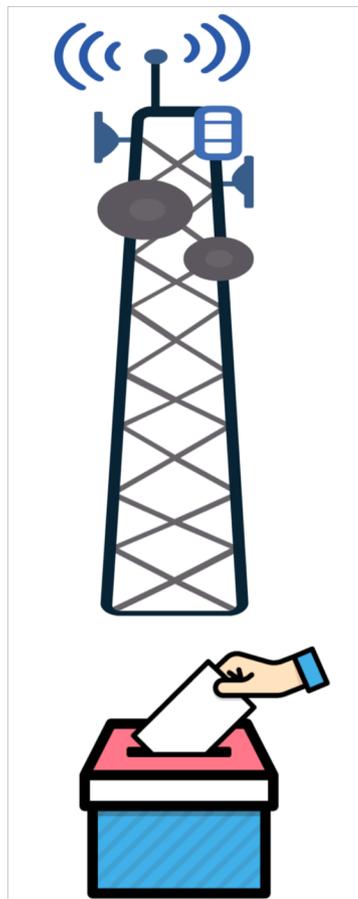




**BOTSWANA COMMUNICATIONS
REGULATORY AUTHORITY**



**CODE OF CONDUCT FOR
BROADCASTING DURING ELECTIONS**

JULY 2019

Table of Contents

1.	INTRODUCTION	3
2.	AIM OF THE CODE OF CONDUCT	3
3.	DEFINITIONS	4
4.	GENERAL COVERAGE.....	6
5.	DUTY OF BALANCE AND IMPARTIALITY	7
6.	PROFESSIONAL CONDUCT	8
7.	NEWS AND CURRENT AFFAIRS	9
8.	`PHONE-INS`	9
9.	ONLINE MEDIA REFERENCES	10
10.	OPINION POLLS	10
11.	ELECTION RESULTS ANNOUNCEMENT.....	10
12.	POLLING DAY BROADCASTING.....	11
13.	PARTY POLITICAL NOTICE	11
14.	PARTY POLITICAL BROADCASTS	12
15.	PARTY POLITICAL ADVERTISING.....	12
16.	FAIRNESS IN ADVERTISING	14
17.	SCHEDULING OF PARTY POLITICAL ADVERTISEMENTS AND NOTICES	15
18.	PROHIBITION OF PARTY POLITICAL INFOMERCIALS.....	16
19.	COMPLAINTS PROCEDURE AND ENFORCEMENT	16
20.	PENALTY.....	17
21.	EFFECTIVE PERIOD	17
22.	REVIEW	17



1. INTRODUCTION

- 1.1. Botswana Communications Regulatory Authority (BOCRA) has been mandated through the Communications Regulatory Act [No. 19 of 2012] (CRA Act) to regulate the communications sector in Botswana, comprising telecommunications, internet and information and communication technologies, radio communications, broadcasting, postal services and related matters. BOCRA has further been mandated as per Section 6 (2) (r) of the CRA Act to make industry regulations necessary for its responsibilities under the Act such as Code and rules of conduct. It is in this light that the Authority developed the Broadcasting Election Code of Conduct.
- 1.2. The Code of Conduct for broadcasting service licensees during the election is intended to assist the Authority in carrying out its duty of monitoring and supervising the broadcasting services as outlined in the Act. In addition, it will also provide guidance to the broadcasters during the election period. It should be noted that the Authority does not have the mandate to conduct elections in Botswana. Only the Independent Electoral Commission, (IEC) is mandated to conduct elections in Botswana. The IEC is established under section 65A of the Constitution of Botswana. In case of any doubt concerning issues on elections, broadcasting services are advised to check with the Commission. This Code of Conduct shall apply to all elections whether they are general elections or by-elections at parliamentary or council level. It shall also apply to the coverage of all candidates.

2. AIM OF THE CODE OF CONDUCT

- 2.1. This Code of Conduct aims at giving general rules to all broadcasting service licensees as regards party/candidate political broadcasts, during the electoral process.



- 2.2. Further the aim of the Code of Conduct is to provide key industry players with a clear and common broadcasting media regulatory landscape for coverage during the election period. The spirit of the code of conduct is to ensure that accurate, fair and balanced political coverage is given at all times by the broadcasting service licensees. The Code of Conduct further seeks to ensure that broadcasters provide adequate information to the general public on elections.
- 2.3. The Code of Conduct applies to all radio and television broadcasting stations, including online radio and Internet Protocol Television services under the jurisdiction of the CRA Act.

