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### GENERAL NOTICE

#### **Independent Communications Authority of South Africa**

*General Notice*

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## GENERAL NOTICE

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### NOTICE 870 OF 2008



Independent Communications Authority of South Africa  
Pinmill Farm, 164 Katherine Street, Sandton  
Private Bag X10002, Sandton, 2146

#### **NOTICE IN TERMS OF SECTION 4(4) OF THE ELECTRONIC COMMUNICATIONS ACT READ WITH SECTION 4(1) THE ELECTRONIC COMMUNICATIONS ACT, 2005 (ACT NO. 36 OF 2005)**

- (1) The Independent Communications Authority of South Africa ("ICASA") hereby gives notice in terms of section 4(4) of the Electronic Communications Act No. 36 of 2005 ("the Act") of its intention to prescribe regulations in respect of party election broadcasts, political advertisements, the equitable treatment of political parties by broadcasting licensees and related matters in terms of section 4(1) of the Act and further read with section 4(3) (j) of the Independent Communications Authority of South Africa Act No. 13 of 2000 as amended ("the ICASA Act").
- (2) A copy of the proposed regulation is available on the Authority's website at <http://www.icasa.org.za> and in the ICASA Library at the 164 Katherine Street, Pin Mill Farm, Floor, Block D, between 10h00 and 16h30, Monday to Friday.
- (3) Interested persons are invited to submit written comments or written representations with regard to the proposed regulations, to be received **by no later 16h00 on 27 August 2008** by post, hand delivery, facsimile transmission, or electronically (in Microsoft Word) for the attention of :

Ms Judicia Monyela  
Independent Communications Authority of South Africa  
Private Bag X10002  
Sandton

2146

Delivery address: Block D, Pinmill Farm, 164 Katherine Street, Sandton

Where possible, written representations should also be e-mailed to: [jmonyela@icasa.org.za](mailto:jmonyela@icasa.org.za) or [lmofokeng@icasa.org.za](mailto:lmofokeng@icasa.org.za)

Enquiries can be directed to the: **Project Leader- Ms Judicia Monyela**

(W) 011 566 3251

(C) 071 688 9562

(F) 011 566 3252

- (4) Persons making written representations are requested to indicate if they wish to make oral submissions in the event that ICASA decides to conduct oral hearings in terms of Section 4(6) of the Act.
- (5) All written representations submitted to ICASA pursuant to this notice will be made available for inspection by interested persons at the ICASA library and copies of such representations will be obtainable on the payment of the prescribe fee.
- (6) At the request of any person who submits written representations pursuant to this notice, ICASA may determine that such representations or any portion thereof is confidential in terms of section 4D of the ICASA Act. If the request for confidential is refused, the person making the request will be allowed to withdraw such representations or portion thereof.
- (7) With respect to written representations or portions thereof determined to be confidential in terms of paragraph 5 above, ICASA may direct that the public or any member or category thereof, shall not be present while any oral submissions relating to such representations or portions therefore are being made; provided that interested parties shall have been notified of this intention and allowed to object thereto. The Authority will consider the objections and notify all interested parties of its decision.
- (8) The final regulations will be published in the Government Gazette.

**PARIS MASHILE**  
**CHAIRPERSON**

**DRAFT REGULATIONS ON PARTY ELECTION BROADCASTS, POLITICAL ADVERTISEMENTS, THE EQUITABLE TREATMENT OF POLITICAL PARTIES BY BROADCASTING LICENSEES AND RELATED MATTERS**

The Independent Communications Authority of South Africa ("the Authority"), in terms of section 4(1) of the Electronic Communications Act, 2005 (Act No.36 of 2005) read with section 4(3)(j) of the Independent Communications Authority of South Africa Act, 2000 (Act No.13 of 2000) as amended, hereby promulgates the regulations set out in the Schedule herein.

