



2021 Municipal Elections Coverage Report

ICASA

“When we see the face of a child, we think of the future. We think of their dreams about what they might become, and what they might accomplish.”

Desmond Tutu



2021 MUNICIPAL ELECTIONS COVERAGE REPORT
MARCH 2023

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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 vote during the Municipal Elections by voting for the party representatives and independent candidates of their choice, thus determining the ruling party in accordance with the Constitution of the Republic. The 2021 Municipal Elections held on 1 November 2021 marked the 6th Municipal Elections monitored by the Regulator since 1995 and the 6th Elections since the dawn of democracy.

The first unique feature of the 2021 Municipal Elections was the inclusion of Independent Candidates (ICs) in the allocation process of Party Election Broadcasts (PEBs) slots and the first monitoring exercise by the Authority. According to the Independent Electoral Commission (IEC), three hundred and twenty-five (325) registered political parties and one thousand five hundred and forty-six (1546) ICs contested the 2021 Municipal Elections. This was an exponential increase to the 2016 Municipal Elections whereby two hundred and five (205) political parties and eight hundred and fifty-five (855) ICs contested the elections.

The increased number of political parties and independent candidates contesting the Municipal Elections demonstrates a maturing democracy and active citizenry and 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 citizen's political needs and wants 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

The second unique feature of the 2021 Municipal Elections is that they took place under unprecedented conditions due to the Covid-19 pandemic. The pandemic posed challenges to various stakeholders participating in the elections. The challenges included uncertainty on whether the elections would be held within the time frame as prescribed in the Constitution. The decision to proceed with elections was finally made by the Constitutional Court on 03 September 2021.

Additionally, the decision by the Authority to include ICs in the monitoring process for the first time added another complexity to the allocation of PEB slots. The decision coupled with the limited time within which to allocate and broadcast PEBs meant that the Authority had to find creative ways to execute its mandate and to ensure that the Constitutional rights of the citizens to be informed of the policies and messages of the participating political parties and mandates was not compromised.

The Authority is of the opinion, as demonstrated later in this report, that it managed to carry out its mandate substantively despite all the challenges referred to above.

2. 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 independent Communications Authority of South Africa Act No. 13 of 2000 ("ICASA Act") was enacted to repeal the IBA Act and Telecommunications Act No. 103 of 1996. This led to the 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 broadcasting, telecommunications, and postal services.

Section 2(s)(i) of the Electronic Communications Act No. 36 of 2005 ("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.

3. LEGISLATIVE FRAMEWORK

Sections 56, 57, 58, and 59 of the ECA, as amended, are the primary provisions that empower the Authority to regulate and monitor 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 Municipal Elections Party Elections Broadcasts and Political Advertisements Amendment Regulations, 2021 as published on 31 March 2021 in the government gazette, No 44370 (“the Regulations”).

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

Additionally, the Constitution serves as the central legislative framework that 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 expression².

It is within this legislated jurisdiction that the Authority’s report provides a detailed account of the extent to which broadcasting service Licensees covered the Municipal 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),

² Section 16 of the Constitution

which is enjoined in terms of section 57 of the ECA to cover Elections and specifically broadcast PAs and PEBs during the election period.

4. PROCESS AND METHODOLOGY

4.1.1. The Process

4.1.1.1. 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 to deal with the monitoring of broadcasting Licensees' coverage of the 2021 Municipal Elections. The Committee comprised two (2) Councillors as well as representatives from Licensing and Compliance Division ("LCD"), Policy Research and Analysis ("PRA"), and Legal, Risk and CCC divisions ("LRCCC"). The Committee commenced its work on 20 September 2021 after the publication of the Amendment Regulations on 31 March 2021.

4.1.1.2. Workshops, Number of Participating Licensees and Monitored Period

Due to the Covid pandemic, the Authority conducted virtual workshops with broadcasting service Licensees from 23 -25 June 2021. 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 2021 Municipal Elections commenced on 18 October 2021 (with actual recorded broadcast content from 01 August 2021 – 12 November 2021) and ended on 11 March 2022.

A total of one hundred (100) broadcasting service Licensees participated during the 2021 election period as follows:

- Sixty-three (63) being community sound broadcasting Licensees,
- fifteen (15) commercial radio stations,
- one (1) commercial free to air TV (e.tv); and

- eighteen (18) SABC sound broadcasting services (public and commercial) and three (3) SABC TV channels.

The above indicates an improvement in the number of participating Licensees in the 2021 elections compared to the broadcasting service Licensees that elected to participate in 2011. In 2011 a total of eighty-four (84) Licensees participated in the Municipal Elections. Of this number, fifty (50) were community sound broadcasting Licensees, eighteen (18) SABC public and commercial sound broadcasting services, twelve (12) commercial sound broadcasting Licensees, one (1) commercial free to air TV and three (3) SABC television broadcasting channels.

It has to be noted that the number of participating Licensees in the 2021 Municipal Elections demonstrates a decline by a margin from those Licensees that participated in the 2016 Municipal election where, a total of one hundred and four (104) Licensees participated with seventy (70) being community sound and TV broadcasting Licensees, twelve (12) commercial radio stations; one free to air commercial tv (e.tv), eighteen (18) public sound broadcasting services (SABC radio stations) and three (3) SABC TV channels.

4.1.2. Methodology

4.1.2.1. 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 ongoing 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 a 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 2021 Amendment Regulations, whilst 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.

4.1.2.2. Capture Process

Drawing from 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, language (s) used in the broadcast, duration of the content and political parties and/or organisations mentioned in the broadcast. Section two (2) below discusses the findings in respect of the broadcast of PAs, PEBs, current affairs, news, and Public Service Announcements (PSAs).

