 August 2019. The rationale for commencing in March was to ensure that the Licensees comply with the elections regulations and do not broadcast PAs prior to the proclamation of the election date, thus commencement of the election period.

A total of sixty-nine (69) broadcasting service Licensees participated during the 2019 election period with thirty-nine (39) being community sound broadcasting Licensees; eight (8) commercial radio stations, e.tv, eighteen (18) SABC sound broadcasting services (public and commercial) and three (3) SABC TV channels. It should however be noted that only one (1) commercial broadcasting sound service Licensee (YFM) elected to broadcast PEBs over and above other elections related content.

The above indicates a decline of participating Licensees, compared to the broadcasting service Licensees that elected to participate in the 2009 and 2014 National and Provincial Elections, respectively. In 2014 a total of ninety-five (95) Licensees participated in the National and Provincial Elections, of this number, twenty-one (21) were SABC television and radio services and fifty-eight (58) Community and sixteen (16) commercial sound services.

1.3.2 Methodology

1.3.2.1 Design Methodology

To fulfil its mandate effectively and efficiently, the Authority contracted Salovy Square (Pty) Ltd to develop the software to capture and analyse data, monitored by the Elections monitoring team during the monitoring process. Salovy Square

was also contracted to perform on-going data analysis and audit functions to ensure the integrity and safety of all information monitored and captured. The design methodology employed for the monitoring process and accompanying software was intended to make the process simple and efficient.

The design methodology relied on the use of technology to capture information in standard format. The format was predefined using master data sheets and preformatted capture format. This approach guaranteed a high level of monitoring and capture accuracy thereby providing a high-quality volume of data that could be quantitatively and qualitatively analysed. In addition, a comprehensive topic list was developed by the service provider and the Committee to ensure that all relevant topics to be monitored were captured. The Committee conducted training with the Elections monitoring team on the 2014 Amended Regulations and Salovy Square (Pty) Ltd conducted training workshops to ensure understanding by the Elections monitoring team of the software, method and process that would be used throughout the monitoring period.

1.3.2.2 Capture Process

Drawing from the all the prescripts governing the Elections, the Authority's capture process during the South African performance period (a broadcast period between 05h00 and 23h00) entailed the name of the Licensee, programme name, broadcast time and date, broadcast type, the topics discussed of the broadcast type, language, duration of the content and political and/or organisations. Section two (2) below discusses the findings in respect of the broadcast of PAs, PEBs, current affairs, news and public service announcements.

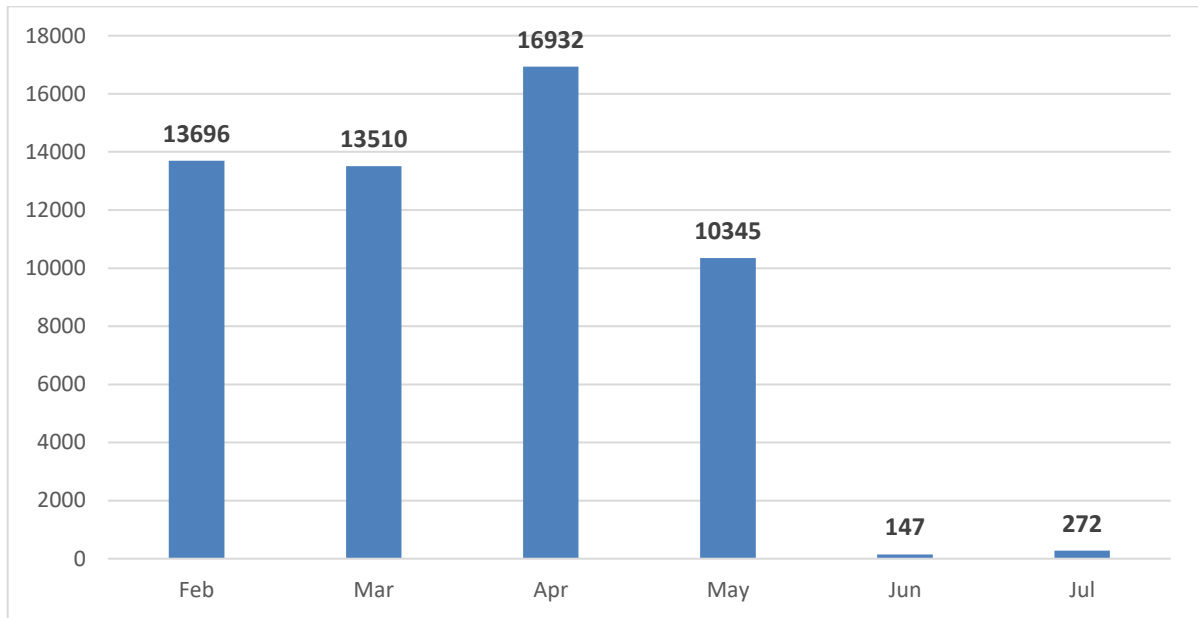
SECTION 2

DATA AND MONITORING ANALYSIS

2 FINDINGS ON BROADCAST OF POLITICAL ADVERTISEMENTS, PARTY ELECTION BROADCASTS, CURRENT AFFAIRS, NEWS AND PUBLIC SERVICE ANNOUNCEMENTS