**Schedule**

**1. Definitions**

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

**1.1 "the Act"** means the Electronic Communications Act 2005, "the Act" (Act No.36 of 2005) as amended; .

**1.2 "Authority"** means the Independent Communications Authority established by Section 3 of the Independent Communications Authority of South Africa Act, No.13 of 2000;

**1.3 "Broadcasting service licensee"** means a person to whom a broadcasting service licence has been granted in terms of the Act ;

**1.4 "Broadcasting Act"** means the Broadcasting Act, No. 4 of 1999 as amended;

**1.5 "CCC"** means the Complaints and Compliance Committee established by the Authority in terms of section 17A of the ICASA Act

**1.6 "Commission"** means the Independent Electoral Commission established by section 3 of the Electoral Commission Act;

1.7 “**Constitution**” means the Constitution of the Republic of South Africa 1996;

1.8 “**current affairs programme**” means a program that is not a news bulletin but which focuses on and includes comment on and interpretation and analysis of issues of immediate social, political or economic relevance and matters of international, national, regional and local significance;

1.9 “**election broadcast period**” means the period within which party election broadcasts may be transmitted; such period may not begin prior to the closing of the submission of the lists of candidates, as referred to in section 27 of the Electoral Act, and may not extend to more than 48 hours before polling commences;

1.10 “**election period**” means the period as defined in Section 1 of the Act;

1.11 “**Electoral Act**” means the Electoral Act, No. 73 of 1998;

1.12 “**Electoral Code**” means the Electoral Code of Conduct set out in Schedule 2 of the Electoral Act;

1.13 “**Electoral Commission Act**” means the Electoral Commission Act, No 51 of 1996;

1.14 “**ICASA Act**” means the Independent Communications Authority of South Africa Act 2000 “the ICASA Act” (Act No. 13 of 2000) as amended;

1.15 “**News**” means programming that is not current affairs by a broadcaster in which it reports on news events of immediate social, political or economic relevance and on matters of international, national and local significance

1.16 “**party**” means a political party registered in terms of section 15 of the Electoral Commission Act, or any alliance of such registered political parties, that has nominated candidates and submitted a list or lists of those candidates in accordance with section 27 of the Electoral Act, and includes any organisation that,

group of people which, or person who, acts in support of such a registered political party;

**1.17 “party election broadcaster”** means a broadcasting service licensee who broadcasts the party election broadcasts;

**1.18 “polling day”** means the day proclaimed by the President in terms of section 49(2) of the Constitution, as read with section 17 of the Electoral Act, as being the day on which voting for the National Assembly will take place;

**1.19 “political advertisement”** means a political advertisement as defined in the Act;

**1.20 “prime time”** means the periods set out in Annexure “A” (only in terms of radio);

**1.21 “SABC”** means the South African Broadcasting Corporation, a statutory body incorporated in terms of the Broadcasting Act 4 of 1999, as amended.

## **2. Purpose of these regulations**

To determine and prescribe the framework and guidelines under which party political broadcasts will be conducted and carried by the various broadcasting services, during the national and provincial elections to be held in 2009.

## **3. Application of these regulations**

These regulations are applicable during the election period and further apply to any broadcasting service licensed in terms of the Act as well to any political party contesting the national and provincial elections.

**4. General provisions in respect of political advertisements and party election broadcasts**

**4.1** Any party that wishes to have a political advertisement or a party election broadcast transmitted by a broadcasting service licensee must submit that political advertisement or party election broadcast to the broadcasting service licensee concerned, pre-recorded and:

**4.1.1** in a form and manner that complies with that broadcasting service licensee's technical standards acceptable to that broadcaster;

**4.1.2** in completed form, ready for broadcast; and

**4.1.3** at least 96 hours before the time when that political advertisement or party election broadcast is to be transmitted.

**4.2** Every broadcasting service licensee, other than the SABC, must indicate to the Authority whether or not it will transmit party election broadcasts by not later than 90 days before the election date.

**4.3** Every broadcasting service licensee that is required, or intends, to transmit political advertisements or party election broadcasts must, by no later 90 days before the election date notify the Authority in writing of its technical standards as contemplated in these regulations.

