

GUIDELINES FOR FAIR AND EQUITABLE COVERAGE OF POLITICAL PARTIES BY THE STATE-OWNED MEDIA

FOREWORD

When as a people we promulgated for ourselves the 1992 Republican Constitution, it was out of a genuine desire to create for ourselves a democracy in which the rights of citizens and the interest of different groups shall be respected. The legitimate expectation was that the state-owned media would offer opportunities for all shades of opinion to be expressed in the bigger national debate about the choices that needed to be made in the nation's quest for progress. So when the Supreme Court sat on the case of NPP v GBC, the court knew, as usual, it had been called upon to guide national reflection on a matter that was important for peace, progress and nation building. What the Court had been invited to examine were the seminal provisions contained in Articles 55 and 163.

The thoughtful opinions expressed by the noble Court underlie the principles contained in these Guidelines. The hope of the Commission is that they would set the framework for the state-owned media to honour their constitutional obligations and to be fair to all opinions. This would require a philosophical understanding obviates the error of confusing national interest with regime interest. It would require an honest appreciation of the perspectives of those who argue about the dangers of abuse of incumbency in media coverage and insist that coverage of government activity must be separated from political activity.

One of the cardinal elements of these Guidelines is the clear procedures for settling disputes arising from complaints of unfairness. The guidelines on covering opinion polls also offer practical help to the state-owned media on the rather technical question of covering opinion polls.

Attention need to be drawn, quite quickly to one point. As the Supreme Court explained, the principles on fair and equitable coverage derive mainly from Articles 55 and 163. While Article

55 deals with fair and equitable coverage of political parties and candidates, Article 163 deals with “divergent views and dissenting opinions” generally. Thus, the ambit of Article 163 goes beyond politics. The provisions in these Guidelines, to the extent that they deal mainly with coverage of political parties and candidates by the state-owned media, relate more to Article 55. The Commission hopes that the application of these Guidelines will lead to reflections about the broader questions of fairness anticipated by Article 163.

I wish to end by thanking the Executive Secretary, George Sarpong, for conceptualising this project and leading its implementation. The Public Affairs Section of the Embassy of the United States of America deserves immense commendation for supporting it. I am also very thankful to the team of media and legal experts as well as the politicians and political thinkers whose contributions made the development of the Guidelines possible.

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New Patriotic Party v. Ghana Broadcasting Corporation [1993-94] 2GLR; CDD Briefing Paper volume 2 Number 2 'Ensuring "Free and Fair Elections in Ghana: The Crucial Role of the State-Owned Media' H. Kwasi Prempeh; Commission for Human Rights and Administrative Justice "Guidelines on Conflict of Interest to Assist Public Officials Identify, Manage and Resolve Conflicts of Interest"; American Association of Public Opinion Research, Code of Conduct for Pollsters; National Council on Public Polls; Article 19 "Election Reporting, A Practical Guide to Media Monitoring; Graphic Communications

Group, “Journalistic Policy Guide, Standards & Practices”; Ghana Broadcasting Corporation, “Guidelines on Coverage for Elections”; Christel & Hendrik Bussiek, “The Media: Making Democracy Work”; National Media Commission, Print Media Standards; National Media Commission, Broadcasting Standards; National Media Commission, National Media Policy; The Republic of Ghana, The 1992 Constitution; National Media Commission Act, 1993 (Act 449); Andrew Marr 'Balancing the political scales'; British Broadcasting Corporation Website

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BACKGROUND

Free, responsible and pluralistic media are critical for the sustenance of democracy. Noting the important role the media play in promoting good governance generally and elections in particular, the 1992 Constitution made elaborate provisions to secure a free and independent media. Additional safeguards were also introduced to insulate the state-owned media from governmental control and to ensure that they provide fair and adequate coverage to all divergent views and dissenting opinions. Articles 55(11) and (12) read:

“(11) The state shall provide fair opportunity to all political parties to present their programmes to the public by ensuring equal access to the state-owned media.

(12) All presidential candidates shall be given the same amount of time and space on the state-owned media to present their programmes to the people.”