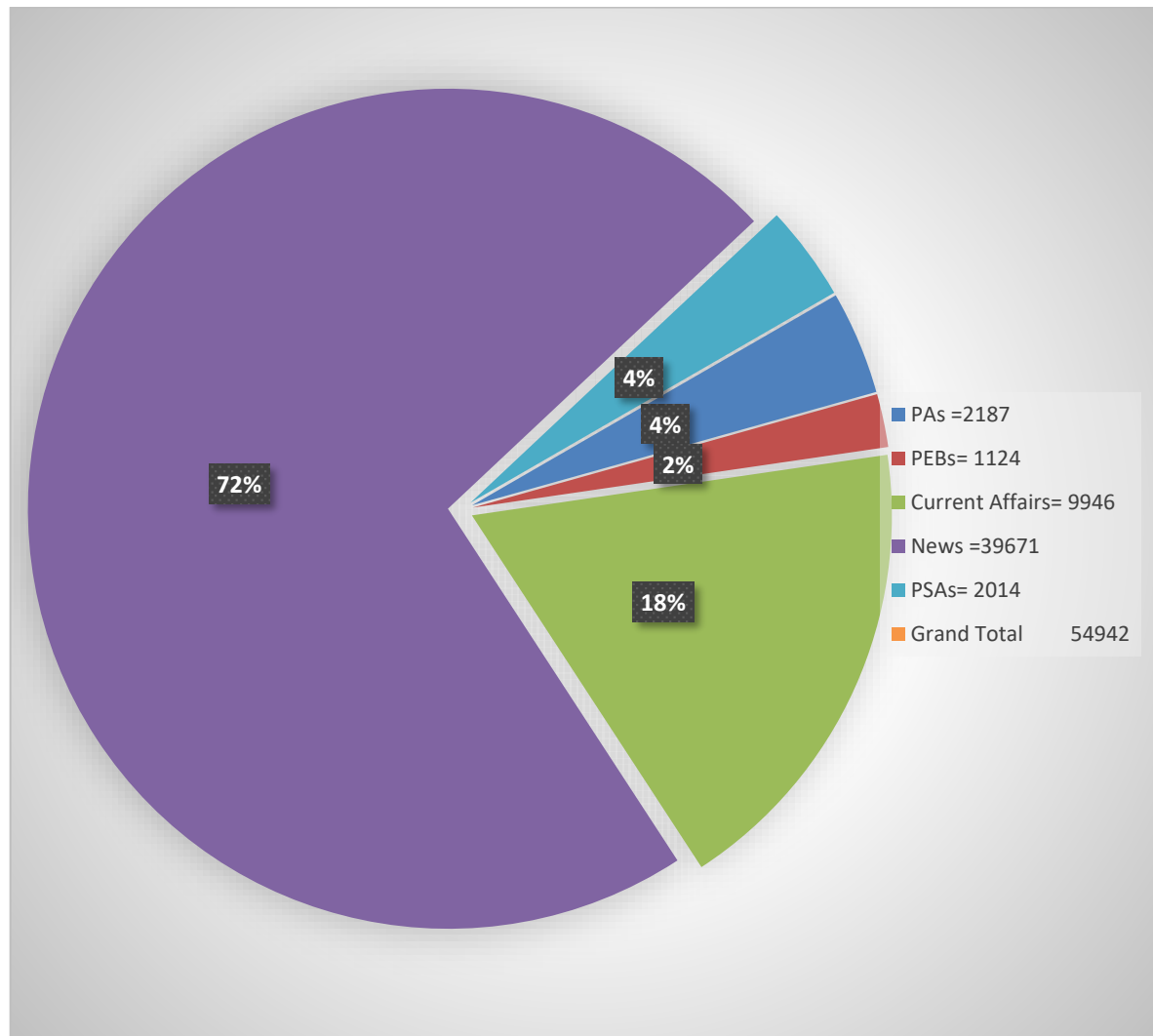
The following section provides the findings in relation to the broadcast content on television and radio during the Elections period. A total of 54942 items were monitored during the election period, broken down as per Graph 1 below.

Graph 1 Monitored Items by Month



Graph 1 indicates the coverage of the overall items broadcast leading up to the 2019 Elections was 24.9% in February; 24.6% in March; 30.8% in April; 18.84% in May; 0.2% in June and 0.49% in July. Further in-depth analysis is provided in the sections dealing with specific items by political party. Pie Chart 1 below shows the total number of items monitored.

Pie Chart 1: Total Items Monitored per Type



2.1 Political Advertisements (PAs)

The ECA defines a political advert as:

"an advertisement broadcast on a broadcasting service which is intended or calculated to advance the interests of any particular political party, for which advertisement the relevant broadcasting service Licensee has received or is to receive, directly or indirectly, any money or other consideration".

Scholars such as Lee, Kaid and Tak (2008)⁴ argue that political advertising is an obvious function to convince voters. Concurring with this view is Norris (1999) who argues that political advertising has a significant impact on citizens. McNair

⁴ Tak, J., Kaid, L., and Lee, S. (1997). "A cross-cultural study of political advertising in the United States and Korea. *Communication Research*, 24, pp.413-430.

(1999)⁵, contends that since the image and personality of a candidate can shape voting behaviour, so does political advertising. Whilst not dismissing these definitions, Cheng (2014)⁶ posits that political advertising can be viewed as a reflection of political culture, assuming a functioning job in the creation of political reality.

Following from the above, scheduling for paid airtime lie exclusively with broadcasting Licensees. Each political party places its PAs within the limits of its election budget and expenses. Whilst the Authority's role is to regulate Elections coverage by Licensees, its regulation of PAs does not necessarily focus on the duration of the PAs or how the images are depicted, and how messages broadcast on these services persuade voters to vote for political parties.

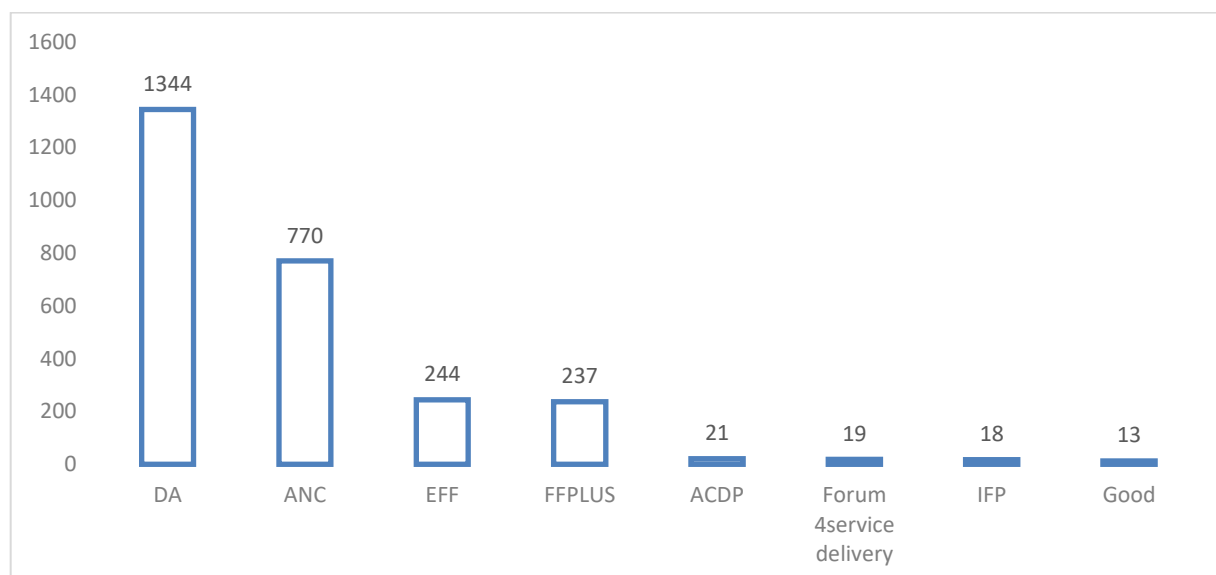
The focus of the regulation is on whether these images and broadcast messages are likely to or calculated to incite violence during the election period (and thus fall beyond the scope of constitutionally protected guarantee of freedom of expression) and whether Licensees adhere to the principles of independence and impartiality for this type of broadcast. The same principles are also applicable to PEBs, news and current affairs. Thus, in broadcasting PAs, Licensees should still conform to the code of conduct for broadcasters and applicable sections of the election regulations.

