



INDEPENDENT COMMUNICATIONS AUTHORITY OF SOUTH AFRICA

# **STAKEHOLDER CONSULTATION WORKSHOPS JANUARY 2021**



# **The Municipal Election Broadcasts and Political Advertisements Amendment Regulations, 2020**



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- ❑ The Authority is required to review the elections broadcasting Regulations to assess its relevance during every election year.
- ❑ The Authority published the draft Municipal Elections Broadcasts and Political Advertisements Regulations amendments (“the draft Regulations”) under Government Gazette 43984 of 10 December 2020.
- ❑ ***The amendments also took into consideration the Constitutional Court judgement handed down on 11 June 2020.***
- ❑ The review process includes a public consultation process through conducting of workshops on the draft regulations to ensure that all stakeholders are aware of the proposed amendments.



- ❑ Sec 192 of the Constitution states that national legislation must 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.
- ❑ Section 2 of the Electronic Communications Act ("ECA") outlines the scope of ICASA's duties.
  - ❑ Sec 2(g): promote an environment of open, fair and non-discriminatory access to broadcasting services ...;
  - ❑ Sec 2(s); ensure that broadcasting services, viewed collectively; Promote the provision and development of a diverse range of sound and TV broadcasting services on a national, regional and local level, cater for all language and cultural groups and provide entertainment and information.



# ICASA'S ROLE IN THE BROADCAST OF MUNICIPAL ELECTIONS...



- ❑ Provide for regular-news services, programmes on political issues of public interest and programmes on matters of international, national, regional and local significance.
- ❑ Elections are an important public event, which falls within the area of news and current affairs.
- ❑ Section 56 - 59 of the ECA further outlines how election broadcasts should be handled by broadcasters, political parties and ICASA.
- ❑ Other related legislations:
  - ❑ **The Constitution Act No.108 of 1996;**
  - ❑ **Electoral Act No.73 of 1998;**
  - ❑ **Local Government: Municipal Electoral Act 27 of 2000**
  - ❑ **ICASA Act No.13 of 2000; and**
  - ❑ **the Broadcasting Act No.4 of 1999.**
- ❑ All election broadcast materials are expected to comply with the related legislation and regulations.



- ❑ To prescribe the framework and guidelines under which PEB(s) and PA(s) shall be conducted and carried by the broadcasting service licensee during the 2021 Municipal elections.
- ❑ These regulations are applicable:
  - ❑ during the election period;
  - ❑ to broadcasting service licensees; and
  - ❑ to political parties and an ***independent candidate(s)*** contesting the municipal elections and who intend to use the broadcasting service to advance the political manifestos.





- ❑ Insertion of the definition of "**Current affairs programme**" which means a programming that is not news bulletin, but which focuses and includes comment on...issues of immediate social, political or economic relevance and matters of international, national, regional and local significance;
- ❑ We have inserted the word "Political" before "Party" to emphasise reference.
- ❑ We have inserted the definition "***Independent Candidate***" to mean: "***a natural person registered with IEC - before the commencement of the relevant election period – to contest an election independently from a political party***".
- ❑ An insertion to the definition of "PEB" to now mean: A Party Election Broadcast made by a political party or an independent candidate".



- ❑ **Party election broadcast (PEB)** means a direct address or message broadcast **free of charge** on a broadcasting service and which is intended to advance the interests of any particular political party [and now independent candidate] (Sec 1 of ECA).
- ❑ **Political advertisement (PA)** means an advertisement broadcast on a broadcasting service which is intended to advance the interests of any particular political party [and now independent candidate] in **exchange for money** (Sec 1 of ECA).



- ❑ PEB(s) must only be broadcast during the election broadcast period.
- ❑ A political party or an ***independent candidates*** that intends to broadcast a PEB must submit same to the broadcasting service licensee at least five (5) working days prior to the broadcast thereof.
- ❑ A public BSL must permit a PEB during an election broadcast period on all its television and radio stations.
- ❑ A commercial or community BSL that intends to broadcast PEB(s) must inform the Authority, in writing, of its intention to do so within twenty-one (21) days of the publication of these regulations.



- ❑ A BSL that is obliged, or intends to broadcast PEB(s) must ensure that the PEB conforms to the Authority's technical standards as listed in Schedule 2 of **Annexure A**.
- ❑ A BSL to whom a PEB has been submitted by a political party or an independent candidate for broadcast must not in any way edit or alter the content of the PEB.
- ❑ A BSL that rejects a PEB submitted by a political party or independent candidate for broadcast must, within **twenty-four (24) hours** of such submission by the political party or independent candidate, furnish the political party or independent candidate concerned with written reasons for the rejection.