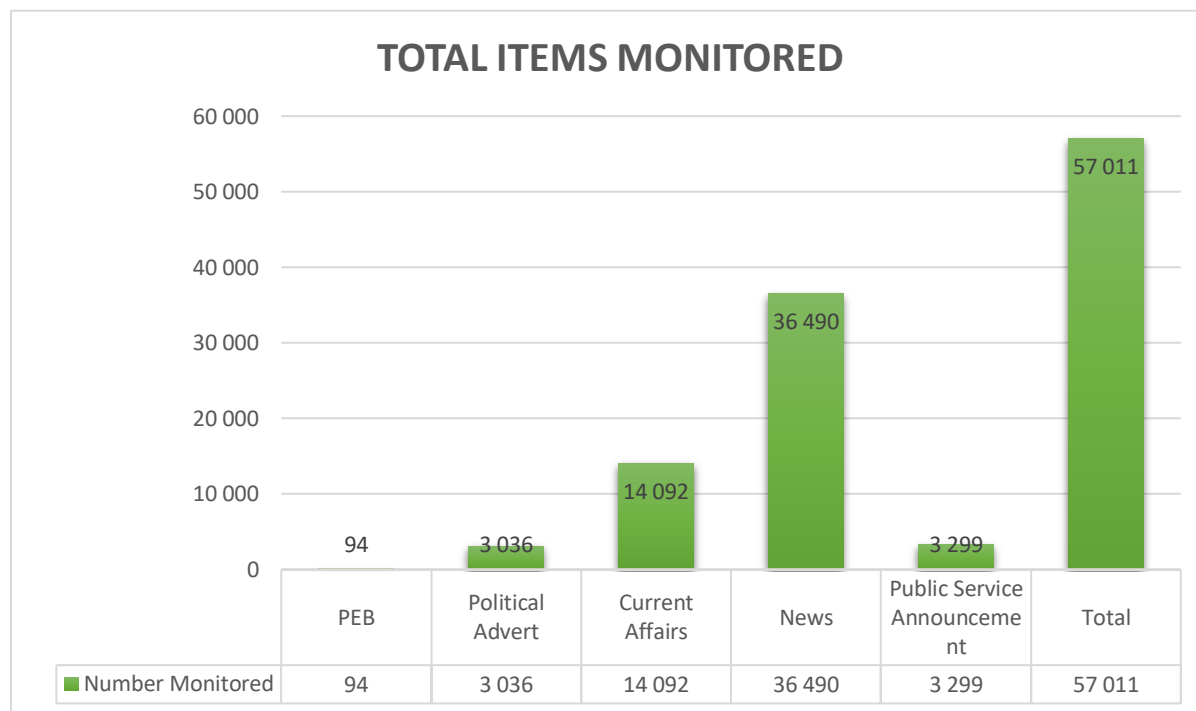
SECTION 2

DATA AND MONITORING ANALYSIS

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

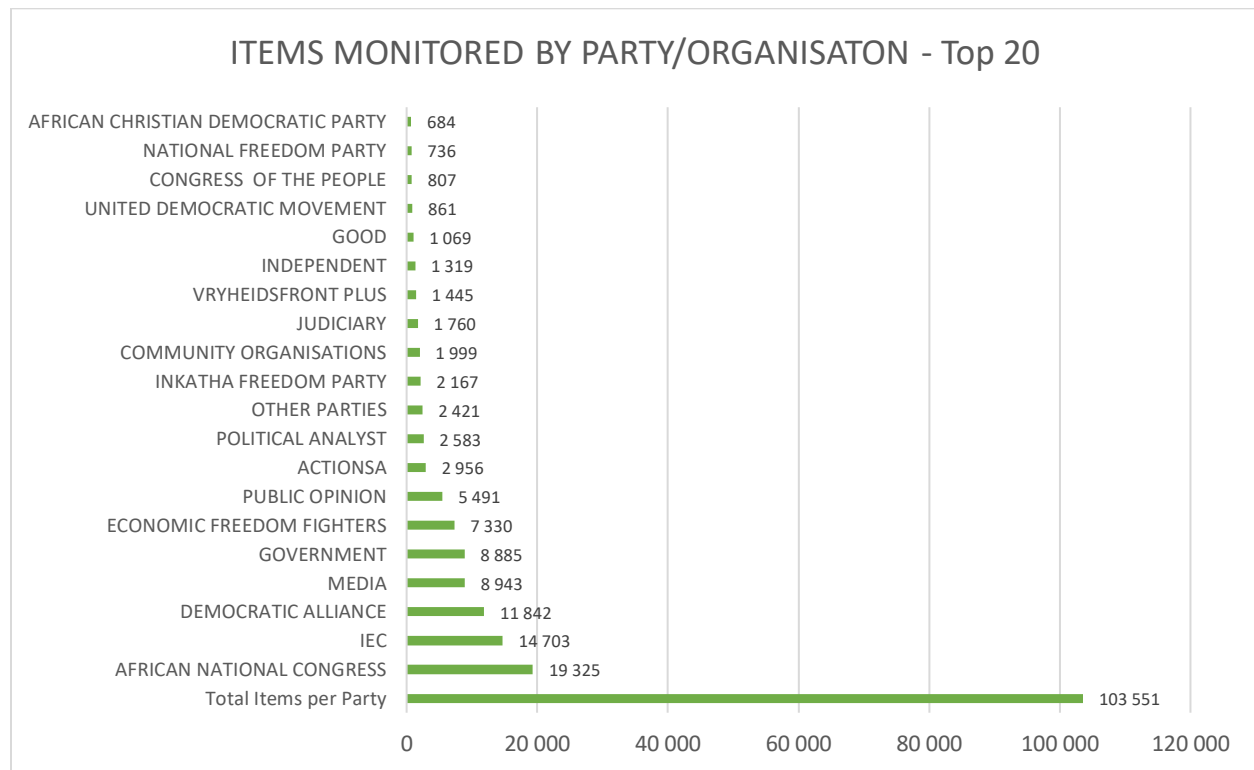
The following section provides the findings in relation to the broadcast content on television and radio during the elections period. Below is a statistical analysis of the overview of the type of broadcast items monitored during the entire elections period.

GRAPH 1: TOTAL ITEMS MONITORED



Graph 1 above shows the overall total number of items monitored during the election period which amounted to fifty-seven thousand and eleven (57 011). The monitored items comprised PEBs, Political Adverts, news, current affairs and PSAs. News constituted the majority at 64%, followed by current affairs at 24,7%, PSAs and PAs 5.7% and 5. 3% respectively. The least number of items monitored were PEBs at 0.16%. The percentages in respect of news and current affairs could be attributed to the significant amount of talk content related to coverage of political activities, analysis, and discussions during the election period.

GRAPH 2: TOTAL ITEMS OF BY PARTY/ORGANISATION

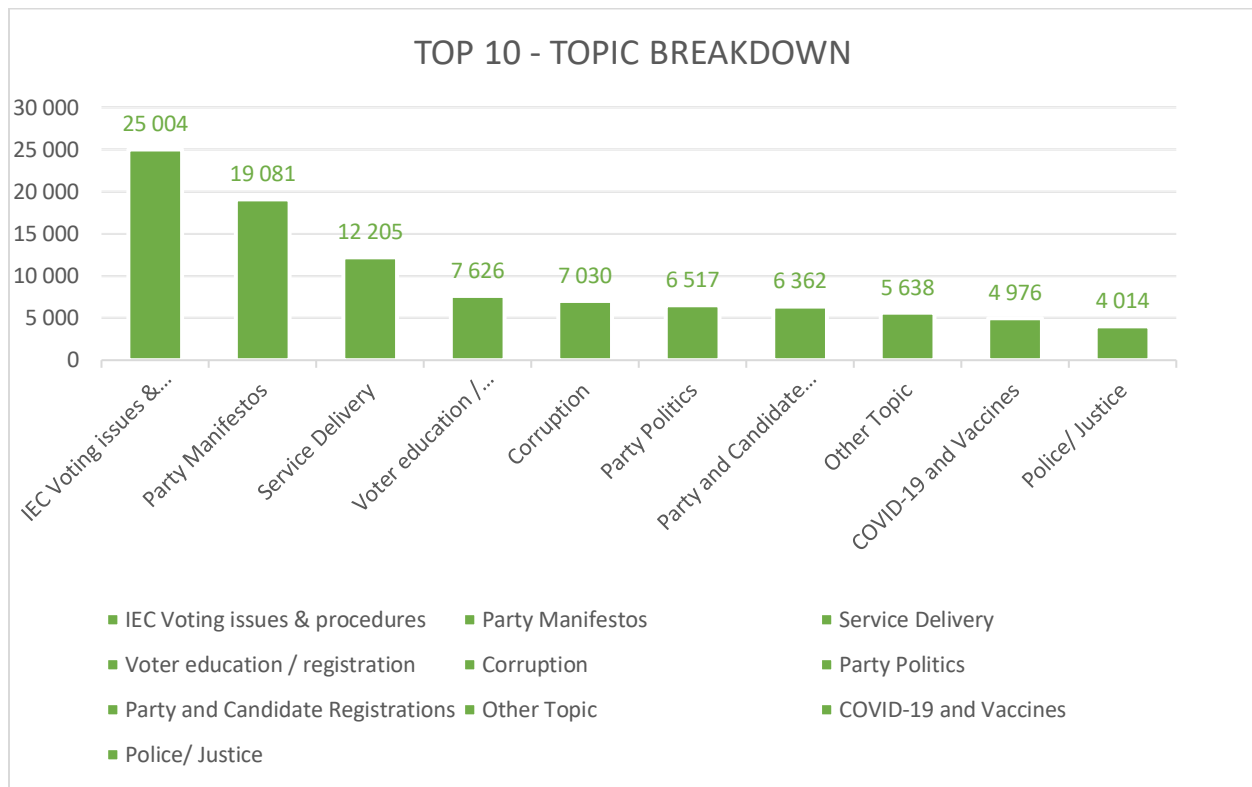


The above graph outlines the overall items monitored per political party and organisation. The graph only depicts the top twenty (20) parties/organisations which constitute 94% of all items monitored. A single item monitored could represent multiple political parties, especially in respect of news and current affairs.

Most of the items monitored during the 2021 Municipal Elections revealed that a lot more focus was on political and voter education due to the Covid – 19 pandemic and thus organisations such as the IEC, Media, and Government were central to information dissemination. The ANC and DA are the only parties that are reflected in the Top 5 of the political parties/organisations at number one and three respectively.

