



INDEPENDENT COMMUNICATIONS  
AUTHORITY OF SOUTH AFRICA

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# REPORT ON ENSURING FREE AND FAIR LOCAL GOVERNMENT ELECTIONS DURING COVID-19

## ICASA's State of Readiness

### 02 July 2021

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## ICASA TEAM

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# Overview

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- ❑ ICASA's role in the broadcast of Municipal Elections
- ❑ Regulation amendment process for 2021 Municipal Elections
- ❑ Measures undertaken by the Authority to facilitate campaigning for the upcoming general local government elections  
Party Election Broadcast
- ❑ Access political parties and independent candidates will have to broadcasting for the purposes of campaigning in the period leading up to the forthcoming local government elections.
- ❑ Implementation of the Regulations
- ❑ Conclusion

# ICASA's Role in the Broadcast of Municipal Elections

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

# ICASA's Role in the Broadcast of Municipal Elections.....

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- ❑ Section 56 - 59 of the ECA outlines how election broadcasts should be handled by broadcasters, political parties and ICASA.
- ❑ Other related legislations:
  - **The Constitution, 1996;**
  - **Electoral Act No.73 of 1998;**
  - **Local Government: Municipal Electoral Act 27 of 2000**
  - **ICASA Act No.13 of 2000; and**
  - **The Broadcasting Act No.4 of 1999.**
- ❑ All election broadcast materials are expected to comply with the related legislation and regulations.
- ❑ The Authority is required to review the elections broadcasting Regulations to assess its relevance during every election year.

# ICASA's Role in the Broadcast of Municipal Elections.....

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- ❑ Municipal Elections Party Elections Broadcasts and Political Advertisements Regulations, 2011 were published in Government Gazette No. 34086 of 8 March 2011.
- ❑ On 31 March 2021, the Authority published the amendments to the Regulations, in preparation for the 2021 Municipal elections, in Government Gazette No. 44370.
- ❑ The purpose of the regulations is to prescribe the framework and guidelines under which PEB(s) and PA(s) shall be conducted and carried by the broadcasting service licensee during the 2021 Municipal elections.

# Regulation amendment process for 2021 Municipal Elections

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- Published the draft Municipal Elections Broadcasts and Political Advertisements Regulations amendments (“the draft Regulations”) under GG no. 43984 of 10 December 2020.
- Consulted with SABC on 18 September 2020.
- Consulted with IEC on 20 September 2020 and on 18<sup>th</sup> January 2021 with regards to independent candidates.
- Held Public workshops from 18 – 22 January 2021.
- Currently participating in IEC Provincial PLC Meetings per invitation.
- Final Regulations were published under **GG no. 44370 of 31 March 2021**





# Measures undertaken by the Authority to facilitate campaigning

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- ❑ The Authority completed the review process on the Municipal Elections Party Elections Broadcasts and Political Advertisements Regulations Amendments in preparation for the 2021 local government elections.
- ❑ By means of these regulations, the Authority allocates airtime for political parties and independent candidates, **once the date of the municipal elections has been proclaimed by the President of the Republic.**
- ❑ The regulations term the air-time slot as PEB.
- ❑ Party election broadcast (PEB) means a direct address or message broadcast **free of charge** on a broadcasting service and which is intended to advance the interests of any particular political party and independent candidate.



# Access political parties and independent candidates will have to broadcasting for the purposes of campaigning

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- ❑ Public Broadcasting Service Licensee ("the SABC"):-
  - obliged to make available, every day and throughout the election broadcast period, ten (10) timeslots of fifty (50) seconds each for the broadcast of PEB, excluding the top and tail disclaimer.
  
- ❑ The Community and Commercial broadcasters:-
  - may elect to broadcast PEBs and, if they elect to do so, they must comply with the Regulations.
  
- ❑ In order to ensure a fair and equitable distribution of PEBs, the Authority provides the duration and sequencing of PEBs.
  
- ❑ The political parties and independent candidates will be allocated the above-mentioned PEB slots by the Authority, which will enable them to campaign for the upcoming elections throughout the broadcasting period.

# Access political parties and independent candidates will have to broadcasting for the purposes of campaigning...

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

# Access political parties and independent candidates will have to broadcasting for the purposes of campaigning...

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- ❑ In addition, political parties and independent candidates can use PAs provided for in the Regulations to access the electorate on the broadcasting services platform.
- ❑ PAs are Political Advertisements broadcast on a broadcasting service which is intended to advance the interests of any particular political party and now independent candidate.
- ❑ Regulations also include guidelines for the conduct of broadcasters during the election period to ensure free and equitable access to broadcast services by political parties and independent candidates during the elections period.

# Implementation of the Regulations

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- ❑ For the Authority to commence implementation of the regulations:
  - The election day must first be proclaimed by the President; and
  - The IEC must provide Authority with a final list of registered political parties and independent candidates.
  
- ❑ The total time available for political parties and independent candidates to campaign to the electorate on broadcasting services platforms is determined by the proclamation date and the completion of registration by the IEC.
  
- ❑ Current restrictions on gathering will affect the onsite allocation of slots which is done through a fair and transparent process. The slot allocations are done through a “lottery system method” which is meant to ensure that all political parties and independent candidates have the same opportunity to pick any of the available slots during the allocation.

# Implementation of the Regulations...

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- ❑ The Authority will enlist the services of a data and system analytics service provider and temporary compliance officers in order to supplement internal capacity on monitoring and compliance of the municipal elections' broadcasts regulations.
- ❑ The Authority made provision in other regulations to ensure elections related complaints are dealt with on an urgent basis for expeditious resolution of such complaints due to the time constraints during the election period.
- ❑ In June 2020, the Authority published the ICT Covid-19 National Disaster Regulations, which also serve to ensure that there is a continuation of the provision of services in the Republic, including for elections broadcast.

# Conclusion

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- ❑ The Authority is therefore ready for the upcoming elections and it is willing to assist in ensuring a free and fair election.
- ❑ Should a decision be made that elections must proceed during the Covid-19 pandemic, after consultation with the public broadcaster and other relevant stakeholders, the Authority will consider amending the ICT COVID-19 National Disaster Regulations, 2020 to prescribe further broadcasting relief measures relating to elections' broadcasts.
- ❑ The amendment will take into consideration the legislative requirements to take *"into account the financial and programming implications for the broadcasting services in question."* Sec 57 of the ECA.

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**Thank You**

