

# 1999 ELECTIONS



## Regulations and Guidelines

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### Executive Summary

The Independent Broadcasting Authority Act enjoins the Authority to ensure that all political parties are treated equitably by the electronic media during the election period. The Authority is thus charged with giving the electorate access to comprehensive and accurate information on which to base its decision on Election Day.

The IBA is primarily accountable to the broad South African public rather than to political parties contesting elections or to broadcasters.

The tools available to the Authority to achieve this are:

- Monitoring and regulation (through assessment and adjudication of complaints by the public and political parties) of editorial coverage of the election contest during the election period;
- Implementation of a system to allocate Party Election Broadcasts (PEBs) equitably to political parties on public broadcasting radio services throughout the country and on any other stations offering to run them. PEBs are brief two minute broadcasts by political parties directly to the electorate, unmediated by journalists or by the broadcast service carrying them;
- Implementation and regulation of a system to ensure all political parties have a like opportunity to book political advertisements on radio during the election period.

The Authority has formulated regulations and developed structures and mechanisms intended to afford broadcasters optimal freedom of editorial decision-making and to facilitate rapid and amicable resolution of any conflicts and disputes between broadcasters and political parties.

Drawing on extensive international precedent and the experience of the 1994 South African election, the Authority recognises equitability as requiring neither equal treatment nor treatment that is quantitatively directly proportional to parties historical electoral performance. It recognises equitable treatment as containing elements of both.

The guidelines for editorial coverage attached as an annexure to the regulations encourage broadcasters not to operate on the basis that fairness and equitability can be judged only by quantity, through stopwatch journalism. Rather, they encourage broadcasters to adhere to established and professional principles and practice, seeking to achieve fairness through the quality of their journalism, rather than simply the quantity of coverage given to contesting parties.

The regulations also offer an explanation of the framework within which the system of Party Election Broadcasts and political advertising will operate. We would like to note that in developing these regulations we have taken into account submissions made by political parties and broadcasters to the discussion paper we released last year.

### Advertisements and Party Election Broadcasts

**The Act states that all political parties should receive a "like opportunity" to place adverts on air and that broadcasters should not give preference to any parties, or discriminate against any political parties.**

**It also states that advertisements are only permitted on sound broadcasting licensees and that adverts from political parties can only be broadcast from the start of the election period until 48 hours before the commencement of polling. Party Election Broadcasts can only be broadcast during the election period, at a time to be determined by the Authority. They too cannot be broadcast during the 48 hours before the commencement of polling.**

**There are no specific regulations regarding advertisements, as the Act is very clear about what is required. If political parties believe they have been treated unfairly in the allocation of adverts, they may complain to the Authority.**

**The Act also states that both political advertisements and PEBs shall conform to a technical quality acceptable to the Authority.**

**With regards to this we have required that broadcasters should submit to the Authority written clarification regarding their technical standards. If we believe that the technical standards are unreasonable or subjective we will ask the broadcaster to amend them.**

**Our regulations further state that political parties should submit advertisements and PEBs in a form and manner that complies with the broadcasters technical standards and requirements.**

**Party Election Broadcasts and advertisements must be submitted to the broadcaster 96 hours before going on air. The broadcaster has the right to refuse to transmit these only if they do not comply with the IEC code of conduct for political parties, with the IBA's regulations or with the broadcaster's technical standards.**

**Should the broadcaster decide to refuse either an advertisement or a PEB, they must give written reasons for their decision to the political party and the IBA within 24 hours of receipt of the recording. The political party can change the advert or PEB or it can complain to the Authority.**

**We would like to stress here, that the IBA does not want to interfere with the content of advertisements or party election broadcasts. We believe that the Electoral Code of Conduct for political parties developed by the Independent Electoral Commission deals sufficiently with the way parties should relate to each other, and this Code therefore governs the content of both PEBs and adverts. We have however developed regulations, which indemnify broadcasters from legal actions arising from the content of PEBs or advertisements.**

### **Allocating Time for Party Election Broadcasts (PEBs)**

**The Authority has exclusive responsibility for allocating PEBs to contesting political parties, public broadcasting sound licensees and on other radio stations, which choose to broadcast PEBs.**

**The Act directs the Authority to ensure contesting parties are treated equitably. Equitable treatment is defined in South African law and international precedent as fair.**

**Broadcasters carrying PEBs will be required to set aside four slots of a maximum of two minutes each in prime time for these broadcasts.**

**In keeping with the general principle of equitability and in recognising that the interests of the South African public are paramount, the Authority has adopted the international convention**

**that the public is entitled to hear from political parties more likely to substantially and directly influence policy decisions affecting the electorate, nationally and provincially.**

**In terms of this principle and international practice, parties likely to contribute to policy decisions affecting South Africans directly either as, or as part of, national and provincial governments, or as official oppositions in these forums will thus be allocated more PEBs than those unlikely to play these roles.**

**To achieve this, the Authority has adopted the formula used to allocate Party Election Broadcasts in the 1994 elections to take account of the fact that most political parties have an historical track record of parliamentary representation.**

**Three factors have been taken into account when developing the formula by which parties will be allocated Party Election Broadcast slots:**

- **The need for all parties to be heard by voters.**

**This factor serves as a numerical filter, to ensure that the electorate is afforded an opportunity to hear all parties potentially exercising influence in policy decisions affecting their lives. Every party contesting the elections is given an equal basic allocation of points. This factor further serves to limit the time differential between parties occupying and contesting a large number of seats and those contesting few seats.**

- **The historical record of political parties based on the previous election results in both the national parliament and provincial legislatures.**

**The number of points allocated to this factor will be divided pro rata according to the parties' record in the previous election. In recognition of the fact that several political parties contesting the current election do not have an electoral track record, the Authority can in addition consider using its discretion to make use of recent public opinion polls and other information and databases to determine time.**

- **The number of seats parties are contesting nationally and provincially.**

**In developing the formula for allocating PEBs, the Authority has taken into account the fact that South African radio stations cover different provincial legislative areas. All national stations will thus be required to carry PEBs from parties contesting national assembly seats, and from parties contesting seats in any or all of the provincial legislatures.**

**PEBs are allocated on a points system, with points accruing in terms of the above factors. The maximum number of points will be secured by a party which had a strong record in the 1994 election, and which is contesting all national assembly seats, both national and provincial lists, and all seats in all nine provinces.**

**Fairness requires that the differential between new, untested parties and established parties is relatively low. The basic, equal allocation to all parties is thus relatively large, accounting for approximately one fifth of the optimum number of points available to a party.**

**PEBs can only be allocated once registration of political parties and candidates has been closed.**

**Finally in terms of PEBs, the Authority has also recognised that equitability does not only relate to the number of PEBs but also to the scheduling of these. As it is very difficult to make an equitable determination of the schedule, which will satisfy all parties, we have adopted the procedure used in the last election. The Authority will determine the sequence of PEBs for each**

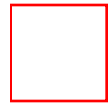
**radio station by the drawing of lots. All political parties and broadcasters will be invited to observe this and to monitor that this is done properly.**

**Regulations Relating to party Election Broadcasts, Political Advertisements, the Equitable Treatment of Political Parties by Broadcasting Licensees and Related Matters in Respect of the 1999 General Election**

**Annexure A**

**Annexure B**

**Annexure C**



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