**4.4** If the Authority is of the view that a broadcasting service licensee's technical standards are unreasonable, the Authority must notify the broadcasting service licensee accordingly in writing and must direct that broadcasting service licensee to amend its technical standards.

**4.5** Every political advertisement or party election broadcast submitted by a party to a broadcasting service licensee for transmission must be prepared by, or at the instance and request of, that party.



**4.6** No broadcasting service licensee to whom a political advertisement or party election broadcast has been submitted by a party must in any way edit or alter that political advertisement or party election broadcast, whether before or after transmission.

**4.7** Every broadcasting service licensee to whom a political advertisement or party election broadcast has been submitted by a party for transmission may reject or refuse to transmit that political advertisement or party election broadcast if it does not comply with the broadcasting service licensee's reasonable technical standards, with the Constitution, these Regulations, the Act, the Broadcasting Act or with the Electoral Code.

**4.8** Any broadcasting service licensee who rejects any political advertisement or party election broadcast submitted to it by a party for transmission must, within 24 hours of such submission:

**4.8.1** furnish the party that submitted the political advertisement or party election broadcast concerned to that broadcasting service licensee with written reasons for such rejection, and that party may alter or edit the political advertisement or party election broadcast and again submit it to the broadcasting service licensee concerned at least 24 hours before the time when it is to be transmitted;

**4.8.2** where the broadcasting service licensee has rejected an altered or edited political advertisement or party election broadcast in terms of these regulations, notify the Authority of such rejection by furnishing the Authority with a copy of the written reasons given for that rejection;

**4.8.3** any party whose party election broadcast has been rejected by a broadcasting service licensee under this regulation may refer the matter to the Authority in terms of these regulations.

**4.9** A party that submits a political advertisement or party election broadcast to a broadcasting service licensee for transmission must ensure that the political advertisement or party election broadcast does not:

**4.9.1** contravene the provisions of item 9 of the Electoral Code, the Constitution, the Act and the Broadcasting Act; or

**4.9.2** 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.

**4.10** No party that submits a political advertisement or a party election broadcast to a broadcasting service licensee for transmission, or any member or official of any such party, has any claim against that broadcasting service licensee arising from the transmission of any political advertisement or party election broadcast.

**4.11** Every party that submits a political advertisement or a party election broadcast to a broadcasting service licensee for transmission will be deemed to have indemnified that broadcasting service licensee against any cost, damage or loss any broadcasting service licensee may incur as a result of any claim which a third party may bring against it arising from the transmission of that political advertisement or party election broadcast.

**4.12** No party, or any member or official of any party, has any claim against a broadcasting service licensee arising from the transmission by that broadcasting service licensee of any political advertisement or party election broadcast.

**4.13** No political advertisements or party election broadcasts may be transmitted after the end of the election broadcast period.

**5. Specific provisions in respect of party election broadcasts**

**5.1** Party election broadcasts may only be transmitted during the election broadcast period.

**5.2** Every broadcasting service licensee who transmits party election broadcasts must:

**5.2.1** make available, on every day throughout the election broadcast period four time-slots of two minutes each for the transmission of election broadcasts, provided that the Authority may prescribe by regulation an increased number of daily time-slots for the transmission of election broadcasts;

**5.2.2** do so in accordance with the sequence and timing prescribed by the Authority in terms of these regulations;

**5.2.3** ensure that all party election broadcasts transmitted by it are clearly identified as party election broadcasts;

**5.2.4** ensure that all party election broadcasts transmitted by it are identified or announced in a similar manner both at their introduction and at their conclusion.

**5.3** No single party election broadcast transmitted by a broadcasting service licensee must exceed two minutes in duration.

**5.4** No broadcasting service licensee may transmit a party election broadcast immediately before or after another party election broadcast or immediately before or after a political advertisement.

