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GENERAL NOTICES • ALGEMENE KENNISGEWINGS

INDEPENDENT COMMUNICATIONS AUTHORITY OF SOUTH AFRICA

NOTICE 3867 OF 2026

THE INDEPENDENT COMMUNICATIONS AUTHORITY OF SOUTH AFRICA

AMENDMENT TO THE MUNICIPAL PARTY ELECTIONS BROADCASTS AND POLITICAL ADVERTISEMENTS REGULATIONS, 2011

The Independent Communications of South Africa hereby, 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), 56, 57, 58 and 59 of the Electronic Communications, 2005 (Act No. 36 of 2005), amended the Municipal Elections Party Elections Broadcasts and Political Advertisements Regulations, 2011 to the extent reflected in the Schedule.

MOTHIBI RAMUSI
CHAIRPERSON
DATE: 30/03/2026

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SCHEDULE

1. Definitions

In these regulations "the Regulations" means the Municipal Party Elections Broadcasts and Political Advertisements Regulations, 2011 as amended by Government Notices No. 3 (Gazette No. 39738) of 26 February 2016, No. 161 (Gazette No. 44370) of 31 March 2021, No. 588 (Gazette No. 45272) of 6 October 2021 and No. 597 (Gazette No. 45312) of 13 October 2022.

2. Amendment of regulation 1 of the Regulations

Regulation 1 of the Regulations is hereby amended –

2.1 by the substitution for the definition of "CCC Regulation", of the following definition:

"CCC Regulations" means the Regulations Governing Aspects of the Procedures of the Complaints and Compliance Committee of the Authority, published in Government Gazette No.33609, Notice No. R 886 of 06 October 2010 as amended by Government Gazette No. 46091, Notice No. 917 of 28 March 2022;

2.2 by the substitution for the definition of "current affairs", of the following definition:

"Current affairs programme" means programming that is not a news bulletin, which focuses on and includes comment on and interpretation and analysis of current socio-political issues;

2.3 by the deletion of the definition of "Commission" after the definition of "CCC Regulations";

2.4 by the substitution for the definition of "election broadcast period", of the following definition:

"**Election broadcast period"** means the period within which political election broadcasts may be transmitted; such period commencing 120 hours after the

allotment of time-slots by the Authority and ending 48 hours before polling commences;

2.5 by the insertion, after the definition of "Election broadcast period", of the following definition:

"Election period" means the period commencing with the date on which the election day is proclaimed and ending on the day immediately following upon the day on which candidates of any of the political parties or independent candidates are declared elected;

2.6 by the deletion of the definition of "Electoral Commission Act" after the definition of "Electoral Code";

2.7 by the deletion the definition of "ICASA Act" after the definition of "Electoral Commission Act":

2.8 by the substitution for the definition of "independent candidate", of the following definition:

"Independent candidate" means a South African citizen contesting an election and who is not nominated on a list of a party;

2.9 by the insertion, after the definition of "independent candidate", of the following definition:

"**Municipal Election**" means an election of a municipal council;

2.10 by the substitution for the definition of "news", of the following definition:

"**news**" means programming broadcast by a BSL, in which it reports on news events of immediate social, political or economic relevance and on matters of international, national and local significance, but which is not a current affairs programme;

2.11 by the deletion of the definition of "party", after the definition of "PA";

2.12 by the substitution for the definition of "PEB", of the following definition:

"PEB" means an election broadcast as defined in section 1 of the Act;

2.13 by the insertion after the definition of "PEB" of the following definition:

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

2.14 by the insertion after the definition of "Political advertisement" of the following definition:

"Political Party" means a registered party as defined in section 1 of the Electoral Act 73 of 1998;

2.15 by the deletion of the definition of "SABC" after the definition of "Political Party".

3. Substitution of regulation 2 of the Regulations

3.1 The following regulation is hereby substituted for regulation 2 of the Regulations:

"**2. OBJECT OF THE REGULATIONS**

The object of these regulations is to prescribe the framework and guidelines under which PEB(s) and PA(s) shall be broadcast by the BSL during the municipal elections."

4. Substitution of regulation 3 of the Regulations

4.1 The following regulation is hereby substituted for regulation 3 of the Regulations:

"3. SCOPE OF THE REGULATIONS

These regulations are applicable during the election period to;

(a) broadcasting service licensees;

(b) political parties contesting the municipal elections; and

(c) independent candidates contesting the municipal elections."

5. Amendment of regulation 4 of the Regulations

Regulation 4 of the Regulations is hereby amended –

5.1 by the substitution for sub-regulation 5 of the following sub-regulation:

"(5) A BSL that is obliged, or intends to broadcast PEB(s) must ensure that the PEB conforms to technical standards and quality as listed in Schedule 2 of Annexure A";

5.2 by the substitution for sub-regulation 7 of the following sub-regulation:

"(7) A BSL that rejects a PEB submitted by a political party or an independent candidate for broadcast, must within twenty-four (24) hours of receipt of such PEB:

(a) furnish the political party or independent candidate concerned with written reasons for the rejection; and

(b) afford the political party or independent candidate concerned an opportunity, within forty-eight (48) hours after receiving the rejected PEB, to alter or edit the PEB and re-submit it to the BSL concerned or confirm in writing that it will not be re-submitting the PEB";

5.3 by the substitution in sub-regulation 8 for the words "twenty-four (24) hours" of the words "forty-eight (48) hours";

5.4 by the substitution of sub-regulations (10) – (23) of the following sub-regulations:

"(10) A political party or independent candidate that submits a PEB to a BSL for broadcast must ensure that the PEB does not:

(a) contravene the provisions of the Municipal Electoral Act, the Electoral Code, the Electoral Act, the Constitution, the Act, and the Broadcasting Act; and

(b) 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.

(11) A political party or independent candidate that submits a PEB for broadcast to a BSL is deemed to have indemnified the BSL against incurred costs, damages, losses, and third-party claims arising from the broadcast thereof.

(12) A BSL that broadcasts PEB must:

(a) make available, every day and throughout the election broadcast period, twelve (12) time-slots of forty (40) seconds each for the broadcast of PEB, excluding the concluding message (tail) disclaimer;

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

(c) ensure that all PEB(s) broadcast are identified as such; and

(d) ensure that all PEB(s) broadcast by it are identified through a standard pre-recorded concluding message (tail) disclaimer.

(13) A PEB must not exceed forty (40) seconds in duration.

(14) Content broadcast as a PEB cannot be broadcast as a PA.

(15) A BSL must not broadcast a PEB immediately before or after another PEB or immediately before or after a PA.

(16) A PEB air-time allocated to, but not used by a political party or independent candidate, shall be forfeited by the political party or independent candidate concerned.

(17) Where a political party or an independent candidate fails to deliver a PEB to the BSL before the expiry of five (5) working days prior to the broadcasting thereof, the political party or independent candidate shall be deemed to have forfeited its allocated airtime.

(18) Where a political party or an independent candidate elects to forfeit its allocated PEB air-time, then such air-time must not be allocated to another political party or independent candidate but must be used by the broadcaster concerned for the purpose of broadcasting its normal programming.

(19) Where a political party or an independent candidate does not wish to use its allocated PEB air-time, the BSL concerned must not, during the relevant time-slot, in any way vary the sequence or scheduling of PEB(s).

(20) A BSL or political party or an independent candidate must not permit or engage in any interference with, or trading in, the sequence or scheduling of PEB(s).

(21) Where a political party or independent candidate has complied with the requirements of regulation 4, and a BSL concerned is unable to broadcast such political party's or independent candidate's PEB due to a breakdown in transmission, the BSL, after consulting the Authority, must broadcast the PEB within forty-eight (48) hours from the date on which the PEB was scheduled.

(22) A PEB must be in the broadcast language(s) as contained in the issued broadcasting service license of the relevant BSL.

(23) A Low Power Broadcasting Service Licensee must not broadcast a PEB."

6. Amendment of regulation 6 of the Regulations

Regulation 6 of the Regulations is hereby amended –

6.1 by the substitution for sub-regulation (3) of the following sub-regulation:

"(3) A BSL that intends to transmit a PA must ensure that the advertisement conforms to the technical standard and quality as listed in Schedule 2 of Annexure A".

6.2 by the substitution for sub–regulations (8) to (15), of the following sub-regulations:

"(8) A political party or an independent candidate that submits a PA to a BSL for broadcast must ensure that the PA does not:

(a) contravene the provisions of the Municipal Electoral Act, the Electoral Code, the Electoral Act, the Constitution, the Act, and the Broadcasting Act; and

(b) 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.

(9) A political party or an independent candidate that submits a PA for broadcast to a BSL is deemed to have indemnified the BSL against incurred costs, damages, losses, and third-party claims arising from the broadcast thereof.

(10) Content broadcast as a PA cannot be broadcast as a PEB.

(11) A BSL must not broadcast a PA immediately before or after another PA or PEB.

(12) A BSL that broadcasts a PA must ensure that all PA broadcasts are clearly identified through a standard pre-recorded concluding message (tail) disclaimer.

(13) A BSL that broadcasts a PA must ensure that all PA disclaimers

are announced in a similar manner.

(14) A Low Power Broadcasting Service Licensee must not broadcast a PA.

(15) A BSL that intends to broadcast a PA must inform the Authority, in writing, of its intention to do so within twenty (21) working days of the publication of these Regulations".

7. Amendment of regulation 7 of the Regulations

Regulation 7 of the Regulations is hereby amended –

7.1 by the substitution for sub–regulations (1) of the following sub-regulation;

"(1)A person aggrieved by a PA or PEB may lodge a complaint with the Authority within five (5) working days after such broadcast has occurred."

7.2 by the substitution for sub–regulations (2), of the following sub-regulation;

"(2) Any complaint lodged with the Authority in terms of sub-regulation 7 (1) will be addressed by the Authority in accordance with regulation 6 of the CCC Regulations".

7.3 by the substitution for sub–regulations (6), of the following sub-regulation;

"(6) Any complaint lodged with the Authority in terms of sub-regulation 6 (7) will be addressed by the Authority in accordance with regulation 6 of the CCC Regulations.

8. Amendment of regulation 8 of the Regulations

Regulation 8 of the Regulations is hereby amended –

8.1 by the addition of the following sub-regulation;

"(4) A broadcasting service licensee that intend to broadcast PEBs and/or PA should inform the Authority by writing an email to BroadcastingCompliance@icasa.org.za".

8.2 by the addition of the following sub-regulation;

"(5) A BSL and political party or the independent candidate must inform the Authority of the nominated persons who must be the representatives of that BSL or political party or independent candidate in respect of all matters regulated by writing an email to BroadcastingCompliance@icasa.org.za".

9. SHORT TITLE AND COMMENCEMENT

These Regulations are called Municipal Political Elections Broadcasts and Political Advertisements Amendment Regulations, 2026 and shall commence on publication in the *Government Gazette*.

10. Substitution of Annexure A of the Regulations

The following Annexure is hereby substituted for Annexure A of the Regulations:

"ANNEXURE A

SCHEDULE 1

PRINCIPLES FOR AIRTIME ALLOCATION IN RESPECT OF PEBS

The allocation principles in Table 1 below will apply if there are sufficient PEB slots to accommodate all the contesting political parties and independent candidates.

Table 1

Basic Allocation Percentage of slots to be allocated to all political parties and independent candidates contesting seats in the Municipal Elections.	60%
District Municipalities List Percentage of slots to be allocated according to the number of candidates fielded by parties on the District Municipalities list.	15%
Local Municipalities List Percentage of slots to be allocated according to the number of candidates fielded by parties on the Local Municipalities list.	15%
Proportional representation The number of seats currently held at District and Local level.	10%

The allocation principles in Table 2 below will apply if there are insufficient PEB slots to accommodate all the contesting political parties and independent candidates.

Table 2

Basic Allocation Percentage of slots to be allocated to all political parties and independent candidates contesting seats in the Municipal Elections.
District Municipalities List Percentage of slots to be allocated according to the number of candidates fielded by parties on the District Municipalities list.
Local Municipalities List Percentage of slots to be allocated according to the number of candidates fielded by parties on the Local Municipalities list.
Proportional representation The number of seats currently held at District and Local level.

SCHEDULE 2

TECHNICAL STANDARDS AND QUALITY

Audio and video recordings must be clearly labelled to indicate the name of the political party or independent candidate and nominated representative and should indicate whether it is a PA or PEB.

Audio and video recordings must be submitted electronically or physically to the BSL, using the contact details and/or address of the BSL to be published by the Authority.

For Television

HD (High Definition)

- Commercials to comply with the 1920 x 1080i HD Standard in a 16:9 aspect ratio at 25 frames per second.
- Digital Audio Reference level is defined as 18dB below the maximum coding value (-18dBFS) as per EBU recommended practice R128
- Timecode of commercial start is at 10:00:00:00.
- Stereo audio on tracks 1&2, (Any additional audio tracks should not be MUTE but rather be duplicates of track 1&2)
- Fade to silence at commercials end.

File format:

MXF OP-1a (SMPTE 378M), XDCAM HD 422

Video:

- Codec: MPEG-2 422P@HL LongGOP
- Bit rate mode Constant
- Bit rate: 50 Mb/s (CBR)
- Resolution: 1920 x 1080
- Interlacing: Upper Field First Display aspect ratio 16:9
- Frame rate: 25 fps (50i).

For Radio (Audio)

- Track 1 (AES1) Stereo Left / Lt
- Track 2 (AES1) Stereo Right / Rt
- Codec: Uncompressed (PCM)
- Sample Rate: 48 kHz,
- Sampling Size: 24 bit
- Additional tracks: Duplicate tracks 1&2.

Additional element: WAV 48 kHz/16-bit PCM and high-quality MP3 320 kbps, as accepted radio formats alongside MPEG-2, reducing transcoding errors and turnaround time.

