



ÚDARÁS
CRAOLACHÁIN
NA hÉIREANN

BROADCASTING
AUTHORITY
OF IRELAND

**Broadcasting Authority of Ireland
Broadcasting Complaint Decisions**

March 2019



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BAI Complaints Handling Process

Under the Broadcasting Act 2009, viewers and listeners to Irish radio and television services can complain about broadcasting content which they believe is not in keeping with broadcasting codes and rules. When making a complaint, the relevant programme or commercial communication should be identified, including the date of broadcast and time. The complainant should explain what it is about the broadcast that has led them to make a complaint. It is important to set out clearly the grounds of the complaint and why the programme material or commercial content does not comply with the BAI's Broadcasting Codes. Further information on the complaints process or codes may be found on the BAI's website: www.bai.ie. Alternatively, you can request further information by email: info@bai.ie or by phone: 016441200.

In line with the complaint process, the viewer or listener should direct their complaint to the broadcaster in the first instance and in the manner detailed in the broadcaster's Code of Practice for Handling Complaints, a document which each broadcaster has available on its website. If a viewer or listener is not satisfied with the response from the broadcaster or if the broadcaster does not respond within the timeframe provided for in their Code of Practice (usually 21 days), then the viewer or listener can refer the complaint to the BAI for consideration.

In assessing complaint referrals, the BAI will have regard to the relevant codes and rules, the written material submitted by the relevant parties, together with the broadcast material. Complaints are assessed at Executive level by the Executive Complaints Forum and/or by the Compliance Committee of the Authority.

The details of the broadcasting complaints decisions reached by the BAI are set out in this document. The decisions deal with the issue of whether a programme or a commercial communication did or did not comply with the relevant legal requirements and the relevant broadcasting codes or rules. The decisions do not constitute endorsement or support for the views of either parties to the complaint nor will they address every aspect of a complaint submission. The BAI will not carry out a separate or independent assessment outside of the matters raised in the complaint.

In total, four complaints were considered and rejected by the Compliance Committee of the BAI. In addition, twelve complaints were considered and rejected by the Executive Complaints Forum. The decisions of the Compliance Committee were reached at its meetings held on 3rd October 2018, while the decisions of the Executive Complaints Forum were reached at meetings held on 3rd and 24th September, 17th October, 5th and 19th November 2018.



Rejected by Compliance Committee

Complaint made by: [REDACTED] **on behalf of** [REDACTED] **Ref. No. 43/18**

Station:

RTÉ One

Programme:

A Wild Irish Year

Date:

13th May 2018

1. Programme

The complaint refers to A Wild Irish Year, which is a 4-part documentary series tracking Ireland's wildlife through the seasons.

2. Complaint Category

Broadcasting Act 2009 - Section 48(1)(a)(fairness, objectivity and impartiality in news and current affairs); the BAI Code of Fairness, Objectivity and Impartiality in News and Current Affairs - Rules 4.1, 4.2 and 4.17.

3. Complaint Summary

The complainant questions the claims by the broadcast that mechanical harvesting of seaweed causes land to become "devoid of life" and maintains this is a false and unsubstantiated claim. The complainant also cites other claims made on the programme which he believes to be incorrect.

These include:

- That mechanically harvesting seaweeds such as kelp causes the land to become devoid of life.
- That there are species of Giant Kelp in Ireland.
- That mechanically harvesting seaweeds such as kelp makes the land barren.
- That mechanically harvesting seaweeds such as kelp is like clear felling a forest.
- That kelp prevents big waves from battering our coasts and forms a barrier.

The complainant maintains that the inaccuracies led to the production of a programme that was one sided and lacked fairness, objectivity and impartiality.

4. Broadcaster Response

The broadcaster states that this is a nature programme, the editorial brief of which could be described as bringing nature into the living room. This is a four-part series which follows the annual cycle of the natural world. The broadcaster states that this is not a current affairs or news programme and, as such, the broadcaster submits that the audience expectation of this programme must be seen and evaluated within its editorial context.

The programme touched on conservation issues, however, these were a minimal part of the programme as they were outside the scope of the series and the segment which is the subject of the complaint makes up less than three minutes of the 51-minute programme. The broadcaster states that the aim of the particular sequence was to highlight the beauty of Irish seaweeds and coastlines and the presenter briefly mentioned several aspects relating to seaweeds. The broadcaster further states that the presenter stressed the importance of harvesting seaweed sustainably but did not suggest that it should



not be harvested at all. The presenter's observations were in line with concerns which are well documented in academic journals.