**5.5** No party may be obliged to use the air-time allocated to it in terms of these regulations for the transmission of party election broadcasts, provided that:

**5.5.1** any air-time allocated to but not used by a party will be forfeited;

**5.5.2** if any party does not wish to use any air-time allocated to it, such air-time must not be allocated to another party but will be used by the broadcaster concerned for the purpose of transmitting conventional programming or material;

**5.5.3** if any party does not wish to use any air-time allocated to it, the broadcasting service licensee concerned must not, during the relevant time-slot, in any way vary the sequence or scheduling of party election broadcast transmissions determined in accordance with these Regulations.

**5.6** No broadcasting service licensee or any party must permit or engage in any interference with, or trading in, the sequence or scheduling of party election broadcast transmissions determined in accordance with these Regulations.

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

**6.1** Air-time in respect of party election broadcasts will be allocated by the Authority to the various parties contesting the national and provincial elections on the basis of the respective formulae set out in Annexure B.

**6.2** The Authority as soon as may be reasonably practicable, after the date referred to in section 27(1) of the Electoral Act, publish a notice setting out the air-time allocation in respect of party election broadcasts.

**6.3** Where the submissions of lists of candidates has been closed under section 27 of the Electoral Act the Authority will;

**6.3.1** determine the sequence in which party election broadcasts are to be transmitted for the entire election broadcast period;

**6.3.2** notify the broadcasting service licensees concerned in writing of such sequence.

6.4 The determination which is to be made by the Authority in terms of these regulations will be made:

6.4.1 by the drawing of lots;

6.4.2 in the presence of an official of the Commission designated by the Commission for that purpose.

6.5 The Authority may notify the representatives referred to in terms of these regulations of the time and place the determination referred to in these regulations will be made, and such representatives will be entitled to be present when such determination is made.

## 7. Mediation

7.1 In the event of a broadcasting service licensee rejecting or refusing to transmit any political advertisement or party election broadcast submitted to it by a party for transmission, the party may lodge a complaint with the CCC within 24 hours after such rejection and refusal.

7.2 In the event of any person being aggrieved by any act performed by any person in terms of these Regulations that person may lodge a complaint with the CCC within 48 hours after such act has come to his or her notice.

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

## 8. General

8.1 Every broadcasting service licensee and every party must:

- 8.1.1** nominate a person who must be the representative of that broadcasting service licensee or party in respect of all matters regulated by, or arising from, these Regulations;
- 8.1.2** within 30 days of the publication of these regulations notify the Authority in writing of the name, physical and postal address, telephone number and, where available, cellular phone number and e-mail address of that person.
- 8.2** Every broadcasting service licensee must take reasonable steps to ensure compliance by that broadcasting service licensee with these Regulations to the extent that they may be applicable to that broadcasting service licensee.
- 8.3** Every broadcasting service licensee who transmits news or current affairs programmes in respect of the elections must do so in an impartial and objective manner and in a manner which treats all parties fairly. In complying with this obligation, broadcasting service licensees must have regard to the guidelines set out in Annexure C.

## **9 Short title and Commencement**

These regulations will be known as Party Elections Broadcasts and Political Advertisements Regulations, 2009 and will come into force upon publication in the Government Gazette.

## **ANNEXURES**

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

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

Annexure C: Guidelines for broadcasting service licensee

## **ANNEXURE A**

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**LIST OF REGIONAL AND NATIONAL STATIONS AS WELL AS THEIR PRIME LISTENERSHIP TIMES****1. REGIONAL BREAKDOWN OF SABC SOUND BROADCASTING SERVICES****1.1 GAUTENG**

- 1.1.1 RSG
- 1.1.2 SA FM
- 1.1.3 Ukhozi FM
- 1.1.4 Ikwewezi FM
- 1.1.5 Umhlobo Wenene FM
- 1.1.6 Ligwalagwala FM
- 1.1.7 Thobela FM
- 1.1.8 Motsweding FM
- 1.1.9 Phalaphala FM
- 1.1.10 Lesedi FM
- 1.1.11 Metro FM
- 1.1.12 5 FM
- 1.1.13 Lotus FM
- 1.1.14 Munghana Lonene FM