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SCHEDULE 3

GUIDELINES

1. INTRODUCTION

1.1. These guidelines are intended to outline a general approach that should be adopted by BSLs in their coverage of the municipal elections. Elections are an important public event and as such fall within the ambit of news and current affairs. BSLs are encouraged, in the public interest, to provide a full, impartial, and independent coverage of the elections.

1.2. The Authority does not intervene in the news and programming operations of the broadcasters. BSLs' 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 or independent candidates without abdicating news value judgments.

2. EDITORIAL MATTERS

2.1. Section 59 of the ECA prescribes specific requirements for the treatment of political parties or independent candidates during the election period by broadcasters in their editorial programming. The requirements are:

(a) If during an election period, the coverage of any broadcasting service licensee extends to the field of elections, political parties or independent candidates and issues relevant thereto, the broadcasting licensee concerned must afford reasonable opportunities for the discussion of conflicting views and must treat all political parties and all independent candidates equitably.

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(b) In the event of any criticism against a political party or an independent candidate being levelled 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 the party having been reflected therein, the broadcasting service licensee concerned will be obliged to afford the party a reasonable opportunity to respond to criticism.

(c) 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 or an independent candidate is criticized, the broadcasting service licensee must ensure that the political party or independent candidate is given a reasonable opportunity to respond thereto in the same programme, or to do so as soon as reasonably practicable thereafter".

2.2. 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' or independent candidates' 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

3.1. **Equitable treatment means fair treatment**

Each BSL will be expected to treat political parties and independent candidates fairly. Equitable treatment is unlikely to be achieved in a single programme but can be achieved in a series of programmes. Each BSL should be

consistent in its treatment of contesting political parties and independent candidates of conflicting views.

3.2. **Broadcasting service licensee must seek out information**

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

4. PRINCIPLES TO BE ADHERED TO

To further assist BSLs in fulfilling the requirements of the Act the following principles will apply:

4.1. Fairness

(a) All news coverage should be fair to all interests concerned.

(b) Care should be taken to balance the exposure given to the non-political activities of candidates (such as attendance at functions, sporting events, etc).

(c) All political parties and independent candidates should receive equitable treatment on current affairs programmes. If the programme intends to feature political party or independent candidate representatives, political parties or/and independent candidates contesting the elections must be invited, with reasonable notice, to participate either in the same programme or in a series of programmes.

(d) The requirement that broadcasters give an opportunity for conflicting views to be heard should not be interpreted as a requirement that all political parties and independent candidates 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

(a) Each BSL should afford all political parties and independent candidates reasonable opportunity to respond to criticism broadcast by that BSL. However, affording political parties and independent candidates reasonable time to respond should not amount to forcing BSLs 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 or an independent candidate.

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

4.3. Coverage of government

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

4.4. Coverage of non-participating organisations

In providing a reasonable opportunity for the discussion of conflicting views, non-participating political parties, independent candidates, 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 equity between registered, contesting political party or independent candidate.

4.5. Coverage of election results

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

5. GUIDELINE FOR PRE-RECORDED PROMO FOR COMPLAINTS

The Authority hereby provides an example of the wording for the promo in line with section 7(1) of the Regulations as follows:

"*Any person aggrieved by any Political Advertisement or Political Election Broadcast that is broadcast by [insert name of station] may lodge a complaint within 5 days from broadcast with the Independent Communications Authority of South Africa (ICASA). To lodge your complaint, please contact ICASA's Compliance Department via telephone number on* ***012 568 3233*** *or email* ***BroadcastingCompliance@icasa.org.za*** *and* ***Complaintsccc@icasa.org.za***" (The contact details of ICASA should be repeated twice).

6. HOW LICENSEES CAN INFORM THE AUTHORITY OF THEIR INTENTION TO BROADCAST PEBS AND PAS

A BSL that intends to broadcast PEBs and/or PAs must inform the Authority by writing an email to **BroadcastingCompliance@icasa.org.za**. For inquiries, broadcasters may call Ms Busisiwe Mashigo at **012 568 3233/0725939294**.

7. CONCLUSION

The guidelines provide a framework to BSLs covering the elections in which the system of Political Election Broadcasts and Political Advertising will operate.

Independent Communications Authority of South Africa

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REASONS AND POSITIONS DOCUMENT

AMENDMENT TO THE MUNICIPAL ELECTIONS BROADCASTS AND POLITICAL ADVERTISEMENTS REGULATIONS, 2011

March 2026

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1. ACKNOWLEDGEMENTS

1.1 The Independent Communications Authority of South Africa ("the Authority/ICASA") hereby acknowledges and thanks all the stakeholders who participated in the process of reviewing the Municipal Elections Broadcasting Regulations, 2011[1] (as amended)[2] (the "Municipal Elections Regulations").

1.2 The following stakeholders submitted written representations to the Authority on the Draft Amendment to the Municipal Party Elections Broadcasts ("PEBs") and Political Advertisements ("PAs") Regulation, 2026 ("the Draft Amendment Regulations")[3]:

1.2.1 Arise Afrika Arise Independent Congress ("AAAIC"),
1.2.2 CoLAB Africa,
1.2.3 Capricorn District Municipal Communications Forum ("DCF"),
1.2.4 Democratic Alliance ("DA"),
1.2.5 eMedia,
1.2.6 Kwenzokuhle Community Organisation ("KCO"),
1.2.7 Media Monitoring Africa ("MMA"),
1.2.8 Mossel Bay Municipality,
1.2.9 MultiChoice Proprietary Limited ("Multichoice"),
1.2.10 Primedia,
1.2.11 Support Public Broadcasting Coalition ("SOS"), and
1.2.12 The South African Broadcasting Corporation ("SABC").

[1] ICASA, 2011, Regulations on Party Election Broadcasts, Political Advertisements, the equitable treatment of political parties by broadcasting licensees and related matters during municipal elections, 2011, published in Government Gazette 34086 of 8 March 2011.
[2] Amended by Government Gazette 39738 of 2016 and again in 2021 in Government Gazette 44370 of 31 March 2021.
[3] Draft amendment to the Municipal Elections Broadcasts and Political Advertisements Regulations, 2025, published in Government Gazette 53608 of 31 October 2025.

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2. INTRODUCTION

2.1 The Authority initiated the process to review and amend the Municipal Elections Regulations in preparation for the 2026 Municipal Elections.

2.2 On 31 October 2025, the Authority published the Draft Amendment Regulations and invited written representations on the Draft Amendment Regulations with the closing date of 09 January 2026, which was later extended to 23 January 2026.[4]

2.3 Subsequent to the publication of the Draft Amendment Regulations, the Authority held provincial workshops from 24 November 2025 to 11 December 2025.

2.4 As alluded to above in 1.2.1 to 1.2.11, the Authority received twelve (12) written submissions from the listed stakeholders, whereafter the Authority held public hearings on 16 February 2026. Following on this process, the Authority analysed both the written and oral representations received from the stakeholders and has developed this Reasons and Positions Document and Final Amendment Regulations.

2.5 The Reasons and Positions Document outline the Authority's rationale for the Final Amendment Regulations.

3. LEGISLATIVE FRAMEWORK

3.1 The Authority is empowered by sections 4 (1), 56, 57, 58 and 59 of the Electronic Communications Act, 2005 (Act No. 36 of 2005), ("ECA") to develop Regulations in respect of PEBs and PAs. Therefore, the Authority is reviewing the Regulations, in line with sections 56 to 59 of the ECA.

[4] ICASA, 2025, Draft amendment to the Municipal Elections Broadcasts and Political Advertisements Regulations, 2011, published in Government Gazette 53608 of 31 October 2025

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3.2 Furthermore, section 4 (3)(j) of the Independent Communications Authority of South Africa Act, 2000 (Act No. 13 of 2000) ("ICASA Act") provides that the Authority may make regulations on any matter consistent with the objects of this Act and the underlying statutes or that are incidental or necessary for the performance of the functions of the Authority.

4. ANALYSIS

The analysis below provides a summary of stakeholders' input on the Draft Regulations, and the Authority's decisions thereof.

4.1 Definitions

4.1.1 News and Current Affairs

4.1.1.1 MultiChoice proposes the alignment of the definition of news and current affairs to those definitions as contained in Advertising, Infomercials and Programme Sponsorship Regulations 2023, Gazette No. 48863.[5]

The Authority's Decision and Reasons

4.1.1.2 The Authority has considered the submission and aligned the definition of news with the definition in the Advertising, Infomercials and Programme Sponsorship Regulations 2023, Gazette No. 48863. To this end, the definition of news is amended to read: "news" *means programming broadcast by a BSL, in which it reports on news events of immediate social, political or economic relevance and on matters of international, national and local significance, but which is not a current affairs programme.*

[5] MultiChoice Submission: Proposed Amendments to the Municipal Election Party Election Broadcast and Political Advertisement Regulations, 2011, 23 January 2026, page 2.

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4.1.1.3 Furthermore, the Authority notes the submission to align the definition of current affairs to be aligned with the Advertising, Infomercials and Programme Sponsorship Regulations, 2023, Gazette No. 48863. The Authority has amended the definition accordingly to read; "current affairs programme" *means programming that is not a news bulletin, which focuses on and includes comment on and interpretation and analysis of current socio-political issues*.

4.1.2 **Municipal Election**

4.1.2.1 MultiChoice submits that the term Municipal election is not defined in the Regulations.[6]

The Authority's Decision and Reasons

4.1.2.2 Pursuant to the submission received from MultiChoice, the Authority deems it necessary to define what municipal elections mean in the context of these Regulations. In this regard, the Authority has inserted the definition of Municipal election to mean an election of a municipal council. This definition has been derived from the Municipal Electoral Act, and it is not a definition that the Authority created but adopted from the Municipal Electoral Act, albeit it excludes by-elections for the reasons that these Regulations do not apply in the context of municipal by-elections.

4.1.3 **Political Election Broadcast (PEB)**

4.1.3.1 eMedia submits that PEB" appears to have been redefined from "party election broadcast" to "political election broadcast". eMedia states that notably, "political election broadcast" is regulated across the broader

[6] MultiChoice Submission: Proposed Amendments to the Municipal Election Party Election Broadcast and Political Advertisement Regulations, 2011, 23 January 2026, page 3.

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election period, rather than being confined to the election broadcast period.[7]

4.1.3.2 eMedia is of the view that this creates uncertainty as to whether the continued use of election broadcast period is intentional. Furthermore, it is not clear whether the Regulations contain an oversight in failing to amend or delete this definition with the revised concept of political election broadcasts.[8]

4.1.3.3 eMedia states that the absence of an express deletion, substitution, or clear differentiation between the two periods results in ambiguity regarding the temporal application of PEB.[9]

4.1.3.4 eMedia notes that the definition of Political Election Broadcast is aimed at substituting Party Election Broadcast to align this to Electoral laws.[10] However, the draft regulations do not make it clear whether "Political election broadcast" is intended to be an additional definition or a substitute for the existing definition of "Party election broadcast (PEB)".[11]

4.1.3.5 Furthermore, eMedia states that no express deletion or substitution of the definition of "Party election broadcast" is provided for in the draft regulations. The coexistence of both terms creates uncertainty as to which regime applies, particularly given the substantive similarities between the two concepts.[12]

[7] eMedia: Draft Amendment to Municipal Party Elections Broadcasts and Political Advertisements Regulations, 2026, 23 January 2026, page 2.
[8] eMedia Submission: Draft Amendment to Municipal Party Elections Broadcasts and Political Advertisements Regulations, 2026, 23 January 2026, page 2.
[9] Ibid, page 2.
[10] Ibid, page 2.
[11] Ibid, page 3.
[12] Ibid, pages 3 - 4.

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The Authority's Decisions and Reasons

4.1.3.6 The Authority has noted the proposal to delete the 2021 definition of party election broadcast to replace it with the definition of political election broadcast. The Authority agrees with eMedia and would like to indicate that paragraph 2.11 of the Draft Regulations, addresses the suggestion by eMedia. Therefore, the Authority replaces the definition of party election broadcast with the definition of political election broadcast.

4.1.3.7 The Authority recognizes that independent candidates form part of the Elections Regulations and therefore this necessitates that all processes in the Regulations which only focus on political parties be amended to include independent candidates. Therefore, the Authority amends the 2011 definition of Election broadcast period which made reference to party election broadcast, in order to have an all-encompassing definition which includes independent candidates. To this end, reference to party election broadcast within the definition is replaced with political election broadcast. In this regard, the amended definition of election broadcast period read as follows:

"election broadcast period" *means the period within which political election broadcasts may be transmitted; such period commencing 120 hours after the allotment of time-slots by the Authority and ending 48 hours before polling commences*.

4.1.4 Chronological order of definitions

4.1.4.1 eMedia submits that the current placement of the definition of political advertisement is chronologically incorrect, as it is inserted after the definition of "PEB", despite the term "PA" being referenced earlier in the previous definitions. In this regard, eMedia suggests that for clarity and logical sequencing within the definitions section, the definition should be repositioned. It is proposed that amendment 2.9 be changed by the deletion

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of the definition of "PA"; and by the insertion after the definition of "PEB" of the political advertisement definition:[13]

The Authority's Decision and Reasons

4.1.4.2 The Authority's has considered the submission made by eMedia and does not find the submission to be meritorious for the reason that the definitions are in chronological order. Furthermore, retaining the definition of PA is considered relevant as PA is consistently used throughout the regulations, which bears the meaning of a Political Advertisement.

4.1.5 Definition of BSL

4.1.5.1 eMedia proposes the insertion of the definition of a BSL since the term is used in the Regulations but not defined. As such, it proposes an insertion of the definition.[14]

The Authority's Decision and Reasons

4.1.5.2 The Authority's position is that the definition of BSL is already provided for in the 2016 amendment Regulations and therefore there is no need to repeat it in the 2026 Amendment Regulations.