3. DEFINITIONS

- 3.1. In this Code of Conduct, any word to which a meaning has been assigned in the Communications Regulatory Authority Act, 2012 [No. 19 of 2012] and the Electoral Act [Cap 02:09] shall have that meaning unless the context otherwise indicates:
- 3.2. “**Authority**” means the Botswana Communications Regulatory Authority established under the CRA Act;
- 3.3. “**Broadcasting**” has the same meaning as defined in Section 2 of the CRA Act [No. 19 of 2012];
- 3.4. “**Candidate**” means a candidate for election as a Member in accordance with Section 2 of the Electoral Act [Cap 02:09];
- 3.5. “**Election**” means the election of a Member in accordance with Section 2 of the Electoral Act [Cap 02:09]
- 3.6. “**Election period**” means the period immediately following the issuance of a writ of election instrument in terms of Section 34 of the Electoral Act until the declaration of the results in accordance with Section 77 of the Electoral Act;



- 3.7. **“Independent Candidate”** means an individual candidate not affiliated with any political party participating in the election contest as a contender;
- 3.8. **“Party Political Infomercial”** means any party-political advertising broadcast in visual or audio form, lasting for more than two minutes;
- 3.9. **“Party-Political Advertisement”** means any programme or content which is:
- i) broadcast in return for payment to a broadcaster;
 - ii) which is intended or calculated to advance the interests, beliefs or objectives of any political party/candidate/Independent Candidate; and
 - iii) not a Party/Candidate Political Notice.
- 3.10. **“Party/Candidate Political Broadcast”** means any programme which is:
- i) broadcast free of charge;
 - ii) intended or calculated to advance the interests, beliefs, or objects of any Political Party or Candidate;
- 3.11. **Party-Political Notice”** means
- i) a message that informs members of the public about events to be held by a Political Party or Candidate; Or
 - ii) alerts members of the public only on:
 - a. address of offices;
 - b. office contacts;
 - c. an office bearer; and
 - d. Working hours
- and
- iii) is aired without the intention to advance the beliefs or objects of any particular political party or candidate on a licensed broadcasting service which has received or is to receive money or other consideration.



- 3.12. **“Phone-ins”** means a Radio or Television programme in which the public is allowed to participate by way of telephone;
- 3.13. **“Political Campaign”** means canvassing for support from potential voters for the purposes of attaining their votes to a political office through any form of public communication;
- 3.14. **“Political Party”** means a party, or any alliance of such parties, which is registered as a political party under Botswana Law, or which has publicly declared its intentions to register as a political party or to contest elections on a local or national level, or any alliance of such parties;
- 3.15. **“Polling day”** has the same meaning as defined in Section 2 of the Electoral Act [Cap 02:09];
- 3.16. **“Polling station”** has the same meaning as defined in Section 2 of the Electoral Act [Cap 02:09]; and
- 3.17. **“Writ”** means a writ of election issued in terms of Section 34 of the Electoral Act [Cap 02:09].

4. GENERAL COVERAGE

- 4.1. Broadcasting Stations should satisfy themselves that parties, candidates and election issues are treated with due impartiality.
- 4.2. Broadcasters must ensure, especially when a particular constituency is featured often, that undue prominence is not given to any single candidate.
- 4.3. Broadcasters shall ensure that their journalists are familiar with the national legislative framework governing the electoral process and are fully conversant with all aspects of the electoral process.



- 4.4. Fact checking of all party-political news, programmes and current affairs must be carried out.
- 4.5. Satire, Memes, Cartoons and Comedy which is based in inaccurate/unconfirmed news shall be prohibited during the election period.