Article 163 also provides as follows:

“163 All state-owned media shall afford fair opportunities and facilities for the presentation of divergent views and dissenting opinions.”

The Supreme Court undertook a close examination of the above provisions in *New Patriotic Party v. Ghana Broadcasting Corporation* [1993-94] 2GLR 354 where the Court said:

Article 55(11) of the Constitution, 1992 defined with regard to political parties, both the object of state policy and the means to achieve it. The object was the provision of fair opportunity to all political parties to present their programmes to the public, and the means of achieving that was ensuring that each party had equal access to the state owned-media. “Equal access meant the same or identical terms and conditions for gaining entry into the state-owned media for the purpose of presenting their political, economic and social programmes to the electorate and persuading them to vote for them at elections. That meant that the same time or space had to be

given to each political party, large or small, on the same terms and the offices of the state-owned media had no discretion in the matter. But in a democracy, the right of the individual to form or join a political party and of the parties to participate in shaping the political will of the people and disseminate political, economic and social ideas and programmes were not rights which were enjoyed by the people only when elections were to take place. Article 163 of the Constitution, 1992 also sets out the duties of the state-owned media in promoting free expression of view by obliging the state-owned media to grant fair opportunities and facilities for the presentation of divergent views and dissenting opinions. The word “fair” meant “free from bias” or “equal.” Accordingly, the combined effect of articles 55(11) and 163 of the Constitution, 1992 obliged the management and editors of the state-owned media to be impartial, showing neither affection for, nor ill-will towards any particular group in the community, be it political, economic or social; their facilities being national assets, should be available to all. The state-owned media has no discretion in the matter since that would constitute the exercise of censorship which could block avenues of thought and foreclose the citizen’s right of choice contrary to article 162(2) of the Constitution, 1992.

In spite of the constitutional injunctions and the Supreme Court’s explanation, there are repeated allegations that the state-owned media tend to favour incumbent governments. A major part of the problem is because there are no clear benchmarks against which one can measure the fairness and equitability of state-owned media coverage of political parties and dissenting opinions.

Meanwhile, even though the private media are growing very fast in Ghana, the state-owned media still occupy a dominant place in the provision of information on national affairs. Section 2(1)(c) of the National Media Commission Act, 1993 (Act 449) mandates the Commission to “take measures to ensure that persons responsible for state-owned media afford fair opportunity and facilities for the presentation of divergent views and dissenting opinions.” This initiative by the National Media Commission responds to this statutory imperative.

GUIDING PRINCIPLES

The key principles underlining these Guidelines are fairness and equity as articulated in the Supreme Court decision cited above. The guidelines therefore provide minimalist standards. State media operators are enjoined to interpret the provisions with good conscience in order to balance the interests of all parties with the overall aim of fulfilling the rights of Ghanaians to truthful and unbiased information and the national process of deepening democratic governance and human rights.

Being alert to conflict of interest can steer state-owned media operators in the fair and equitable application of these Guidelines. Conflict of interest occurs when a public official attempts to promote or promotes private or personal interest for him\herself or for some other person, and the promotion of the private interest then results or is intended to result, or appear to be or has the potential to result in the following:

- i. an interference with the objective exercise of the person's duties,
- ii. an improper benefit or an advantage by virtue of his/her position, and
- iii. a denial of the constitutional rights of others to access national resources.

Definition of Conflict of Interest

The Commission on Human Rights and Administrative Justice (CHRAJ) defines conflict of interest as a “situation where a public official's personal interest conflicts with or is likely to conflict with the performance of the functions of his/her office.”

CHRAJ includes the following in its definition:

- Any interest or benefit, financial or otherwise, direct or indirect;
- Participation in any business transaction, or professional activity;
- An incurring of any obligation of any nature; or
- An act or omission which is or appears or has the potential to be in conflict with the proper discharge of a public official's duties in the public interest.

- i. Coverage of political activities by the state-owned media should be honest, accurate and factual.
- ii. Opinions should not be confused with news.
- iii. Editors should be held responsible for lapses to encourage non-biased reporting.
- iv. Different points of view should get roughly equal weighting.

