



# ROLE OF THE MEDIA DURING THE ELECTIONS

MODULE II




# International law framework

- **International treaties on freedom of expression and political rights:**
  - Articles 19 and 25 of the International Covenant on Civil and Political Rights.
  - Articles 9 and 13 of the African Charter on Human and Peoples' Rights.
  - Article 27(8) of the African Charter on Democracy, Elections and Governance.
- **Declarations and guidelines on freedom of expression and access to information:**
  - Declaration of Windhoek on Promoting an Independent and Pluralistic African Press.
  - African Charter of Broadcasting.
  - Declaration of Principles on Freedom and Expression in Africa.
  - Guidelines on Access to Information and Elections in Africa (ACHPR Guidelines).
  - AAEA Principles and Guidelines for the Use of Digital and Social Media in Elections in Africa

**QUESTION FOR DISCUSSION:** The ACHPR Guidelines set out a list of information that print, broadcast, and online media, both publicly and privately owned, should proactively disclose. This includes, for example, editorial and ethical codes or guidelines; criteria and allocation of airtime or news coverage for political campaign advertisements and activities; and a plan for a transparent repository of all political advertisements. How do you think South African media is doing in meeting these guidelines?



# Group exercise

- Divide into groups and discuss the following questions:
    - What laws and policies are you aware of that apply to your newsroom relating to election coverage?
    - What internal processes do you follow within your newsroom relating to election coverage?
    - What is the approach within your newsroom regarding the use of social media (particularly personal social media accounts) relating to election coverage?
  - Thereafter, collectively discuss what policies and processes would be considered good practice for organisations and individuals covering the elections to adopt.
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# Print and online media

Regulatory framework	Overview
<p>Press Code of Ethics and Conduct for South African Print and Online Media (Press Code) (updated in January 2020)</p>	<ul style="list-style-type: none"><li>• Applicable to <b>print and online media</b>.</li><li>• Sets out <b>the standard expected</b> of the print and online media, including for news gathering and reporting.</li><li>• Complaints against the media are dealt with in terms of the <b>Complaints Procedures</b>.</li><li>• Press Ombud empowered to issue <b>sanctions</b> against any publication that is voluntarily subject to such jurisdiction.</li></ul>
<p>Section 107 of the Electoral Act</p>	<ul style="list-style-type: none"><li>• Places <b>specific controls on printed election media</b> during the election period.</li><li>• Any billboard, placard, poster or pamphlet intending to have an <b>effect on the outcome of the election</b> must clearly state the <b>full name and address</b> of the printer and publisher.</li><li>• Publisher of any publication must put a <b>heading on articles saying 'advertisement'</b> if an article is paid for and comes from a registered party, its members or supporters, or a party list candidate.</li></ul>



# Broadcast media

Regulatory framework	Overview
Broadcasting Act 4 of 1999	<ul style="list-style-type: none"><li>• Objects include to establish and develop a <b>broadcasting policy in the public interest</b>; to safeguard, enrich and strengthen <b>the cultural, political, social and economic fabric</b> of South Africa; to ensure <b>plurality</b> of news, views and information.</li><li>• Provides for the <b>incorporation of the SABC</b> and for the Charter of the SABC.</li></ul>
Independent Communications Authority of South Africa Act 13 of 2000	<ul style="list-style-type: none"><li>• Establishes ICASA as a juristic person that is <b>independent</b> and subject only to the Constitution and the law.</li><li>• ICASA must be <b>impartial</b>, perform its functions without <b>fear, favour or prejudice</b>, and which must function <b>without any political or commercial influence</b>.</li><li>• Regulates broadcasting and telecommunications.</li></ul>
Electronic Communications Act 36 of 2005	<ul style="list-style-type: none"><li>• Aims include to <b>promote convergence</b> and set up a legal framework for bringing together the broadcasting, broadcasting signal distribution and telecommunications sectors.</li><li>• Media coverage during the elections covered in <b>sections 57-59</b>.</li></ul>

# Broadcast media

Regulatory framework	Overview
Regulations on Party Election Broadcasts, Political Advertising, the Equitable Treatment of Political Parties by Broadcasting Licensees and Related Matters (Election Broadcasting Regulations)	<ul style="list-style-type: none"><li>• <b>Apply:</b> (i) during an election period; (ii) to broadcasting service licensees; and (iii) to political parties contesting the national and provincial elections.</li><li>• Provides a <b>more detailed framework</b></li><li>• Regulation 4(1) sets out <b>principles of fairness</b> in election coverage.</li></ul>
Code of Conduct for Broadcasting Services (Broadcasting Code)	<ul style="list-style-type: none"><li>• Sets out the <b>standards</b> according to which broadcasting service licenses will be <b>monitored by ICASA</b>.</li><li>• Licensees that fall under the <b>jurisdiction of the BCCSA</b> are also required to follow the Code of the BCCSA.</li></ul>
Community Radio Election Guidelines	<ul style="list-style-type: none"><li>• Developed by the <b>National Community Radio Forum</b> in 1999.</li><li>• Aimed specifically at assisting community radio stations to <b>entrench their role</b>.</li><li>• Community media organisations still required to comply with <b>all applicable broadcast and electoral laws and regulations</b> that affect elections.</li></ul>

# Broadcast media

## Electronic Communications Act: Party Election Broadcasts (PEBs)

- A public broadcasting service licensee must permit a PEB **only during an election broadcast period**, and only if the broadcast is produced on behalf of a political party.
- ICASA must determine the time to be made available to political parties for this purpose.
- **No PEB may be broadcast later than 48 hours** prior to the commencement of the polling period.
- Commercial or community media licensees are not required to broadcast PEBs, but must comply with section 57 if they elect to do so.