During the 2019 Elections period, a total of two thousand seven hundred and eighty-seven (2787) PAs were monitored. Graph 2 below shows the top eight (8) political parties who received the most airtime. The DA had the highest number of PAs 61.45% followed by the ANC 35.20%, EFF 11.15%, FFPLUS 10.83%, ACDP 0.96%, Forum 4 Service Delivery 0.86%, IFP 0.82% and Good 0.59%.

⁵ McNair, B. (1999). An introduction to political communication. 2nd edition. London: Routledge.

⁶ Cheng, H. (Ed.). (2014). The handbook of international advertising research. John Wiley & Sons. Accessed on 20 October 2019 from <https://books.google.co.za/books?isbn=1118378458>

Graph 2: PAs for top 8 Political Parties



Having regard to the fact that forty-eight (48) political parties contested the National Elections and two hundred and sixty-seven (267) political parties contested Elections at Provincial level, it can be seen that most political parties could not afford to have their political advertisements broadcast, demonstrating the fact that that the system of PAs favours political parties with significant advertising budgets. The content analysis revealed that some new political parties, were able to have their political advertisements aired, for example, Good political party.

Sections 56 and 58 (2) and (6) of the ECA read with Regulation 6(12) of the Election Regulations prescribe the following in respect of broadcast of PAs:

- *A broadcasting Licensee may broadcast a political advertisement only during an election period and then only if it has been submitted to such Licensee on behalf of a political party by its duly authorised representative;*
- *No political advertisement may be broadcast later than 48 hours prior to commencing of polling period; and*
- *a broadcasting service Licensee that broadcasts a PA must ensure that all PAs broadcast are:*
 - (a) clearly identified through a top and tail disclaimer; and*
 - (b) are announced in a similar manner.*

While many of the Licensees complied with both the ECA and the Elections Regulations during this period, the Authority's monitoring exercise found that two (2) Licensees; Aganang FM (a community sound broadcasting service Licensee) and Igagasi FM (a commercial sound broadcasting service Licensee) did not comply with Regulation 6(2) of the Regulations. Details of the contravention/s are outlined in Section 3 of this report dealing with processing of complaints and Complaints and Compliance Committee matters.

2.2 Party Election Broadcasts (PEBS)

The ECA defines a PEB as:

"a direct address or message broadcast free of charge on a broadcasting service and which is intended or calculated to advance the interests of any particular political party".

The obligation to allocate PEBs to contesting political parties⁷ during an election broadcast period lies with the Authority. This is done based on the principles set out in the Regulations (in this instance the 2014 National and Provincial Elections Regulations as referred to above). The foundation for the allocation of PEBs by the Authority is premised on the principle of equitable coverage political parties over and above coverage in respect of news and current affairs programming.

With the growth in the number of contesting political parties, there has been an increase in the overall number of PEBs allocated to contesting political parties. A total of two hundred and seventy (270) PEBs were allocated to political parties, per Licensee, participating in broadcasting of PEBs. This allocated number was an increase from the eighty-four (84) PEBs per Licensee allocated in 2009 and two hundred and forty (240) allocated per Licensee in 2014, respectively.

In the previous years, smaller parties rarely, if ever, used any of the PEBs apportioned to them. This trend continued for the 2019 National and Provincial Elections. Consequently, the Authority monitored a total of 1125 PEBs as reflected in Table 1 below:

⁷ According to the current legislative framework, independent candidates are not entitled to free airtime/PEBs.

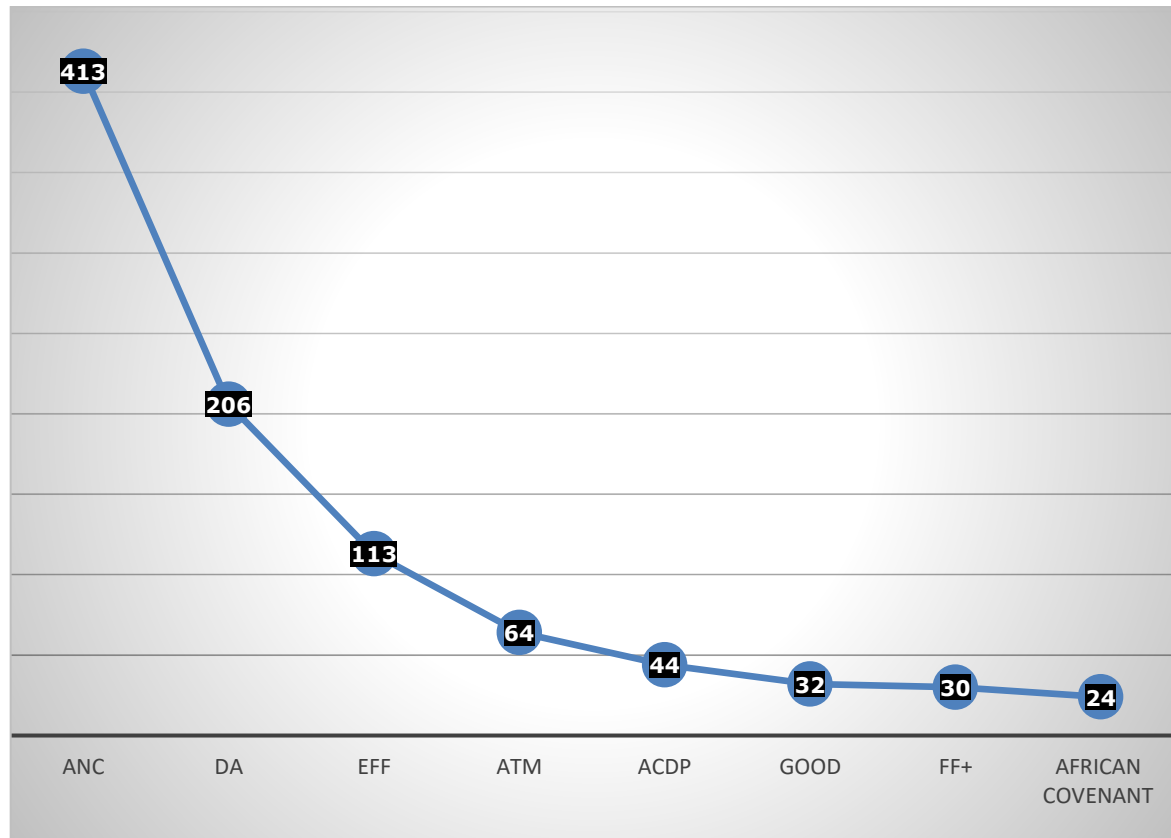
Table 1: PEBs Monitored per Political Party across TV and Radio Service