4.2 Rejection of PEBs and PAs by the broadcasters: Regulations 4(10) and 6(8)

4.2.1 MMA is of the view that the interpretation provided by the Complaints and Compliance Committee (CCC) violates a number of fundamental constitutional rights and are unlawful. MMA argue that the interpretation

[13] eMedia Submission: Draft Amendment to Municipal Party Elections Broadcasts and Political Advertisements Regulations, 2026, 23 January 2026, page 4.
[14] eMedia's Submission: Draft Amendment to Municipal Party Elections Broadcasts and Political Advertisements Regulations, 2026, 23 January 2026, pages 4 – 5.

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by CCC allow a broadcaster to censor political expression during an election period, thereby denying the public the right to hear and/or see the views of political parties and or independent candidates during an election.[15]

4.2.2 In addition, the Regulations allow the CCC to refuse to hear a complaint about the failure of a broadcaster to broadcast a PEB or PA in accordance with the requirements of the ECA, by a member of the public. Therefore, MMA argues that it is a violation of the right to have a dispute that can be resolved by the application of law, decided in a fair public hearing before a court or another independent and impartial tribunal or forum, which is protected under section 34 of the Constitution.[16]

4.2.3 MMA argues that there are no justifiable reasons for denying or even limiting such rights during an election period and so the limitations or restrictions contained in the Municipal Elections Regulations fail to meet the standards as set out in section 36, the Limitations Clause, of the Constitution.[17]

4.2.4 MMA suggests that in order to cure the above, regulation 6(3) of the Municipal Regulations should be amended to read as "a BSL that intends to transmit a PA must ensure that the advertisement conforms to the technical standards and quality as listed in Schedule to 2 of Annexure A of these Regulations, non-conformity therewith being the only basis on which a BSL may reject a PA.[18]

[15] MMA Submission: Written Submissions on the Draft Amendment to the Municipal Elections Regulations, 22 January 2026, page 5
[16] Ibid, page 6
[17] Ibid, page 6
[18] MMA Submission: Written Submissions on the Draft Amendment to the Municipal Elections Regulations, 22 January 2026, page 7

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4.2.5 MMA points out that the Municipal Elections Regulations require a BSL to refuse to broadcast a PEB and/or PA which contravenes Regulations 4(12) and 6(10). The MMA also emphasised this view during its post public hearings submission. In its post public hearings submission, the MMA submits that the Authority's closing remarks during hearings supported its belief that broadcasters do not have the right to reject PAs and PEBs on the basis of the content thereof. MMA states that it would appear, from the questions during the hearings read together with the Regulations in their current form, that ICASA continues to be of the view that broadcasters not only can but indeed should censor the content of PEBs and PAs if, in their view, such PEBs and PAs fall foul of the limitations set out in sections 4(12) and 6(10), respectively of the Municipal Elections Regulations.[19]

4.2.6 MMA points out that it has already set out why this is *ultra vires* ICASA's powers under the Electronic Communications Act and is in any event, unconstitutional. According to MMA, in an election, political parties must be free to communicate their political messaging to the voters.[20]

4.2.7 MMA submits that it is critically important to note that political parties often take stances that are not in accordance with the Constitution and it is the right of every party to communicate political ideas regarding their proposals for changing the Constitution by lawful means. MMA makes an example with the Economic Freedom Fighters (EFF) and Mkhonto We Sizwe (MK) parties that do not agree with the property rights provisions of the Constitution regarding the payment of compensation for land expropriation.[21]

[19] MMA: Supplementary Written Submissions on the Draft Amendment to the Municipal Elections Regulations Post Hearings, 17 February 2026, page 2.
[20] MMA: Supplementary Written Submissions on the Draft Amendment to the Municipal Elections Regulations Post Hearings, 17 February 2026, page 2.
[21] Ibid, page 3.

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4.2.8 MMA also argues that both the MK party and the African Christian Democratic Party (ACDP) have openly stated that they do not support same sex marriage. According to the MMA, the ACDP has stated that it does not agree with the provisions of the Constitution on equality on the basis of sexual orientation. Furthermore, MMA points out that ACDP has also campaigns for the reintroduction of the death penalty. MMA states that the Patriotic Alliance has called for the expulsion of foreigners who are not residing in the country lawfully.[22]

4.2.9 MMA emphasises that the above examples of political speech are protected speech. As far as MMA is aware, none of the above political parties has been censured or faced penalties for their political stances or agendas by the SA Human Rights Commission or the Independent Electoral Commission, even although all of these sentiments are abhorrent to MMA and might be abhorrent to ICASA.[23]

4.2.10 MMA submits that such a regulatory indemnification in Regulations 4(13) and 6(11) would have no utility if indeed the broadcaster could or should exercise editorial control over the content of a PEB or PA, as opposed to control over only technical standards and quality thereof which it is required to do in terms of regulations 4(5) and 6(3), respectively of the Municipal Elections Regulations.[24]

4.2.11 MMA recommends an amendment to regulation 4(5) to read as ”a BSL that is obliged or intends to broadcast PEB(s) must ensure that the PEB conforms to the technical standards and quality as listed in Schedule 2 of Annexure A of these Regulations, non-conformity therewith being the only basis on which a BSL may reject a PEB”.[25]

[22] Ibid, page 3.
[23] Ibid, page 3.
[24] MMA: Written Submissions on the Draft Amendment to the Municipal Elections Regulations, 22 January 2026, page 5
[25] Ibid, page 6

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4.2.12 SOS submits that given that a BSL is deemed indemnified against incurred costs, damages, loses and third-party claims arising from the broadcast of a PEB, it therefore has no right to reject a PEB on the basis of its content even if it deems the content to "contravene the provisions of the Municipal Electoral Act, the Electoral Code, the Electoral Act, the Constitution, the Act, and the Broadcasting Act; and/or "contain any material that is calculated, or that 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."[26]

4.2.13 SOS is of the view that a BSL may only reject a PEB for failure to conform to technical standards and quality outlined in Schedule 2 of Annexure A[27]. The Authority may, in its own right, summon a political party or independent candidate for sanctions if convinced the PEB contravened fundamental legislation or contains inappropriate material, in line with 5.4(a)(b). Alternatively, the Authority may deal with this matter when a complaint is lodged against a specific PEB by an aggrieved person.[28]

4.2.14 In their supplementary submission post the public hearing, SOS reiterates that PEBs and PAs are, and must remain, subject to all applicable existing regulatory instruments, including but not limited to the broadcasting sector codes of conduct, the Broadcast Complaints Commission of South Africa (BCCSA) codes, the Advertising Regulatory Board (ARB) code, the Broadcasting Act and other applicable legislation. SOS states that it did not suggest an exemption from these instruments. Rather, their concern relates specifically to who determines compliance with the regulatory

[26] SOS Submission: Draft Amendment to Municipal Party Elections Broadcasts and Political Advertisements Regulations, 2011, pages 5 – 6
[27] Ibid, pages 5 – 6
[28] Ibid, page 6

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framework. SOS maintains that political parties and independent candidates bear the primary responsibility to ensure that their PEBs and PAs comply with all applicable laws and codes before submission to broadcasters. It is not within the purview of the broadcaster to determine whether a PEB or PA complies with applicable laws. Instead, political parties and independent candidates should take the necessary precautions to ensure that their PAs and PEBs do not use offensive language, nor infringe any applicable laws and codes.[29]

4.2.15 SOS emphasises that it is for this reason that this expression in the Regulations is significant; that a BSL is deemed indemnified against incurred costs, damages, loses and third-party claims arising from the broadcast of a PEB/PA. It points out that it maintains its position that a BSL should have no right to reject a PEB/PA on the basis of its content even if it deems the content to "contravene the provisions of the Municipal Electoral Act, the Electoral Code, the Electoral Act, the Constitution, the Act, and the Broadcasting Act; and/or "contain any material that is calculated, or that 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" – particularly given the unavoidable risk of political, editorial, or institutional bias.[30]

4.2.16 SOS argues that broadcasters cannot be placed in the position of adjudicating which content is acceptable. The regulations must expressly state that political parties and independent candidates must ensure compliance with existing regulatory frameworks when developing PAs and PEBs. Enforcement and adjudication of alleged non-compliance should occur through established complaints mechanisms, not unilateral broadcaster discretion[31].

[29] SOS Supplementary Submission: Draft Amendment to Municipal Party Elections Broadcasts and Political Advertisements Regulations, 2011. page 2
[30] Ibid, page 2
[31] Ibid, pages 2 -3

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4.2.17 SOS's refined position is that it is not requesting the CCC to be granted new or additional powers, however it is of the view that ICASA has a role to play to ensure enforcement of and compliance with the regulations.[32]

4.2.18 SOS submits that it reiterates its position that broadcasters may only reject PEBs or PAs only on the basis of technical standards and should not reject a PEB or PA based on its political messaging. Once a broadcaster has agreed to carry a PEB or PA, its obligation is to do so in a fair and unbiased manner, without exercising editorial control over political content. Allowing broadcasters to make content-based determinations risks inconsistent and subjective decision-making, which may undermine both electoral fairness and freedom of political expression. Given that most political parties and independent candidates disseminate their PAs and PEBs across social media and other platforms anyway, it is neither logical nor effective for broadcasters to exercise content-based editorial oversight.[33]

4.2.19 SOS further elaborates that political messaging during elections may be controversial, offensive, or unpopular; however, it is precisely during this period that robust political expression must be protected to enable voters to make informed choices. Responsibility for compliance with electoral and constitutional standards must therefore rest with political parties and independent candidates.[34]

4.2.20 Further, SOS also expressly supports the argument made during public hearings that, in addition to the commendable provisions allowing members of the public to lodge complaints regarding PEBs and PAs, the

[32] Ibid, page 3
[33] Ibid, page 3
[34] Ibid, page 3

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regulations should extend the complaints mechanism to cover PEBs and PAs that have not been broadcast, for whatever reason[35].

4.2.21 DA believes that given the Authority's central role in drafting and providing the regulations for the municipal elections, the broadcasting service licensees must first notify the Authority of their intention to reject the PEB / PA from a particular political party or an independent candidate within 24 hours. DA adds that, it is only if the affected broadcasting service licensee, political party or an independent candidate feels aggrieved by the other's decision that, a dispute can be lodged.[36]

4.2.22 MultiChoice is of the view that regulation 6(9) of the 2016 Regulations is confusing. Therefore, it proposes the amendment to regulation 6(9) of 2011 Regulations, to read "a BSL may reject a PA only if the PA contravene regulation 6(9) or the prescribed technical standard and quality as per schedule 2 on Annexure A.[37]

The Authority's Decision and Reasons

4.2.23 The MMA's submission misquoted regulations 4(10) and 6(8) as regulations 4(12) and 6(10) of the Draft Amendment to Municipal Party Elections Broadcasts (PEBs) and Political Advertisements (PAs) Regulation, 2011.

4.2.24 Regulation 4(10) states that:

[35] Ibid, page 3
[36] DA Supplementary Submission: Draft Amendment to Municipal Party Elections Broadcasts and Political Advertisements Regulations, 2011, page 4
[37] MultiChoice Submission: Proposed Amendments to the Municipal Election Party Election Broadcast and Political Advertisement Regulations, 2011, 23 January 2026, page 5

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"(10) A political party or independent candidate that submits a PEB to a BSL for broadcast must ensure that the PEB does not:
(a) contravene the provisions of the Municipal Electoral Act, the Electoral Code, the Electoral Act, the Constitution, the Act, and the Broadcasting Act; and
(b) 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."

4.2.25 Regulation 6(8) states that:

"*A political party or an independent candidate that submits a PA to a BSL for broadcast must ensure that the PA does not:*
(a) contravene the provisions of the Municipal Electoral Act, the Electoral Code, the Electoral Act, the Constitution, the Act, and the Broadcasting Act; and
(b) contain any material that is calculated, or that in the ordinary course is likely to provoke or incite any unlawful, illegal or criminal".

4.2.26 The Authority notes the MMA's submission regarding regulating PEB's and PA's content. The Authority as the sole regulator of elections broadcasting has considered inputs made by different stakeholders including the MMA. The Authority would like to provide clarity regarding censorship. In terms of law, censorship can be divided into two: There is traditional censorship and fair censorship. Traditional censorship is the one that is not accepted in terms of law since it suppresses individuals' views. It also restricts access to information and content. Traditional censorship is unconstitutional since it suppresses the rights to freedom of speech or expression as provided by section 16(1) of the Constitution of the Republic of South Africa, 1996. Section 16(1) provides that:

"*Everyone has the right to freedom of expression, which includes— (a) freedom of the press and other media; (b) freedom to receive or impart*

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information or ideas; (c) freedom of artistic creativity; and (d) academic freedom and freedom of scientific research".[38]

4.2.27 It is not the Authority's place to interrogate the correctness or otherwise of the political views expressed above in paragraphs **Error! Reference source not found.** and **Error! Reference source not found.** by the MMA. Therefore, the Authority will not engage those comments. However, it suffices to state that these views do not countenance a violation of the Constitution which is the Supreme law of the Republic of South Africa,[39] which must be perpetuated through the Draft Regulations. If anything, the Authority as an organ of the state is guided by the Constitution and the law of general application.

