

## **ELECTORAL CODE OF CONDUCT ON MEDIA-RELATED MATTERS** **Published in terms of section 99(2) of the Electoral Act 73 of 1998**

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### **Purpose of the Code of Conduct on Media-Related Matters**

1. This Code of Conduct on Media-Related Matters (“the Media-Related Code”) is published in accordance with section 99 of the Electoral Act 73 of 1998, specifically section 99(2) thereof, to promote conditions that are conducive to the media being able to perform its constitutionally-mandated functions.
2. As such, the Media-Related Code is intended to foster the indispensable role of the media in the conduct of free, fair and orderly elections through enabling an informed and engaged electorate, and to create the necessary enabling environment in order for the media to do so without fear or threat.
3. The Media-Related Code should be read in line with *inter alia* the following frameworks:
  - a. the Constitution of the Republic of South Africa, 1996, in particular section 16(1)(a) guaranteeing the right to freedom of the press and other media and section 19 thereof regarding political rights;
  - b. the Electoral Code of Conduct as contained in Schedule 2 of the Electoral Act (“Electoral Code”), in particular item 8 regarding the role of the media<sup>1</sup> as well as items 3, 4 and 9 regarding compliance, commitments and prohibited conduct respectively; and
  - c. regional and international laws and standards to which South Africa is committed, including the Principles and Guidelines for the Use of Digital and Social Media in Elections in Africa,<sup>2</sup> the Declaration of Principles on Freedom of Expression and Access to Information in Africa<sup>3</sup> and the Guidelines on Access to Information and Elections in Africa.<sup>4</sup>

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<sup>1</sup> Item 8 of the Electoral Code provides as follows:

“Every registered party and every candidate–

- a. must respect the role of the media before, during and after an election conducted in terms of this Act;
- b. may not prevent access by members of the media to public political meetings, marches, demonstrations and rallies; and
- c. must take all reasonable steps to ensure that journalists are not subjected to harassment, intimidation, hazard, threat or physical assault by any of their representatives or supporters.”

<sup>2</sup> Association of African Election Authorities, 2024, accessible [here](#).

<sup>3</sup> African Commission on Human and Peoples’ Rights (“ACHPR”), 2019, accessible [here](#).

<sup>4</sup> ACHPR, 2017, accessible [here](#).

4. Accordingly, the intention of the Media-Related Code is to expand upon item 8 of the Electoral Code serving a dual purpose: (i) to provide for more specific commitments between all registered parties, candidates and independent candidates with the media; and (ii) in doing so, to promote a free and independent media committed to the highest professional and ethical standards of journalism.

#### **FACILITATION OF ACCESS TO ELECTION-RELATED INFORMATION**

5. Subject to the provisions of the Promotion of Access to Information Act 2 of 2000 (“PAIA”), all registered parties, candidates and independent candidates commit to–
  - a. respecting and fulfilling the right of access to information as provided for in section 32 of the Constitution, PAIA and other relevant laws;
  - b. responding to any requests for information from the media in a timeous manner, without delay or undue formality, and to providing such information in an electronic format to the extent practicable;
  - c. facilitating access to any election-related meeting, rally or similar gathering;
  - d. not banning access to any election-related meeting, rally or similar gathering;
  - e. not interfering with any live townhall broadcasts and debates; and
  - f. not tampering with, damaging or confiscating any media equipment such as cellular phones or cameras.

#### **PROTECTION OF THE MEDIA AGAINST ANY HARASSMENT<sup>5</sup> OR HARM<sup>6</sup>**

6. No registered party, candidate or independent candidate may–
  - a. use any language or act in a way that may provoke, encourage or incite office-bearers, representatives, members or supporters to commit any form of harassment or harm against a media representative, be it on- or offline, that may render them vulnerable to attack;
  - b. reveal any personal information or details about a media representative, such as their home address or personal contact details, that may result them being subjected to harassment or harm;
  - c. single out any media representative at any meeting, rally or similar gathering in a manner that may lead to harassing or harmful conduct against that person;

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<sup>5</sup> For purposes of the Media-Related Code, “harassment” has the same meaning as defined in section 1(1) of the Protection from Harassment Act 17 of 2011 (“Harassment Act”).

<sup>6</sup> As above, “harm” has the same meaning as defined in section 1(1) of the Harassment Act.

- d. support or condone any harassment or harm committed against a media representative;
- e. support or condone any abusive acts against a media representative via any form of communication, including anonymous telephone calls or online threats via any social media platform;
- f. support or condone any act of cybercrime<sup>7</sup> to target a media representative in a harassing or harmful manner, which may include cyberbullying, cyberstalking or through coordinated inauthentic behaviour such as botnets; or
- g. stifle or hinder any investigation into any act of harassment or harm committed against a media representative.

### **IMPEDIMENTS TO THE MEDIA IN PERFORMING ITS FUNCTIONS**

- 7. All registered parties, candidates and independent candidates commit to–
  - a. not making any false or defamatory allegations of bias or untoward behaviour against a media representative unless there is credible documentary evidence provided to support such claims;
  - b. not committing any act of unlawful physical or electronic surveillance of a media representative, including through physical stalking or the interception of private electronic communications;
  - c. not attempting to bribe or induce any unlawful conduct from a media representative, or abusing a position of power to attempt to influence their conduct;
  - d. not instituting any frivolous litigation or other legal proceedings against any media body or media representative; and
  - e. seeking conciliatory measures in any dispute against a media body or media representative such as engaging with the editor or approaching the relevant media regulatory body (namely the Press Council of South Africa for print and online media and the Broadcasting Complaints Commission of South Africa for broadcasters).

### **APPLICATION OF THE MEDIA-RELATED CODE**

- 8. All registered parties, candidates and independent candidates commit to–
  - a. complying with and promoting the effective and meaningful implementation of the provisions of the Media-Related Code of Conduct;

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<sup>7</sup> For reference, see Chapter 2 of the Cybercrimes Act 19 of 2020 regarding the prohibited acts of cybercrimes.

- b. informing all political office-bearers, representatives, members and supporters of the Media-Related Code and assisting them in understanding its importance;
- c. instructing all political office-bearers, representatives, members and supporters to comply fully with the Media-Related Code;
- d. publicly condemning any non-compliance with the Media-Related Code, including any act of harassment, harm or improper undermining committed against a media representative;
- e. establishing measures to address any non-compliance with the Media-Related Code by any political office-bearer, representative, member or supporter;
- f. providing for special measures to protect the rights of female journalists and other marginalised groups who may face discrimination so that are able to perform their functions freely and without hindrance; and
- g. publicly affirming the important role of the media in informing the public and enabling the electorate to make informed decisions, and supporting the media to the widest extent possible to perform its constitutionally-mandated functions in the public interest.

#### **Amendments to the Media-Related Code**

- 9. The Commission may change or replace any provision of the Media-Related Code in accordance with section 100(2) of the Electoral Act read with sections 100(3)-(4) thereof.

[Ends.]