In relation to reference by the presenter to mechanical seaweed harvesting and comparing it to clear felling of terrestrial forest, the broadcaster maintains that this is a simile and one which the audience would have understood. This was not an examination of the pros and cons of seaweed harvesting but a descriptive comparison to aid the viewer. In addition, 'kelp forest' is a term commonly used in the scientific world. The broadcaster states that it is widely accepted that mechanical harvesting of living kelp forests does have adverse impacts on the kelp and other ecosystems.

The broadcaster notes that the complainant took issue with the reference to "giant kelp forests". The broadcaster accepts that the presenter used this adjective 'giant' as a descriptor. However, this was not used as an element of the proper noun and name for the specific species of seaweed called "Giant Kelp". The differentiation is clearly audible in the pause between 'giant' and 'kelp' in the presenter's enunciation.

With reference to the role of kelp forests, the broadcaster states that it is clear that the primary point being made is that kelp forests have 'a role' to play in preventing storms from battering our coastline. However, it does not say that they prevent them battering the coast but that they play a role.

Overall, the presenter's comments were focused on spring tides, the value and beauty of our seaweeds and on the theme of sustainability and do not preclude the possibility of sustainable harvesting. The broadcaster is of the view that the audience would have seen the programme in this context and maintains that there are no grounds to uphold this complaint.

5. Decision of the Compliance Committee Reject (Unanimous)

Having considered the broadcast and the submissions from the complainant and the broadcaster and having also had regard to the relevant legislation and Code, the Committee decided to reject the complaint. The Committee's findings and reasons for the decision are set out below.

The Committee noted the complaint was submitted under the Code of Fairness, Objectivity and Impartiality in News and Current Affairs. The Code requires that content is fair to all interests concerned and that the broadcast matter is presented in an objective and impartial manner and without any expression of the broadcaster's own views. The requirement also includes that a current affairs item is presented with due accuracy and that views and facts should not be misrepresented or presented in such a way as to render them misleading.

The Compliance Committee had regard to the programme type and noted that this is a nature programme which looks at various aspects of Ireland's natural world during four seasons. The Committee noted that the complainant believes that the series constitutes news and current affairs, specifically due to the reference to mechanical seaweed harvesting. However, the tone and focus of the programme was that of a nature documentary and the Committee did not find that the programme constituted current affairs. As the programme was determined to not be news and current affairs, the requirements under the Code do not apply. On this basis the complaint was rejected.



Complaint made by: [REDACTED] **Ref. No. 46/18**

Station:

TV3

Programme:

The Pat Kenny Show
Referendum Special

Date:

23rd May 2018

1. Programme

The complaint concerns The Pat Kenny Show – Referendum Special, a current affairs programme, the focus of which was the referendum regarding the 8th Amendment.

2. Complaint Category

Broadcasting Act 2009 - Section 48(1)(a)(fairness, objectivity and impartiality in news and current affairs); the BAI Code of Fairness, Objectivity and Impartiality in News and Current Affairs - Rules 4.1 and 4.2.

3. Complaint Summary

The complaint concerns a panel debate on the 8th Amendment which featured four guests, two on the 'Yes' side of the debate and two on the 'No' side.

The complainant is of the view that the programme lacked fairness, objectivity and impartiality. The complainant believes that this was due to the presenter's treatment of the panellists who represented the 'No' vote. The complainant believes that the presenter was rude to the panellists who favoured a 'No' vote and that he challenged them in a more robust manner. The complainant believes that this was most evident in the presenter's treatment of [REDACTED], a panellist against repealing the 8th Amendment. The complainant acknowledges that the presenter challenged the panellists from the 'Yes' campaign but believes that he took an uneven and unfair approach which resulted in the programme failing to be fair, objective and impartial.

4. Broadcaster Response

The broadcaster states that the discussion, which featured two contributors from both the 'Yes' and 'No' side of the referendum debate, as well as contributions from the audience, was fair to all sides and gave ample time to both contributors on each side to make their case. [REDACTED] was challenged by the presenter as were the other contributors.