4.2.28 Having expressed the above, it is apposite to mention that our law recognises fair censorship, which is necessary to protect children and sensitive viewers or listeners. Section 16(2) provides for this censorship. It states that:

"*The right in subsection (1) does not extend to –*

(a) propaganda for war; (b) incitement of imminent violence; or (c) advocacy of hatred that is based on race, ethnicity, gender or religion, and that constitutes incitement to cause harm".[40]

4.2.29 Therefore, it should follow that fair censorship is in line with section 16(2) of the Constitution and the ICASA's Regulations on the Code of Conduct for Broadcasters. In view of the above, the Authority believes it is necessary for Regulations 4(12) and 6(10) to remain in the Regulations to ensure that during the election period, view of political parties and independent candidates are not done in a manner which contravenes the Constitution and the law of general application. To the extent that censorship limits a political party's right in section 16(1) of the Constitution or section 58 of the ECA,

[38] Chapter 2, Section 16 of the Constitution of the Republic of South Africa, 1996.
[39] Section 2 of the Constitution of the Republic of South Africa, 1996.
[40] Constitution of the Republic of South Africa, 1996.

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such a limitation would be justifiable under section 16(2) and section 36 of the Constitution.

4.2.30 For these reasons, the Authority verily believes that Regulations 4(12) and 6(10) comply with the provisions of the Constitution and are not *ultra vires*, as they are intended to uphold the Constitution.

4.2.31 Section 57 (5) of the EC Act reads: *A party election broadcast may not contain any material which may reasonably be anticipated to expose the broadcasting service licensee to legal liability if such material were to be broadcast*.

4.2.32 The section above gives the BSL the right to exercise its editorial independence in terms of material that is being broadcast on its platform in compliance with applicable legislation.

4.2.33 The challenge with allowing PEB/PAs to be broadcast without the broadcaster exercising some oversight on the content is that this can lead to damage to the Licensees reputation based on the content that is being broadcast on the platform. Broadcasters have a responsibility to ensure that material broadcast on their platform does not compromise the station such as the use of foul language, unsubstantiated allegations, incitement of violence, etc. This can compromise the standard of broadcasting in general.

4.2.34 In any event, the censorship is not uncircumscribed it is limited to those grounds in regulations 4(10) and 6(8).

4.2.35 With regards to the suggestion that the Authority can summon political parties or independent candidates pertaining to the contravention by material contained in the PEB, such powers fall out of scope of the Authority/CCC due to its powers only limited to licensed broadcasting services as prescribed in the ECA and applicable prescripts, unless if there

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is a BSL that is party to the hearing on the basis of its carrying a broadcast that is in question.

4.2.36 The indemnification of the licensee in terms of regulation 6(9) and 4(11) is important as it makes it clear that if political parties or independent candidates incur costs, maybe from third parties or use images/property without getting consent from relevant parties, those parties cannot hold the broadcaster liable.

4.2.37 The Authority would like to borrow the application of indemnification of broadcaster from OFCOM where it states that "it is the responsibility of the political party to ensure that all permissions and third-party rights (such as for music and archive footage) required for broadcast and online publication have been secured prior to transmission".[41]

4.2.38 The current system as contained in the Regulation provides for a complaints mechanism through the CCC process where there is an issue of refusal to broadcast on the basis of content and the matter being dealt with on an urgent basis.

4.2.39 The rejection of PAs and PEBs cannot be limited to the technical standards on schedule 2 of the Regulations. Therefore, the Authority clarifies that the contravention of Regulation 6(10) which includes the Municipal Electoral Act, the Electoral Code, the Electoral Act, the Constitution, the Act, and the Broadcasting Act; is an offence in the terms of Regulations.

4.2.40 The Authority's position is that the Regulation empowers the CCC to adjudicates on complaint from the public, the Authority and/or Political parties and independent candidates.

[41] OFCOM, Guidelines for the Production of Party Broadcasts

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4.2.41 The Authority takes notes of the DA's suggestion; however, the broadcasting service licensees should still have the prerogative to reject the political parties' or an independent candidate's PEB / PA as is the case with content submitted by independent producers.

4.2.42 Finally, the Authority has taken into account that through the years, the broadcasting service licensees have not used their prerogative to reject the PEBs / PAs for fallacious and frivolous reasons except those listed above. Whilst decisions for rejecting PEBs and PAs have been questioned before, this has not been significant and in line with challenges that come with the application of law. The Authority therefore does not find any concrete reason to tamper with a clause that brings a constructive effect to the regulations.

4.3 Indemnification of Broadcaster: Regulations 4(11), 6(3) and 6(9)

4.3.1 Multichoice proposes that Regulation 6(9) of the draft Regulations should be amended to include the words costs on the provision and to align the provision with regulation 4(11). In addition, MultiChoice suggests that both regulations 4(11) and 6(9) must be amended to provide that a BSL will not be liable or responsible in respect of a PEB or PA broadcast by third party which is on another licensed broadcasting audio or television channel.[42]

4.3.2 Primedia submits that regulation 6(3) of the Draft Amendment Regs be amended to read as follows:[43]

"(3) A BSL that intends to transmit a PA must ensure that the advertisement conforms to the technical standards and quality as listed in Schedule 2 to Annexure A and may not reject a PA on the basis of the contents thereof."

[42] MultiChoice Submission: Proposed Amendments to the Municipal Election Party Election Broadcast and Political Advertisement Regulations, 2011, 23 January 2026, page 6
[43] Primedia Submission: Written Submissions on the Draft Amendment to the Municipal Elections Regulations by Primedia (Pty) Ltd, 22 January 2026, page 3

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4.3.3 Primedia points out that such an amendment would clarify for all broadcasters that political parties and independent candidates bear responsibility for their political messaging and it is not for broadcasters to involve themselves in the policing of such content precisely because of the inherent political risks, including the risk of inadvertent election interference, inherent in doing so."[44]

4.3.4 MMA noted the incorrect numbering on the draft amendment Regulation 6(3), and therefore, proposes correction.[45] The number at the start of the proposed amended sub-section is incorrect. It ought to be "(3)" and not (1).

The Authority's Decision and Reasons

4.3.5 The Authority has considered the submissions and takes the view that:

4.3.5.1 It will extend the indemnity to include costs in regulation 6(9) as proposed by MultiChoice:

4.3.5.2 the suggestions to strengthen the provision of regulations 4(11) and 6(9) of BSL not to be held accountable as result of the third-party damages, is unmeritorious because it goes without saying that these provisions are sufficient to cover the third-party damages. Both provisions caution the political party and independent candidates to indemnify the BSLs; and

4.3.5.3 The numbering in sub-regulation 6(3) has been corrected as it currently reflects as 6(1) in the Draft Amendment Regulations.

[44] Ibid, page 3
[45] MMA Submission: Primedia Submission: Written Submissions on the Draft Amendment to the Municipal Elections Regulations, 22 January 2026, page 3

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4.4 PEB Timeslots: Regulations 4(12)

4.4.1 SABC submits that Draft regulation 4(15) stipulates that broadcasters must "*make available, every day and throughout the election broadcast period, twelve (12) timeslots of forty (40) seconds each for the broadcast of PEB, excluding the concluding message (tail) disclaimer*".[46]

4.4.2 SABC states that it notes with appreciation that regulation 4(12)(a) provides that PEBs will be 40 seconds in duration. According to the SABC, this is a positive development as it reduces the extent of programming displacement and allows the SABC to accommodate a greater volume of commercial advertising revenue.[47]

4.4.3 However, SABC wishes to submit that the provision of ten (10) daily timeslots for PEBs is sufficient and operationally practical. Historical evidence shows that not all political parties and independent candidates make use of their allocated PEBs. During the 2024 National and Provincial Elections, several eligible entities did not submit material for broadcast. ICASA allocated 372 PEB slots for each SABC radio and television platform designated for election broadcasts; however, 161 television slots were not used due to non-submission or late submission of material by political parties and independent candidates. Additionally, eleven (11) slots allocated to independent candidates on television were not utilized for the same reasons.[48]

4.4.4 Furthermore, SABC states that, of the seventy (70) registered political parties, only thirty-three (33) submitted PEBs for broadcast on SABC radio and television. Of the eleven (11) registered independent candidates, only three (3) utilized their PEB allocations on both radio and television, while one (1) utilized radio only.[49]

[46] The SABC Submission on the Municipal Elections Draft Regulations, 22 January 2026, page 5.
[47] Ibid, page 5.
[48] Ibid, page 6.
[49] Ibid, page 6.

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4.4.5 The DA states in its supplementary submission that it is particularly concerned that after availing broadcast slots, as required, during the election period for the 2024 National and Provincial Elections, the political parties and the independent candidates forfeited them. This resulted in the Public Broadcaster losing advertising revenue opportunities, in a time it is facing immense financial strain, and the SABC going so far as to propose doing away with PEB slots altogether.[50]

4.4.6 Balancing the need for party broadcasts during the election period and the viability of publicly owned broadcasters, the DA proposes that political parties / independent candidates must indicate their intention to take up the slots allocated to them by acknowledging such in writing to the Authority within 10 (ten) working days of the slots allocated being published. This will allow for the slot allocation to then be adjusted to properly reflect the number of parties taking up their slots and allow public broadcasters to maximise the advertising opportunities available by allocating PEB slots that will not be taken up back into their commercial sales pool.[51]

4.4.7 CoLab submits that the regulations do not specify when allocation notices must be issued, which could hinder planning for political parties and independent candidates.[52]

The Authority's Decision and Reasons

4.4.8 The number of political parties and independent candidates that have been participating in the Local government elections have increased in the previous elections as reflected in the IEC reports. The number of parties contesting

[50] DA Supplementary Submission: Draft Amendment to the Municipal Party Elections Broadcasts and Political Advertisements Regulation, 2011, page 4
[51] DA Supplementary Submission: Draft Amendment to the Municipal Party Elections Broadcasts and Political Advertisements Regulation, 2011, page 5
[52] CoLab submission: Draft Amendment to the National and Provincial Party Elections Broadcasts and Political Advertisements Regulations, 2025, 26 January 2026, page 1

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the 2016 election was 205[53] which increased to 325 in 2021[54], whilst the number of independent candidates in the same years was 885 in 2016 as reflected in the 2016 IEC Local election Report and 1548 in 2021, which reflects a significant increase every election year that necessitates an increase in number of PEB slots to be allocated. The allocation of PEBs is informed by the number of political parties and independent candidates contesting the elections. Therefore, the Authority will increase slots of PEBs to 12 per day.

4.4.9 The Authority notes the DA's suggestion that political parties and independent candidates inform the broadcasters if they will be using their allocated PEB slots.

4.4.10 The Authority wishes to emphasize that the tail disclaimer is not counted into the 40 seconds that the political parties and independent candidates are allocated. The tail disclaimer is inserted by the broadcasting service licensee that broadcasts the PEB / PA but not the political parties and the independent candidates.

4.4.11 The Authority's PEB allocation process is open and transparent. The President proclaims the start of the election period, by which time these regulations would have been finalised, and BSLs will have had an opportunity to inform the Authority on their intentions to broadcast PEBs and PAs. The allocation will then be done after receiving the list of the contesting parties and candidates from the IEC. Through the list received from the IEC, the Authority invites political parties and independent candidates who will be contesting elections to the PEB allocation event.

[53] Parties contesting per Municipality LGE2016 - 2 Aug 2016.xlsx
[54] https://www.elections.org.za/content/About-Us/News/Electoral-Commission-gazettes-the-final-allocation-of-seats-for-reconstituted-municipal-councils/

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4.5 Waiver of 48 -Hours Resubmission Rule: Regulation 4(7)(b)

4.5.1 KCO submits that the draft amendment requires that a political party or independent candidate whose PEB has been rejected must, within forty-eight (48) hours, alter or edit the PEB and re-submit it to the BSL. While the intent of this provision is to ensure timely compliance and orderly scheduling, it does not take into account extenuating circumstances that are common in South Africa, such as load shedding or prolonged power outages. These conditions can make compliance within the prescribed timeframe impossible, thereby unfairly penalising smaller parties and independent candidates who may lack alternative resources.[55]

4.5.2 It is therefore proposed that regulation 5.2(7)(b) be amended to include a waiver mechanism, allowing the Authority to extend the resubmission period where sufficient evidentiary proof is provided. KCO suggests that the Authority inserts a clause in the Regulations providing that: "*provided that the Authority may, upon application supported by sufficient evidentiary proof, waive or extend the forty-eight (48) hour resubmission period in cases of extenuating circumstances, including but not limited to power outages or load shedding*." This amendment would safeguard procedural fairness, ensuring that technical or infrastructural challenges beyond the control of contesting entities do not result in the forfeiture of their right to broadcast.[56]

4.5.3 KCO states that procedural fairness requires that rules accommodate extenuating circumstances beyond the control of contesting entities. By allowing waivers in cases such as power outages or load shedding, the regulations would prevent technical barriers from unfairly excluding parties or candidates.[57]

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[55] KCO Submission: Draft Amendment to the Municipal Party Elections Broadcasts and Political Advertisements Regulation, 2011, page 1
[56] KCO Submission: Draft Amendment to the Municipal Party Elections Broadcasts and Political Advertisements Regulation, 2011, page 1
[57] Ibid, page 1

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4.5.4 CoLab submits that the 48-hour limit imposed on political parties or independent candidates to amend and resubmit a rejected PEB, disproportionately disadvantages smaller parties and independent candidates. It mentions limited resources and longer editing turnaround times as a barrier. It proposes a new limit of 3 working days, and that where a rejection is communicated after 12:00, the following working day should be counted as day 1.[58]

The Authority's Decision and Reasons

4.5.5 KCO misquoted regulation 4(7)(b) as regulation 5.2(7)(b) of the Regulations. The Authority acknowledges the stakeholder's concern on regulation 4(7)(b) that it does not address circumstances that are common such as load shedding or prolonged power outages and the proposal thereof. The Authority is not satisfied that it has to amend regulation 4(7)(b) to extend the resubmission period where sufficient evidentiary proof is provided.

4.5.6 The Authority is of the view that an election period is a short time period. The 48 hours is well considered and gives a fair chance for political parties and independent candidates regardless of the size to edit and resubmit to the BSL.