- ❑ The political party or independent candidate concerned may alter or edit the PEB and re-submit it to the BSL concerned at least forty-eight (48) hours prior to its scheduled broadcast.
  
- ❑ Where the BSL has rejected a PEB and the political party or independent candidate concerned has confirmed in writing that it will not be re-submitting the PEB, then the BSL must within twenty-four (24) hours of the withdrawal, notify the Authority of such rejection and also furnish to the Authority written reasons for the rejection.
  
- ❑ A political party or an independent candidate 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 BSL of the referral to the Authority, within forty-eight (48) hours of being informed in writing of the rejection.



- ❑ A political party or independent candidate that submits a PEB to a BSL for broadcast must ensure that the PEB does not:
  - ❑ contravene the provisions of the Municipal Electoral Act, the Electoral Code, the Electoral Act, the Constitution, the Act and the Broadcasting Act; and/or
  - ❑ contain any material that is calculated, or that 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.
- ❑ A political party or independent candidate that submits a PEB for broadcast to a BSL, is deemed to have indemnified the BSL against incurred costs, damages, losses, and third party claims arising from the broadcast thereof.



- ❑ A BSL that broadcasts PEB must:
  - ❑ make available, **every day** and 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;
  - ❑ do so in accordance with the sequence and timing that will be prescribed by the Authority upon allocation of airtime slots after the publication of these Regulations;
  - ❑ ensure that all PEB(s) broadcast by it are clearly identified as such; and
  - ❑ ensure that all PEB(s) broadcast by it are identified or announced in a similar manner.
- ❑ A PEB must **not exceed fifty (50) seconds** in duration.
- ❑ A PEB must be clearly identified through a standard pre-recorded top and tail disclaimer



- ❑ Content broadcast as a PEB cannot be broadcast as a PA.
- ❑ A BSL must not transmit a PEB immediately before or after another PEB or immediately before or after a PA.
- ❑ PEB air-time allocated to, but not used by a political party or independent candidate, shall be forfeited by the political party or independent candidate concerned.
- ❑ If a political party or an independent candidate fails to deliver the PEB to the BSL before **five (5) days** prior to the broadcasting thereof, then the political party/independent candidate is deemed to have forfeited its allocated airtime.





- ❑ In the event a political party or an independent candidate elects to forfeit its allocated PEB air-time, then such air-time must not be allocated to another political party or independent candidate but must be used by the broadcaster concerned for the purpose of broadcasting its normal programming.
- ❑ In the event that a political party or an independent candidate does not wish to use its allocated PEB air-time, the BSL concerned must not, during the relevant time-slot, in any way vary the sequence or scheduling of PEB(s).
- ❑ A BSL or political party or an independent candidate must not permit or engage in any interference with, or trading off, the sequence or scheduling of PEB(s).



- ❑ In the event that a political party or independent candidate has complied with the requirements of regulation 4, and a BSL concerned is unable to broadcast such political party's or independent candidate's PEB due to a breakdown in transmission, such PEB shall be broadcast **within forty-eight (48) hours** from the date on which the PEB was scheduled.
- ❑ A PEB must not be broadcast after the end of the election broadcast period.
- ❑ A PEB must be in the language(s) of the relevant BSL.
- ❑ Air-time in respect of PEB(s) shall be allocated by the Authority to the political parties or independent candidates contesting the municipal elections on the basis of the respective principles set out in **Schedule 1 of Annexure A** of these regulations.



- ❑ Equitable treatment of all political parties and independent candidates on news and current affairs
- ❑ PEBs can be allocated only once registration of political parties and independent candidates has been closed.
- ❑ Sec 57(4) of the ECA:
  - ❑ “In making any determination in terms of subsection (2), the Authority may impose such conditions on a public broadcasting service licensee with respect to party election broadcasts as it considers necessary, having due regard to the fundamental principle that all political parties are to be treated equitably.”



- ❑ The Authority will consider the following factors before allocating PEB slots:
  - ❑ The right for all political parties and independent candidate to be heard by potential voters;
  - ❑ Number of seats political parties and independent candidates are contesting;  
and
  - ❑ Number of seats currently held.