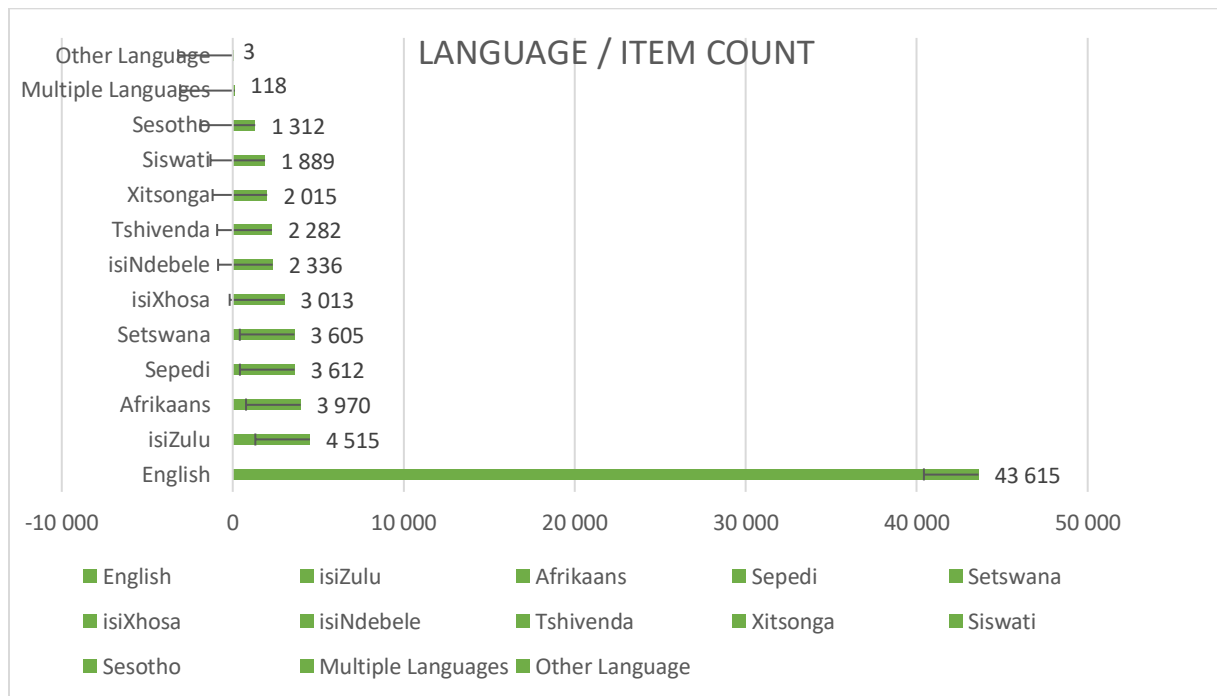
GRAPH 3: TOPIC BREAKDOWN

The graph below shows the Top 10 Topic Breakdown



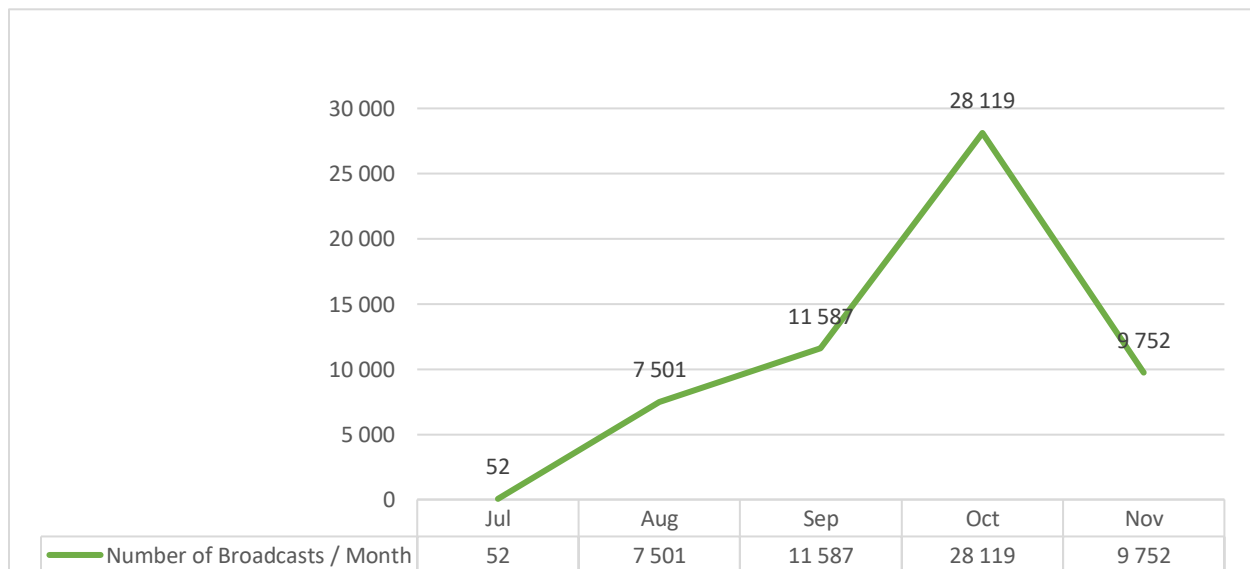
Graph 3 above shows the Top 10 topics that were monitored during the election period. As with the preceding graphs, the major topic related to IEC voter education, the IEC being in the Top 2 of parties/organisations monitored.

GRAPH 4: OVERALL LANGUAGE DISTRIBUTION



The analysis of the 2021 Municipal Elections coverage found that all eleven South African Official languages were used during the election monitoring period. As reflected in the graph above, English remained the dominant language at 60.03% with the rest of the languages falling below the 7% threshold.

GRAPH 5: NUMBER OF ITEMS BROADCAST PER MONTH



Graph 5 above shows the number of election-related items monitored across all broadcasters throughout the election period. The monitoring process commenced with broadcast material from the month of July until two weeks after polling date. Most of the campaign rallies that make the news and current affairs programmes become frequent as the polling date draws nearer, hence there is a slow start in terms of election related content in the month of July, with a surge in August and September and the highest point being in October and the decline after the polling date.

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 parties³ 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 2021 Amendment Regulations as referred to above). The foundation for the allocation of PEBs by the Authority is premised on the principle of equitable coverage of political parties and ICs 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 and lately the ICs. A total of one hundred and sixty (160) PEBs were allocated to contesting political parties and ICs, per broadcasting Licensee/s, participating in the broadcasting of PEBs during the election broadcast period.

In the previous years, smaller parties rarely, if ever, used any of the PEBs apportioned to them. This trend has continued for the 2021 Municipal Elections even with the ICs contesting.

³ According to the current legislative framework, independent candidates are not entitled to free airtime/PEBs.

TABLE 1: PEB DATA BY POLITICAL PARTY

PEB BROADCAST DATA BY PARTY DURATION			
#	PEB Distribution by Party	Number	Duration (HH:MM: SS)
1	ABANTU INTEGRITY MOVEMENT	1	00:00:40
2	AFRICAN CHRISTIAN DEMOCRATIC PARTY	9	00:07:48
3	AFRICAN INDEPENDENT CONGRESS	4	00:02:05
4	AFRICAN NATIONAL CONGRESS	19	00:21:32
5	AFRICAN PEOPLE'S SOCIALIST PARTY	1	00:00:50
6	AFRICAN TRANSFORMATION MOVEMENT	7	00:06:48
7	AL JAMA-AH	1	00:00:46
8	DEMOCRATIC ALLIANCE	35	00:31:19
9	ECONOMIC FREEDOM FIGHTERS	5	00:03:02
10	INDEPENDENT	1	00:00:48
11	INKATHA FREEDOM PARTY	2	00:01:02
12	SPECTRUM NATIONAL PARTY	2	00:01:47
13	UNITED DEMOCRATIC MOVEMENT	3	00:02:54
14	VRYHEIDSFRONT PLUS	4	00:03:11
Total		94	01:24:32

The Authority's monitoring exercise revealed that the top five (5) parties in respect of PEBs broadcast were DA at 37% followed by the ANC at 20%, ACDP at 9.5%, ATM at 7.4 % and EFF 5.3%. There was only one PEB for an Independent Candidate that was monitored out of the total ICs that were all allocated PEBs.

Despite the Authority's monitoring exercise revealing that a total of ninety-four (94) PEBs were broadcast during the election broadcast period, the SABC's submission to the Authority in relation to their PEB airtime usage indicated that a total of one hundred and ninety-five (195) PEBs were broadcast on its tv and radio services.

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)⁵ who argues that political advertising has a significant impact on citizens. McNair (1999)⁶, 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)⁷ 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

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.

⁵ Norris, P. (1999) *Critical Citizens: Global Support for Democratic Government*. OUP, Oxford.

⁶ McNair, B. (1999). *An introduction to political communication*. 2nd edition. London: Routledge.

⁷ 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>

current affairs. Thus, in broadcasting PAs, Licensees should still conform to the code of conduct for broadcasters and applicable sections of the election regulations.

Sections 56 and 58 (2) and (6) of the ECA read with Regulation 6(13) of the Amendment 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 clearly identified through a top and tail disclaimer.*

While many of the Licensees complied with both the ECA and the Elections Regulations during this period, the Authority's monitoring exercise revealed that nine (9) Licensees; Bay FM, Soshanguve Community Radio, Radio Overberg, IFM, Bok Radio (community sound broadcasting service Licensees); YOU FM, Metro FM (commercial sound broadcasting service Licensees) and Phalaphala FM (Public Sound) did not comply with either section 58(6), Regulation 6(13) or 6(14) of the Regulations. Details of the contravention/s are outlined in Section 3 of this report dealing with the processing of complaints and Complaints and Compliance Committee matters.

TABLE 2: PA DATA BY POLITICAL PARTY

PA BROADCAST DATA BY PARTY DURATION			
#	Party	Number	Duration (HH:MM: SS)
1.	DEMOCRATIC ALLIANCE	1 677	17:52:18
2.	AFRICAN NATIONAL CONGRESS	752	7:37:49
3.	ECONOMIC FREEDOM FIGHTERS	653	7:3:29
4.	VRYHEIDSFRONT PLUS	453	3:54:25
5.	ACTIONS	228	2:52:59
6.	ABANTU INTEGRITY MOVEMENT	99	1:33:46
7.	GOOD	92	0:52:25
8.	INKATHA FREEDOM PARTY	32	0:29:52
9.	DEFENDERS OF THE PEOPLE	26	0:31:33
10.	CAPE INDEPENDENCE PARTY / KAAPSE ONAFHANKLIKHEIDS PARTY	19	0:58:1
11.	ACTIVE UNITED FRONT	6	0:3:24
12.	AFRICAN TRANSFORMATION MOVEMENT	4	0:3:50
13.	PATRIOTIC ALLIANCE	4	0:2:11
14.	INDEPENDENT	3	0:8:59
15.	UNITED DEMOCRATIC MOVEMENT	3	0:5:32
16.	COMMUNITY ORGANISATIONS	2	0:2:2
17.	INDEPENDENTS FOR COMMUNITIES	2	0:1:49
18.	ACADEMIC CONGRESS UNION	1	0:0:34
19.	AFRICAN CHRISTIAN DEMOCRATIC PARTY	1	0:1:17
20.	AFRICAN ISLAMIC MOVEMENT	1	0:0:39
21.	AL JAMA-AH	1	0:0:45
22.	BLACK FIRST LAND FIRST	1	0:0:56
23.	BUSHBUCKRIDGE LOCALS' MOVEMENT	1	0:0:47
24.	CIVIC MOVEMENT OF SOUTH AFRICA	1	0:1:0
25.	CONGRESS OF THE PEOPLE	1	0:0:39
26.	SHOSHOLOZA PROGRESSIVE PARTY	1	0:0:52
27.	SPECTRUM NATIONAL PARTY	1	0:0:32
Total		4 065	44:22:25

The Authority's monitoring exercise found that the top five (5) parties of PAs broadcast were DA at 41.25% followed by the ANC at 18.5%, EFF at 16.06%, Vryheidsfront Plus at 11.14% and Action SA at 5.6%. There was no PAs for an independent candidate that was monitored during the election period.