Party	Number of PEB's Monitored
African National Congress (ANC)	413
Democratic Alliance (DA)	206
Economic Freedom Fighters (EFF)	113
African Christian Democratic Party (ACDP)	44
Congress of the People (COPE)	4
Inkatha Freedom Party (IFP)	23
African People's Convention (APC)	1
African Content Movement	10
African Covenant	24
African Democratic Change	12
African Independent Congress	14
African Transformation Movement (ATM)	64
African Alliance of Social Democrats	3
Al- Jama- AH	10
Alliance for Transformation for All	10
Black First Land First	13
Christian Political Movement	5
Azanian People's Organisation	13
Dienslewerings Party	1
Forum 4 Service Delivery	8
Good Party	32
Independent Civic Organisation of South Africa	12
International Revelation Congress	15
Justice and Employment Party	1
Land Party	8
Magoshi Swaranang Movement	1
Minority Front	4
National Freedom Party	11
National People's Front	1
Pan Africanist Congress of Azania	8
Plaaslike Besorgde Inwoners	5
South African Concerned Residents Organisation 4 Service Delivery	1
The Green Party of South Africa	1
United Democratic Movement	2
Vryheisfront Plus -FFPLUS	30
Women Forward	1
Ximoko Party	1
Grand Total	1125

The Authority's monitoring exercise found that the ANC had the highest number of PEBs broadcast at 36.7% followed by DA at 18.31%, and the EFF at 10%. The ATM came fourth at 5.68% with ACDP being number five at 3.9%, Good Party as

number six at 2.84%, FF PLUS as number seven at 2.66%, African Covenant at 2.1% and IFP at 2%. The political parties whose PEB messages received the most coverage depicted in Table 1 above are shown in graph 3 below.

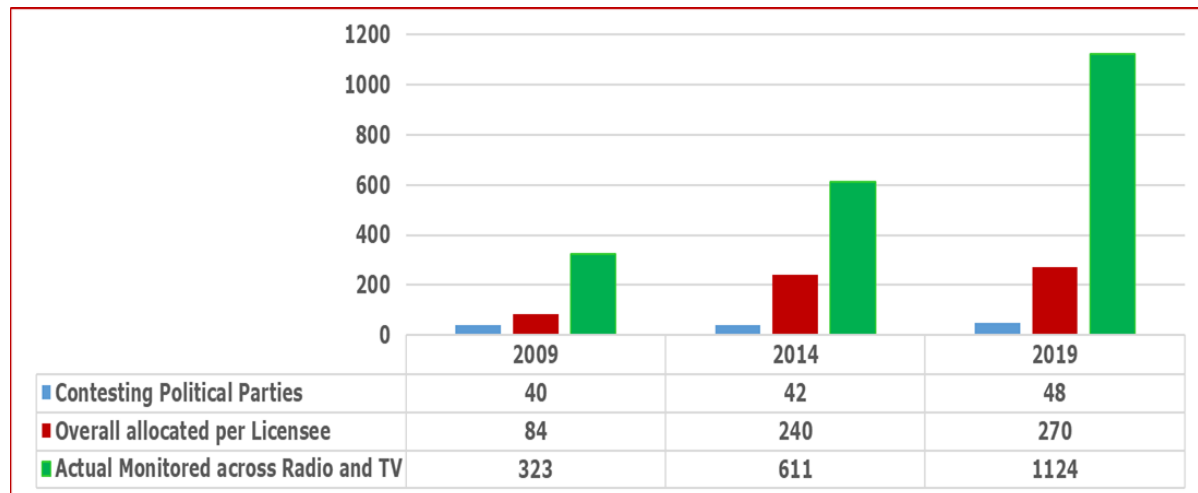
Graph 3: Top 8 Political Parties Receiving most PEB Coverage



Although there has been a noticeable increase in the number of PEBs monitored in the 2019 National and Provincial Elections compared to the two (2) previous National and Provincial Elections, the illustration above (Graph 3) suggests that the number of PEBs submitted to participating Licensees was not proportional to the number of PEBs allocated by the Authority per party for the duration of the PEB period.

Further, it is also necessary to highlight the trends in the allocation of PEBs by the Authority as this can be used as a measuring yardstick as to the effectiveness of the system employed. As indicated above (Graph 3), with the increase in the number of political parties during the National and Provincial Elections, there has been a corresponding increase in the number of PEBs allocated by the Authority. The graph below shows the breakdown in respect of the PEBs allocated against those that were monitored.

Graph 4: Trends in PEB Allocation, usage and monitored



The illustration above shows the trend in the allocation of PEB slots by the Authority in the three (3) National and Provincial Elections based on the number of contesting political parties and number of days available prior to 48 hours before polling. Whilst the statistics presented above seem to suggest that there has been an increase in the allocation of PEB slots to contesting political parties by the Authority over the years as provided for in section 57(2) of the ECA, not all political parties submitted their respective PEBs to Licensees for transmission albeit there is evidence of emerging /smaller parties endeavouring to make submissions for broadcasts.

This non-utilisation of PEB slots could be attributed to a variety of reasons notably failure by political parties to adhere to technical standards as required by the Licensees, failure to meet the deadline within which to submit material to Licensees, lack of funding and or exorbitant production costs for smaller parties to ensure optimal use of the airtime allocated. Nevertheless, from the Authority's point of view, it is still not clear how potential challenges related to funding and production costs can be resolved for emerging political parties to have their messages heard for citizens to make informed choices regarding who to vote for. The Authority notes that on 20 May 2019, the SABC advised the Authority that five hundred and seventy-six (576) PEB slots that were allocated for transmission on the public broadcaster's television services were not utilised. As a result, the public broadcaster reported a loss of revenue totalling R 12, 282, 000 .00 revenue from 10 April to 6 May 2019. Notwithstanding this loss and noting section 57(2) of the ECA which requires the Authority, in determining the duration and

scheduling of PEBs to take due cognisance of the financial and programming implications of broadcasting services, the Authority will endeavour to strike a balance between the financial implications of the SABC and allocation of not paid for airtime to contesting political parties to contribute towards a democratic South Africa.

In 2009, most of the political parties were unable to utilise the entire two (2) minute duration of the PEBs or were unable to make submissions at all. This meant a revenue loss of two (2) minutes worth of advertising that the broadcaster would have otherwise utilised for advertising and/or its programming. The public broadcaster has in the past Elections engaged the Authority pertaining to the financial implications of the non-submission of the PEB slots by political parties. In the 2019 the Authority in the review of the regulations reduced the duration of a PEB to fifty (50) seconds which is a slight improvement from the two (2) minute duration allocated in the 2009 and one (1) minute duration in the 2014 National and Provincial Elections respectively. This was done to ensure that there is minimal financial implication to programming and minimal financial loss to broadcasters.