## Electronic Communications Act: Political advertising on broadcasting services

- A broadcasting service licensee is not required to broadcast a political advertisement; but if they elect to, **must afford all other political parties a similar opportunity**.
- A licensee may broadcast a political advertisement **only during an election period**.
- No political advertisement may be broadcast **later than 48 hours** prior to the commencement of the polling period.
- No broadcasting service licensee **may discriminate** against any political party.

# Broadcast media

## Electronic Communications Act: Equitable treatment of political parties by broadcasting service licensees

- A broadcasting services licensee must afford **reasonable opportunities for the discussion** of conflicting views and must treat all political parties equitably.
- Political parties and independent candidates must be afforded a **reasonable opportunity to respond if criticised** – particularly important during the 48 hours before commencement of polling or during polling.
- Opportunity to respond can either be in the same programme or as soon as reasonably practicable.
- Not applicable to PEBs or political advertisements dealt with in sections 57-58.

## Regulations on Party Election Broadcasts, the Equitable Treatment of Political Parties by Broadcasting Licensees and Related Matters, 2014

- Regulation 3, Equitable treatment:
  - Each broadcasting service licensee will be expected to treat parties fairly, and should be consistent in its treatment of contesting parties and of conflicting views.
  - Can be achieved over a series of programmes.
- Regulation 4(1), Principles of fairness in election coverage:
  - All news coverage should be fair to all interests concerned, and all parties should receive equitable treatment on current affairs programmes.
  - Opportunity for conflicting views to be heard should not be interpreted as a requirement that all parties be heard on any subject, only that all views be heard.

QUESTION FOR DISCUSSION: What processes are in place in your newsroom to ensure equitable treatment and fairness?



# Broadcast media - complaints

## ICASA:

- ICASA consists of **monitoring officers and complaints officers**.
- The **Complaints and Compliance Committee (CCC)** is a seven-person committee empowered to decide on complaints from the public about broadcasters not following licence conditions.
- CCC makes **recommendations to the ICASA Council** on action to be taken against broadcasters.
- For election broadcasts, any person aggrieved by a PEB or political advertisement may lodge a complaint with ICASA within **48 hours after the broadcast**.

## BCCSA:

- Section 14 of the of the **BCCSA's Free-to-Air Code of Conduct for Broadcasting Service Licensees** :
  - **"The BCCSA does not have jurisdiction in these matters and complaints must be directed to the Complaints and Compliance Committee of the Independent Communications Authority of South Africa."**
  - The BCCSA's Code of Conduct for Subscription Broadcasting Service Licensees does not contain an equivalent provision.

**QUESTION FOR DISCUSSION:** Identify the key differences in the regulatory approach to print, online and broadcast media, and discuss your views on the implications of this.

# FAQs for election coverage

- Do I need **accreditation** for voting or counting stations? NO
- Is the presiding officer **obliged to grant me access** to a voting station? NO
- Do I need accreditation for access to the **Results Operation Centres**? YES
- Who am I allowed to **interview** at the voting station? Only the PRESIDING OFFICER
- Are there any **visuals that** are not permitted? YES
- Am I entitled to have access to the **results slips**? Not specifically, but it is posted on the door
- Can I report on **opinion polls**? YES
- Can I report on **exit polls**? NO
- What role do **observers** play?




# Group exercise

As indicated earlier, no political advertisements may be broadcast within 48 hours prior to the election.

- a) What are you and your newsroom doing to ensure that your media platforms comply with this regulation?
- b) How do you plan to create content that aligns with the spirit of the regulation, which is to give voters an opportunity to reflect on their voting choices?
- c) How do you plan to treat political stunts and the advantage of the political incumbent?

**QUESTION FOR DISCUSSION:** Discuss these questions and share any tips, advice and strategies that might be useful for other journalists during election coverage.



# Suggested resources

- ARTICLE 19, 'Acting on UN Human Rights Council Resolution 33/2 on the Safety of Journalists' (2017) (accessible [here](#)).
- C. Silverman, 'Verification handbook: The ultimate guideline on digital age sourcing for emergency coverage', (undated) (accessible [here](#)).
- CPJ, 'Safety kit for journalists covering the South African election,' (2019) (accessible [here](#)).
- IEC, 'Municipal elections handbook', (2016) (accessible [here](#)).
- Media Monitoring Africa, "Disinformation and 'fake news' during elections: Proposals for the upcoming 2019 General Elections in South Africa' (2018).
- Press Council, 'Code of Conduct and Ethics for the South African Print and Online Media: Decoding the Code sentence by sentence', (1 January 2019) (accessible [here](#)).
- Press Council, 'Guidance notes: A brief for journalists covering the elections', (February 2019) (accessible [here](#)).
- UNESCO, 'Journalism, 'fake news' and disinformation': Handbook for journalism education and training', (2018) (accessible [here](#)).

For more information and resources, please visit:

<https://elections.sanef.org.za>.