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*:

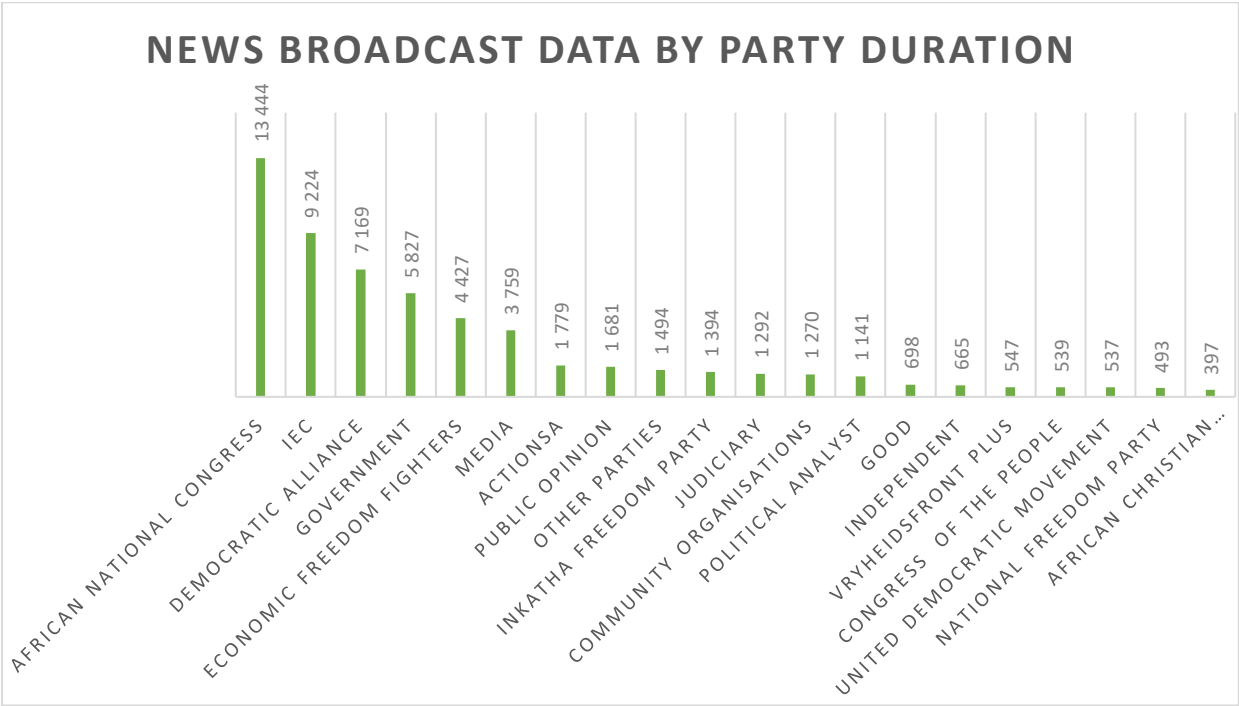
"Ensure that broadcasting services, viewed collectively, provide for regular news services; actuality programmes on matters of public interest; programmes on political issues of public interest; and programmes on matters of international, national, regional and local significance."

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 2021 Municipal 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.

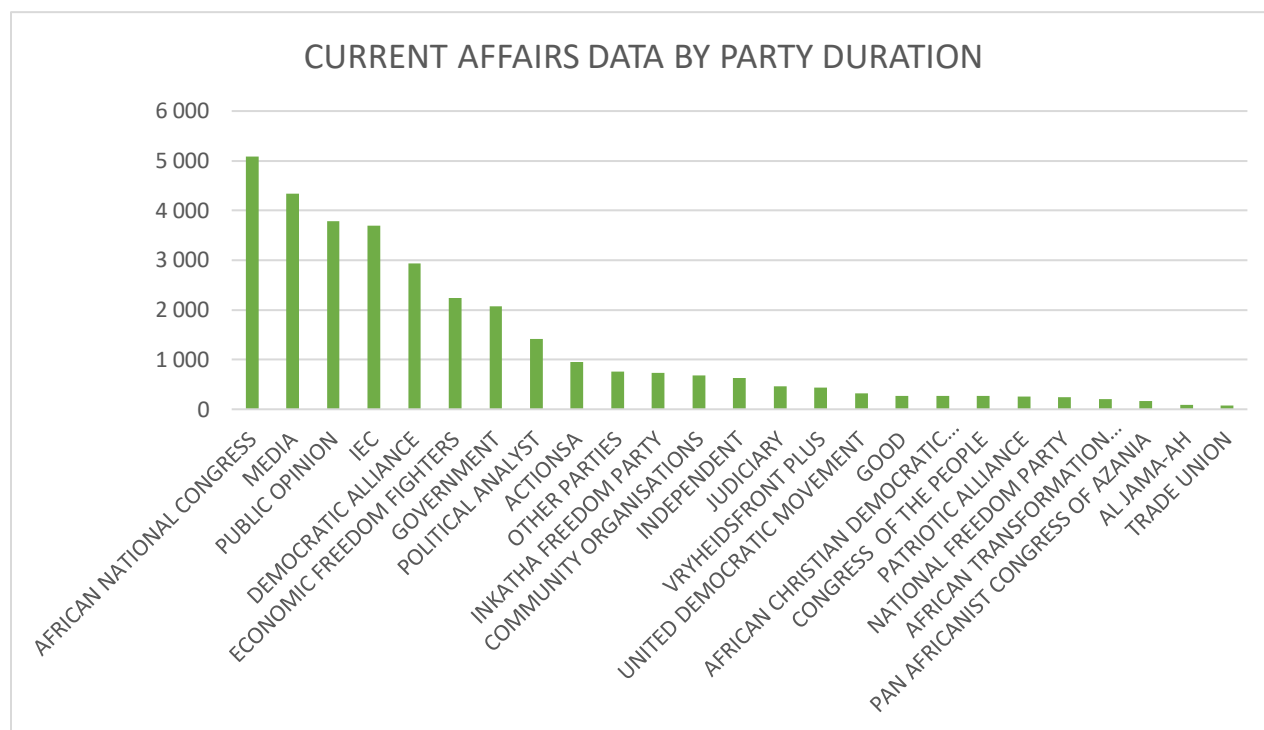
⁸ Strömbäck, J. & Kaid, L., eds. 2008. The Handbook of Election News Coverage Around the World. New York: Routledge.

GRAPH 6: NEWS BROADCAST BY POLITICAL PARTY



Graph 6 above reflects the coverage of news items per political party and organizations. The IEC, Government, and Media are consistent in the Top 10 of news items covered by broadcasters as mentioned in the report of the challenges that the Covid 19 pandemic has brought to the elections. The major parties still make the most of the total of news items broadcast as per previous reports and trends except for Action SA which is a new party and would have not been reflected in the previous elections.

GRAPH 7: CURRENT AFFAIRS DATA BY POLITICAL PARTY



Graph 7 above reflects the coverage of political parties and organizations in current affairs related programming. Due to the nature of the format of current affairs, the organisation and political parties making the top 10 is different from the news items with public opinion, media, and political analyst making the majority. The independent candidates have been afforded opportunities in the current affairs programming and as reflected by a number of items that have been monitored in the current affairs genre.

The monitoring of the 2021 Municipal Elections showed that generally, Licensees complied with the Code of Conduct for Broadcasting Licensees as well as section 59 of the ECA during the election period save for the few referrals to the CCC for non-compliance with ECA and the 2021 Municipal Elections Regulations. There were no concerns raised by members of the public through complaints pertaining to broadcaster's non-compliance with the key principles of independence and impartiality during the elections period.

SECTION 3

COMPLAINTS AND COMPLIANCE

COMMITTEE (CCC)

6. PROCESSING OF COMPLAINTS

Section 17C of the 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 2021 Amendment 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) 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 4(1) which provides that a PEB must only be broadcast during an Election Broadcast Period.
- Regulation 6(6) which provides that where a broadcasting service Licensee has rejected a PA and a political party or IC concerned has confirmed in writing to the broadcasting service Licensee (BSL) that it will not be resubmitting the PA, the BSL must within 24 hours notify the Authority in writing of such rejection and must also furnish the Authority written reasons for the Rejection.

- Regulation 6(13) 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.
- Regulation 6(14) which provides that a broadcasting service Licensee that broadcasts PA must ensure that all PA broadcasts are clearly identified through a standard pre-recorded introductory and concluding message (top and tail) disclaimer.

6.1. Matters Investigated by the Authority

The following sections outline the complaints investigated by the Authority and complaints adjudicated by the CCC during the 2021 Municipal Elections period. A total of eleven (11) complaints were investigated. Of this number, two (2) complaints were investigated and closed by the Authority, nine (9) complaints were referred to the CCC, two (2) were against the SABC's public and commercial radio stations, one (1) against a commercial radio station (YOU FM) and six (6) against community radio stations as per the table below. Table 3 below indicates the Complaints processed during the election period.

Table 3: Complaints Lodged, Processed and Adjudicated

Complainant	Political Party concerned	Respondent	Presiding	No of Complaints
Patriotic Front of Azania (PFA)	N/A	Radio Qwa Qwa	N/A	1
Disability and Older Persons Political Party (DOPP)	N/A	SABC	N/A	1
ICASA	N/A	Bay FM	CCC	1
ICASA	N/A	Soshanguve Community Radio	CCC	1
ICASA	N/A	YOU FM	CCC	1
ICASA	N/A	SABC: Phalaphala	CCC	1

ICASA	N/A	SABC: Metro FM	CCC	1
ICASA	N/A	Radio Overberg	CCC	1
ICASA	N/A	Bok Radio	CCC	1
ICASA	N/A	IFM	CCC	1
ICASA	N/A	Vukani Community Radio	CCC	1
TOTAL				11

6.1.1. MATTERS INVESTIGATED AND RESOLVED BY THE AUTHORITY:

On 15 October 2021, the Authority received a complaint from the Patriotic Front of Azania (PFA) alleging exclusion by Qwa- Qwa Radio from an election debate. The Authority investigated this matter and established that the radio station did not target specific parties to partake in the said debate to the exclusion of PFA and that the complainant eventually attended the debate and contributed to discussions. The Licensee submitted a video of the said debate, confirming the complainant's participation. On this basis, the Authority advised the complainant and the Licensee that the matter is closed and will not be investigated any further.