For the Authority, at the heart of striking the balance between the PEB allocation and financial impact on broadcasters, has been the reduction of the duration of PEBs without affecting the allocation of a sizeable number for some PEBs to the political parties as evidenced by the duration in the 2014 and 2019.

It is worth noting that although the reduction of the duration of PEBs in the 2019 Elections may have had minimal impact on financial and programming implications for sound broadcasting services, however television services remain a challenge as indicated above because of the loss incurred by the Public Broadcaster from 10 April to 6 May 2019.

With regards to compliance by Licensees with the broadcast of PEBs during the election period, there are three (3) main provisions of the National and Provincial Party Elections Broadcasts and Political Advertisements Regulations, 2014, as amended which were contravened. These are Regulation 4(14)(b), Regulation 4(17) and Regulation 4(20). The contraventions were made by the SABC's SAFM, Radio 2000, Ligwalagwala FM and Tru FM. Details of all contraventions are

outlined under Section 3 of this report dealing with the processing of complaints and Complaints and Compliance Committee matters.

2.3 News and Current Affairs Programming

Section 2 of the ECA states that the primary purpose of the Act is to amongst others; provide for the regulation of electronic communications within the Republic in the public interest and for that purpose to, *inter alia*:

“Ensure that broadcasting services, viewed collectively, provide for regular news services; actuality programmes on matters of public interest; programmes on political issues of public interest; and programmes on matters of international, national, regional and local significance.”

Kaid and Strömbäck (2008)⁸ posit that the significance of political race news coverage and democracy begins from the point that individuals depend upon both national and local news media for information that may assist them with deciding the most effective method to cast a ballot and that news media can apply significant power with respect to which issues, attributes and casings individuals consider significant.

The analysis of the 2019 National and Provincial Elections news coverage demonstrates that broadcast media in general have provided political parties and candidates with the opportunity to access a wide audience on an extensive range of topics. A total of 61,606 news items covering parties and organisations were monitored. Table 2 below shows the news items for the top thirty (30) parties (97.9% of the total) and/or organisations and their respective duration.

⁸ Strömbäck, J. & Kaid, L., eds. 2008. The Handbook of Election News Coverage Around the World. New York: Routledge.

Table 2: Political Party Coverage - News Coverage

Party	Quantity	Duration
AFRICAN NATIONAL CONGRESS - ANC	13567	304:54:31
GOVERNMENT	8912	202:35:48
DEMOCRATIC ALLIANCE - DA	6769	151:36:53
OTHER PARTY	3724	80:43:52
IEC	3697	88:45:45
MEDIA	3626	82:32:40
ECONOMIC FREEDOM FIGHTERS - EFF	3590	89:29:46
JUDICIARY	2638	58:35:44
TRADE UNION	1626	37:09:38
PUBLIC OPINION	1554	52:53:42
POLITICAL ANALYST	1272	40:01:22
COMMUNITY ORGANISATIONS	1249	28:08:39
INKATHA FREEDOM PARTY - IFP	1051	27:45:21
UNITED DEMOCRATIC MOVEMENT	818	19:35:42
CONGRESS OF THE PEOPLE - COPE	796	19:49:53
VRYHEIDFRONT PLUS - FF+	758	18:50:42
GOOD	734	16:17:23
BLACK FIRST LAND FIRST	618	15:54:09
AFRICAN CHRISTIAN DEMOCRATIC PARTY	457	9:42:25
AFRICAN TRANSFORMATION MOVEMENT	381	11:01:13
PAN AFRICANIST CONGRESS OF AZANIA	366	8:17:52
PUBLIC PROTECTOR	363	8:59:12
AFRICAN CONTENT MOVEMENT	334	8:55:45
AFRICAN PEOPLE'S CONVENTION	331	9:08:53
NATIONAL FREEDOM PARTY	294	8:29:45
INTERNATIONAL ORGANISATIONS	280	6:08:54
LAND PARTY	174	4:40:07
AFRICAN INDEPENDENT CONGRESS	137	4:33:07
AZANIAN PEOPLE'S ORGANISATION	114	2:17:10
AGANG SOUTH AFRICA	98	2:26:16

Whilst the above table indicates that a wide variety of political parties including the newly formed political parties (and organisations) received coverage on both television and radio services during the election period, the content analysis statistics gathered also reveal certain trends in the 2019 reporting, in particular the predominant focus on the ANC at 22%, DA at 10.98% and EFF at 5.82% as the three (3) dominant political parties represented in this election.

Further, while the content analysis revealed that there was a major focus on the three (3) political parties, it further found a focus on government, IEC, and Judiciary news coverage amongst others. Furthermore, the analysis revealed that an attempt by broadcast media was made to cover other political parties including new ones as depicted in table 2 above.

In terms of current affairs programming, a total of 21,277 current affairs items were monitored. The table below shows the current affairs items for the top thirty (30) parties (97.25% of the total) and/or organisations and their respective duration.

Table 3: Political Party Coverage- Current Affairs

Party	Quantity	Duration
AFRICAN NATIONAL CONGRESS - ANC	3294	479:06:27
PUBLIC OPINION	2861	496:43:10
MEDIA	2505	373:04:35
GOVERNMENT	2140	324:32:35
DEMOCRATIC ALLIANCE - DA	1653	274:14:30
POLITICAL ANALYST	1355	256:51:49
ECONOMIC FREEDOM FIGHTERS - EFF	1324	232:13:59
OTHER PARTY	876	129:18:04
IEC	871	161:41:16
JUDICIARY	436	53:11:19
TRADE UNION	422	65:41:12
COMMUNITY ORGANISATIONS	387	59:26:43
INKATHA FREEDOM PARTY - IFP	346	75:51:31
CONGRESS OF THE PEOPLE - COPE	297	54:34:40
UNITED DEMOCRATIC MOVEMENT	267	49:02:03
VRYHEIDFRONT PLUS - FF+	214	34:55:21
BLACK FIRST LAND FIRST	179	46:22:53
PAN AFRICANIST CONGRESS OF AZANIA	171	38:51:31
AFRICAN CHRISTIAN DEMOCRATIC PARTY	169	29:08:09
GOOD	144	31:40:40
AFRICAN TRANSFORMATION MOVEMENT	120	34:33:50
AFRICAN PEOPLE'S CONVENTION	117	25:56:01
NATIONAL FREEDOM PARTY	96	26:02:42
AFRICAN CONTENT MOVEMENT	83	20:01:02
AZANIAN PEOPLE'S ORGANISATION	81	22:51:58
INTERNATIONAL ORGANISATIONS	76	16:35:57
PUBLIC PROTECTOR	70	13:20:05
AFRICAN INDEPENDENT CONGRESS	51	9:40:03
FORUM 4 SERVICE DELIVERY	44	14:27:41
CELEBRITY	43	9:38:18

As with the previous table (Table 2) of all the current affairs programmes monitored on both television and radio services, at political party level, the ANC received the most coverage followed by DA, EFF, IFP, COPE and UDM. Though some Licensees performed better than others in terms of coverage of political parties' current affairs programmes during this period, the Authority is satisfied that collectively, Licensees took great strides to cover a range of political parties

during the election period, thus ensuring diversity of views in line with section 192 of the Constitution. Further, and as the European Broadcasting Union (EBU) (2005) contends, there are three key aspects that determine the success of any election coverage. These are principles of independence, meeting highest standards of journalistic professionalism and impartiality. These key aspects lie at the centre of the Authority's regulation of current affairs and news programming by broadcasting Licensees.

