

INDEPENDENT COMMUNICATIONS AUTHORITY OF SOUTH AFRICA

NO. 905

31 AUGUST 2018



Independent Communications Authority of South Africa

Pinmill Farm, 164 Katherine Street, Sandton

Private Bag X10002, Sandton, 2146

**DRAFT AMENDMENT TO THE NATIONAL AND PROVINCIAL PARTY ELECTIONS
BROADCASTS AND POLITICAL ADVERTISEMENTS REGULATIONS, 2014**

INVITATION FOR WRITTEN REPRESENTATIONS

The Independent Communications Authority of South Africa ("ICASA" or the "Authority") hereby in terms of section 4(4) of the Electronic Communications Act, 2005 (Act No. 36 of 2005) (the "ECA") invites interested persons to submit their written representations regarding the draft amendment to the National and Provincial Party Elections Broadcasts and Political Advertisements Regulations, 2014 (the "Draft Regulations").

A copy of the Draft Regulations will be made available on the Authority's website at <http://www.icasa.org.za> and in the Authority's Library at No. 164 Katherine Street, Pinmill Farm, (Ground Floor at Block D), Sandton between 09h00 and 16h00, Monday to Friday.

Written representations must be submitted to the Authority by no later than 30 working days from the date of publication of this notice in the government gazette by post, hand delivery or electronically and marked specifically for the attention of: Mamedupe Kgatshe. Delivery address: Block A, Pinmill Farm, 164 Katherine Street, Sandton. Where possible, written representations should also be e-mailed to: mkgatshe@icasa.org.za and tmagano@icasa.org.za. All telephone enquiries should be directed to 011 566-3259 between 10h00 and 16h00, from Monday to Friday.

Written representations received by the Authority pursuant to this notice, will be made available for inspection by interested persons at the Authority's library and such copies will be obtainable upon payment of the prescribed fee.

At the request of any person who submits written representations pursuant to this notice, the Authority may determine that such representations or any portion thereof is to be treated as confidential in terms of section 4D of the Independent Communications Authority of South Africa Act, 2000 (Act No. 13 of 2000) ("ICASA Act"). Where the request for confidentiality is refused, the person who made the request will be granted an opportunity to withdraw such representations or portions thereof.

The Authority intends to conduct provincial workshops on the Draft Regulations. The date and schedule for the workshops will be announced in due course.



MR RUBBEN MOHLALOGA

CHAIRPERSON

DATE: 21/08/2018

ELECTRONIC COMMUNICATIONS ACT, 2005 (ACT NO. 36 OF 2005) REGULATIONS

The Independent Communications Authority of South Africa has, in terms of section 4(3)(j) of the Independent Communications Authority of South Africa Act, 2000 (Act No. 13 of 2000) read with sections 4(1), 4(4) (a) and (b) and sections 56, 57, 58 and 59 of the Electronic Communications Act, 2005 (Act No. 36 of 2005), made the regulations in the Schedule.

SCHEDULE

1. Definitions

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

2. Amendment of regulation 4 of the Regulations

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

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

(a) make available, every day, throughout the election broadcast period, ten (10) time-slots of fifty (50) seconds each for the broadcast of PEB, excluding the top and tail disclaimer;

(b) do so in accordance with the sequence and timing that will be determined by the Authority upon allocation of airtime slots after the publication of these regulations;

(c) ensure that all PEB broadcasts are clearly identified; and

(d) ensure that all PEB broadcasts are announced in a similar manner.

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

3. Amendment of Annexure C of the Regulations

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

ANNEXURE C

Technical standards and quality

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

(2) The technical standards are as follows;

Television

Material needs to be delivered;

- in 16:9 HD format.
- by File Transfer Protocol.
- in a hard drive or USB.

Radio

Material needs to be delivered in;

- Format: MP2.
- Sample rate: 48 KHz.
- Bit rate: 16 bit.
- Stereo - Left and Right channels.

4. Short Title and Commencement

These regulations are called the National and Provincial Party Elections Broadcasts and Political Advertisements Amendment Regulations, 2018 and will come into force upon publication in the Government Gazette.



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ELECTIONS BROADCASTS AND POLITICAL ADVERTISEMENTS
REGULATIONS, 2014**

EXPLANATORY MEMORANDUM

AUGUST 2018

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1. INTRODUCTION

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

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

2. BACKGROUND

As South Africa is preparing for the 2019 general elections, the Authority decided to review the Regulations with an intention to assess their relevance to the current political landscape.

Post the 2014 election period, the Authority compiled a report on the coverage of the elections ("the 2014 Elections Report").² The report provided an overview of the performance of BSLs who expressed an interest to broadcast PAs and PEBS, and whether they complied with the ECA and the Regulations.

Taking into account the changes in our political landscape, the 2014 Elections Report, and lessons learnt from the 2016 Municipal elections the Authority intends to amend the 2014 Elections Regulations.

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

² ICASA Report on the coverage of 2014 National and Provincial elections, accessible on www.icasa.org.za

The South African Broadcasting Corporation indicated that there were political parties contesting the elections that did not utilise any of their allocated PEB slots. The failure of political parties to utilise their allocated PEB slots impacts negatively on the BSL, especially television, as they schedule their programming ahead of time and when the political party do not submit a PEB they have to find a replacement within a short space of time.

3. PEB AIRTIME ALLOCATION

The Authority's main concern in allocating PEB airtime to political parties is the amount of slots available for PEB allocation. The amount of time available for PEB allocation is dependent on the number of registered political parties contesting the elections and the number of days for the election broadcast period.

To address this concern, the Authority proposes to reduce the PEB length from 1 minute to 50 seconds. The consequence of the reduction in the PEB length is that the BSLs will have to increase the number of slots available from eight (8) to ten (10) slots per day and this will afford political parties more PEB slots allocation.

4. TECHNICAL STANDARDS

The Authority has reassessed the technical standards to align them with the changing technical environment. The Authority proposes that the political parties submit the pre-recorded PEB and PA material in the following broadcast quality:

Television

Material needs to be delivered;

- in 16:9 HD format.
- by File Transfer Protocol.
- in a hard drive or USB.

Radio

Material needs to be delivered in;

- Format: MP2.
- Sample rate: 48 KHz.
- Bit rate: 16 bit.

- Stereo - Left and Right channels.

5. CONCLUSION

These regulations will provide a framework that BSL will operate within when covering the elections. Therefore, the most important aspect for these regulations during elections is finding the right balance between the respect for editorial independence and the need for rules to guarantee that media coverage is balanced.