On 19 October 2021, the Authority received a complaint from the Disability and Older Persons Political Party (DOPP) alleging that the SABC did not cover their manifesto launch in Secunda, Sasol Club on 16 October 2021, despite the invitation being sent to the SABC timeously. In response to the Authority, the SABC highlighted that it had already responded to the political party's complaint which was lodged on its website. Nevertheless, the SABC stated as follows:

- That on 16 October 2021, the SABC news team in Mpumalanga covered the launch of the Bushbuckridge Residents Association manifesto in Bushbuckridge.
- That DOPP was covered by both its radio and TV services during its campaigning in Standerton.
- That due to limited resources and a huge number of contesting political parties and ICs, the SABC took an editorial decision to also cover other political parties.

It was against this backdrop that it did not cover DOPP's manifesto launch.

The Authority requested the complainant to comment on the SABC's response however no response was received in this regard. As a result, the matter was duly closed and both the SABC and the complainant advised accordingly.

6.1.2. MATTERS INVESTIGATED BY THE AUTHORITY AND ADJUDICATED BY THE CCC:

6.1.2.1. Complaint BY ICASA regarding an alleged contravention of Regulation 6(14) by Bay FM

On 8 December 2021, ICASA referred an allegation of contravention to the CCC on the basis that the radio station contravened Regulation 6(14) of the Regulations in that it broadcast several Political Advertisements (PAs) for the Democratic Alliance (DA) without the top and tail disclaimers as shown in the table below.

Table 4: Licensing and Compliance Division vs Bay FM

#	Date	Contravention
1	28 September 2021 at 09h22	flighted a DA PA in English with no Top and Tail disclaimers during The Brunch show.
2	28 September 2021 at 14h40	flighted a DA PA in Afrikaans with no Top disclaimer during the Out To Lunch show.
3	29 September 2021 at 08h43	flighted a DA PA in English with no Top disclaimer during the Breakfast In The Bay show
4	29 September 2021 at 13h22	flighted a DA PA in Afrikaans with no Top disclaimer during the Out To Lunch show.
5	30 September 2021 at 11h21	flighted a DA PA in English with no Top disclaimer during the Brunch show.
6	30 September 2021 at 15h23	flighted a DA PA in Afrikaans with no Top disclaimer during the Mighty Drive show.
7	01 October 2021 at 07h22	flighted a DA PA in English with no Top and Tail disclaimers during the Breakfast In The Bay show.

8	01 October 2021 at 14h20	flighted a DA PA in Afrikaans with no Top and Tail disclaimers during the Out To Lunch show.
9	04 October 2021 at 11h45	flighted a DA PA in Afrikaans with no Top and Tail disclaimers during the Brunch show.
10	04 October 2021 at 13h41	flighted a DA PA in Afrikaans with no Top disclaimer during the Out To Lunch show.
11	04 October 2021 at 15h42	flighted a DA PA in English with no Top and Tail disclaimers during the Mighty Drive show,
12	04 October 2021 at 06h41	flighted a DA PA in English with no Top and Tail disclaimers during the Breakfast In The Bay show.
13	05 October 2021 at 06h42	flighted a DA PA in Afrikaans with no Top and Tail disclaimers during the Breakfast In The Bay show.
14	05 October 2021 at 09h22	flighted a DA PA in English with no Top disclaimer during the Brunch show.
15	05 October 2021 at 13h40	flighted a DA PA in English with no Top and Tail disclaimers during the Out To Lunch show.
16	05 October 2021 at 15h46	flighted a DA PA in Afrikaans with no Top disclaimer during the Mighty Drive show.
17	06 October 2021 at 07h40	flighted a DA PA in English with no Top and Tail disclaimers during the Breakfast In The Bay show.
18	06 October 2021 at 10h44	flighted a DA PA in Afrikaans with no Top and Tail disclaimers during the Brunch show.
19	06 October 2021 at 12h40	flighted a DA PA in Afrikaans with no Top disclaimer during the Out To Lunch show.
20	06 October 2021 at 15h23	flighted a DA PA in English with no Top and Tail disclaimers during the Mighty Drive show.
21	07 October 2021 at 06h39	flighted a DA PA in Afrikaans with no Top and Tail disclaimers during the Breakfast In The Bay show.

22	07 October 2021 at 11h21	flighted a DA PA in English with no Top disclaimer during the Brunch show.
23	07 October 2021 at 12h43	flighted a DA PA in English with no Top and Tail disclaimers during the Out To Lunch show.
24	07 October 2021 at 14h19	flighted a DA PA in Afrikaans with no Top and Tail disclaimers during the Out To Lunch show
25	08 October 2021 at 08h41	flighted a DA PA in English with no Top disclaimer during the Breakfast In The Bay show
26	08 October 2021 at 09h22	flighted a DA PA in Afrikaans with no Top and Tail disclaimers during the Brunch show.
27	08 October 2021 at 13h23	flighted a DA PA in Afrikaans with no Top and Tail disclaimers during the Out To Lunch show.
28	08 October 2021 at 15h41	flighted a DA PA in English with no Top and Tail disclaimers during the Mighty Drive show.

During the hearing held on 22 January 2022, the Licensee conceded to the contravention and submitted that the removal of the top and tail disclaimers was an honest error on the part of its technical team. Bay FM further submitted that when it picked up the error/s, it ensured that the subsequent PAs received for broadcast contained the top and tail disclaimers demonstrating that it did not purposely aim to contravene the Elections Regulations.

The CCC in its recommendations found that Bay FM had been negligent in that it contravened Regulation 6(14) of the Municipal Elections Party Elections Broadcasts and Political Advertisements Amendment Regulations 2021, when it broadcast PAs without the mandatory top and tail disclaimer.

The CCC made the following order:

- a) directed the licensee to desist from any further contravention;
 - i. directed the licensee to pay a fine in the amount of R5000 in respect of each day in which the contravention occurred.

- ii. directed the licensee to deploy a dedicated team of four people who would individually check the Pas before they are flighted.
- b) directed that the order in (a)(i) and (ii) above be suspended until after the next Municipal Elections on condition the licensee is not found, during the period of suspension, to have contravened regulation 6(14) of the Municipal Elections 7 Party Elections Broadcasts and Political Advertisements Amendment Regulations 2021.
- c) directed the licensee to take the following remedial steps: (i) Bay FM must, the first week after this order is issued, broadcast in English and Afrikaans once a day for five consecutive days as its first item as its news service the following statement at a time between 7h00 and 21h10 in English and then in Afrikaans in the same News Bulletin. The times of the broadcast must be notified by email to the Broadcasting Manager of the Licensing and Compliance Division at least 24 hours before the broadcast. Such broadcast may not be accompanied by any background music or sound and the item must be read formally by the Station Manager, or her representative who must declare on air that she is the Station Manager or her representative.

6.1.2.2. Complaint by ICASA regarding an alleged contravention of section 58(6) of the ECA Soshanguve Community Radio

On 19 January 2022, ICASA referred an allegation of contravention to the CCC on the basis that the radio station contravened section 58(6) of the ECA in that on 30 and 31 October 2021 it broadcast the DA's PAs later than 48 hours prior to the commencement of the polling period. The last day to broadcast PAs was 29 October 2021.

During the hearing held on 28 January 2022, Soshanguve Community Radio conceded to the allegations and stated that the national state of disaster affected them in terms of the radio station's ability to monitor its work as they had to adjust to the new norm of working remotely. Further, the broadcasting service personnel were one of the people that were considered essential services to ensure that the radio station still executed its mandate of providing information to the citizens of the country. The rotational schedule that was implemented to ensure that the minimum

number of people are present at the place of business whilst the majority worked remotely contributed to the oversight.

In its judgement, the CCC found that Soshanguve FM, was negligent in that it contravened section 58(6) of the ECA when it flighted Political Advertisements later than 48 hours prior to the commencement of the polling period.

The CCC made the following order:

- a) directed the Licensee to desist from any further contravention of the regulations.
- b) directed the Licensee to take the following remedial step namely:-
 - (i) put in place a dedicated team who will, during the election period, ensure that the licensee complies with the relevant legislation.
 - (ii) broadcast a public apology during the first week after this order is issued. The apology is to be broadcast in Setswana and English once per day for five consecutive days as its first item on its news service between 7h00 and 20:10. On the first two days, the broadcast must take place in the first newscast after 7h00. The times of the broadcast must be notified by email to the Licensing and Compliance Division of the ICASA at the latest 48 hours before the broadcast. The broadcast may not be accompanied by any background music or sounds and the item must be read formally by the Station Manager or his representative, who must declare that he/she is the Station Manager or that he/she is acting on behalf of the Station Manager.

The apology must be phrased thus:

"The Independent Communications Authority of South Africa has found that Soshanguve FM was negligent in not having abided by the Municipal Elections 2021. Soshanguve FM flighted Political Advertisements less than 48 hours prior to the commencement of the polling period. This is in conflict with the ICASA Election Regulations which require that no Political Advertisements shall be flighted later than

48 hours before the polling period commences. Soshanguve FM further extends its apology to ICASA and its listeners for having contravened the Regulations."

An electronic copy of each broadcast stating the date and the time of the broadcast must be submitted by email to the Licensing and Compliance Division of ICASA within 48 hours from the last broadcast in the said five days.

(c) directed the Licensee to pay a fine of R20000, R10000 of which is suspended until the next Municipal Elections. An amount of R10000 must be paid to ICASA within 90 calendar days from when this judgment is issued. The CEO of ICASA or his nominee must be copied with proof of payment within 24 hours from when payment was made.

6.1.2.3. Complaint by ICASA regarding an alleged contravention of section 58(6) of the ECA, Regulation 6(13) and 6(14) by YOU FM

On 13 January 2022, ICASA referred an allegation of contravention to the CCC on the basis that the radio station contravened section 58(6) of the ECA in that on 30 October 2021 it broadcast several PAs for the ANC as reflected in the table below, later than 48 hours prior to the commencement of the polling period.