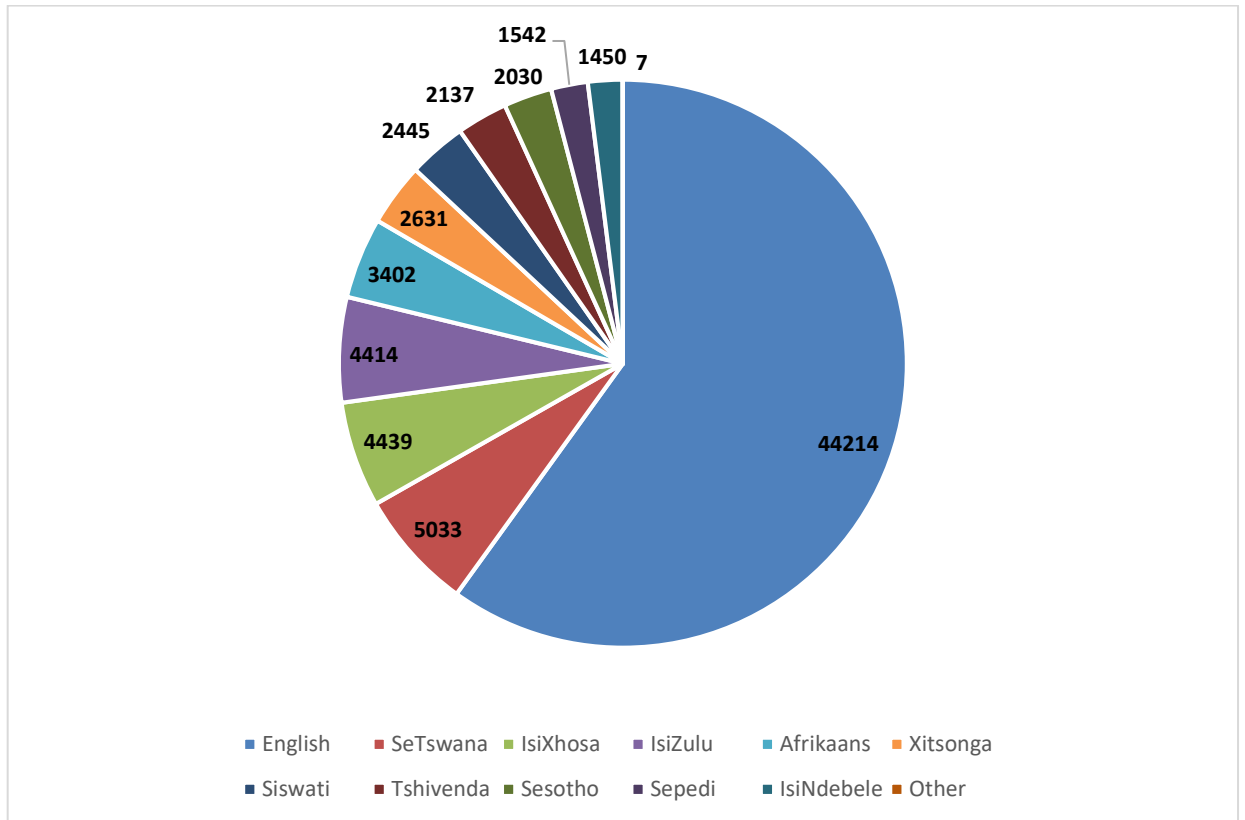
The Authority's monitoring of the 2019 Elections revealed that there were no issues or concerns that arose indicating non-compliance with section 59 of the ECA. There were equally no concerns that were raised by members of the public through complaints pertaining to broadcaster's non-compliance with the key principles of independence and impartiality. On this basis, the Authority is satisfied that generally Licensees complied with the Code of Conduct for Broadcasting Licensees⁹ as well as section 59 of the ECA during the election period.

2.4 OVERALL LANGUAGE DISTRIBUTION

Analysis of the 2019 Elections coverage found that all eleven South Africa official languages were used during the election monitoring period. As reflected in the pie chart below, English remained the dominant language at 59,95% followed by Setswana 7%, IsiXhosa 6%, IsiZulu at 6%, Afrikaans 4,61%, Xitsonga 3,56%, Siswati 3,31% Tshivenda 3%, Sesotho 2,75%, Sepedi 2%, IsiNdebele 2% and other 0,009%, see pie chart language distribution below.

⁹ The ICASA Code of Conduct for Broadcasting Licensees Regulations gazette No 32381, 6 July 2009.

Pie Chart- Language Distribution



SECTION 3

COMPLAINTS AND COMPLIANCE

COMMITTEE (CCC)

3 PROCESSING OF COMPLAINTS

Section 17C of ICASA Act sets out procedures to be followed by the Complaints and Compliance Committee (“CCC”). The CCC is an independent adjudicative arm of ICASA; established in terms of Section 17A of the ICASA Act and mandated to investigate and adjudicate all complaints received by it.

Regulation 6(3) of the 2016 Regulations Governing Aspects of the Procedures of the CCC of ICASA (“CCC Regulations”) provides that complaints in terms of the Election Rules are deemed to be urgent unless the Chairperson determines otherwise.

The following provisions of the 2014 Regulations are central to the processing of complaints:

- Regulation 7 which provides that in the event of any person being aggrieved by any Political Advertisement (PA) or Party Elections Broadcasts (PEB), that person may lodge a complaint with the Authority within 48 hours after such broadcast occurred.
- Regulation 4(9) of which provides that a party whose PEB has been rejected and which has no intention of altering or editing the PEB, may refer the matter to the Authority and inform the concerned Licensee of the referral to the Authority, within 48 hours of being informed in writing of the rejection.
- Regulation 6(6) which provides that a party whose PA has been rejected by a broadcasting service Licensee and which has no intention of altering or editing the advertisement, may refer the matter to the Authority within 48 hours of being informed of the rejection.
- Regulation 6(1) which provides that a PA must only be broadcast during an election period and no later than forty- eight (48) hours before polling commences.
- Regulation (6)(13) which provides that a broadcasting service Licensee must not transmit a PA immediately before or after another PA.