5. DUTY OF BALANCE AND IMPARTIALITY

- 5.1. If, during an election period, the programming of any broadcaster extends to the elections, political parties, political candidates and issues relevant thereto, the broadcaster shall provide reasonable opportunities for the discussion of conflicting views and shall treat all political parties equitably. Equity should be based on the number of running candidates for a particular Party.
- 5.2. Broadcasters shall ensure that they are balanced and impartial in their election reporting and that no political party or candidate shall be discriminated against in editorial programming or the granting of access to broadcasting coverage.
- 5.3. In the event of any unfair criticism against a political party/candidate being levelled in a particular programme of any broadcaster without such party/candidate having been afforded an opportunity to respond thereto in the same programme or without the view of such political party/candidate being reflected therein, the broadcaster concerned shall afford such party/candidate a reasonable opportunity to reply to the criticism.
- 5.4. No broadcaster shall run a programme in which a particular political party/ Independent Candidate is criticised, 24 hrs before polling starts.
- 5.5. The opportunity to reply referred to in paragraphs 5.1 and 5.3 above shall be broadcast with the same degree of prominence and, where applicable, in substantially the same timeslot as the initial criticism.



- 5.6. In any constituency or ward, one candidate alone should not be projected. Even in constituencies with several candidates, every effort should be made to cover all of them in a fair and equitable manner.
- 5.7. The Broadcaster shall not endorse a political party/candidate.
- 5.8. Candidates shall not be presenters of any programme on radio or television during an election period.
- 5.9. The Broadcasters shall ensure that they do not give biased coverage in favour of candidates who are Ministers, Members of Parliament or Councillors.
- 5.10. In covering candidates mentioned in 5.9 above, the broadcasting service licensees shall distinguish between the candidates' roles as elected officers and as election candidates.
- 5.11. Broadcasting service licensees shall ensure that leaders of all contesting political parties are given equal treatment in performance of their duties as representatives in all broadcast programmes covering the elections.

6. PROFESSIONAL CONDUCT

- 6.1. Broadcasters are required to operate in a way that upholds the highest professional ethical standards, and will at all times endeavour to:
 - i) Provide truthful, comprehensive, accurate, balanced and fair account of events;
 - ii) Refrain from exhibiting symbols or insignia associated with any political party or candidate during the election period;
 - iii) Refrain from taking any inducement from a political party, candidate or politician; and
 - iv) Adhere to the principle of "fair and balanced" reporting in pursuit of the truth.



7. NEWS AND CURRENT AFFAIRS

- 7.1. News coverage of elections shall be left to the discretion of the News Editors.
- 7.2. Proper balance, impartiality and fairness shall be applied to all current affairs programmes that deal with elections.
- 7.3. If any candidate actually takes part in a current affairs programme about a specific constituency or polling district, then candidates of each of the contesting parties should be offered the opportunity to take part.
- 7.4. Broadcasts should be gender-balanced and sensitive, treating men and women equally as news and current affairs sources and subjects.

8. `PHONE-INS`

- 8.1. Extra care should be exercised to ensure that a range of views is heard and that phone-in callers including through Short Message System (SMS) and voice notes comply with the existing regulatory frameworks. Some of the contributors will have limited experience of expressing views on-air but should still be allowed a satisfactory opportunity to do so.
- 8.2. Whilst a single formula cannot easily be applied to the numbers of callers to a 'phone-in or the duration of their contributions, an appropriate mix should be sought, and relevant views should not be suppressed.
- 8.3. Stations which broadcast 'phone-ins and interview material should do all they can to ensure that no contributors/callers participating in the program contravene this Code.
- 8.4. Phone-ins shall cease to be broadcast 48 HRS before the hour set for polling to start.



9. ONLINE MEDIA REFERENCES

- 9.1. Broadcasters are required to have in place appropriate policies and procedures for handling contributions via online media. The policies and procedures should be filed with the Authority before elections. These policies and practices must be applied where online media is referenced during the election coverage.
- 9.2. Taking into consideration the importance of elections, additional steps should be implemented by broadcasters to ensure that on-air references to online media and all sources of news are accurate, fair, objective and impartial.

10. OPINION POLLS

- 10.1. Broadcasters may utilise random surveys and public opinion polls to reflect public opinion. Opinion polls shall be handled carefully since they're inaccurate, unprofessional in nature.
- 10.2. Broadcaster must exercise due care in judgement to prevent broadcasting deliberate false opinion polls which may give a totally distorted view of the truth of public opinion or voting intentions.
- 10.3. In reporting opinion polls, broadcasters need to reveal on air, which party, individual or organisation commissioned and paid for the poll, the purposes of the poll, the identity of the polling organisation and its expertise in polling, the nature of the questions or issues the poll focused on, the geographic coverage and demographic profile of those who were polled, the methodologies used in polling including details of the sample and the margin of error which will contextualise the poll results.