4.6 Intention to broadcast PAs: Regulation 6(15)

4.6.1 In terms of notifying the Authority of the intention to broadcast PAs, MultiChoice submits that it is not clear what the consequence will be in the

[58] CoLab submission: Draft Amendment to the National and Provincial Party Elections Broadcasts and Political Advertisements Regulations, 2025, 26 January 2026, page 1

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event a broadcaster fails to notify, notify late or not at all. Further, it wants to know if such broadcaster will be permitted to broadcast PEBs and/or PAs.[59]

4.6.2 Furthermore, MultiChoice submits that it is not clear as to when does 21 days period commences for the forthcoming Municipal Elections.[60]

The Authority's Decision and Reasons

4.6.3 The Authority's position is that in the event a BSL fails to notify, notify late or not notify at all to the Authority of its intention to broadcast PAs, the BSL concerned is not required to comply with Municipal Regulations in terms of section 57 and 58 of the ECA. This means that the BSL concerned will not be allowed to broadcast PEBs and/or PAs due to late notification or failing to notify the Authority of the intention to broadcast PEBs and/or PAs. Broadcasting of PEBs and/or PAs without notifying the Authority amounts to contravention of the Regulations and will be treated as non-compliance.

4.6.4 The 21 days to inform the Authority about the intention to broadcast PAs and PEBs commence immediately after the Authority has published the Final Regulations in the Government Gazette.

4.7 Submission of recordings for PA/PEB: Schedule 2

4.7.1 SOS states that audio and video recordings must be clearly labelled to indicate the name of the political party or independent candidate and nominated representative, including a clear indication of whether it is a PEB or PA.[61]

[59] MultiChoice: Proposed Amendments to the Municipal Party Elections Broadcasts and Political Advertisements Regulations, 2011, 23 January 2026, page 3.
[60] Ibid, page 3.
[61] SOS Submission: Draft Amendment to Municipal Party Elections Broadcasts and Political Advertisements Regulations, pages 6 – 7

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The Authority's Reasons and Decisions

4.7.2 The Authority has amended the first paragraph of schedule 2 to read as follows: "Audio and video recordings must be clearly labelled to indicate the name of the political party or independent candidate and nominated representative and should indicate whether it is a PA or PEB".

4.8 Contravention of relevant Legislation: Regulation 6(8)(a)

4.8.1 eMedia submits that regulation 6(8) (a) should also refer to the provisions of the **BCCSA** and that at the end of that sub-regulation the catch-all be inserted so that the sub-regulation reads: "contravene the provisions … the Constitution, the Act, the **rules of the BCCSA and/or any other law"**.[62]

The Authority's Position

4.8.2 The Authority has noted the above submission; however, the Authority is of the considered view that the proposed amendment is untenable for the reason that the BCCSA is a voluntary organization with a constitution and with the Code of Conduct applicable exclusively to its members. Therefore, the Authority through these regulations cannot purport to enforce the BCCSA Code. Not only is this improper, but it has no legal basis in that the ECA in section 54(3) makes it clear that enforcement of such Code is a responsibility of the BCCSA, insofar as it provides the following: "*The provisions of subsection (2) do not apply to a broadcasting service licensee who is a member of a body which has proved to the satisfaction of the Authority that its members subscribe and adhere to a code of conduct enforced by that body by means of its own disciplinary mechanisms, provided such code of conduct and disciplinary mechanisms are acceptable to the Authority*".

[62] eMedia Submission: Draft Amendment to Municipal Party Elections Broadcasts and Political Advertisements Regulations, 2026, 23 January 2026, page 5

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4.8.3 As a result, accepting the proposal would place the enforcement of the BCCSA Code under the jurisdiction of the CCC, which would be unlawful.

4.9 Complaints: Regulations 7

4.9.1 MultiChoice raises a concern that the provision that the Authority will address a complaint in accordance with regulation 6 of the CCC Regulations, and that the Authority will communicate the outcome to the parties is repeated three times. These are repeated in regulation 7(1), which permits any person aggrieved by any PA or PEB to lodge a complaint; in respect of regulation 4(9) and also regulation 6(7).[63]

4.9.2 As a result, MultiChoice recommends that regulation 7 be amended and should have limitation by prescribing who may lodge the complaint with Authority and on what basis the complaint might be lodged. The complaint should be within the parameters of section 56 to 58 of the ECA. MultiChoice suggests that the Authority should indicate whether the complaint should be lodged with the Authority or with the CCC.[64] It argues that this is exacerbated by the guideline for pre-recorded promos for complaints which states that complaints should be sent to both ICASA broadcasting compliance division and the CCC.

4.9.3 MMA argues that regulation 6(7) is limiting as it only allows registered political parties and independent candidates to lodge a complaint against non-broadcast of PA,[65] when read with regulation 7(1) which provides that in the event of any person being aggrieved by any PA or PEB, that person may lodge a complaint with the Authority within five (5) working days after such broadcast has occurred. Therefore, MMA is of the view

[63] MultiChoice: Proposed Amendments to the Municipal Party Elections Broadcasts and Political Advertisements Regulations, 2011, 23 January 2026, page 6 par 31-32
[64]MultiChoice Submission: Proposed Amendments to the Municipal Party Elections Broadcasts and Political Advertisements Regulations, 2011, 23 January 2026, Page 07, 34-35
[64] Ibid, pages 34-35
[65] MMA: Submissions on the Draft Municipal Election Regulations, 22 January 2026, page 2.

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that regulation 6(7) is in contradiction with regulation 7(1). MMA proposes that section 7(1) of the Draft Amendment Regulations should be amended to read: "Any person aggrieved by a PA or PEB or by the refusal of a broadcaster to broadcast a PA or PEB may lodge a complaint with the Authority within forty-eight (48) hours of such a broadcast or refusal, as the case may be.[66]

4.9.4 MMA raises a concern that the limitation in terms of regulation 4(8) and 6(10) is permitting only political party or independent candidate to refer the rejection to broadcast PEB and PA by a licensee to the Authority, and this is ultra *vires.*[67] It alludes that regulation 7(1) is ultra vires when read with section 17B(a)(ii) and (iii) which provide that the CCC "must investigate, and *hear if appropriate, and make a finding on… all complaints received by it; and allegations of non-compliance with ICASA Act or the underlying statutes received by it*"; and section 17C(1*)(a*)(iii) of the ICASA Act which provides that "*a person who has reason to believe that licensee or another person is guilty of any non-compliance with the underlying statutes may lodge a complaint with the authority within 60 days after becoming aware of the alleged non-compliance*".[68] It states that the legislation entitles any person who believes that a licensee is guilty of non-compliance to complain to ICASA, including to its standing committee, the CCC.[69]

4.9.5 SOS states that a swift and efficient dispute resolution mechanism and complaints procedure is critical, especially during an election period, where time is of the essence. SOS supports this Regulation and encourages ICASA as well as broadcasters to make every effort to publicise the complaints procedure as widely as possible and across all

[66] Ibid, page 3.
[67] Ibid, page 4.
[68] MMA: Submissions on the Draft Municipal Election Regulations, 22 January 2026, page 3
[69] MMA: Submissions on the Draft Municipal Election Regulations, 22 January 2026, page 4.

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platforms so that come election time citizens are aware of their rights and how to exercise their right to complain and receive redress and resolution of complaints within reasonable time frames.[70]

4.9.6 SOS suggests that in order to simplify the complaints process for the members of the public, the Regulations should stipulate that the complaint must be laid with the Complaints and Compliance Committee (CCC) and provide a dedicated email address for complaints.[71]

4.9.7 SOS reiterates in its supplementary submission that the regulations should explicitly contain a dedicated email address to simplify the complaints procedure, in addition to the details contained in the explanatory note.[72]

4.9.8 Furthermore, SOS proposes that broadcasters who elect to carry PEBs and PAs be required to flight specific standardised promotional announcements informing the public of the existence of complaints procedures and how such complaints may be lodged in relation to PEBs and PAs. This would ensure adequate public awareness, and that members of the public are fully informed to exercise their rights[73].

4.9.9 The DA argues in its supplementary submission that it strongly believes that in addition to the central role it occupies in dictating the process in regulation 4, the Authority must be timebound in its ruling on disputes.[74]

[70] SOS Submission: Draft Amendment to Municipal Party Elections Broadcasts and Political Advertisements Regulations, 2011, page 6
[71] Ibid, page 6, repeated in the supplementary submission
[72] SOS Supplementary Submission on Draft Amendment to the Municipal Party Elections Broadcasts (PEBs) and Political Advertisements (PAs) Regulations, 2011
[73] Ibid, page 04.
[74] DA Supplementary Submission: Draft Amendment to the Municipal Party Elections Broadcasts and Political Advertisements Regulation, 2011, page 5

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4.9.10 The DA submits that when it disputed the SABC's rejection of a PA, it took the Authority 11 working days to make a ruling, and by the time this ruling was made it was too late before election day to take the advert to air, prejudicing the DA. The DA qualifies its submission on the basis that while this may be an appropriate turnaround time outside of an election period, it is insufficient during an election period. An election period falls within a stipulated period, with parties / independents needing to prepare PAs and PEBs for the election period.[75]

4.9.11 The DA adds that while the Authority must be allowed time to properly rule, an indefinite waiting time from the Authority takes away broadcasting time from political parties and independent candidates. The DA believes a balance must be struck and recommend that the Authority rules on a dispute within five (5) calendar days. If the Authority requires more time, parties in dispute must be notified of such, with reasons provided.[76]

4.9.12 Capricorn municipality suggests that ICASA partner with them to disseminate guidelines on how communities can lodge complaints and provide municipalities with promotional material on the ICASA complaint channels. This is due to the fact that municipalities are the first point of contact for public complaints about political broadcasting[77].

The Authority's Decision and Reasons

4.9.13 The Authority wishes to clarify that regulation 6(7) should not be read with regulation 7(1) as the provisions addresses different circumstances

[75] DA Supplementary Submission: Draft Amendment to the Municipal Party Elections Broadcasts and Political Advertisements Regulation, 2011, page 5
[76] Ibid, page 5
[77] DCF Municipal Comments/Inputs on the Draft Amendment to Municipal Elections Broadcasting Regulations, 2026, page 2.

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under which a complaint can be made in terms of the Regulations. Whilst regulation 6(7) deals with the non-broadcast of PA, it is limited to political parties and independent candidates to complain about the PA that was not broadcast by BSL, in terms of section 58(2) of the ECA. Regulation 7(1) on the other hand, provides for any person being aggrieved by a PA or PEB, that such person may lodge a complaint with the Authority within five (5) working days after such broadcast has occurred.

4.9.14 In terms of the suggestion to set a timeframe for the Authority to deliver its ruling on complaints by aggrieved parties, the Authority would like to indicate that the election complaints are dealt with by the Complaints and Compliance Committee (CCC) of the Authority, in terms of the Regulations governing aspects of the procedures of the CCC. In terms of the CCC Regulations matters pertaining to elections are deemed urgent.[78] In this regard, the CCC Regulations empower the Chairperson of the CCC to issue directives on the procedure and time period to be followed in urgent matters. Therefore, the Authority does not deem it necessary to include timeframes in these Regulations as it is already catered for in the CCC Regulations. Moreover, in so doing, the Regulations would effectively usurp the powers of the Chairperson as provided for in regulation 6(4) of the CCC Regulations.

4.9.15 The Authority will consider the proposal to partner with DCF to disseminate simplified guidelines on how communities can lodge complaints and to provide municipalities with promotional materials on the ICASA complaint channels in future. However, the Authority prior to the promulgation of the final Regulations for any elections, be it municipal as in the current case or the national and provincial, it makes an effort to conduct workshops in various municipalities, as it has done in November

[78] Regulation 6(3) of the CCC Regulations

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and December 2025, to cover pertinent matters including on submission of complaints to the Authority.

4.9.16 The Authority notes the proposal to clearly state in regulation 7 who may lodge a complaint, in what circumstances; and indicate once and for all such complaints and how ICASA must deal with them. The Regulations are clear in that complaints can be lodged in terms of Regulations 4(9), 6(7) and 7(1) by following the complaints procedure set out in Regulations 7(2), 7(4) and 7(6), as the case may be.

4.9.17 The above complaints procedure requires that complaints are addressed in accordance with the CCC Regulations, which in their terms set out all the procedures which must be followed in lodging a complaint with the CCC. Therefore, the Authority is of the view that there is sufficient specificity in how complaints must be lodged and dealt with in context of these Regulations.

4.9.18 The Authority's position is that the complaint regarding the refusal to broadcast PEBs and PAs can only be made by political parties and independent candidates concerned, not the public as they will not be privy to the content thereof, nor which political party/independent candidates submitted a PEB/PA. Members of the public are not involved in the process at this stage and they will only be involved during the stage of broadcast. Nonetheless, the public cannot assume responsibility for the PEB/PA that belongs to the political party or independent candidate and lay complaint for non-broadcast of such.

4.9.19 Moreover, it is trite that the election period is a very-short period of time. Therefore, the Authority considers that allowing complaints from the general public in terms of Regulation 6(7) will inundate the CCC with hundreds or thousands of complaints, which, substantively would be the same, thereby impacting on the efficiency which the CCC must adjudicate

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matters during this period, which might also prove prejudicial to the political parties and/or independent candidates.

4.9.20 For the above reasons, it is a tenuous argument to make that the provision is *ultra vires*. In any event, section 17C(1*)(a*)(iii) of the ICASA Act is couched in wide terms, in that it can be used as a means through which any other person not contemplated in the Regulations, can complain to the CCC a breach about of the Regulations. Therefore, the Regulations need not create a distinct right to complain over and above what regulation 6(7) contemplates.