2. Language:

- i. The language used to present news content shall not suggest preference for certain political parties and presidential candidates.
- ii. Opinionated language and adjectives should not be used to favourably and/or unfavourably describe political parties and presidential candidates.
- iii. Political parties and presidential candidates have the freedom to use any local language(s) of their choice for broadcasts.

3. Incumbency:

The state-owned media should endeavour to distinguish between official government business and party political activities.

4. Spokespersons:

Political parties and presidential candidates will be requested to provide the names of their officially-designated spokespersons including public relations representatives, campaign staff and party functionaries to the state-owned media institutions.

5. Endorsements:

State-owned media institutions and journalists should not endorse political parties and presidential candidates.

6. Political Advertisements:

- i. To ensure neutrality, advertising space/slots should be made available to all

without favour.

- ii. Advertising rates should be the same for all.
- iii. Each media institution should constitute an in-house committee to meet periodically to vet all advertisements emanating from political parties, presidential candidates and other stakeholders.

B News Coverage

1. Press Conference

- i. The state-owned media shall endeavour to attend and report on press conferences organised by political parties.
- ii. Coverage of press conferences shall be given equal space/air time and prominence.
- iii. Where for any reason a state-owned media is unable to attend a press conference organised by a political party, the media concerned shall use the statement at the press conference as if same has been presented as a press release.

2. Press Release

- i. Press releases from political parties shall be given the same degree of attention and prominence.
- ii. Press releases from political parties shall contain the name and contact details of people from whom further information could be sought about the release.

C Interviews

- i. Where a state owned-media grants an interview opportunity to a presidential candidate or a political party, the same opportunity shall be extended to other presidential candidates or parties when requested.
- ii. General opportunities for interviewing political parties and presidential candidates should also be equal.

D Confidentiality

Officials of the state-owned media should not pass on information obtained in their official capacity to any political party or presidential candidate to the detriment of another political party or presidential candidate.

E Covering Opinion Polls

To avoid wilful bias or unwitting manipulation, the state-owned media shall cover opinion polls only when they include the following:

- i. The name of the person or organisation which conducted the poll.
- ii. The name of the person or organisation which commissioned or sponsored the poll.
- iii. The exact questions which were put to respondents and any explanation or information given to respondents which could affect their understanding of the question.
- iv. A description of the population under study, and a description of the sampling procedures and sample size.
- v. The period or time covered by the poll.
- vi. Place or location where the poll was conducted

F Coverage of Election Day Activities

The Guidelines of the Ghana Journalists Association (GJA), the Private Newspaper Publishers Association of Ghana (PRINPAG) and the Electoral Commission (EC) will be adopted.

G Protection of Journalists

1. Political parties and presidential candidates shall take steps to ensure the safety of journalists and other officials of the state-owned media when organising events.
2. They shall also protect the equipment of journalists covering their activities.

H Broadcast (Radio and Television)

1. Content:

- i. Since live broadcasts, especially do not lend themselves to editing, presenters of state broadcast media should constantly check their professional attitudes to become alert of their biases and prejudices towards the positions of political parties and presidential candidates. Such biases can be seen through off-the-cuff comments as well as in the line of questioning.
- ii. Different points of view should get roughly equal time on air.

2. Debates and Discussion Programmes:

- i. For political debates and other political discussion programmes, state-owned broadcasts should, in consultation with the political parties or presidential candidates, select a panel of moderators in consultation with the political parties.
- ii. Disputes relating to the choice of moderators shall be resolved by the NMC.
- iii. Broadcast stations should develop the details of the format, in consultation with the NMC, the GJA and the representatives of the political parties and presidential candidates.
- iv. Where a live studio audience is desired, the audience should be selected by invitation. Each party represented should have the same number of invitees.
- v. If a live broadcast of a speech is scheduled and a presidential candidate or representative is unable to attend, the broadcast station should be notified at least forty eight (48) hours in advance. The presidential candidate or his representative may then record the broadcast for the station to play at the scheduled time on condition that the tape/CD is submitted to the station for preview at least forty eight (48) hours before the play-back time. The speech may either be recorded as a free service by the station or privately, at the presidential candidate's own expense.