## **Basic Allocation**

Percentage of slots to be allocated to all parties contesting seats in the Municipal Elections. 60%

## **District Municipalities List**

Percentage of slots to be allocated according to the number of candidates fielded by parties on the District Municipalities list. 15%

## **Local Municipalities List**

Percentage of slots to be allocated according to the number of candidates fielded by parties on the Local Municipalities list. 15%

## **Proportional representation**

The number of seats currently held at District and Local level. 10%



- ❑ PA must only be broadcast during the election period and no later than forty-eight (48) hours before polling commences
  
- ❑ Each PA submitted must indicate clearly the name of the political party or independent candidate and the day, time of broadcast and relevant broadcast service/s for the PA.
  
- ❑ A BSL that intends to transmit a PA must ensure that the advertisement conforms to the Authority's technical quality as listed in **Schedule 2 of Annexure A.**



- ❑ A BSL to whom a PA has been submitted by a political party or an independent candidate for broadcast must not in any way edit or alter the advertisement.
  
- ❑ A BSL who rejects a PA submitted by a political party or an independent candidate for broadcast must, **within twenty-four (24) hours** of such submission, furnish the political party or independent candidate concerned with written reasons for the rejection and the political party or independent candidate concerned may alter or edit the PA and re-submit the PA to the BSL concerned at least **forty-eight (48) hours prior** to its scheduled broadcast.



- ❑ Where the BSL has rejected a PA and the political party or independent candidate concerned has confirmed in writing to the BSL that it will not be re-submitting the advertisement, then the BSL must within **twenty-four (24)** hours notify the Authority in writing of such rejection and must also furnish to the Authority written reasons for the rejection.
  
- ❑ A political party or an independent candidate whose PA has been rejected and which has no intention of altering or editing the advertisement, may refer the matter to the Authority within **forty-eight (48)** hours of being informed of the rejection.





- ❑ A political party or an independent candidate that submits a PA to a BSL for broadcast must ensure that the advertisement does not:
  - ❑ contravene the provisions of the Municipal Electoral Act, the Electoral Code, the Electoral Act, the Constitution, the Act and the Broadcasting Act; or
  - ❑ contain any material that is calculated, or that in the ordinary course is likely to provoke or incite any unlawful, illegal or criminal act, or that may be perceived as condoning or lending support to any such act.



- ❑ A political party or and independent candidate that submits a PA for broadcast to a BSL is deemed to have indemnified the BSL against incurred damages, losses, and third party claims arising from the broadcast thereof.
- ❑ Content broadcast as a PA cannot be broadcast as a PEB.
- ❑ A BSL must not transmit a PA immediately before or after another PA or PEB."
- ❑ A broadcasting service licensee that broadcasts PA must ensure that all PA broadcasts are:
  - ❑ clearly identified through a standard pre-recorded top and tail disclaimer



## PEB

1. Free of charge
2. SABC has an obligation to transmit PEBs while Community and Commercial broadcasters can elect to transmit PEBs.
3. ICASA to provide duration and sequencing of PEBs
4. Broadcast during election broadcast period no later than forty eight (48) hours before polling commences.

## PA

1. Paid Fee Applicable
2. All broadcasters can elect to broadcast PAs.
3. ICASA does not provide duration and sequencing of PAs (Transaction between the broadcaster and the political party)
4. Broadcast during election period and no later than forty eight (48) hours before polling commences.



- ❑ PEB or PA may be refused broadcast if it is:
  - ❑ inconsistent with the Regulations and/or all related legislation.
  - ❑ not compliant with the broadcaster's technical standards.
  - ❑ Submitted late for the PEB as there are prescribed time period within which PEBs should be submitted to the broadcasters.



- ❑ Notify the Authority of intention to broadcast PAs and/or PEBs
- ❑ Submit – within twenty-one (21) days of the publication of the Regulations – two names of representative who will deal with all election broadcast matters.
- ❑ A BSL that broadcasts PEB must:
  - ❑ make available, every day and 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.
- ❑ A BSL that broadcasts PA and/or PEB must ensure that all PA and/or PEB broadcasts are clearly identified through a standard pre-recorded top and tail disclaimer.



- ❑ Ensure that news, current affairs shows and special election programmes are impartial and objective.
  
- ❑ Timeously respond to complaints leveled against them.
  
- ❑ The SABC/Public Broadcaster has an obligation to inform the electorate of the election results, as they become available.



- ❑ Notify the Authority in a written submission within twenty one (21) days of the publication of the Regulations, two names with contact details of a representative who will deal with all election broadcast matters.
- ❑ Timeously respond to complaints leveled against them.
- ❑ Pre-record the PEB and PA material as this is not the duty of the BSL.
- ❑ Submit PEBs at least 5 working days prior broadcast time.
- ❑ Ensure that its PAs and PEBs do not contravene the Constitution, ECA, Broadcasting Act and all related legislation.
- ❑ Ensure that their material does not provoke any unlawful, illegal or criminal act or be perceived as condoning or lending support to any such act.