4.9.21 The Authority would like to indicate that the emphasis that the Authority will address a complaint in accordance with regulation 6 of the CCC Regulations, and that the Authority will communicate the outcome to the parties in regulations 4(9), 6(7) and 7(1) is important to ensure clarity in terms of the process to be followed in instances whereby the political party/independent candidate complain about rejection of their PEB/PA and also when aggrieved persons make a complaint.

4.9.22 Any complaint with regard to application of the regulations must be lodged with the CCC and the Authority Broadcasting Compliance Division, and therefore submission to both is still relevant. The Broadcasting Compliance Division advice the CCC in terms of their compliance monitoring expertise. The contact details for the CCC are contained in the Guidelines of the Regulations.

4.9.23 The Authority in regulation 7 of the Regulations provides for lodging complaints, and the forms are available on the ICASA website**.**

4.9.24 The Authority notes the proposal to include a requirement that a BSL who elects to carry PEBs and PAs should flight a specific standardised election

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complaints promo which includes the complaints procedure. As such the Authority advises that clause 5 of the guideline provides a generic prerecorded promo on how to lodge a complaint.

4.10 PEBs on Commercial Platforms

4.10.1 The SABC submits that its commercial services should be exempted from carrying PEBs. It reasons that it continues to experience significant financial pressures arising from increased competition with online content providers and other broadcasters for advertising revenue. The SABC argues that when it carries PEBs, it consequently forgoes potential commercial advertising revenue that could have contributed to the financial sustainability of the Corporation.[79]

4.10.2 The SABC points out that section 11(a) of the Broadcasting Act of 1999, as amended, states that *"commercial services of the Corporation must be subject to the same policy and regulatory structures as outlined in the Act for commercial broadcasting services".*[80]

4.10.3 Furthermore, the SABC states that its commercial services are required to comply with the regulatory framework and conditions applicable to the commercial broadcasting sector, as outlined in clause 2.3.2 of the Broadcasting Policy of 1998. This reinforces the position that SABC commercial services should not be compelled to carry PEBs, consistent with the treatment of other non-SABC commercial broadcasters. The SABC states that imposing PEB obligations on the SABC's commercial services would run contrary to the spirit and intention of both the Broadcasting Act and the Broadcasting Policy, which clearly envisage a light-touch regulatory regime for these services. The SABC points out that

[79] The SABC Submission on the Municipal Elections Draft Regulations, 23 January 2026, page 4.
[80] Ibid, page 5.

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such a requirement would undermine their commercial orientation and impede their ability to compete effectively and generate revenue.[81]

4.10.4 The SABC states that section 57(2) of the ECA enjoins the Authority to consider the financial and programming implications of the Corporation when developing election regulations. Thus, the SABC commercial services should be allowed to focus on generating commercial revenue instead of being mandated to carry PEBs.[82]

4.10.5 The SABC is of the view that the commercial services namely SABC 3 and the radio services 5FM, Metro FM, and Good Hope FM should not be compelled to carry PEBs in the same manner as other non-SABC commercial broadcasting services. The SABC urges the Authority not to impose PEB obligations on these commercial services, consistent with the approach adopted during the 2024 National and Provincial Elections. The SABC's view is that the exclusion of PEBs from its commercial services will ensure a level playing field, enabling the SABC to compete fairly with its commercial counterparts while prioritising revenue generation. According to the SABC, this approach will further support the Corporation's financial sustainability without undermining its broader public service mandate.[83]

The Authority's Position

4.10.6 The Authority would like to reiterate that section 57(8) of the ECA applies to a commercial or community broadcasting service licensee. In terms of section 57(8), a commercial broadcasting service licensee may elect to broadcast a PEB, however it is not required to broadcast PEBs. Under the circumstances the SABC is not a commercial broadcasting service licensee

[81] The SABC Submission on the Municipal Elections Draft Regulations, 23 January 2026, page 5.
[82] Ibid, page 5.
[83] Ibid, page 5.

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nor is it a community broadcasting service licensee therefore section 57(8) does not apply to the SABC.

4.10.7 According to section 57(1) of the ECA, a public broadcasting service licensee must permit PEBs during the election period. Nonetheless, section 57(2) requires the Authority to determine the duration and scheduling of PEB slots taking into account the financial and programming implications for the broadcasting services in question. Therefore, when determining slots allocations to the SABC the Authority will consider the financial and programming implications for its commercial services.

4.11 Content broadcast as PA vs content broadcast as PEB: Regulations 4(14) and 6(10)

4.11.1 The DA submits that the Draft Regulations state that, "content broadcast as a PEB cannot be broadcast as a PA". The DA disagrees with this provision, as PAs are commercial agreements between political parties, independent candidates and BSLs, underpinned by broadcasting codes. Further, content broadcast as PEBs and PAs are often similar, though not the same, as per regulations.[84]

4.11.2 The DA states that it notes the Authority seeking to make the distinction between allocated and paid broadcast slots, but in practice, making a firm separation may not be necessary. The DA suggests that the Authority amends the clause concerned to read; "content broadcast as a PEB may be broadcast as a PA". The DA asks that the Authority consults with BSLs, political parties and independent candidates on whether such a firm separation is required.[85]

[84] DA: Draft Amendment to the Municipal Party Elections Broadcasts and Political Advertisements Regulations, 2011, page 4.
[85] Ibid, page 4.

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The Authority's Decision and Reasons

4.11.3 The Authority would like to maximise transparency and erase perception that one political party has been awarded more PEBs. The political parties and independent candidates can use the same content, but must be tweaked so that it is not the same from the first till the last second of a PEB/PA.

4.12 Scheduling of PEBs: Prime time, news and current affairs

4.12.1 The SABC notes that the Authority is empowered to allocate PEB slots for political parties and independent candidates on the broadcasting platforms. In the interest of protecting the financial viability of the SABC, it submits that PEBs should not be scheduled during prime time but be spread throughout the performance period as this will enable the SABC to generate revenue for the greater public service mandate.[86]

4.12.2 Furthermore, the SABC states that it is worth noting that during the election period, SABC tries to broadcast all newsworthy, important, relevant and interesting political party election-related news and content in its current affairs programmes. The SABC argues that it does not broadcast PAs during its radio current affairs programmes, with the view to preserve the editorial integrity of these programmes.[87]

4.12.3 The SABC submits that neither PEBs nor PAs be scheduled directly before, during or directly after TV and Radio current affairs shows and news bulletins, (including Morning Live) so as to preserve the editorial integrity of these programmes as far as possible and to avoid any association of party messages with editorial content by the public.[88]

[86] The SABC Submission on the Municipal Elections Draft Regulations, 23 January 2026, page 6.
[87] Ibid, page 7.
[88] Ibid, page 7.

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4.12.4 Alternatively, if the Authority insists on allocating political adverts (PAs and PEBs) during news and current affairs, these PEBs or PAs be broadcast before the bulletin or current affairs programme starts or after the respective programmes have ended. Ideally, it is not advisable to have them played during the news and current affairs programmes.[89]

4.12.5 Based on the abovementioned reasons, the SABC therefore submits that the Authority should consider not allocating PEBs during current affairs shows both on radio and television.[90]

4.12.6 CoLab submits that the regulation requires the allocation of 12 PEB slots per day but does not explicitly provide that these slots are of equal or comparable value. It requests clarity with regards to allocation on an equitable and comparable basis.[91]

The Authority's Position

4.12.7 The Authority acknowledges its obligation to take into account the financial and programming implications for broadcasting services in question when determining the time to be made available, including the duration and scheduling of PEBs to political parties and independent candidates. However, the Authority is of the view that this obligation must be executed having due regard to the right of political parties and independent candidates having their voice heard and being treated equitably.

[89] The SABC Submission on the Municipal Elections Draft Regulations, 23 January 2026, page 7.
[90] Ibid, page 7.
[91] CoLAB Africa: Submission on the Municipal Elections Broadcasting Draft Regulations: Annexure A Comments.

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4.12.8 Prime time slots offer political parties and independent candidates the opportunity to be heard by the majority of South Africans. Excluding prime time slots would further mean that the performance period is reduced to only fourteen (14) hours as prime time is defined to be from 18h00 until 22h00 (four (4) hours in total). This would have negative implications on the scheduling of PEBs and would advantage political parties and independent candidates who can afford to pay for Political Advertisements during these prime-time slots.

4.12.9 The Authority tries to be as accommodating as possible by prescribing time slots that enable a broadcaster to be flexible in slotting in the PEB in a manner that is best suited to its programming. For example, slot one may be from 06h00 to 07h00 and the broadcaster is free to slot in the PEB anywhere within this sixty (60) minute period. There is a risk that if PEBs are excluded from primetime it would mean that PEBs will be too concentrated during certain periods and not be spread out evenly throughout the performance period. The Authority continues to review its slot allocations before every election to ensure that the process is still relevant and results in a fair and balanced outcome for both political parties and independent candidates as well as broadcasters who participate in the broadcast of PEBs.

4.12.10 The Authority is of the view that broadcasting PEBs during current affairs or immediately before or after the airing of news will not damage or have an adverse effect on the SABC's editorial policy as the PEBs come with a disclaimer which clearly stipulates that the views expressed are those of the relevant political party and independent candidates and not the public broadcaster.

4.12.11 The individual broadcasters have different times for its current affairs programs, not only will the scheduling thereof pose a challenge, but it may

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cause the Authority to interfere with the editorial independence of the respective broadcasters.

4.13 Back-to-back/adjacent PEBs and/or PAs: Regulations 4(15) and 6(11)

4.13.1 SABC states that Draft Regulation 4(15) of the Draft Election Broadcast Regulations stipulates that: *"A BSL must not broadcast a PEB immediately before or after another PEB, or immediately before or after a PA."*[92]

4.13.2 The SABC submits that Regulation 4(15), which prohibits a BSL from broadcasting a PEB immediately before or after another PEB or adjacent to a PA, should be reconsidered to allow back-to-back scheduling.[93] It argues that there is no empirical evidence demonstrating that consecutive PEBs or adjacent PEB and PA placements cause audience confusion, undue influence, or any adverse impact.[94] In practice, modern broadcast operations depend on automated scheduling systems that optimises available timeslots, enhance compliance and maintain consistent programming flows across multiple platforms.[95]

4.13.3 Allowing back-to-back placement would improve operational efficiency, particularly during peak election periods when broadcasters must accommodate a high number of political parties within limited airtime.[96] Importantly, consecutive scheduling also promotes fairness and equal access, as it minimises the risk of delays, missed slots, or the unnecessary displacement of compliant political content.[97]

[92] The SABC Submission on the Municipal Elections Draft Regulations, 23 January 2026, page 7.
[93] Ibid, page 7.
[94] Ibid, pages 7 - 8.
[95] Ibid, page 8.
[96] Ibid, page 8.
[97] Ibid, page 8.

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4.13.4 The SABC further submits that there is no political prejudice arising from back-to-back scheduling of PEBs, PAs, or any combination thereof, provided that each item is clearly defined and distinguished. According to the SABC, the regulations already require that PAs and PEBs carry tail disclaimers, which provide sufficient delineation and ensure that audiences are fully informed of the nature and origin of the broadcast.[98]

4.13.5 In light of the above considerations, the SABC respectfully requests that the Authority amend Regulation 4(15) to permit back-to-back broadcasting of PEBs and PAs, subject to all other regulatory safeguards.[99]

The Authority's Decision and Reasons

4.13.6 The Authority notes the SABC's proposal to amend regulation 4(15), which prohibits back-to-back broadcasting of PEBs and PAs. However, the Authority decision is to retain the status quo to prohibit BSL from broadcasting a PEB immediately before or after another PEB or adjacent to a PA.

4.13.7 The Authority's reason is that allowing back-to-back broadcasting of PEBs and PAs may be perceived as if some political parties and or independent candidates are getting preferential treatment over others, by having more airtime slots to sway the electorate in voting for them. Such practice will disadvantage smaller political parties/independent candidates as their political messages might be swallowed by the messages of the bigger political parties. Also, the audiences might not be able to engage with all those messages at once Additionally, this may comprise the equitable treatment principle in terms of section 59 of ECA.

[98] The SABC Submission on the Municipal Elections Draft Regulations, 23 January 2026, page 8.
[99] Ibid, page 8.

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4.14 Submission of PEBs Regulation 4(17)

4.14.1 The SABC submits that it supports Draft Regulation 4(17), which stipulates that *"if a political party or an independent candidate fails to deliver the PEB to the BSL before the expiry of five (5) working days prior to the broadcasting thereof, then the political party or independent candidate is deemed to have forfeited its allocated airtime."*[100]

4.14.2 The SABC states that this provision is practical and supports the SABC's operational mandate to ensure the efficient use of broadcast time while upholding editorial fairness and neutrality. According to the SABC this also prevents any undue advantage accruing to a party or candidate through late submissions and ensures that the broadcaster retains the necessary control over scheduling to continue providing essential public-interest programming without disruption.[101]

4.14.3 CoLab submits that there is no explanation why there is a requirement that a PEB be delivered at least 5 working days before broadcast. It requests the Authority to provide the rationale for the requirement or more flexibility in the period.[102]

The Authority's Position

4.14.4 The Authority agrees with the SABC.

4.14.5 The Authority is of the view that flexibility would entirely remove a timeframe, which would result in a chaotic scenario where there are forfeitures of time slots because candidates were not ready to submit the PEB on time. Furthermore, the requirement to submit the PEB at least 5

[100] Ibid, page 7.
[101] The SABC Submission on the Municipal Elections Draft Regulations, 23 January 2026, page 7.
[102] CoLAB Africa: Submission on the Municipal Elections Broadcasting Draft Regulations: Annexure A Comments.

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working days before broadcast will allow the BSL to listen to the content to ensure that it complies with Regulations 4(10) and 6(8).