11. ELECTION RESULTS ANNOUNCEMENT

- 11.1. No election results may be broadcast unless they have been issued officially by the IEC.



12. POLLING DAY BROADCASTING

12.1. The Electoral Act clearly prohibits canvassing for support on the date of election (Section 113). Consequently, election coverage on the date of voting shall be confined to reports on the progress of voting.

13. PARTY POLITICAL NOTICE

13.1. A licensee shall not be obliged to broadcast a Party Political Notice (PPN).

13.2. Where a licensee elects to broadcast a PPN there shall be no discrimination either against or in favour of any particular Political Party or Candidate.

13.3. No broadcast of PPNs shall cumulatively exceed three minutes for every 60 minutes programming.

13.4. A PPN shall be clearly distinguished from other programmes aired by the broadcaster such that it is clearly identified as a PPN.

13.5. A PPN may be broadcast during the election period.

13.6. In the event the broadcaster chooses to broadcast PPNs, all notices of different political parties or candidates shall;

i) be announced in a similar manner; and

ii) the voice over or announcement should be done by the broadcaster

13.7. No PPN shall be broadcast immediately before or after Party Political programmes.

13.8. No Party-Political Notice shall include any political party manifesto content, party slogan or campaign messages.

13.9. Party Political Notices shall cease 24 hours before the hour set for polling to start.



13.10. Broadcasters shall not broadcast a party-political notice unless it is submitted on behalf of a political party/candidate by its duly authorised representative.

14. PARTY POLITICAL BROADCASTS

14.1. No Broadcaster shall permit party-political broadcasts under any circumstances except during an election period.

14.2. Broadcasters who choose to broadcast a party-political broadcast, for a particular party or candidate, shall afford all other political parties/candidates a similar opportunity.

14.3. Broadcasters shall not broadcast a party-political broadcast unless it is submitted on behalf of a political party/candidate by its duly authorised representative.

14.4. Party political broadcasts shall cease **72 hours** before the hour set for polling to start.

14.5. A PPB must not exceed **40 seconds** in duration.

14.6. No broadcast of PPBs shall cumulatively exceed **three minutes for every 60 minutes** programming.

15. PARTY POLITICAL ADVERTISING

15.1. No Broadcaster shall permit Party Political Advertisement (PPA) under any circumstances except during an election period.

15.2. An alliance of Political Parties which has decided to acquire an advertising slot in any broadcasting media, will consequently waive the right for advertising slot of individual parties within the alliance

15.3. A licensee shall not be obliged to broadcast a PPA.

15.4. Where a licensee elects to broadcast a PPA there shall be no discrimination either against or in favour of any particular Political Party or Candidate.



- 15.5. PPAs shall cease 72 hours before the hour set for polling to start.
- 15.6. Broadcasters must adhere to the Advertising Standards contained in the licence conditions when broadcasting a PPA.
- 15.7. Broadcasters shall not re-produce, edit or alter a PPA submitted by a Political Party/Independent Candidate for a broadcast.
- 15.8. Broadcasters shall not broadcast a PPA unless it is submitted on behalf of a political party/candidate by its duly authorised representative.
- 15.9. Broadcasters who reject a PPA submitted by a Political Party/ Independent Candidate for broadcasting must, within 24 HRS of such submission:
- i) Furnish the Political Party/Independent Candidate concerned with written reasons for the rejection.
 - ii) the concerned Political Party/ Independent Candidate may alter or edit the PPA and re-submit the PPA to the licensee concerned at least 48 hours prior to its broadcast.
- 15.10. In the event the Political Party/ Independent Candidate of the rejected PPA confirms in writing that it will not re-submit the same, the broadcaster shall notify the Authority in writing of such rejection including reasons for the rejection.
- 15.11. A party whose PPA has been rejected and has no intention of altering or editing the PPA, may refer the matter to the Authority, in writing, within 48 hours of being informed of the rejection.
- 15.12. The Authority shall make and communicate a determination, which shall be final and binding to the two parties, within 48 hours of receiving the said notice.
- 15.13. A party that submits a PPA to a licensee for broadcast must ensure that it does not:



- i) Contravene the provisions of the Electoral Act, the Constitution, the Communications Regulatory Act and the Broadcasting Regulations; or
- ii) contain any material that is calculated or is likely, to provoke or incite any lawful, illegal or criminal act or that may be perceived as condoning or lending support to any such act;

15.14. A Political Party/Independent Candidate that submits a PPA for broadcast to a licensee, is deemed to have indemnified the broadcaster against incurred costs, damages, losses, and third-party claims arising from the broadcast thereof.