Table 5: Licensing and Compliance Division vs YOU FM

Date	Time of broadcast	Political Party
30/10/2021	05:51:42	ANC
	06:22:53	ANC
	07:42:30	ANC
	09:21:41	ANC
	10:21:51	ANC
	10:38:37	ANC
	11:11:02	ANC
	12:53:14	ANC
	14:22:43	ANC
	15:22:57	ANC
	16:21:10	ANC
	18:40:26	ANC

	19:13:25	ANC
	19:45:07	ANC
	20:10:46	ANC

Further, the radio station contravened regulation 6(13) of the Regulations in that on 25 and 26 October 2021, it flighted the ANC's PAs one after another.

Furthermore, the radio station contravened regulation 6(14) of the Regulations in that on 25, 26, 27, 28, and 29 October 2021, it broadcast the DA and ANC PAs without top disclaimers, as reflected in the table below:

Table 6: Licensing and Compliance Division vs YOU FM

Date	Time	Contravention	Political Party
25/10/2021	07:32:47	No top disclaimer	DA
	13:19:20	No top disclaimer	ANC
	13:38:05	No top Disclaimer	ANC
	14:40:13	No Top Disclaimer	ANC
	14:48:26	No Top Disclaimer	ANC
	15:17:36	No Top Disclaimer	ANC
	15:37:22	No Top Disclaimer	ANC
	15:56:19	No Top Disclaimer	ANC
	16:12:24	No Top Disclaimer	ANC
	16:23:00	No Top Disclaimer	ANC
	17:22:26	No Top Disclaimer	ANC
	17:43:47	No Top Disclaimer	ANC
	17:46:05	No Top Disclaimer	ANC
	18:00:33	No Top Disclaimer	DA
	18:11:55	No Top Disclaimer	ANC
	18:20:25	No Top Disclaimer	ANC
	18:20:50	No Top Disclaimer	ANC

	18:50:24	No Top Disclaimer	ANC
	19:09:46	No Top Disclaimer	ANC
	19:24:10	No Top Disclaimer	ANC
	20:24:11	No top Disclaimer	ANC
	20:48:57	No Top Disclaimer	ANC
	21:20:45	No Top Disclaimer	ANC
	21:54:27	No top Disclaimer	ANC
	22:12:09	No top Disclaimer	ANC
	22:22:43	No Top Disclaimer	ANC
	22:41:00	No Top Disclaimer	ANC
	22:52:02	No Top Disclaimer	ANC
Date			
26/10/2021	05:41:10	No Top Disclaimer	ANC
	07:11:54	No Top Disclaimer	ANC
	07:20:55	No Top Disclaimer	ANC
	07:30:27	No Top Disclaimer	ANC
	07:57:57	No Top Disclaimer	DA
	08:11:44	No top Disclaimer	ANC
	08:20:25	No Top Disclaimer	ANC
	08:55:26	No Top Disclaimer	ANC
	09:12:42	No Top Disclaimer	ANC
	10:10:17	No Top Disclaimer	ANC
	10:40:37	No Top Disclaimer	ANC
	11:20:46	No Top Disclaimer	ANC
	11:50:20	No Top Disclaimer	ANC
	12:01:03	No Top Disclaimer	DA

	12:10:40	No Top Disclaimer	ANC
	12:38:23	No Top Disclaimer	ANC
	13:49:55	No Top Disclaimer	ANC
	14:43:02	No Top Disclaimer	ANC
	15:23:09	No Top Disclaimer	ANC
	15:51:29	No Top Disclaimer	ANC
	16:11:40	No Top Disclaimer	ANC
	17:10:48	No Top disclaimer	ANC
	17:42:52	No Top Disclaimer	ANC
	17:48:33	No Top Disclaimer	ANC
	18:01:10	No Top Disclaimer	DA
	18:12:58	No Top Disclaimer	ANC
	18:13:20	No Top Disclaimer	ANC
	18:22:34	No Top Disclaimer	ANC
	18:43:04	No Top Disclaimer	ANC
	20:41:12	No Top Disclaimer	ANC
	20:52:10	No Top Disclaimer	ANC
	21:14:30	No Top Disclaimer	ANC
	22:11:50	No Top Disclaimer	ANC
	22:51:30	No Top Disclaimer	ANC
27/10/2021	05:21:26	No Top Disclaimer	ANC
	05:42:30	No Top Disclaimer	ANC
	05:52:20	No Top Disclaimer	ANC
	06:20:40	No Top Disclaimer	ANC
	06:49:43	No Top Disclaimer	ANC
	07:31:10	No Top Disclaimer	DA

	08:10:14	No Top Disclaimer	ANC
	08:40:27	No Top Disclaimer	ANC
	08:54:10	No Top Disclaimer	ANC
	09:12:26	No Top Disclaimer	ANC
	09:42:02	No Top Disclaimer	ANC
	10:15:23	No Top Disclaimer	ANC
	11:51:10	No Top Disclaimer	ANC
	12:01:03	No Top Disclaimer	DA
	12:23:19	No Top Disclaimer	ANC
	12:53:28	No Top Disclaimer	ANC
	13:21:21	No Top Disclaimer	ANC
	13:51:10	No Top Disclaimer	ANC
	14:09:52	No Top Disclaimer	ANC
	14:19:10	No Top Disclaimer	ANC
	15:10:55	No Top Disclaimer	ANC
	15:51:46	No Top Disclaimer	ANC
	16:41:43	No Top Disclaimer	ANC
	17:21:24	No Top Disclaimer	ANC
	17:30:43	No Top Disclaimer	ANC
	17:32:51	No Top Disclaimer	ANC
	18:11:29	No Top Disclaimer	ANC
	18:20:50	No Top Disclaimer	ANC
	18:40:58	No Top Disclaimer	ANC
	18:51:44	No Top Disclaimer	ANC
	20:42:47	No Top Disclaimer	ANC
	20:54:21	No Top Disclaimer	ANC

	21:13:40	No Top Disclaimer	ANC
	21:51:35	No Top Disclaimer	ANC
	22:23:56	No Top Disclaimer	ANC
28/10/2021	05:11:24	No top Disclaimer	ANC
	05:22:24	No top Disclaimer	ANC
	05:51:26	No top Disclaimer	ANC
	06:19:42	No top Disclaimer	ANC
	07:10:48	No top Disclaimer	ANC
	08:11:52	No top Disclaimer	ANC
	08:20:34	No top Disclaimer	ANC
	08:40:24	No top Disclaimer	ANC
	08:50:42	No top Disclaimer	ANC
	09:23:20	No top Disclaimer	ANC
	10:10:21	No top Disclaimer	ANC
	10:51:37	No top Disclaimer	ANC
	11:13:00	No top Disclaimer	ANC
	11:42:52	No top Disclaimer	ANC
	11:52:20	No Top Disclaimer	ANC
	12:01:11	No Top Disclaimer	DA
	12:19:57	No Top Disclaimer	ANC
	12:54:20	No Top Disclaimer	ANC
	13:22:55	No Top Disclaimer	ANC
	13:40:49	No Top Disclaimer	ANC
	14:12:40	No Top Disclaimer	ANC
	14:50:18	No Top Disclaimer	ANC
	15:10:43	No top Disclaimer	ANC

	15:27:19	No Top Disclaimer	ANC
	15:51:10	No Top Disclaimer	ANC
	17:49:32	No Top Disclaimer	ANC
	18:00:00	No Top Disclaimer	DA
	18:10:23	No Top Disclaimer	ANC
	18:22:03	No Top Disclaimer	ANC
	18:41:10	No Top Disclaimer	ANC
	18:50:52	No Top Disclaimer	ANC
	19:23:11	No Top Disclaimer	ANC
	20:52:51	No Top Disclaimer	ANC
	22:25:02	No Top Disclaimer	ANC
29/10/2021	05:11:15	No Top Disclaimer	ANC
	05::21:10	No Top Disclaimer	ANC
	07:38:20	No Top Disclaimer	DA
	07:54:50	No Top Disclaimer	ANC
	09:12:00	No Top Disclaimer	ANC
	10:26:53	No Top Disclaimer	ANC
	11:21:34	No Top Disclaimer	ANC
	12:10:37	No Top Disclaimer	ANC
	13:41:28	No Top Disclaimer	ANC
	14:20:56	No Top Disclaimer	ANC
	15:23:49	No Top Disclaimer	ANC
	16:39:52	No Top Disclaimer	ANC
	17:07:36	No Top Disclaimer	ANC
	18:04:20	No Top Disclaimer	DA
	18:23:32	No Top Disclaimer	ANC

	18:43:23	No Top Disclaimer	ANC
	19:51:10	No Top Disclaimer	ANC
	21:20:13	No Top Disclaimer	ANC
	21:52:03	No Top Disclaimer	ANC
	22:40:36	No Top Disclaimer	ANC

During the hearing held on 28 January 2022, YOU FM conceded to the allegations and stated that it received a significant number of PAs which necessitated high-frequency scheduling. In the process of ensuring that all PAs were flighted, the traffic manager allowed spill over. In terms of flighting PAs one after another, the technical team picked up the error and endeavoured to curb recurrence by rebooting the system. Sadly, however, there was a recurrence the following day. YOU FM further stated that its contravention of regulation 6 (14) was as a result of the top disclaimer being recorded separately while the bottom disclaimer was merged with the PAs. Consequently, during scheduling, only PAs with tail disclaimers were loaded.

In its judgement the CCC found that YOU FM was grossly negligent in that it contravened section 58(6) of the Electronic Communications Act No. 36 of 2005 in that YOU FM broadcast PAs later than 48 hours prior to the commencement of the polling period.