4.15 Breakdown in transmission: Regulation 4(21)

4.15.1 CoLab submits that while the BSL is required to consult the Authority before rebroadcast of a PEB that was not broadcast due to a transmission breakdown, the affected party or candidate should receive assurance or evidence that the breakdown was unplanned. It further suggests that the affected political party or independent candidate be furnished with such upon request.[103]

The Authority's Decision and Reasons

4.15.2 The evidence of non-broadcast of a PEB due to breakdown in transmission should be provided to the political party or independent candidate upon request. Regulation 6 (2) of the amended Standard Terms of Conditions for Class Licenses, 2021 and Regulation 6 (2) of amended Standard Terms and Conditions Regulations for Individual Licences, 2023 stipulates that "*Where a Licensee cannot provide the licensed service due to circumstances beyond its control, for a continuous period of six (6) hours or longer, the Licensee must notify the Authority in writing of such circumstances within twenty-four (24) hours.".* The regulation requires BSL's to notify the Authority of instances where there would have been a breakdown in transmission and thus such would be made available to political parties and/or independent candidates where applicable. Any break in transmission that affects the PEB schedule should be communicated due to it being scheduled on a particular hour or time accordingly. Furthermore, the consultation for the rebroadcast would be between the Authority, the BSL and the political party and/or independent candidate to ensure

[103] Ibid.

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that all parties concerned are aware of the changes and the revised dates for broadcast.

4.15.3 In an instance whereby the political party or independent candidate is denied the evidence for none broadcast or is not happy with the evidence provided, they can lodge a complaint with the Authority in terms of the Regulations. The complaint lodged with the Authority shall be addressed by the Authority in accordance with regulation 6 of the CCC Regulations.

4.16 Physical versus electronic submission of PEBs: Schedule 2

4.16.1 The SABC submits that in the past elections, it had rejected PEBs that were delivered in-person by political parties and independent candidates, based on their non-compliance with prescribed standards. In other cases, these political parties and independent candidates had travelled from other provinces to deliver the PEBs in Auckland Park, Gauteng. This exercise could have been less costly for political parties and independent candidates if electronic submissions were made. In the interest of reducing travel/operational costs on both ends, it is submitted that the regulations must require political parties and independent candidates to submit their PA and PEB materials electronically.[104]

4.16.2 The SABC has control measures in place to ensure that all received PEBs are properly processed and acknowledged accordingly. The SABC states that it therefore submits that electronic submissions must be mandatory, as it has financial gains and is aligned with the current digital environment. Furthermore, electronic submissions will improve efficiencies and reduce delays in the submission and processing of adverts.[105]

[104] The SABC Submission on the Municipal Elections Draft Regulations, 23 January 2026, page 8.
[105] Ibid, page 8.

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4.16.3 MultiChoice submits that physical submissions are impractical in this age and supports ICASA's proposal that the PEBs and PAs should also be submitted electronically to a broadcaster. In addition, MultiChoice proposes that the BSL that elects to broadcast PEBs and PAs should be given an option to accept only the electronic submissions and to reject physical submissions. Multichoice is of the view that accepting only electronic submissions will reduce the BSL's operational costs.[106]

The Authority's Position

4.16.4 The Authority would like to reiterate its position in line with its past Reasons documents[107] that both physical and electronic submission of PEBs and PAs should be allowed. Electronic submission allows political parties and independent candidates to choose a delivery method that is most convenient to them, as well as lessening the administrative burden of the BSL relating to the physical delivery of PEBs and PAs. The Authority does not agree to electronic submission as the only method of submission. The reason for this decision is to accommodate independent candidates and political parties that may experience technical challenges and network problems. It is important to acknowledge that not everyone has access to platforms that would enable electronic submission.

4.17 PEBs and Broadcast Language: Regulation 4(22)

4.17.1 SABC states that it notes that Draft regulation 4(22) of the Draft Regulations provides that PEBs should be broadcast in the language of the relevant BSL/broadcaster.[108]

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[106] MultiChoice: Proposed Amendments to the Municipal Party Elections Broadcasts and Political Advertisements Regulations, 2011, page 4.
[107] ICASA Reasons Document: Amendments to the Municipal Elections Broadcasts and Political Advertisements Regulations**,** 2011, published in Government Gazette 44370 of 31 March 2021, page 29 and ICASA Reasons Document: Amendment to the National and Provincial Party Elections Broadcasts and Political Advertisements Regulations, published in Government Gazette 50199 of 26 February 2024, page 37
[108] The SABC Submission on the Municipal Elections Draft Regulations, 23 January 2026, page 8.

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4.17.2 SABC states that it is fully supportive of this provision, as the use of the broadcast language of each radio station ensures that PEBs and PAs effectively reach their intended language groups. This approach promotes equitable access, enhances audience understanding, and ensures that all official languages are adequately represented across the SABC's diverse platforms. It further advances universal access, particularly for audiences who rely on radio as their primary source of news and information.[109]

The Authority's Position

4.17.3 The Authority concurs with the SABC.

4.18 Clock Hour Advertising Cap

4.18.1 SABC would like the Authority to confirm that the PEB timeslots allocations will not affect the clock hour advertising cap, to allow SABC TV Channels to generate commercial revenue during the election period. Thus, it is submitted that the final regulations should reflect this position for certainty.[110]

The Authority's Position

4.18.2 The Authority reiterate its position that the PEB airtime does not contribute towards the clock hour advertising cap contained in the license conditions[111].

[109] Ibid, page 9.
[110] The SABC Submission on the Municipal Elections Draft Regulations, 23 January 2026, page 9.
[111] ICASA's Reasons Document National and Provincial Elections 2024.

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4.19 Exclusion of Low Power: Regulations 4(23) and 6(14)

4.19.1 The Capricorn district municipality states that it would like ICASA to allow low power radio stations to broadcast PEBs and PAs, provided that they have editorial capacity, comply with fair coverage rules and participation is voluntary. It reasons that excluding low power may reduce localised access to political information and disadvantage remote communities reliant on these platforms.[112]

The Authority's Position

4.19.2 The Authority excludes low power sound broadcasting service licensees from carrying PEBs/PAs with the intention of providing certainty to the sector and to political parties and independent candidates on who they may approach to broadcast their political content. Regulation 10B of the Standard Terms and Conditions Regulations[113] states that Low Power Broadcasting Service licensees must source advertising only from within the coverage area. The majority of political advertisements therefore fall outside of this requirement. Further, the regulations require that low power broadcasting service licensees broadcast programmes that are specific to their coverage areas which includes malls, sports grounds, show grounds, old age homes, places of worship or any other like service. The Regulations explicitly prohibit Low Power Broadcasting Service Licensees from broadcasting news and current affairs. This sets Low Power broadcasting service licensees apart from other licensees as they do not have an obligation to inform their listeners on events relating to news and current affairs. The Authority therefore is of the view that Low Power Broadcasting Service Licensees are not an appropriate platform for the broadcasting of political content such as PAs and PEBs.

[112] DCF Municipal Comments/ Inputs on the Draft Amendment to Municipal Elections Broadcasting Regulations, 2026, page 2.
[113] Regulation 10B of the Amendment Standard Terms and Conditions for Class Licences, 2021.

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4.20 Schedule 2: Technical Formats and Quality: Regulations 4(5), 6(3) and schedule 2

4.20.1 SABC states that it would like to support and emphasise the importance of adherence to appropriate technical formats through which PAs and PEBs should be submitted to BSL for broadcast during the election period. For that reason, SABC submits that for both TV and Radio Services, political parties and independent candidates must adhere to the technical standards expressed in Schedule 2 of the Draft Regulations. Thus, SABC supports the proposed technical standards.[114]

4.20.2 MultiChoice raises concerns regarding regulation 4(5) and 6(3), as being unfair to impose the responsibility to ensure compliance with technical standard and quality on the broadcaster. As a result, MultiChoice proposes that responsibility should lie with political party submitting the recording to ensure that it complies with technical standards.[115]

4.20.3 CoLab submits that the technical standards prescribed can increase production costs and the risk of rejection, and requests that the Authority adopt a simplified, tiered approach in certain contexts without a compromise in broadcast quality.[116]

4.20.4 Capricorn Municipality submits that the reduction of PEB to 40 seconds and the requirement for specific technical standards may affect local broadcasters' capacity.[117]

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[114] The SABC Submission on the Municipal Elections Draft Regulations, 23 January 2026, page 9.
[115] MultiChoice: Proposed Amendments to the Municipal Party Elections Broadcasts and Political Advertisements Regulations, 2011, page 5.
[116] CoLAB Africa: Submission on the Municipal Elections Broadcasting Draft Regulations: Annexure A Comments.
[117] DCF Municipal Comments/ Inputs on the Draft Amendment to Municipal Elections Broadcasting Regulations, 2026, page 2.

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The Authority's Decision and Reasons

4.20.5 The Authority's position is that it is the responsibility of the political party and independent candidates to ensure that the PEBs and PAs conform to the technical standards. As a result, the BSL will reject any PEBs and PAs that do not conform to the technical standards. It should be noted that technical standards that are required in these Regulations in terms of schedule 2 are in line with broadcasting technical standards used by the broadcasters. Community broadcasters choose whether to broadcast PEBs/PAs, it is not compulsory for them to do so in terms of section 57 and section 58 of the ECA.

4.20.6 The Authority notes the view that the reduction of PEB to 40 seconds will impact on the capacity of broadcasters. However, evidence was not provided on how capacity will be impacted by reduction in PEB duration. Further, supporting evidence was not provided on how the technical standard will affect the local broadcasters.

4.21 Consolidation of Election Broadcast Regulations

4.21.1 According to SABC, the Authority should prioritise the consolidation of the 2011, 2016, and 2021 Election Broadcast Regulations into a single, updated regulatory instrument. The current fragmentation of requirements across multiple documents creates unnecessary complexity, increases the risk of interpretational inconsistencies, and complicates compliance processes for broadcasters.[118]

The Authority's Position

4.21.2 The Authority notes SABC's submission regarding consolidation of the 2011, 2016, and 2021 Regulations. This will be addressed after publication of final

[118] The SABC Submission on the Municipal Elections Draft Regulations, 23 January 2026, page 10.

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Amendment Regulations. The Authority will consolidate the Regulations and publish them on the Authority's website.

4.22 Schedule 3 (3.2) Broadcasting Service Licensee must seek out information

4.22.1 SOS points out that it is imperative that journalistic ethics and standards are upheld during this time. Journalists and broadcasters more broadly, therefore, have a responsibility to actively challenge false narratives and misleading or inaccurate information disseminated by political parties or independent candidates, and to ensure that the BSL is not used as a platform to promote or perpetuate misinformation and disinformation.[119]

The Authority's Position

4.22.2 The Guidelines provides that normal BSLs' role during elections does not differ from their normal journalistic role during non-election periods. Normal ethical considerations will continue to apply.

4.23 Schedule 3 (4.2) The right of reply to broadcast criticism

4.23.1 SOS states that in an event that the criticism is severe enough to cause potential damage to a political party or an independent candidate and the BSL has not provided the affected candidate with an opportunity to exercise their right of reply, the BSL must be able to provide evidence of reasonable and unsuccessful attempts to contact the candidate for such a reply, should the Authority request these records.[120]

[119] SOS Coalition submission on Draft Amendment to the Municipal Party Elections Broadcasts and Political Advertisements Regulation, 2011, page 7.
[120] Ibid, page 7.

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The Authority's Decision and Reasons

4.23.2 The submission is noted, but it is catered for in the Standards Terms and Condition for Licenses in terms of Licensees keeping records of their broadcasting activities. Furthermore, the Code of Conduct does require a mention to the audience of not being able to get hold of the person in question for right of reply.

4.24 Schedule 3 (4.4) Coverage of non-participating organizations

4.24.1 SOS proposes the following changes to the heading and an additional paragraph:

"Coverage of non-participating organisations and members of the public. In addition, members of the public must be afforded opportunities to express their views on contesting candidates and political information, in line with the constitutional right to freedom of expression. Consideration must be given to amplifying the voices of marginalised communities, particularly by the public and community BSL." [121]

The Authority's Decision and Reasons

4.24.2 The Authority highlights that the principle of broadcasting includes participation in programming content and discussions involving members of the public, and this principle does not change during the election period.

4.25 Annexure A, Schedule 1 – Airtime Allocation

4.25.1 KCO submits that Annexure A, Schedule 1 prescribes allocation principles for PEBs, with percentages distributed according to candidate lists and proportional representation. While the framework appears neutral, in

[121] SOS Coalition submission on Draft Amendment to the Municipal Party Elections Broadcasts and Political Advertisements Regulation, 2011, page 8.

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practice it disproportionately benefits larger political parties that field more candidates and hold more seats. Smaller parties and independent candidates, who require greater exposure to reach the electorate, are disadvantaged by this formula. This entrenches incumbency and undermines the constitutional principle of equitable participation.[122]

4.25.2 KCO proposes that Annexure A, Schedule 1 be amended to introduce balancing measures that guarantee minimum exposure for smaller parties and independent candidates, while capping the maximum allocation available to larger parties. KCO's suggested wording is as follows: "Notwithstanding the allocation percentages set out in Schedule 1, the Authority shall ensure that each contesting political party and independent candidate receives a minimum guaranteed allocation of airtime slots. No political party or independent candidate shall receive more than [X]% of the total available slots, irrespective of candidate numbers or seats held."[123]

4.25.3 According to KCO, this amendment would safeguard substantive fairness by preventing disproportionate exposure to larger parties and ensuring that smaller parties and independent candidates are afforded meaningful opportunities to communicate with the electorate.[124]

4.25.4 KCO submits that substantive fairness requires that the allocation of airtime does not entrench incumbency or disproportionately benefit larger parties. Guaranteeing minimum exposure for smaller parties and independent candidates ensures that all voices have a meaningful opportunity to reach the electorate.[125]

[122] KCO: Draft Amendment to the Municipal Party Elections Broadcasts and Political Advertisements Regulations, 2026, 13 January 2026, pages 1 – 2.
[123] Ibid, page 2.
[124] Ibid, page 2.
[125] Ibid, page 2.