The broadcaster maintains that the coverage of the 8th Amendment referendum was carefully moderated to ensure such an important and emotive issue was debated fully and properly. The broadcaster acknowledges that the presenter did interrupt the panellists and at times had to cut them short but did so in his role as moderator. The broadcaster acknowledges that the presenter was direct and strict with panellists and contributors but maintains that this was necessary given the nature of the debate.

The role of the broadcaster is to ensure that the audience has access to accurate and trustworthy coverage, and it was in this context that the presenter clarified or corrected statements. The broadcaster states that the presenter treated panellists from both sides of the debate equally and that the programme was fair to all sides



5. Decision of the Compliance Committee Reject (Unanimous)

Having considered the broadcast and the submissions from the complainant and the broadcaster and having also had regard to the relevant legislation and Code, the Committee decided to reject the complaint. The Committee's findings and reasons for the decision are set out below.

The Compliance Committee noted that the complaint was made under Sections 4.1 and 4.2 of the Code of Fairness, Objectivity and Impartiality in News and Current Affairs. The Code requires that content is fair to all interests concerned and that the broadcast matter is presented in an objective and impartial manner and without any expression of the broadcaster's own views.

The Committee noted that the complainant believes that the presenter displayed bias through his treatment of the panellists who advocated against repealing the 8th Amendment and that his treatment rendered the programme unfair and partial. The Committee found that the presenter moderated the debate fairly and did not believe that his treatment of any particular contributor indicated bias, nor did the Committee find the presenter's treatment of any contributor to have infringed the requirement for a programme to be fair, impartial and objective.

The Committee did not find evidence to support the complainant's view and as such, the complaint was rejected.



Complaint made by: [REDACTED]

Ref. No. 47/18 & 48/18

Station:
TV3

Programme:
The Tonight Show

Date:
17th & 21st May 2018

1. Programme

The complaints concern The Tonight Show, which is a current affairs programme broadcast at 11pm Monday to Thursday. These broadcasts referred to the referendum regarding the 8th Amendment.

2. Complaint Category

Broadcasting Act 2009 - Section 48(1)(a)(fairness, objectivity and impartiality in news and current affairs); the BAI Code of Fairness, Objectivity and Impartiality in News and Current Affairs - Rules 4.1 and 4.2.

3. Complaint Summary

The complaints concern two episodes of The Tonight Show, both of which involved a panel discussion on the referendum regarding the 8th Amendment. The panels included representatives from each side of the debate with all panellist setting out their positions on the referendum at the beginning of both programmes. This was followed by an open discussion on the referendum. Each programme included fact-checking, which was undertaken by a journalist from Journal.ie.

The complainant is of the view that the panellists for the 'No' side of the debate were treated differently to the panellists on the 'Yes' side of the debate. The complainant states that this was apparent in the number of challenging questions put to the 'No' side by the presenters.

The complainant believes that a lack of fairness was also evident in the number of challenges to the facts that has been presented by the panellists in favour of the 'No' vote. The complainant believes that the fact checkers did not remain impartial and, on occasion, provided their own viewpoints under the guise of providing fact. The complainant believes the panellists should have been given the opportunity to challenge the journalists who checked the facts.

Overall, the complainant maintains that the programmes were not fair, objective or impartial and displayed bias in favour of the 'Yes' vote.

4. Broadcaster Response

The broadcaster is of the view that the programmes complied with the requirement to be fair, objective and impartial. The broadcaster states that this was achieved through the following: an equal number of panellists for and against repealing the 8th Amendment and an equal amount of time for each side, an equal number of vox-pops included which represented both sides of the debate. The broadcaster also states that the presenters challenged each side fairly and did not express their own opinion. The presenters engaged the fact-checkers with a view to ensuring that the audience was provided with information which was trustworthy, honest and credible. The broadcaster maintains that both fact checkers provided accurate information and answered questions without an expression of their own views.



The broadcaster maintains that the coverage of the 8th amendment was carefully moderated to ensure such an important and emotive issue was debated fully and properly. The broadcaster believes that fairness was achieved in both programmes.

5. Decision of the Compliance Committee Reject (Unanimous)

Having considered the broadcast and the submissions from the complainant and the broadcaster and having also had regard to the relevant legislation and Code, the Committee decided to reject the complaint. The Committee's findings and reasons for the decision are set out below.

The Compliance Committee noted that the complaint was made under Sections 4.1 and 4.2 of the Code of Fairness, Objectivity and Impartiality in News and Current Affairs. The Code requires that content is fair to all interests concerned and that the broadcast matter is presented in an objective and impartial manner and without any expression of the broadcaster's own views.