**1.2 LIMPOPO**

- 1.2.1 RSG
- 1.2.2 SA FM
- 1.2.3 5 FM
- 1.2.4 Ikwewezi FM
- 1.2.5 Metro FM
- 1.2.6 Thobela FM
- 1.2.7 Radio 2000
- 1.2.8 Motsweding FM
- 1.2.9 Munghana Lonene FM

1.2.10 Phalaphala FM

1.2.11 Ligwalagwala FM

### **1.3 EASTERN CAPE**

1.3.1 RSG

1.3.2 SA FM

1.3.3 Radio 2000

1.3.4 Umhlobo Wenene FM

1.3.5 5 FM

1.3.6 Lesedi FM

1.3.7 Metro FM

1.3.8 CKI FM

1.3.9 Ukhozi FM

### **1.4 NORTHERN CAPE**

1.4.1 RSG

1.4.2 SA FM

1.4.3 Radio 2000

1.4.4 Umhlobo Wenene FM

1.4.5 Motsweding FM

1.4.6 5 FM

1.4.7 XK-FM

### **1.5 KWAZULU-NATAL**

1.5.1 RSG

1.5.2 SA FM

1.5.3 Radio 2000

1.5.4 Umhlobo Wenene FM

1.5.5 5 FM

1.5.6 Lesedi FM

1.5.7 Metro FM



1.5.8 Lotus FM

1.5.9 Ukhozi FM

## **1.6 NORTH WEST**

1.6.1 RSG

1.6.2 SA FM

1.6.3 Radio 2000

1.6.4 Umhlobo Wenene FM

1.6.5 Motsweding FM

1.6.6 Lesedi FM

## **1.7 MPUMALANGA**

1.7.1 RSG

1.7.2 SA FM

1.7.3 Radio 2000

1.7.4 Ukhozi FM

1.7.5 Ikwekwezi FM

1.7.6 Ligwalagwala FM

1.7.7 5 FM

1.7.8 Metro FM

1.7.9 Thobela FM

1.7.10 Lesedi FM

1.7.11 Munghana Lonene FM

## **1.8 WESTERN CAPE**

1.8.1 Good Hope FM

1.8.2 RSG

1.8.3 SA FM

1.8.4 Radio 2000

1.8.5 Umhlobo Wenene FM

1.8.6 5 FM

1.8.7 Metro FM

1.8.8 Lotus FM

**1.9 FREE STATE**

1.9.1 RSG

1.9.2 SA FM

1.9.3 Lesedi FM

1.9.4 5 FM

1.9.5 Metro FM

1.9.6 Radio 2000

1.9.7 Ukhozi FM

1.9.8 Umhlobo Wenene FM

1.9.9 Motsweding FM

**2. SABC SOUND BROADCASTING SERVICES' PRIME LISTENERSHIP TIMES**

Election broadcasts will be divided into the following day parts:

6h00 to 9h00

9h00 to 12h00

12h00 to 15h00

15h00 to 18h00

**3. SABC TELEVISION BROADCASTING SERVICES' PRIME VIEWERSHIP TIMES**

Election broadcasts will be divided into the following day parts:

18h00 to 19h00

19h00 to 20h00

20h00 to 21h00

21h00 to 22h00

**4. NATIONAL SOUND BROADCASTING SERVICES**

Due to their availability in all nine provinces the following SABC sound broadcasting services are regarded as national broadcasters:

- RSG
- SA FM
- 5 FM
- Radio 2000

#### **5. SABC TELEVISION STATIONS**

- SABC 1
- SABC 2
- SABC 3

#### **6. OTHER BROADCASTERS**

Community and commercial broadcasting service licensees can elect whether to broadcast political adverts and party election broadcasts. A list of these stations will be made available to all contesting parties.

