

To: URCA

10 March 2010

Re: Political Broadcast rules suggestions.

Dear Sir/Madam,

Below I have set out my input into the discussion on the rules going forward as regards political broadcasts. I would be happy to be of any further assistance in this regard, and as an active member of the National Development Party, and entity that should be represented on any body formulating these rules I signify my willingness to be a part of such an entity.

As a long time law professor, and one likely to publish a critique of any rules produced, there is much that can be gained from including me on the rule producing body.

I can be contracted at 3243328, or at 325-7939, 328-3643 extension 49.

My email is bagga49@yahoo.com, and my P.O. Box is EE-16123.

Dexter Reno Johnson

Law Professor,

The College of the Bahamas

Suggested guidelines for Bahamian Political Broadcasts

The overall aim must be as far as possible to provide a level playing field in keeping with the duty of a free media to promote democracy through encouraging the greatest degree of freedom of speech and expression.

Those in charge of the public media have a general duty to inform the public about matters relevant to the elections, and parties or independent candidates have a

right to airtime in the interest of public information on a fair and non-discriminatory basis.

The net effect of this is that the media as a whole has an obligation to provide material with a bearing on election choices as special information programs directed at aiding the voters to understand how to exercise their vote and what the choices are.

The new URCA code must take into account the editorial concerns of the broadcasters, the known expectations of the public as regards the freedom of expression of political entities, the need to ensure that all political messages are treated equally and access to all forms of media communication engaged in public discourse.

There should therefore be produced in my view as series of Guidelines that can be grouped into four main categories: the duty to inform; rules regarding election coverage; protection for freedom of expression during elections; and implementation/applicability of the guidelines.

It is imperative that as regards any political broadcast there be Identification of Political Party, Candidate or Sponsor

All political broadcasts including advertisements must identify the party or sponsor at the beginning and end of the broadcast.

Impartiality

Broadcasters must give equal air-time access to all political parties and candidates. Any financial concessions made by broadcasters for air-time to a political party or candidate must also be offered on the same terms to other parties and candidates. All efforts must be taken to ensure that there is no bias in favor or against any party or candidate.

Complaints

There must be an easily accessible and responsive means whereby complaints about alleged breaches can be made to URCA and to an independent and impartial body set up to monitor election broadcasts and hear complaints.

Any decisions of this body should be subject to judicial review in the ordinary function of the courts.

URCA Guidelines Proposed so that any breach of regulations can be addressed:

URCA must publish the following requirement for information that it would need to proceed with an investigation:

- Name of broadcast or cable service that transmitted the material;
 - Date and time at which the broadcast was aired;
 - Name of the program in which the broadcast was aired;
 - Details of the content being complained about.
- All broadcasts must observe the law - for example, on copyright, libel, contempt, obscenity, incitement to racial hatred or violence.
 - All broadcasts must comply with the agreed guidelines, in particular those that relate to the observance of current laws regarding the following:
 - Libel, Slander, Obscenity, Racial hatred incitement, Incitement to violence
 - Privacy

In addition there must be accuracy as far as is compatible with the content, and this will be the responsibility of the source and not of the broadcaster. Indemnity in this regard will be the responsibility of the source and not the broadcaster.

- Any legal liability will be the responsibility of the party responsible for the political advertisement.
- Extracts from speeches and/or presentations made by the party or candidate may be used.
- Archive or news clips of members of any other political party should not be included. This applies to both visual and audio material alike.
- Where candidates are included and identified in a party election broadcast there can be reference to the constituency that the candidate is contesting to represent.
- No member of the public should be featured in a broadcast in a manner that appears to support any candidate, party or policy without that person's consent, which consent is the responsibility of the source of the broadcast.
- There must not be the use of actors in the broadcast. Only Candidates or the officers of the party can be used as persons narrating in the broadcast. reconstructions.

- Appeals for members of the audience to contact the party at the end of the broadcast by telephone, e-mail etc are allowed but no direct appeals for funds will be permitted.

Format

Broadcasts should be delivered in a format compatible with the mode used by the broadcast station.

Duration

Broadcasts can be only of a length agreed to by the parties and URCA, and must be delivered to the Broadcasters a minimum of seven working days before the requested broadcast date.

Cost

The charges made for political broadcasts must be computed keeping in mind not only the deep pockets of political parties, but also the more limited means of the individual Independent candidate. The aim must not be to create a bias towards the wealthy, rather to promote as far as practicable greater involvement of the citizens in the democratic process.

Censorship:

1. There should be no penalty to a broadcast station for statements merely because they are critical of the government of the day.
2. Unless a program is breaching an existing law of defamation, or likely to incite violence or breaches of the peace the program should not be banned.
3. Pre-screening of programs should not be the cause of unreasonable delays in the airing of the program.
4. It must be respected that the right of political parties to function is a fundamental right, based on the rights to freedom of expression and association, and to political participation. It is impermissible to force a party out of operation by imposition of excessive fines or through other indirect means.

Correction of a broadcast error:

Any candidate or party which has been defamed or otherwise suffered illegal injury by a broadcast should be entitled to a correction or, where this would be an insufficient remedy, be granted an opportunity to reply. The correction or reply should be broadcast as soon as possible.