The Committee noted that the complainant believes that programmes failed to be fair, impartial and objective and that this was evidence in the treatment of the panellists representing the 'No' side and in the behaviour of the fact-checkers. The Committee did not find any evidence in the broadcasts to support the complainant's assertion that panellists representing the 'No' were treated unfairly, nor did the Committee find that the fact-checking element of the programme led to any infringement of the Code. As such, the complaints were rejected.



Rejected by Executive Complaints Forum

Gearán ó: [REDACTED]

Tagairt Uimh. 45/18

Stáisiún:

TV3

Clár:

The Tonight Show

Dáta:

19 Bealtaine 2018

1. Clár

Baineann an gearán le héagóir ar chainteoirí Gaeilge ar eagrán den chlár The Tonight Show.

2. Catagóir Gearáin

An tAcht Craolacháin 2009 - Alt 48(1)(a) (cothroime, oibiachtúlacht agus neamhchlaontacht); Cód Údarás Craolacháin na hÉireann maidir le Cothroime, Oibiachtúlacht i gClár Nuachta agus Cúrsaí Reatha - Rialacha 4.1 agus 4.2.

3. Achoimre ar an nGearán

Measann an gearánaí go bhfuil éagóir ar chainteoirí Gaeilge agus Bláthnaid Ní Chofaigh, aoi ar an gclár agus cainteoir Gaeilge, i gceist le ráiteas a rinne an láithreoir Ivan Yates, a dúirt go raibh daoine a bhfuil suim acu sa Ghaeilge ina "cultural terrorists". Measann an gearánaí go raibh easpa neamhchlaontachta agus oibiachtúlachta sna tuairimí a chuir an láithreoir in iúl le linn an chlár.

4. Freagra ón gCraoltóir

Dúirt an craoltóir go mbaineann sé le leagan amach an chlár go gcuireann na láithreoirí tuairimí contrártha in iúl go minic chun argóintí a mhiondealú. Measann an craoltóir go raibh an láithreoir, Ivan Yates, ag feidhmiú mar abhcóide an diabhair ar mhaithe le díospóireacht a spreagadh ar an gceist ach go raibh sé ag caint ar dhaoine a bhfuil tuairimí dochta acu, seachas an Ghaeilge agus cainteoirí Gaeilge go sonrach. Deir an craoltóir freisin go raibh triúr ar an bpainéal a bhí ar son an Ghaeilge a choinneáil mar ábhar éigeantach agus nach raibh ach duine amháin ar an bpainéal a labhair ina aghaidh.

5. Cinneadh ón bhFóram Feidhmiúcháin Gearán

Tar éis machnamh a dhéanamh ar an gcraolachán agus na haighneachtaí ón ngearánaí agus ón gcraoltóir, agus ag féachaint freisin don reachtaíocht ábhartha agus don Chód, chinn an Fóram diúltú don ghearán. Leagtar amach tuairimí an Fhórait agus na fáthanna ar ghlac sé an cinneadh sin thíos.

Thug an Fóram faoi deara go n-éilítear ar chraoltóirí cothrom na Féinne a thabhairt do rannpháirtithe, réimse tuairimí a éascú agus a chinntiú nach gcuireann láithreoirí a dtuairimí féin in iúl agus nach ndéantar seasamh claonpháirteach a chur chun cinn. Chuir an Fóram i gcuntas an cineál clár agus comhthéacs an agallaimh. Is clár é ina mbíonn meascán d'anailís ar nuacht, cúrsaí reatha agus polaitíocht na hÉireann. Sa chuid seo den chlár atá faoi chaibidil, rinneadh plé ar cé acu ar cheart go mbeadh an Ghaeilge ina hábhar éigeantach i scoileanna agus ar an bpainéal bhí an láithreoir teilifíse, Bláthnaid Ní Chofaigh, an láithreoir raidió, Niall Boylan, an staraí Diarmaid Ferriter agus Pearse Doherty TD.