Further, that YOU FM contravened Regulation 6(13) of the Municipal Election Broadcast and Political Advertisement Amendment Regulations 2021 in that it transmitted a PA immediately before or after another PA.

Furthermore, that YOU FM contravened Regulation 6(14) of the Municipal Election Broadcast and Political Advertisement Amendment Regulations 2021 in that it failed to ensure that all PA broadcasts were clearly identified through a standard pre-recorded introductory and concluding message (top and tail) disclaimer.

The CCC made the following order:

- That the Licensee desists from further contraventions.

- That the Licensee pays a fine of R25000 of which R15000 is suspended until the next Municipal Elections. The amount of R10000 is to be paid to ICASA within 90 calendar days from the date of issue of this order.
- That the Licensee takes the following remedial steps:

YOU FM must broadcast a public apology during the first week after this order is issued. The apology is to be broadcast in Setswana and English once per day for five consecutive days as its first item on its news service between 7h00 and 20:10. On the first two days the broadcast must take place in the first newscast after 7h00. The times of the broadcast must be notified by email to the Licensing and Compliance Division of ICASA at the latest 48 hours before the broadcast. The broadcast may not be accompanied by any background music or sound and the item must be read formally by the Station Manager or his/her representative who must declare that he is the Station Manager or is acting on behalf of the Station Manager.

The apology must be phrased thus:

"The Independent Communications Authority of South Africa has found that YOU FM has been grossly negligent in its failure to abide by the Municipal Elections 2021 in the following manner:

- a. YOU FM broadcast Political Advertisements later than 48 hours prior to the This happened fifteen times.*
- b. YOU FM flighted Political Advertisements or a political party, one after the*
- 3. YOU FM flighted Political Advertisements without the top disclaimer, clearly, this conflicts with the Legislation and ICASA Election Regulations. YOU FM extends its apology to ICASA and to its listeners for having contravened the ICASA Act and the Regulations."*

An electronic copy of each broadcast stating the date and the time of each broadcast must be notified by email to the Licensing and Compliance Division of ICASA within 48 hours from the last broadcast in the first five days.

6.1.2.4. Complaint by ICASA regarding an alleged contravention of section 58(6) of the ECA by Radio Overberg

On 25 January 2022, ICASA referred an allegation of contravention to the CCC on the basis that the radio station contravened section 58(6) of the ECA in that on 30 October 2021 it broadcast PA for the Kaapse Onafhanklikheids Party.

During the hearing held on 10 February 2022, Radio Overberg conceded to the allegation and stated that the contravention was an oversight attributed to the recorded repeat of the programme Fabulous 50s on Saturday morning.

In its judgement, the CCC found that Radio Overberg was negligent in that it contravened section 58(6) of the Electronic Communications Act No. 36 of 2005 by broadcasting Political Advertisements later than 48 hours prior to the commencement of the polling period.

The CCC made the following order: -

That the Licensee desists from any further contravention

a) That the Licensee takes the following remedial step namely:

- i. broadcast a public apology during the first week after this order is issued. The apology is to be broadcast in Afrikaans once per day for five consecutive days as its first item on its news service between 07h00 and 20h10. On the first two days, the broadcast must take place in the first newscast after 07h00. The times of the broadcast must be notified by email to the Licensing and Compliance Division of ICASA at the latest 48 hours before the broadcast. The broadcast may not be accompanied by any background music or sounds, and the item must be read formally by the Station Manager or his representative who must declare that he is the Station Manager or acting on behalf of the Station Manager.

The apology must be phrased thus:

"The Independent Communications Authority of South Africa has found that Overberg Radio FM has been negligent in its failure to abide by the Municipal

Elections 2021. Overberg Radio FM flighted Political Advertisements later than 48 hours prior the commencement of the polling period. This is in conflict with the ICASA Election Regulations which require that no Political Advertisement shall be flighted later than 48 hours before the polling period commences. Overberg Radio FM further extends its apology to ICASA and its listeners for having contravened the Regulations.”

An electronic copy of each broadcast stating the date and the time of each broadcast must be notified by email to the Licensing and Compliance Division of ICASA within 48 hours from the last broadcast in the first five days.

That the Licensee pays a fine of ten thousand Rands (R10000) in respect of the contravention. The amount is wholly suspended until the next Municipal Elections.

6.1.2.1. Municipal Elections. Complaint by ICASA regarding an alleged contravention of section 58 (6) of the ECA and Regulation 6(14) of the Regulations by IFM

On 22 March 2022, the ICASA referred an allegation of contravention to the CCC against IFM, on the basis that on 1 November 2021 at 19:00:22, the radio station transmitted the PA for an Independent Candidate thus contravening section 58(6) of the ECA.

Additionally, on 25 October at 19:00:37 and 1 November 2021 at 19:00:22, the radio station broadcast PAs for an Independent Candidate in contravention of regulation 6(14).

During the hearing held on 25 April 2022 IFM initially denied the allegations against it and sought to shift the blame onto its sister station, Radio Islam.

In its judgment the CCC found that IFM contravened Section 58(6) in that the Licensee failed to ensure that no PAs were broadcast 48 hours prior to the commencement of the polling period.

Further that IFM contravened regulation 6(14) of the Regulations in that the Licensee failed to ensure that all the PAs broadcast by it had both the top and tail disclaimers.

The CCC made the following order:

- a) That the Licensee desists from further contravention.
- b) That the Licensee takes the following remedial step:
 - i. To broadcast a public apology during the first week after this order is issued.
 - ii. The apology is to be broadcast once a day for five consecutive days as its first item on its news service between 07h00 and 20h10 in English, Afrikaans, IsiXhosa, Arabic, and Urdu in the same news bulletin. On the first two days, the broadcast must take place in the first newscast after 07h00. The times of the broadcast must be notified by email to the Licensing and Compliance Division of ICASA at the latest forty-eight (48) hours before the broadcast. 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 representative who must declare that she is the Station Manager or is acting on behalf of the station manager. The apology must be phrased thus: *"The Independent Communications Authority of South Africa has found that IFM was grossly negligent in having failed to abide by the Electronic Communications Act and the Municipal Elections Regulations 2021 in that IFM broadcast a Political Advertisement less than 48 hours prior to the commencement of the polling period. This is in conflict with the Electronic Communications Act which prohibits the broadcast of Political Advertisements less than forty-eight (48) hours prior to the commencement of the polling period. In addition, IFM broadcast Political Advertisement without adding a statement which clearly identifies the Political Advertisements as such. This conflicts with the Municipal Elections Regulations 2021 which require such statements to be made before and after each and every Political Advertisement. IFM apologises to its listeners for having committed these contraventions."*
 - iii. An electronic copy of each broadcast stating the date and the time of the broadcast must be sent to the Licensing and Compliance Division of

ICASA by email within forty-eight (48) hours from the last broadcast in the said five (5) days.

- c) That the Licensee pays as a fine a total amount of ten thousand rands (R10000), the breakdown of which is as follows:
- Ten thousand rands (R10 000) for contravention of Section 58(6), half of which is suspended until the next Municipal Elections, subject to the condition that the licensee is not found guilty of any contravention of its licence conditions or election regulations during the next election period.
 - Ten thousand rands (R10 000) for contravention of Regulation 6(14), half of which is suspended until the next Municipal Elections subject to the condition that the licensee is not found guilty of any contravention of its licence conditions or election regulations during the next election period.
 - The amount of R10 000 (ten thousand rands) is to be paid into the account of ICASA within 90 calendar days from the date of issue of this order.

6.1.2.2. *Complaint by ICASA regarding an alleged contravention of Regulation 6(13) of the Regulations by Bok Radio*

On 22 March 2022, the Authority referred an allegation of contravention to the CCC against Bok Radio on the basis that on 1 October 2021, the radio station broadcast the PAs for the DA and the Freedom Front Plus (FF+)’s as follows:

Table 7: Licensing and Compliance Division vs Bok Radio

Date	Time	contravention	Political Party
01/10/2021	14:55:14	immediately before another	DA
01/10/2021	14:55:59	Immediately after another	Freedom Front Plus (FF+)

During the hearing held on 22 April 2022, Bok Radio admitted to the charge and explained that the contravention was a result of a genuine scheduling mistake by the scheduler. This response was reflected in some internal correspondence between

Karliën, the scheduler, at the time, and Wynand van Heerden, the station manager. Respondent's case was that the contravention was an unfortunate outcome of a mistake made by the scheduler. The Respondent regretted the error and took steps to prevent a recurrence of the mistake.

In its judgement the CCC found that Bok Radio failed to comply with Regulation 6(13) in that on 01 October 2021, it flighted two PAs one after the other.

The CCC made the following order:

- a) That the Licensee desists from further contravention.
- b) That the Licensee takes remedial steps by making a public apology during the first week after this order is issued.

The apology is to be broadcast once per day for five consecutive days as its first item on its news service between 07h00 and 20h10 in Afrikaans and in English in the same News Bulletin. On the first two days, the broadcast must take place in the first newscast after 07h00. The times of the broadcast must be notified by email to the Licensing and Compliance Division of ICASA at the latest forty-eight (48) hours before the broadcast. The broadcast may not be accompanied by any background music or sounds, and the item must be read formally by the Station Manager or his or her representative, who must declare that he/she is the Station Manager or acting on behalf of the station manager.

The apology must be phrased thus:

"The Independent Communications Authority of South Africa has found that Bok FM was negligent in having failed to abide by the Municipal Elections Regulations 2021 in that Bok FM broadcast Political Advertisements (PAs) for the Democratic Alliance (DA) and the Freedom Front Plus (FF+) one after another. This is in conflict with the Municipal Elections Regulations 2021 which requires that: A BSL must not transmit a PA immediately before or after another PA. 7

Bok FM apologises to its listeners for having committed these contraventions."