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The Authority's Decision and Reasons

4.25.5 The Authority notes the KCO concerns regarding proportional allocations of slots. The Authority has over the years, increased the percentage for basic allocation in an attempt to manage the gap between smaller parties/independent candidates and big political parties in relation to the number of PEBs each will receive. With basic allocation, the Authority ensures that from the onset, every political contestant is allocated free airtime to communicate with the potential voters.

4.25.6 Further, the Authority wishes to emphasize that, the clause on proportional representation is a practice in other world jurisdictions and not limited to South Africa.

4.26 Schedule 3 – Equitable Treatment

4.26.1 MultiChoice proposes that schedule 3 should also refer to independent representatives, owing to the fact that the term is also used in section 59 of the ECA.[126]

4.26.2 SOS submits that to make this provision clear, a sentence should be added to expressly state that equitable treatment does not imply equal treatment or an equal allocation of time. In determining what constitutes equitable treatment, due consideration should be given to news value as well as the political party's standing and level of public support.[127]

4.26.3 In its supplementary submission, SOS reiterates that their initial submission does not refer to the broadcast of PEBs and PAs but general

[126] MultiChoice: Proposed Amendments to the Municipal Party Elections Broadcasts and Political Advertisements Regulations, 2011, page 7.
[127] SOS submission on Draft Amendment to the Municipal Party Elections Broadcasts and Political Advertisements Regulation, 2011, page 7.

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news and current affairs during the election period. It proposes that, for the purposes of clarity, a sentence should be added to expressly state that equitable treatment does not imply equal treatment or an equal allocation of time. This would avoid endless complaints from political parties and independent candidates who may be under the impression that all political parties must be afforded equal time, regardless of their level of support and reach.[128]

4.26.4 KCO submits that Schedule 3, Section 3 requires Broadcasting Service Licensees to treat political parties and independent candidates equitably in their coverage during the election period. While the principle of equitable treatment is sound, the draft amendment does not specify how "equitable share" is to be determined. Leaving this determination solely to broadcasters or the Authority risks arbitrary application and may undermine the constitutional principle of participatory democracy.[129]

4.26.5 KCO proposes that Schedule 3, Section 3, be amended to require consultation with contesting stakeholders in defining and monitoring equitable treatment. KCO suggests the insertion of a clause to read: "*Equitable treatment shall be determined in consultation with interested parties, including contesting political parties and independent candidates, through a transparent mechanism established by the Authority.*"[130]

4.26.6 KCO states that participatory fairness requires that the determination of equitable treatment be transparent and inclusive. By mandating consultation with contesting parties and independent candidates, the regulations would prevent arbitrary decisions and strengthen public confidence in the impartiality of election coverage.[131]

[128] SOS supplementary submission on Draft Amendment to the Municipal Party Elections Broadcasts (PEBs) and Political Advertisements (PAs) Regulation, 2011, pages 4 – 5.
[129] KCO: Draft Amendment to the Municipal Party Elections Broadcasts and Political Advertisements Regulations, 2026, 13 January 2026, page 2.
[130] Ibid, page 2.
[131] Ibid, page 2.

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4.26.7 KCO points out that this amendment would safeguard participatory fairness by ensuring that those directly affected, namely political parties and independent candidates, are included in the process of defining and enforcing equity. KCO states that it would also strengthen public confidence in the impartiality of election coverage.[132]

The Authority's Decision and Reasons

4.26.8 The Authority highlights that by its very meaning, the concept of equitable treatment refers to fair and just but not equal allocation of the broadcast slots to the political parties and the independent candidates contesting the political elections.

4.26.9 It is therefore on this basis that broadcasters would apply equitable treatment to political parties and independent candidates as to their respective footprint and exposure. Also, where the other political parties and the independent candidates do not gain exposure to premium news programmes, they are being catered for in other alternative programme schedules.

4.26.10 With regards to consulting stakeholders on equitable treatment, the Authority consult the stakeholders through provincial workshops and the gazetted Draft and final regulations. Therefore, the issue of equitable treatment has been widely canvassed.

[132] KCO: Draft Amendment to the Municipal Party Elections Broadcasts and Political Advertisements Regulations, 2026, 13 January 2026, page 2.

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4.27 Schedule 3: Paragraph 6

4.27.1 MultiChoice is of the view that a requirement for BSL to inform ICASA of their intention to broadcast PEBs and/or PAs should not be under the guidelines, since the guidelines are not binding. Therefore, MultiChoice proposes that the requirement should be set out in regulation 8(4) of Regulations and it is not necessary to repeat the provision under guidelines.[133]

4.27.2 Further, MultiChoice submits that it is not appropriate to put the individual names and their numbers in gazetted Regulations or guidelines.[134]

4.27.3 MultiChoice notes that the guidelines contain words that command mandatory action like "must". Therefore, it proposes that paragraph 1 of the guidelines should explicitly state that the guidelines are not binding so that BSL are encouraged to be guided by them.[135]

The Authority's Decision and Reasons

4.27.4 The Authority agrees with MultiChoice regarding moving the requirement for BSLs to inform the Authority of their intension to broadcast PEBs and/ or PAs from Guidelines to the Regulations.

4.27.5 The Authority's view regarding the individual names and their numbers in gazetted Regulations or guidelines is that there is no harm caused by such practice since the names are for project leaders/ managers. Furthermore, the numbers are used for conducting ICASA's business.

[133] MultiChoice: Proposed Amendments to the Municipal Party Elections Broadcasts and Political Advertisements Regulations, 2011, page 8.
[134] Ibid, page 8.
[135] Ibid, page 8.

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4.27.6 The Authority notes MultiChoice's proposition regarding the usage of "must". Therefore, it proposes that paragraph 1 of the guidelines should explicitly state that the guidelines are not binding so that BSL are encouraged to be guided by them

4.28 Principles Underpinning the Amendments

4.28.1 KCO submits that the proposed amendments are guided by three interrelated principles that uphold constitutional fairness and democratic participation. KCO argues that together, these principles ensure that the regulatory framework promotes equal access, protects against structural disadvantage, and reflects the constitutional commitment to pluralism and fairness in the democratic process.[136]

4.28.2 KCO states that the submission calls on the Authority and Parliament to adopt the proposed amendments to the Municipal Party Elections Broadcasts Bill. According to KCO, these changes will ensure that contesting political parties and independent candidates are treated fairly, that access to airtime is balanced, and that equity is determined transparently with stakeholder participation. KCO states that by incorporating these provisions, the electoral broadcasting framework will better uphold constitutional democracy and public confidence in the electoral process.[137]

The Authority's Decision and Reasons

4.28.3 The Authority is cautious not to breach its mandate and overlap into other functions against which it is not mandated to perform. As per the recent Constitutional Court ruling attests, the Authority has amended its regulations

[136] KCO: Draft Amendment to the Municipal Party Elections Broadcasts and Political Advertisements Regulations, 2026, 13 January 2026, page 2.
[137] Ibid, page 3.

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to include the independent candidates. The Authority intends to adhere to all principles that guide the country's Constitution. Similarly, the Authority would raise the inconsistencies with the relevant institutions from which a decision to augment the related clauses will be discussed and finalized.

4.29 Government Communication Versus Political Advertising

4.29.1 Capricorn district municipality submits that ICASA should provide guidelines to ensure that municipal delivery announcements are not interpreted as political advertising. Furthermore, the municipality would like ICASA to include clarity in the guidelines to ensure that there are no restrictions that unintentionally limit municipalities from communicating operational or emergency services.[138]

The Authority's Position

4.29.2 Municipal delivery announcements come from the municipality whereas political advertisements are produced and submitted to the broadcaster by political parties/independent candidates in line with the Regulations. Communication of emergency services by municipalities is not part of the election's regulations. The Regulations on Advertising, Infomercials and Programme Sponsorship defines public service announcement to mean a visual and/or audio announcement transmitted by a broadcaster and aimed at imparting knowledge or information the dissemination of which is in the public interest and/or which attempts to solicit support for, or create awareness of, any non-profit organisation or any other organisation which conducts activities in the public interest.[139]

[138] DCF Municipal Comments/Inputs on the Draft Amendment to Municipal Elections Broadcasting Regulations, 2026, page 1.
[139] Advertising, Infomercials and Programme Sponsorship Regulations 2023, published in Government Gazette No.48863, of 29 June 2023.

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4.29.3 Broadcasting of emergency services that fall outside public service announcements definition and operational services are decided upon by the broadcaster, considering its schedule and programming policy.

4.29.4 The Authority published guidelines stating that during the election period, BSLs must recognise that government officials are in a position to use their incumbency to advance their electoral prospects. During the election period, BSLs should regard with particular caution any statement or action by an official of an incumbent political party or independent candidates

4.30 Rate card for Community Radio

4.30.1 Capricorn district municipality suggests that ICASA should require community broadcasters to publish transparent rate cards and provide equal scheduling for all recognised stakeholders.[140] It believes that this will address the challenge of community radio stations prioritising political actors with financial capacity so that community broadcasters are accessible to all stakeholders during the election period as rural and semi-urban municipalities rely on community radio.[141]

The Authority's Position

4.30.2 The PEBs are allocated by the Authority in line with the principles for allocation. The Authority cannot interfere with regards to the rate cards for political advertising as this is a commercial matter, however, radio stations are expected to have predetermined rate cards that they apply across the board. Political parties and independent candidates who cannot afford advertising time will get airtime through PEBs as they are free of charge.

[140] DCF Municipal Comments/ Inputs on the Draft Amendment to Municipal Elections Broadcasting Regulations, 2026, page 1.
[141] Ibid, page 1.

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4.31 Guidance For Community Broadcasters to Manage Independent Candidates

4.31.1 The Capricorn district municipality suggests that ICASA should develop a template to assist small broadcasters in allocating slots to independent candidates fairly. This is due to the fact that small radio stations might be overwhelmed by the high number of independent candidates.[142]

The Authority's Position

4.31.2 The allocation of PEB slots is done by the Authority whereas the allocation of slots for PAs is done by the broadcaster and all candidates must be treated equitably. In terms of interviews and other election programmes, the broadcaster should treat political contestants equitably. It will not be possible to invite all political contestants to one programme therefore the broadcaster should involve them across a number of programmes.

4.32 Protection of Municipal Communication Platforms from Political Exploitation

4.32.1 Capricorn District Municipal submits that ICASA should include a clause forbidding Municipal-owned communication platforms to be used for political election broadcasting or advertising. It complains that municipal social media platforms and community outreach programmes sometimes become targets for political misuse.[143]

[142] DCF Municipal Comments/ Inputs on the Draft Amendment to Municipal Elections Broadcasting Regulations, 2026, page 3.
[143] Ibid, page 3.

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The Authority's Position

4.32.2 The Authority has a mandate on traditional broadcasting platforms and does not have a mandate to regulate social media platforms**.**

4.33 Non-Interference with Municipal Communications

4.33.1 Capricorn district municipality would like ICASA to assure it that the regulations do not restrict normal municipal communication activities and do not require municipalities to provide airtime to political actors. Furthermore, the Authority should clarify that the Regulations are applicable to broadcasting licenses, political parties and independent candidates.[144]

The Authority's Position

4.33.2 The Authority does not regulate municipalities, and the regulations clearly outline that they apply to broadcasting licenses, political parties, and independent candidates**.**

4.34 Municipal Capacity-Building Workshops

4.34.1 The municipality would like ICASA to hold workshops on political broadcasting regulations, complaints management, equitable treatment compliance and media monitoring expectations during the election period to strengthen governance and compliance at local level.[145]

The Authority's Position

4.34.2 The Authority is available to conduct such workshops upon invitation.

[144] DCF Municipal Comments/ Inputs on the Draft Amendment to Municipal Elections Broadcasting Regulations, 2026, page 3.
[145] Ibid, pages 3 – 4.

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4.35 Harmonised Electoral Communications Framework

4.35.1 Capricorn District Municipality suggests that ICASA should collaborate with the IEC, GCIS and MDDA, to create a unified, clearer, and simplified municipal election communication guide, because municipalities must navigate all three institutions during the election period.[146]

4.36 Financial viability of SABC

4.36.1 SABC submits that section 2(t) of the ECA mandates the Authority to protect the integrity and viability of public broadcasting services.[147] The SABC states that it is important that the regulatory framework enables the SABC to fulfil its public service mandate while remaining financially sustainable.[148] The SABC submits that the allocation of PEBs should be structured in a manner that balances the need for equitable access with the imperative to maintain the financial viability of the Corporation.[149]

The Authority's Position

4.36.2 The Authority acknowledges SABC's submission. While it is important to protect financially sustainability of the SABC, the Authority's decisions are informed by the number of contesting political parties and independent candidates.

5. CONCLUSION

The Authority has finalised the review of the Regulations on Party Election Broadcasts, Political Advertisements, the equitable treatment of political parties by

[146] DCF Municipal Comments/ Inputs on the Draft Amendment to Municipal Elections Broadcasting Regulations, 2026, page 4.
[147] The SABC Submission on the Municipal Elections Draft Regulations, 23 January 2026, page 3.
[148] Ibid, pages 3 – 4.
[149] Ibid, page 4.

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broadcasting licensees and related matters during municipal elections, 2011. The Authority would like to thank all the stakeholders who participated in the process to review the Regulations for the robust engagements, both written and verbal. The Authority is satisfied that its decisions contained herein balances the interests of different stakeholders and provides certainty regarding municipal elections broadcasting.

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