Thug an Fóram faoi deara gurb é úsáid an téarma “cultural terrorists” le duine de na láithreoirí, Ivan Yates, an chúis is mó leis an ngearán. Tá an Fóram den tuairim gur úsáid an láithreoir an téarma “cultural terrorists” chun díospóireacht a spreagadh. Cé gur thug an Fóram faoi deara gur féidir gur chuir sé sin isteach ar roinnt daoine sa lucht féachana, ach luann sé go mbaineann sé sin le gnáth-nósanna an láithreora agus go mbíonn an lucht féachana rialta ag súil le tuairimí conspóideacha a chloisteáil uaidh. Thug an Fóram faoi deara gur tugadh neart deiseanna do na daoine faoi agallamh a dtuairimí a chur in iúl agus gur úsáideadh cur chuige cothrom, oibiachtúil agus neamhchlaonta ar an iomlán i leith an ábhair. Thairis sin, thug an Fóram faoi deara nach gá go bhfuil éagóir i gceist i gcásanna ina gcuirtear tús leis an díospóireacht trí ‘fheidhmiú mar abhcóide an diabhair’ agus, ag féachaint ar an gcraolachán ina iomláine, nach raibh an sé éagothrom i ngeall ar úsáid an téarma sin.

Ar na cúiseanna sin, níor ghlac an Fóram leis gur sháraigh an clár na riachtanais atá leagtha síos sa reachtaíocht agus sa Chód mar a mhaígh an gearánaí. Dá réir sin, chinn an Fóram diúltú don ghearán.



Complaint made by: [REDACTED]

Ref. No. 45/18

Station:

TV3

Programme:

Tonight Show

Date:

19th May 2018

1. Programme

The complaint concerns an edition of the Tonight Show and the unfair treatment of Irish language speakers.

2. Complaint Category

Broadcasting Act 2009 - Section 48(1)(a)(fairness, objectivity and impartiality); the BAI Code of Fairness, Objectivity in News and Current Affairs - Rules 4.1 and 4.2.

3. Complaint Summary

The complainant is of the view that a comment made by the presenter, Ivan Yates, in which he described people who are interested in the Irish language as “cultural terrorists”, was unfair to Irish language-speakers and to the guest, Bláithnaid Ní Chofaigh, who is an Irish language speaker. The complainant believes that the presenter displayed a lack of impartiality and objectivity in the views he expressed during the programme.

4. Broadcaster Response

The broadcaster states that the format of the programme is that the presenters often adopt opposite tacks in deconstructing arguments. It is the view of the broadcaster that the presenter, Ivan Yates, played devil's advocate in order to provoke debate on the topic but states that the comment was about anyone with absolute views, as opposed to being aimed at the Irish language or Irish language speakers. The broadcaster further states that there were three members on the panel in favour of Irish remaining compulsory and only one panellist against.

5. Decision of the Executive Complaints Forum

Having considered the broadcast and the submissions from the complainant and the broadcaster and having also had regard to the relevant legislation and Code, the Forum decided to reject the complaint. The Forum's views and reasons for the decision are set out below.

The Forum noted that broadcasters are required to deal fairly with contributors, to facilitate a range of views and to ensure presenters do not express their own views such that a partisan position is advocated. The Forum had regard to the type of programme and the context of the interview. The programme is a mix of Irish news analysis, current affairs and politics. The segment in question discussed whether the Irish language should be a compulsory subject in schools and the panel consisted of TV personality, Bláithnaid Ní Chofaigh, radio presenter, Niall Boylan, historian Diarmaid Ferriter and TD Pearse Doherty.

The Forum noted that central to the complaint is the use of the term “cultural terrorists” by one of the presenters, Ivan Yates. The Forum was of the view that the presenter used the term “cultural terrorists” to kick start the debate. While the Forum noted that this may have offended some viewers, it noted that this style is usual for the presenter and regular viewers would have expected the presenter to make controversial comments. The Forum noted that the interviewees were given ample opportunity to



convey their views and that, overall, the topic was dealt with in a manner which was fair, objective and impartial. The Forum further noted that playing 'devil's advocate' to launch a debate did not necessarily constitute unfairness and that use of the term in question did not make the entire broadcast unfair or unbalanced

In view of the above, the Forum did not agree that the programme infringed the requirements of the legislation and the Code in manner specified by the complainant. Accordingly, the Forum decided to reject the complaint.



Complaint made by: [REDACTED]

Ref. No. 49/18

Station:
RTÉ Radio 1

Programme:
Liveline

Date:
26th June 2018

1. Programme

Liveline is a current affairs chat show which is broadcast each weekday from 1.45 – 3pm.