- ❑ In the event of any person being aggrieved by any PA or PEB such person may lodge a complaint with the Authority within forty eight (48) hours after such broadcast has occurred.
- ❑ Any complaint lodged with the Authority in terms sub regulation 4 (9) ; sub-regulation 6 (7); and/or sub regulation 7 (1) will be addressed by the Authority in accordance with regulation 6 of the CCC Regulations.
- ❑ Subject to sub-regulation 4(10), subregulation 6 (8); and/or sub-regulation 7 (2) the Authority will, within twenty-four (24) hours of making a determination, communicate to the parties the outcome, which is final and binding on the parties.





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



- ❑ The material must be submitted in the following technical format:
  - ❑ Format - Raw Mpeg 2
  - ❑ Channels - 2 (stereo)
  - ❑ Bit Rate - 384 kbps
  - ❑ Sampling Rate - 48Khz
  - ❑ Mastering - -12db



## TECHNICAL STANDARDS: TELEVISION



- ❑ High Definition (HD) 16 X 9 ; Disc and File Format Delivery
- ❑ Summary of Program Delivery Standards
- ❑ All programs will comply with the 1920 x 1080i HD Standard in a 16:9 aspect ratio at 25 frames per second, 90 seconds 75% Line-up color bars And 1 KHz tone.
- ❑ Digital Audio Reference level is defined as 18dB below the maximum coding value (-18dBFS) as per EBU recommended practice R128.
- ❑ Time code of program start is at 10:00:00:00.
- ❑ Circular countdown clock of 30 seconds with details exactly as per Section 4.5.2. on delivery document must be present with Stereo audio on tracks 1&2.
- ❑ Fade to silence at program end. End slate held in vision for further 10 seconds after end of program.
- ❑ All files delivered should be transcoded to:
- ❑ AVC INTRA 100 AS-11 , OP1A MXF WRAPPER



- ❑ BSL's 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 and independent candidates without abdicating news value judgements
- ❑ BSLs 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.



- ❑ BSLs must afford reasonable opportunities for the discussion of conflicting views and must treat all political parties and independent candidates equitably.
- ❑ BSLs must ensure that the political parties and independent candidates are given a reasonable opportunity to respond to criticism in the same programme, or to do so as soon as reasonably practicable thereafter.
- ❑ The Authority advises BSLs to take special care during the final 48 hours prior to Election Day. There will be limited time for BSLs to ensure that political parties' right of reply is honoured during this period.



- ❑ Equitable treatment means fair treatment.
  
- ❑ Equitable treatment is unlikely to be achieved in a single programme but can be achieved in a series of programmes. Each BSL should be consistent in its treatment of contesting parties and of conflicting views.
  
- ❑ BSLs should recognise their obligation to the electorate to provide a full and accurate record of events and developments.



- ❑ 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)
  
- ❑ 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



- ❑ During the election period, BSLs must recognise that government officials are in a position to use their incumbency to advance their electoral prospects.
  
- ❑ BSLs should regard with particular caution any statement or action by an official of an incumbent party
  
- ❑ BSLs need to ensure that, during the election period, they do not afford the policies of incumbent political parties and independent candidates' greater legitimacy than they would afford those policies or actions if the party was not in government.





- ❑ Non-participating political parties, independent candidates and organisations affiliated to alliances should not be excluded from debates and news bulletins.
- ❑ However, they should not be included with such frequency that they distort the general principle of equity between registered, contesting political parties and independent candidates.



- ❑ Inclusion of Independent Candidates;
- ❑ Insertion of the Definition of Current Affairs;
- ❑ More PEB airtime allocation - From eight (8) timeslots of one (1) minute each day to ten (10) time-slots of fifty (50) seconds each for the broadcast of PEB, excluding the top and tail disclaimer;
- ❑ Revised percentage allocation for PEB allocations principles; and
- ❑ Updated Technical Standards



## CONTACT DETAILS



- Regulations: [hmakola@icasa.org.za](mailto:hmakola@icasa.org.za)
- Compliance: [bmashigo@icasa.org.za](mailto:bmashigo@icasa.org.za)
- Administration Assistance: [pcokie@icasa.org.za](mailto:pcokie@icasa.org.za)



# Thank You



# Questions and Answers Session