15.15. Content broadcast as a PPA cannot be broadcast as a Party-Political Broadcast or PPN.

15.16. PPAs should be clearly distinguished from editorial content. Before and after each PPA there should be a clear top and tail disclaimer identifying it as such.

15.17. A licensee that broadcasts PPA must

make available, every day, throughout the election broadcast period, a maximum of four (04) time-slots per Political Party and one (01) time-slot per Candidate/Independent Candidate for the broadcast of PPA, excluding the top and tail disclaimer.

15.18. A PPA must not exceed **40 seconds** in duration.

15.19. No broadcast of PPAs shall cumulatively exceed three minutes for every 60 minutes programming.

16. FAIRNESS IN ADVERTISING

16.1. A licensee shall ensure that any advertisements that are broadcast by him or her are;

- i) lawful;



- ii) honest;
- iii) decent; and
- iv) in conformity with the principles of fair competition in business.

16.2. A licensee shall ensure that any advertisements that are broadcast by him or her;

- i) do not contain any descriptions, claims or other material which may, directly or by implication, mislead members of the public in relation to the product or service advertised, or about its suitability for the purpose recommended; and
- ii) do not unfairly attack or discredit, directly or by implication, any other advertisers, products or advertisements.

16.3. A licensee shall, before broadcasting an advertisement, ensure that any descriptions or claims in the advertisement have been adequately substantiated by the advertiser thereof.

16.4. A licensee shall not unreasonably discriminate against or in favour of any advertiser.

17. SCHEDULING OF PARTY POLITICAL ADVERTISEMENTS AND NOTICES

17.1. The broadcasters shall inter alia:

17.1.1. demonstrate balance, impartiality and fairness when covering all election issues;

17.1.2. distribute advertising timeslots in a fair and non-discriminatory manner and no Prime-Time advertising slots shall be afforded to only one Political Party or Candidate; and



- 17.1.3. price out other Political Parties or Candidates and price discrimination is prohibited during the election period.
- 17.2. publish advertising and notice rates at least one month before the expected election period. The same should be filed with the Authority.
- 17.3. exercise responsible judgement when scheduling advertisements and notices which may be unsuitable for children during periods when large numbers of children may be expected to be watching or listening.
- 17.4. ensure that any advertising breaks and notices are clearly distinguishable from broadcast programmes.
- 17.5. ensure that its presenters make a clear distinction between programming material, notices and the advertisements they deliver.
- 17.6. not run advertisement ticker tapes or crawlers or slide advertisement messaging over any programme.
- 17.7. only allow broadcasts that are provided by a duly authorised representative of a political party or candidate; and
- 17.8. ensure that references from sources are accurate.

18. PROHIBITION OF PARTY POLITICAL INFOMERCIALS

- 18.1. All Broadcasters shall not broadcast any Party Political Infomercials under any circumstance.

19. COMPLAINTS PROCEDURE AND ENFORCEMENT

- 19.1. Broadcasters shall make available to BOCRA, complaints procedures specific to their election coverage which shall be developed in respect of the time frames provided in this Code. Complaints procedures shall be broadcast regularly by the stations.



- 19.2. Broadcasters must appoint a person(s) who shall serve as their point of contact in relation to all matters applicable to this Code.
- 19.3. Any candidate or party having a complaint in the course of the election campaign, should present a written complaint to the broadcasting station concerned with a request for an appropriate correction, retraction or right to reply.
- 19.4. In a case where a complainant approached the licensee unaware of the complaints procedures the same shall be advised by the licensee on the procedures available.
- 19.5. In the event that a complaint is not resolved to the satisfaction of the aggrieved party the matter may be referred to the BOCRA.

20. PENALTY

- 20.1. In the event of a finding that the Licensee or Authorised service provider has failed to comply with or has breached a licence condition the Authority may impose such a fine or penalty in line with the CRA Act.

21. EFFECTIVE PERIOD

- 21.1. The Code of Conduct shall remain in force during the Election Period as defined in the Electoral Act.

22. REVIEW

- 22.1. This Code of Conduct shall be reviewed after every general election or as and when necessary.



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