2. Complaint Category

Broadcasting Act 2009 - Section 48(1)(b)(harm & offence); the BAI Code of Programme Standards – Principle 3.

3. Complaint Summary

The complaint concerns a topic under discussion regarding the visit of Pope Francis to Ireland. During the programme, a caller stated that he had procured 690 tickets intended for attendance at the Papal Mass and that, as a form of protest, he intended to burn them. The next caller stated that he could help procure more tickets and was willing to help with this same campaign.

The complainant is of the view that this amounted to incitement to hatred and that the presenter encouraged a campaign of hate against Pope Francis.

4. Broadcaster Response

The broadcaster categorically rejects any claim that the programme incited hatred or infringed Principle 3 of the Code and does not believe that the complainant provided any evidence to support her assertion that the broadcast could have caused harm. The broadcaster acknowledges that the presenter interviewed callers who were intent on destroying tickets to the Papal Mass in protest of the Pope's visit, but states that this could not be deemed as incitement to hatred. Further, the programme included contributions from callers who were in support of the mass and disagreed with destroying tickets. The broadcaster is of the view that the programme contained a range of views. The broadcaster states that it is the role of the presenter to ask questions and draw out the views of callers and, in the view of the broadcaster, the presenter acted appropriately at all times.

5. Decision of the Executive Complaints Forum Reject (Unanimous)

Having considered the broadcast and the submissions from the complainant and the broadcaster and having also had regard to the relevant legislation and Code, the Forum decided to reject the complaint. The Forum's views and reasons for the decision are set out below.

The Forum noted the complaint was submitted under the Principle 3 of the Code of Programme Standards: Principle 3 - Protection from Harm. The Forum also noted that broadcasters are required to take due care to ensure that audiences are not exposed to harmful content and must provide adequate information to audiences to allow them to make informed choices about what they listen to and watch.

The Forum noted that the complaint referred to a discussion both in favour of, and against, the visit of Pope Francis to Ireland. The complaint focused particularly on the contribution of a listener who stated



he had procured several hundred tickets to attend the Mass in the Phoenix Park and intended burning them in protest at the visit.

The Forum noted that the programme included contributions from a number of contributors whose opinions varied and was of the view that this was a robust, yet fair discussion. People representing both sides were provided with ample time to put forward their views. The Forum was of the view that the presenter played role of moderator by posing questions and facilitating the debate. The Forum found that there was no evidence to support the complainant's view that the programme incited hatred.

In view of the above, the Forum did not agree that the programme infringed the requirements of the legislation and Code in manner specified by the complainant. Accordingly, the Forum decided to reject the complaint.



Complaint made by: [REDACTED]

Ref. Nos. 50/18 and 51/18

Station:

RTÉ Radio 1
RTÉ One

Programme:

Ray D'Arcy Show
What Are You Eating?

8th March 2018

9th March 2018

1. Programme

The complaints concern two programmes in which vegan diets were discussed. The Ray D'Arcy Show was broadcast at 3.30pm and What Are You Eating was broadcast at 8.30pm.

2. Complaint Category

Broadcasting Act 2009 - Section 48(1)(b)(harm and offence); the BAI Code of Programme Standards - Principles 1, 2, 3, 5 & 6.

3. Complaint Summary

The complaints concern two programmes in which vegan diets are discussed. The Ray D'Arcy Show included an interview with Philip Boucher Hayes. During the interview Mr. Boucher Hayes discussed his experience undertaking a vegan diet for the programme What are you Eating, which was aired on RTÉ One later that day. It is the view of the complainant that both programmes gave out misinformation about the vegan diet in respect of the percentage of bone density Mr. Boucher Hayes lost while on a vegan diet; the complainant states that the percentage of bone density lost was given as 3% on the Ray D'Arcy Show and 2% in What Are You Eating? The complainant further states that the failure to mention the benefits of weight loss or reduced BMI resulted in both programmes providing a negative representation of the vegan diet. The complainant is of the view that this is harmful as it did not inform the audience of the benefits of a plant-based diet, nor did it discuss the health concerns related to eating meat. The complainant also states that vegans are a minority group and is of the view that there was no consideration given to this group in making these programmes.