- Regulation 4(13) which provides that a PEB must not exceed one (1) minute in duration.
- Regulation 4(15) which provides that a broadcasting service Licensee must not transmit a PEB immediately before or after another PEB or immediately before or after a PA; and
- Regulation 4(18) which provides that in the event that a political party elects to forfeit its allocated PEB air-time, then such air-time must not be allocated to another political party but must be used by the broadcaster concerned for the purpose of broadcasting its normal programming.

3.1 Matters Investigated by the Authority

The following sections outline the complaints investigated by the Authority and complaints adjudicated by the CCC during the 2019 National and Provincial Elections period. A total of seven (7) complaints were investigated. Of this number, one (1) complaint was investigated and closed by the Authority, six (6) complaints were referred to the CCC, four (4) against the SABC's public radio stations, one (1) against a commercial radio station and one (1) against a community radio station as per the table below. Table 4 below indicates the Complaints processed during the election period.

Table 4: Complaints lodged, processed and adjudicated

Complainant	Political Party concerned	Respondent	Presiding	Number of Complaints
EFF	N/A	ICASA	N/A	1
ICASA	N/A	Igagasi FM	CCC	1
ICASA	N/A	Aganang FM	CCC	1
ICASA	N/A	SABC: SAFM	CCC	1
ICASA	N/A	SABC: Radio 2000	CCC	1
ICASA	N/A	SABC: Ligwalagwala FM	CCC	1
ICASA	N/A	SABC: TRU FM	CCC	1
TOTAL				7

3.1.1 Matters Investigated and Resolved by the Authority

On 12 April 2019, the Authority received a complaint from the EFF's legal representatives, stating that Regulation 4(16) of the Regulations is not conducive to the core principals of free and fair Elections as it forces political parties to make and/or produce more than one advertisement in order to submit the advert as a PA to be submitted to the SABC with advertisement costs in excess of R600, 000.00. The legal representatives averred that expecting political parties to bear the costs for two separate advertisements with essentially the same message is a waste of their financial resources which could be used to promote the party in other forms of campaigning. To this end, the legal representatives of the EFF requested that an alternative provision be made to allow all political parties to submit one advertisement as a PEB and a PA.

On 16 April 2019, the Authority responded advising in the main that the ECA treats PAs and PEBs differently. Further that the Authority conducted extensive workshops where attendees were workshopped on the amended Regulations and provided with explanations on PAs and PEBs. The Authority did not receive any further comments or correspondence from political parties on this issue. The Authority advised the representatives of the EFF that the Regulations must be adhered to by all political parties. The matter was duly closed.

3.1.2 Matters Investigated by The Authority and Adjudicated by the CCC

3.1.2.1 Complaint BY ICASA regarding an alleged contravention of Regulation 6(12) by Igagasi FM (Pty) Ltd

On 26 July 2019, ICASA referred an allegation of contravention to the CCC on the basis that the radio station contravened Regulation 16(2) of the Regulations in that on 01 April 2019 at 07h31; 22 April at 08h42 and at 14h45; 23 April 2019 at 10h42 and at 15H27; and 27 April 08h26 and at 12h01 iGagasi FM broadcast the DA political advert without the top and tail disclaimers.

During the hearing held on 4 October 2019, iGagasi FM submitted that whilst it conceded that the broadcasts did take place as alleged and is taking full responsibility in this regard, such took place as a result of the Senior Traffic

manager being on annual leave due to unforeseen circumstances and the stand in out of having little supervision made a mistake and loaded the political adverts without disclaimers and these unfortunately fell through. IGagasi FM further submitted that besides the days on the report, the Licensee managed to stick to the rules and regulations by airing audio that had top and tail demonstrating that it did not purposely aim to contravene the Elections Regulations.

In its findings and judgment handed down on 25 October 2019, CCC stated that iGagasi FM Regulation 6(12) of the Regulations and that it had been grossly negligent in these omissions. Accordingly, the CCC's recommendations approved by Council directed iGagasi FM to do the following:

- During the first week after this order is issued, broadcast in isiZulu and English once per day for five consecutive days as its first item on its news service the following statement at a time between 07:00 and 20:10 – in isiZulu and then in English in the same News Bulletin. On the first two days the broadcast must take place in the first newscast after 07:00. The times of the broadcasts must be notified by email to the CCA of ICASA at the latest 48 hours before such broadcast.
- Further that the broadcast may not be accompanied by any background music or sounds, and the item must be read formally by the Station Manager or her or his representative, who must declare on air that she or he is the Station Manager or acting on behalf of the station manager; an electronic copy of each broadcast, stating the time and date of broadcast, must be sent to the CCA at ICASA by e-mail within 48 hours from the last broadcast in the said five days; and
- An imposition of a fine of R50 000, of which R20 000 is suspended until after the next General Municipal Election. An amount of R30 000 to be paid to ICASA within ninety calendar days from when this judgment is issued.

Igagasi FM duly complied with the order.

3.1.2.2 Complaint by ICASA regarding an alleged contravention of Regulation 6(12) by Aganang FM

On 26 July 2019, ICASA referred an allegation of contravention to the CCC on the basis that the radio station contravened Regulation 6(12) of the Regulations in that on 14 April 2019 at 14h55; 18 April 2019 at 11h05 and 14h45; 20 April 2019 at 15h03 and 16H05 as well as on 27 April 08h26 and 12h01, Aganang FM broadcast the DA's and FF Plus PA's without the top and tail disclaimers.

During the hearing held on 4 October 2019, *Aganang FM* conceded to the allegations and stated that the presenters forgot to play the disclaimer before political advertisements.

In its findings and Judgement handed down on 25 October 2019, CCC stated that Aganang FM contravened Regulation 6(12) of the Regulations and that it had been grossly negligent in the omissions mentioned above. Accordingly, the CCC in its recommendations approved by Council directed Aganang FM to do the following:

- Within the first week of issuance of the order, broadcast in Tswana and English once per day for five consecutive days as its first item on its news service an apology as ordered by the CCC at a time between 07:00 and 20:10 – in Tswana and then in English in the same News Bulletin;
- The times of the broadcasts must be notified by email to the Broadcasting Manager: CCA at least 24 hours before the broadcast. Such broadcast may not be accompanied by any background music or sounds, and the item must read formally by the Station Manager, who must declare on air that he is the Station Manager and an electronic copy of each broadcast, with time of broadcast, must be sent to ICASA by e-mail within 48 hours from the last broadcast; and
- Pay a fine of R10 000, of which R6000 is suspended until after the next General Municipal Election. Accordingly, an amount of R4000 is due to be paid to ICASA within sixty calendar days from when this judgment is issued.