3. Free Airtime:

- i. Periodically, each presidential candidate should be given five (5) minutes to state his/her own or party's opinion on topical issues. To facilitate this, the stateowned

media will make available to each presidential candidate, a presentation studio for one hour for the free recording of the statements made by the presidential candidate. If the presidential candidate chooses to produce the material privately, the full cost will be borne by the presidential candidate and not the state-owned media.

- ii. Broadcasts and debates by presidential candidates should be broadcast live on both radio and TV. The political parties and presidential candidates should inform the media at least twenty four (24) hours before the scheduled event.
- iii. During morning shows, regional FM stations shall offer political parties and local parliamentary candidates free time slots of five (5) minutes on a rotational basis.
- iv. Political parties and local parliamentary candidates will be given a free slot each on a mid-day interview programme on rotational basis. The decision on the day and time will be decided by ballot by the political parties and local parliamentary candidates.
- v. Daily free airtime for political broadcasts will be made available in any one of the local language programmes in the mornings of Mondays through Saturdays.
- vi. Additionally, political parties shall be granted appearances on adult education programmes in the local languages on both radio and TV.

4. Order of Appearance:

- i. The order in which political parties and presidential candidates will appear in each debate and any other discussion programme will be decided through a ballot.
- ii. The details of the ballot will be developed by the broadcast company. However, the NMC will be responsible for organizing the ballot in the full view of the political parties.

I Print

1. State-owned newspapers should not reject opinion pieces originating from a political

party and/or presidential candidate after it has published a similar article by other opposition parties/candidates. Such an article could either be in the form of a rejoinder or an original piece to present a position.

2. The placement of a story communicates its importance or otherwise. Newspapers should seek to strike a balance in the selection of pages and sections of the papers instead of giving certain parties/candidates prominent pages and relegate their opponents to less noticeable pages.
3. All political parties and presidential candidates should benefit from comparable rates of frequency of publication of news stories and opinion pieces.
4. Type, size and language of headlines should not favour certain political parties and presidential candidates over others.

J Wire Service

1. State-owned media institutions put their trust in a wire service when they select for usage, newsworthy issues or events put out by the wire service.
2. The media should be careful the extent to which they re-write wire service material in order not to change the meaning, intent and context of stories.

K Conflict of interest

1. Officials of the state-owned should not engage in any activity that may appear to be or has the potential to give preferential treatment to any political party or candidate.
2. Media institutions should end to make adequate arrangements to facilitate the work of journalists.
3. Political parties and presidential candidates should not induce journalists and officials of state-owned media with favours.
4. Journalists and other officials of the state-owned media should not:
 - i. Accept gifts and favours from political parties and presidential candidates.
 - ii. Solicit gifts, tangible or intangible, directly or indirectly from a political party or presidential candidates.

- iii. All issues relating to conflict of interest shall be resolved in accordance with the Guidelines on Conflict of Interest of the Commission on Human Rights and Administrative Justice (CHRAJ) with the necessary modifications as the situation may warrant.

L Enforcement

The National Media Commission (NMC) shall be responsible for the monitoring and enforcement of these guidelines in accordance with section 2(1)(c) of the National Media Commission Act, 1993 (Act 449).

M Procedures for Complaints and Settlement

1. A complaint alleging that any provision of these Guidelines has been breached shall first be directed to the entity against whom the complaint is made.
2. A copy of the complaint shall be submitted to the National Media Commission.
3. The complaint shall provide the following information:
 - i. The specific breach being complained about,
 - ii. Where applicable, the date and time of the breach, and
 - iii. The remedial action proposed.
4. The entity against whom the complaint is made shall endeavour to address the grievance within ten (10) days upon receipt of the complaint and inform the complainant in writing of the action taken. A copy shall be submitted to the National Media Commission.
5. If upon receipt of the response, the complainant is satisfied of the remedial action taken, he/she shall communicate that in writing to the entity complained against and a copy shall be submitted to the National Media Commission.
6. Where a complainant is not satisfied with the response, he/she shall complain to the National Media Commission for redress.
7. The National Media Commission shall resolve a complaint referred to it within ten (10) days.