4. Broadcaster Response

The broadcaster is of the view that the complainant has not made the case for how these programmes breached the Code of Programme Standards. Ray D'Arcy interviewed Philip Boucher Hayes and asked appropriate and probing questions and highlighted that Mr. Hayes had not followed medical advice, while on the 28-day vegan diet, by not taking health supplements to complement his vegan diet and not eating sufficient calories. The programme focused on the experience of Mr. Boucher Hayes as he undertook this diet regime and during the broadcast interviewed both vegans and non-vegans for their opinions.

The broadcaster is of the view that these programmes did not infringe the requirements of the Code of Programme Standards and states that the complainant did not demonstrate how the content infringed the Code.

**5. Decision of the Executive Complaints Forum
Reject (Majority)**

Having considered the broadcast and the submissions from the complainant and the broadcaster and having also had regard to the relevant legislation and the Code, the Forum decided to reject the complaint. The Forum's views and reasons for the decision are set out below.



The Forum noted that these complaints relate to the same topic broadcast on the same day and that both the complainant and broadcaster have addressed these as related complaints. The Forum, while considering each broadcast on its individual merits, determined these to be related broadcasts. In making this determination, the Forum had regard for the date of broadcast and the subject matter being discussed.

The Forum noted that the complaint was submitted under the Code of Fairness, Objectivity and Impartiality in News and Current Affairs. However, in this instance, the Executive determined that these specific broadcasts do not constitute news and current affairs and, as such, the Code of Fairness, Objectivity & Impartiality in News and Current Affairs does not apply. The complaints were also submitted under the Code of Programme Standards, therefore, the Forum only had regard to the elements of the complaint which related to the relevant Principles of the latter Code.

The Forum considered the complaints under Principles 1 (Respect for Community Standards), 2 (Importance of Context), 3 (Protection from Harm), 5 (Respect for persons and Groups in Society) and 6 (Protection of the Public Interest).

The Forum noted that complaint centres on what the complainant believes was misinformation provided regarding a vegan diet. During the programmes, figures were provided in relation to the percentage of bone density and muscle mass that the interviewee/presenter, claimed to have lost while on this diet for 28 days. On the Ray D'Arcy programme the loss was stated as 3% of bone density while on the programme What Are You Eating, it was stated at 2%. The complainant maintains that these percentages were based on mistakes made in the interpretation and use of data from an analyser featured on the programme and are neither credible nor trustworthy.

The Forum noted that both programmes had regard to the personal experience of the presenter as he undertook a vegan diet for a defined period of time. The subject matter was discussed and explored from a personal viewpoint and was not presented in a manner which could reasonably be considered as a scientific experiment on a vegan diet. For example, it was made clear in both programmes that the presenter had not following expert advice in relation to diet and supplements during the period he was following the diet. The Forum acknowledged that while there were some inaccuracies in relation to the percentages of bone density and body mass lost during the reference period by the presenter, the Forum concluded that, these were not sufficient to render either broadcast as having infringed the requirements outlined in the relevant principles in the Code of Programme Standards. Further, the Forum noted that the programme had a range of contributors about the benefits of veganism. Finally, it was noted that vegans are not a protected group in society and, as such, Principle 5 does not apply.

In view of the above, the Forum did not agree that the broadcasts infringed the requirements of the legislation and Code in manner specified by the complainant. Accordingly, the Forum rejected the complaints.



Complaint made by: [REDACTED]

Ref. No. 53/18

Station:
RTÉ Radio 1

Programme:
Sure 'Twas Banned

Date:
16th June 2018

1. Programme

The complaint concerns a comedy panel show which features clips from the RTÉ radio sound archive.

2. Complaint Category

Broadcasting Act 2009 - Section 48(1)(b)(harm & offence); the BAI Code of Programme Standards – Principle 5.

3. Complaint Summary

The complaint concerns comments made during a panel discussion about a book called The Tailor and Ansty. The programme included a clip of an interview with a man about The Tailor and Ansty. One of the panellists responded to clip by asking if the man featured in it was speaking English as she could not understand him. The complainant maintains that this type of narrow view by panellists should not be permitted and is insulting to persons with different accents.

4. Broadcaster Response

The broadcaster states that this is a comedy panel show which uses the resources of the RTÉ sound archive relating to episodes of censorship and banning from the past. A clip about The Tailor and Ansty, from an RTÉ documentary, was discussed by the panellists and one panellist commented on the interviewee's accent.

The broadcaster states that it is widely understood that accents vary greatly in Ireland and is of the view that the remark was a genuine reaction to the clip and the comment was off the cuff. The broadcast does not believe that the comment caused offence to persons or groups in society.