### **ANNEXURE B**

## NATIONAL AND REGIONAL STATIONS FORMULAE TO CALCULATE THE ALLOCATION OF PARTY ELECTION BROADCASTS

### INTRODUCTION

The Independent Communications Authority of South Africa (“the Authority”) has exclusive responsibility for allocating to contesting political parties party election broadcasts on public broadcast radio stations and on any other stations choosing to broadcast party election broadcasts.

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

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

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

To achieve this, the Authority has adapted the formula used to allocate Party Election Broadcasts in the 2004 elections to take into account the political parties’ record of parliamentary representation.

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

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

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

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

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

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

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

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

The maximum number of points will be secured by a party contesting all national assembly seats, both national and provincial lists, and all seats in all nine provinces and with a strong 2004 performance.

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

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

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

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

### **Formula**

<b>Basic Allocation</b>	
All parties contesting seats in the National Assembly.	<b>20 points</b>
<b>Number of Seats Currently Held</b>	

Based on current seats in the National Assembly pro rata.	<b>35 points</b>
<b>National Allocation List</b> Based on the number of candidates fielded by a party on the national assembly list, with 200 securing 15 points and those fielding fewer candidates securing points on a pro rata basis. <b>15 points</b>	
<b>National Assembly Regional List Allocation</b> Based on the number of candidates fielded by a party on the national assembly's regional list, with 200 securing 15 points and those fielding fewer candidates securing points on a pro rata basis. <b>15 points</b>	
<b>Provincial List Allocation</b> Based on the number of provincial legislature candidates fielded by each party throughout the country, with a party fielding the maximum securing 15 points and parties fielding fewer candidates securing points on a pro rata basis. <b>15 points</b>	

## ANNEXURE C

### GUIDELINES

## 1. INTRODUCTION

These guidelines are intended to outline a general approach that should be adopted by broadcasting service licensees in their coverage of the 2009 general elections. General elections are an important public event and they clearly fall within the area of news and current affairs. Broadcasting service licensees are encouraged, in the public interest, to provide a full, impartial, and independent coverage of the elections.

The Authority does not intervene in the news and programming operations of the broadcasters. Broadcasting service licensee'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 without abdicating news value judgements.

## 2. EDITORIAL MATTERS

Section 59 of the Act lays down specific requirements for the treatment of political parties during the election period by broadcasters in their editorial programming. The requirements are:

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



service licensee concerned will be obliged to afford such a party a reasonable opportunity to respond to criticism.

- (3) If, within 48 hours before the commencement of the polling period or during the polling period, a broadcasting service licensee intends broadcasting a programme in which a particular political party is criticized, the broadcasting service licensee must ensure that the political party is given a reasonable opportunity to respond thereto in the same programme, or to do so as soon as reasonably practicable thereafter”.

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

### **3. EQUITABLE TREATMENT**

Three principles of equitability:

#### **3.1. Equitable treatment does not mean equal treatment**

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

#### **3.2 Equitable treatment means fair treatment**

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

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

### **3.3 Broadcasting service licensee must seek out information.**

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

## **4. PRINCIPLES TO BE ADHERED TO**

To further assist broadcasting service licensees in fulfilling the requirements of the Act the following principles will apply:

### **4.1 Fairness**

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

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

Each broadcasting service licensee should afford all political parties reasonable opportunity to respond to criticism broadcast by that broadcasting service licensee. However, affording parties reasonable time to respond should not amount to forcing broadcasting service licensees to turn their editorial programmes into a series of replies and replies-to-replies. There should be a distinction between demands for the right to reply to mild or rhetorical criticism, which properly forms part of the cut and thrust of robust political contest; and demands for the right to reply to criticisms which result in clear and immediate damage to a political party.

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

#### **4.3 Coverage of government**

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

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

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

#### **4.5 Coverage of election results**

Broadcasting service licensees, particularly the public broadcasting service licensee, have an obligation to inform the electorate of the election results, as they become available. Coverage of election results may also include comment, analysis and interpretation. Special care should be taken to ensure the accuracy of all results broadcast.

### **5. CONCLUSION**

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