An electronic copy of each broadcast stating the date and the time of the broadcast, must be sent to the Licensing and Compliance Division at ICASA by email within forty-eight (48) hours from the last broadcast in the said five (5) days.

- c) That the licensee pays as a fine an amount of five thousand rands (R5000) for contravention of regulation 6(13), wholly suspended until the next election, subject to the condition that the licensee is not found guilty of any contravention of its licence conditions or election regulations during the next election period.

6.1.2.3. Complaint by ICASA regarding an alleged contravention of Regulation 6(14) of the Regulations by Vukani Community Radio

On 22 March 2022, the Authority referred an allegation of contravention to the CCC against Vukani Community Radio, on the basis that on 13, 14, 15, 18, and 20 October 2021, the radio station broadcast the PAs for an IC without tail disclaimers as follows:

Table 8: Licensing and Compliance Division vs Vukani Community Radio

Date	Time	Contravention	Independent Candidate
13/10/2021	16h51	No tail disclaimer	Nsikelelo Malmani
14/10/2021	15h57 & 20h32	No tail disclaimers	Nsikelelo Malmani
15/10/2021	15h53	No tail disclaimer	Nsikelelo Malmani
18/10/2021	06h56	No tail disclaimer	Nsikelelo Malmani
20 /10/2021	18h59	No tail disclaimer	Nsikelelo Malmani

During the hearing held on 20 April 2022, Vukani Community Radio admitted the charge unequivocally.

In its judgement the CCC found that Vukani Community Radio contravened Regulation 6(14) in that it broadcast PAs without tail disclaimers, on six occasions to the Licensing and Compliance Division.

The CCC made the following order:

- a) That the Licensee is directed to desist from further contraventions.
- b) That the Licensee is directed to take the following remedial steps:
 - (i) The Licensee is to broadcast an apology during the first week after this order is issued.
 - (ii) The apology is to be broadcast once a day for five consecutive days as its first item on its news service between 07h00 and 20:10 in IsiXhosa, English, and Afrikaans, in the same news Bulletin. On the first two (2) days the broadcast must take place in the first newscast after 07h00. The times of the broadcast must be notified by email to the Licensing and Compliance Division of ICASA at the latest forty-eight (48) hours before the broadcast. The broadcast may not be accompanied by any background music or sounds and the item must be read formally by the Station Manager or his or her representative, who must declare that he/she is the Station Manager or acting on behalf of the Station Manager.

The apology must be phrased thus:

"The Independent Communications Authority of South Africa has found that Vukani FM was negligent in having failed to abide by the Municipal Elections Regulations 2021 in that Vukani FM broadcast PAs without tail disclaimers [a statement which clearly identified Political Advertisements as such] on six separate occasions Licensing and Compliance Division.

This is in conflict with the Municipal Elections Regulations 2021 which require top and tail disclaimers to be made before and after Political Advertisements so as to identify them as such.

Vukani FM apologises to its listeners for having committed these contraventions."

An electronic copy of each broadcast stating the date and the time of the broadcast must be sent to the Licensing and Compliance Division at ICASA by email within forty-eight (48) hours from the last broadcast in the said five (5) days.

- c) That the Licensee pays as a fine a total amount of thirty thousand rands (R30000), the breakdown of which is as follows:
- i. Five thousand rands (R5000) for the first transgression which is wholly suspended until the next Municipal Elections;
 - ii. Five thousand rands (R5000) for the second transgression half of which is suspended until the next Municipal Elections;
 - iii. Five thousand rands (R5000) for the third transgression half of which is suspended until the next Municipal Elections;
 - iv. Five thousand rands (R5000) for the fourth transgression half of which is suspended until the next Municipal Elections;
 - v. Five thousand rands (R5000) for the fifth transgression half of which is suspended until the next Municipal Elections; and
 - vi. Five thousand rands (R5000) for the sixth transgression half of which is suspended until the next Municipal Elections.
- d) In summary, the Licensee pays a total amount of twelve thousand, five hundred rands (R12 500) in respect of the second to the sixth transgressions. The amount of twelve thousand, five hundred rands (R12 500) is to be paid into the account of ICASA within 90 calendar days from the date of issue of this order.
- e) The remaining twelve thousand, five hundred rands (R12 500) in respect of the second to the sixth transgression as well as the five thousand rands (R5000) in respect of the first transgression is suspended until the next Municipal Elections, subject to the condition that the licensee is not found guilty of any contravention of its licence conditions or election regulations during the next election period.

COMPLAINTS BY ICASA AGAINST THE SABC RADIO STATIONS

6.1.2.4. Complaint by ICASA regarding an alleged contravention of Regulation 6(14) of the Regulations by SABC: Phalaphala FM

On 13 January 2022, ICASA referred an allegation of contravention to the CCC on the basis that Phalaphala FM contravened Regulation 6(14) of the Regulations in that on

19 October 2021, at 08h52 the radio station broadcast the Economic Freedom Front (EFF) PA without a tail disclaimer.

During the hearing held on 31 January 2022, the Licensee conceded to the allegations and stated that it faced challenges including the fact that the Licensee was left with skeletal staff with relevant skills on election broadcasts as a result of section 189 process. Although the training was provided for staff the challenges that came with the project were enormous and compounded also by the uncertainty regarding the date of the elections.

6.1.2.5. Complaint by ICASA regarding an alleged contravention of Regulation 6(14) of the Regulations by SABC: Metro FM

On 13 January 2022, ICASA referred an allegation of contravention to the CCC against Metro FM on the basis that the radio station contravened regulation 6(14) as outlined in the table below:

Table 9: Licensing and Compliance Division vs SABC

Date	Time of broadcast	Contravention	Political Party
19/10/2021	08h52	Broadcast of PA without tail disclaimer	DA
20/10/ 2021	08h52	Broadcast of PA without tail disclaimer	DA
20/10/2021	16:12	Broadcast of PEB without tail disclaimer	EFF

During the hearing held on 31 January 2022, the Licensee conceded to the allegations and stated that it faced challenges including the fact that the Licensee was left with skeletal staff with relevant skills on election broadcasts as a result of section 189 process. Although training was provided for staff, the challenges that came with the project were enormous and compounded also by the uncertainty regarding the date of the elections.

In its judgement the CCC found that SABC was negligent when it breached regulation 6(14) of the Municipality Elections Party Election Broadcasts and Political Advertisements Amendment Regulations 2021, through Phalaphala FM and through Metro FM in October 2021, in that it failed to ensure that all the PA broadcasts are clearly identified through a standard pre-recorded introductory and concluding message (top and tail) disclaimer.

The CCC made the following orders:

- a) That the Licensee to desist from any further contravention of the said regulation.
- b) That the Licensee takes the following remedial actions:
 - (i) within 90 Calendar days from the date of the issue of this order, SABC is to submit to Council of ICASA a report setting out, among others, a brief technology readiness report, articulating the technology operations plans, system preventative maintenance and how they were implemented before the election period.
 - (ii) that the two radio stations upgrade their hardware and software.

This must be followed by a dry run on the system's operation well before the commencement of the election period to ensure that it is failproof.

That each station, that is, Phalaphala FM and Metro FM, broadcasts a public apology during the first week after this order is issued.

In respect of Phalaphala FM, the apology is to be broadcast once per day for five consecutive days as its first item on its news service between 07h00 and 20:10 - in Venda and then in English in the same News Bulletin. On the first two days the broadcast must take place in the first newscast after 07h00. The times of the broadcast must be notified by email to the Licensing and Compliance Division of ICASA at the latest forty-eight (48) hours before the broadcast. The broadcast may not be accompanied by any background music or sounds, and the item must be read formally by the Station Manager or his or her representative, who must declare on air that he or she is the station manager or acting on behalf of the Station Manager.

In respect of Metro FM the apology is to be broadcast in English once per day for five consecutive days as its first item on its news service between 07h00 and 20:10. On the first two days the broadcast must take place in the first newscast after 07h00. The times of the broadcast must be notified by email to the Licensing and Compliance Division of ICASA at the latest forty-eight (48) hours before the broadcast. The broadcast may not be accompanied by any background music or sounds and the item must be read formally by the Station Manager or his/her representative, who must declare that he/she is the Station Manager or acting on behalf of the Station Manager.

The apology must be phrased thus:

"The Independent Communications Authority of South Africa has found that this station was negligent in not having abided by the Municipal Elections Regulations 2021. This station broadcast Political Advertisements without adding a statement which clearly identifies Political Advertisements as such. This is in conflict with the ICASA Election Regulations which require such statements to be made before and after the advertisement. This station further extends its apology to ICASA and to its listeners for having committed these contraventions".

An electronic copy of each broadcast stating the date and the time of the broadcast, must be sent to the Licensing and Compliance Division at ICASA by email within forty-eight (48) hours from the last broadcast in the said five (5) days.

A fine of fifty thousand rands (R50 000) of which thirty thousand rands (R30 000) is suspended until after the next Municipal Elections must be paid to ICASA within ninety (90) calendar days from when this judgment is issued. The CEO of ICASA or his nominee must be copied with proof of payment within twenty-four (24) hours from when the payment was made.

7. CONCLUSION

The ECA and the 2021 Amendment 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)⁹ 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 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 the monitoring of the 2021 Municipal Elections being challenged by the Covid-19 Pandemic, the inclusion of the ICs, and an increased number of political parties participating in the elections; the Authority fulfilled its mandate in monitoring the coverage of the Municipal Elections. Further, the Authority's findings on monitoring of broadcasters revealed that Licensees – when viewed collectively and despite a couple of noted contraventions (which were dealt with) - covered the elections fairly and in a manner largely compliant with the applicable rules.

⁹ Dobson, A. 2014. *Listening for Democracy: Recognition, Representation and Reconciliation*. Oxford: Oxford University Press.