At the time of writing this report, proof of payment had still not been submitted to the Authority.

3.1.2.3 Complaints by ICASA against the SABC Radio Stations

3.1.2.3.1 Complaint by ICASA regarding an alleged contravention of Regulation 4(20) of the Regulations by SABC: SAFM

On 21 August 2019, ICASA referred an allegation of contravention to the CCC on the basis that SAFM contravened Regulation 4(20) of the Regulations in that on 15 April 2019, at 20H45 the radio station broadcast the DA's PEB instead of Forum 4 Service Delivery and FFPlus PEBs. Further that on 16 April 2019, at 09h25 the radio station broadcast the ANC's PEB instead of the EFF and UDM PEBs.

3.1.2.3.2 Complaint by ICASA regarding an alleged contravention of Regulation 4(14) of the Regulations by SABC: Ligwalagwala FM

On 21 August 2019, ICASA referred an allegation of contravention to the CCC against Ligwalagwala FM on the basis that the radio station contravened regulation 4(14) of the Regulations in that on 29 April 2019, at 17h33 and 17h45 respectively the radio station broadcast two (2) ANC PEBs, one of which was not scheduled by the Authority for transmission at this time.

3.1.2.3.3 Complaint by ICASA regarding an alleged contravention of Regulation 4(14) of the Regulation by SABC: Radio 2000

On 21 August 2019, ICASA referred an allegation of contravention to the CCC against Radio 2000 on the basis that on 13 April 2019 at 18h12 the radio station transmitted the FF Plus PEB which was not scheduled by the Authority for transmission at this time.

3.1.2.3.4 Complaint by ICASA regarding an alleged contravention of Regulation 4(17) of the Regulations by SABC: TRU FM

On 21 August 2019, the Authority referred an allegation of contravention to the CCC against TRU FM, on the basis that on 02 May 2019 at 17h47 the radio station

transmitted the ANC's PEB immediately after the DA's PEB thus contravening Regulation 4(17) of the Regulations.

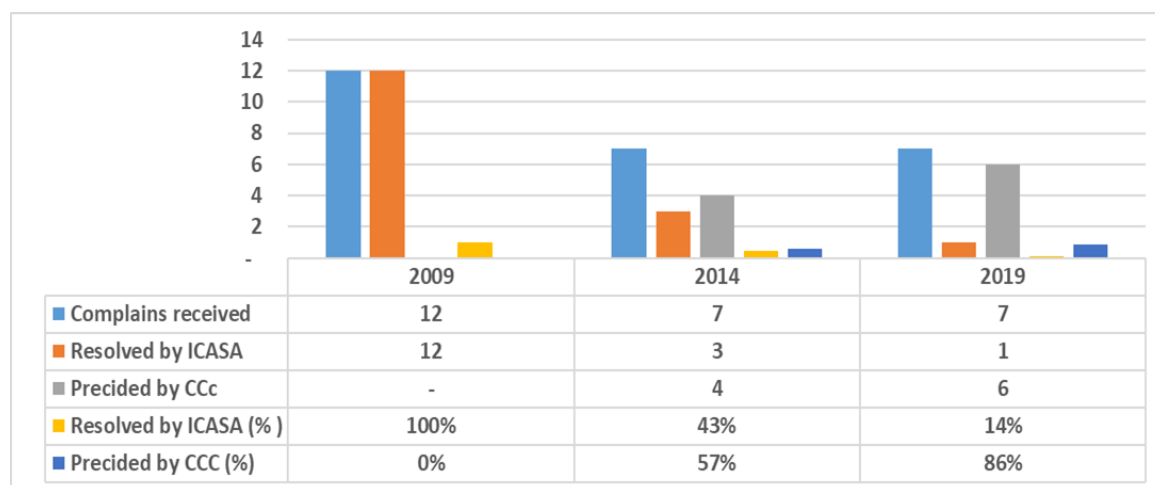
On 16 October 2019, the CCC held a public hearing into all the above-mentioned matters. The SABC conceded that it had contravened the said Regulations but indicated that the majority of SABC services complied with the Regulations. The SABC further submitted that it had broadcast more than 2000 political advertisements, each advertisement had to be studied to ensure that it did not overstep the Regulations and, in fact, under much pressure caused by the usual time constraints connected with a General Election.

In handing down its finding and judgement on 27 November 2019, the CCC stated that although a minor percentage of errors were made, the SABC through SAFM, Ligwalagwala FM, Radio 2000 and Tru FM had not been negligent. According to the judgement, the SABC had fulfilled its task with diligence, as is expected from a Public Broadcaster. The complaints were accordingly not upheld as a result of the absence of negligence. The SABC was, however, cautioned that if similar errors or a similar error is made in an election period in the next six years, an error or errors referred to above will be taken into consideration in arriving at a decision on negligence and an order duly advised to Council.

3.1.3 Trends in the Complaints Received and Adjudicated by the CCC During the Past and Present Elections

The analysis set out in the section below represents a trend in the complaints received and adjudicated by the CCC during the past and present Elections namely 2009, 2014 and 2019.

Graph 5: Complaints- Previous and Current National and Provincial Elections



As illustrated above, there has been a decrease in the number of complaints received by the Authority, and those adjudicated by the CCC in the 2019 and 2014 compared to the 2009 Elections. This decrease could be attributable to various factors including but not limited to Licensees being more vigilant and observing the rules governing the Elections. In 2009, the Authority received 12 complaints, however none of these were referred to the CCC, as they related to amongst others, certain political parties complaining about the SABC’s biased reporting in various news programming.

In the 2014 Elections, of the seven (7) complaints, four (4) were presided by the CCC and three (3) dealt with and resolved by the Authority’s compliance division. In the 2019 Elections, one (1) complaint was investigated and resolved by the Compliance Division and six (6) complaints were presided on and adjudicated by the CCC.

4 CONCLUSION

The ECA and the 2014 Regulations governing Elections direct the Authority to monitor the extent to which Licensees (broadcast media) cover the Elections in the manner consistent with the law. Dobson (2014)¹⁰ argues that in a world that is characterised by diversity and frequently, imbalance, the objective of democracy and the media is to create a space where numerous voices are heard and where prevailing relations of intensity are addressed. It stands to reason

¹⁰ Dobson, A. 2014. *Listening for Democracy: Recognition, Representation and Reconciliation*. Oxford: Oxford University Press.

therefore that in South Africa a country characterised by the two (2) elements mentioned by Dobson namely diversity and imbalance, the role of the media during an election period remains fundamental.

Despite this report indicating that several political parties still lack the means or capacity to have their PEBs broadcast by participating Licensees, the Authority's monitoring of the Elections found that Licensees viewed collectively covered the Elections fairly and in a manner largely compliant with the applicable rules.