5. Decision of the Executive Complaints Forum Reject (Majority)

Having considered the broadcast and the submissions from the complainant and the broadcaster and having also had regard to the relevant legislation and Code, the Forum decided to reject the complaint. The Forum's views and reasons for the decision are set out below.

The Forum noted the complaint was submitted under the Code of Programme Standards: Principle 5 - Persons and Groups in Society.

The Forum noted that broadcasters must ensure that the manner in which persons and groups in society are represented is appropriate and justifiable and shall not prejudice respect for human dignity.

The complaint referred to a comment made by one of the panellists on the programme in relation to the accent of the interviewee featured in the clip played. While the Forum acknowledged that the complainant was offended by the comment, it was of the view that the comment made could not be considered as causing undue offence. As the Code guards against undue offence only, the Forum did not consider that an infringement occurred in this instance.



In view of the above, the Forum did not agree that the programme infringed the requirements of the legislation and Code in the manner specified by the complainant. Accordingly, the Forum decided to reject the complaint.



Complaint made by: [REDACTED] **Ref. Nos. 54/18, 55/18, 56/18, 57/18 & 58/18**

Station:
RTÉ Radio 1

Programme:
Radio News Bulletins

Date:
21st July 2018

1. Programme:

The complaints concern five radio news bulletins, broadcast on RTÉ Radio 1 at 8am, 9am, 11am, 12 noon and 1pm on 21st July.

2. Complaint Category

Broadcasting Act 2009 - Section 48(1)(a) (fairness, objectivity and impartiality); the BAI Code of Fairness, Objectivity in News and Current Affairs - Rules 4.17 and 4.19.

3. Complaint Summary

The complaints concern five news bulletins on the conflict in Gaza. The complainant is of the view that the news bulletins failed to be accurate and also misrepresented the facts. The complainant takes issue with the newsreader repeatedly referring to "...an Israeli soldier and four Palestinians..." being killed in the fighting. The complainant believes that the newsreader neglected to state that three of the four Palestinians killed were Hamas Islamist radicals. The complainant is of the view that the bulletins were inaccurate and misleading as they would lead an ordinary listener to assume that, in contrast to the Israeli victim, the Palestinian casualties were all ordinary civilians. The complainant is of the view that the broadcaster failed to explore the available information and found that the exclusion of this relevant fact resulted in reports which failed to be objective or impartial.

4. Broadcaster Response

The broadcaster is of the view that all five broadcasts were accurate and gave a true account of the information available to them. The news bulletins reported on an agreed ceasefire between the Palestinian group Hamas and Israel following an upsurge of violence in Gaza. The broadcaster maintains that in the 8am, 9am and 11am news bulletins it was reported that four Palestinians had been killed and in the 12 noon and 1pm bulletins it was stated that four Palestinians were killed, and the broadcaster maintains that this information was factually correct.

The broadcaster is of the view that the information given, in context of a report on the fighting in Gaza, was presented with due accuracy and was not misleading.

**5. Decision of the Executive Complaints Forum
Reject (Majority)**

Having considered the broadcast and the submissions from the complainant and the broadcaster and having also had regard to the relevant legislation and the Code, the Forum decided to reject the complaint. The Forum's views and reasons for the decision are set out below.

The Forum noted that these complaints relate to five news bulletins broadcast on the same day and that both the complainant and broadcaster have addressed these as related complaints. The Forum, while considering each broadcast on its individual merits, determined these as related broadcasts. In making this determination, the Forum had regard for the date of broadcast and the subject matter being reported.



The Forum noted that the complaints were submitted under the Code Fairness, Objectivity and Impartiality in News and Current Affairs – Rules 4.17 and 4.19. The Code requires that the content is presented with due accuracy having regard to the circumstances and the facts known at the time of preparing and broadcasting the content. The Code also requires that views and facts are not misrepresented or presented in such a way as to render them misleading.

The Forum noted that each report began with a reference to the violence in Gaza and the Forum were satisfied that this provided the listener with sufficient context for each report. However, the Forum noted that the focus of the reports was the ceasefire and not the preceding violence. In considering these complaints, the Forum was mindful that the reports have to be taken in whole and in context and, on balance, found that the reports did not infringe the Code. The Forum acknowledged that the reports excluded reference to Hamas members being among the Palestinians that were killed, however, the Forum was of the view that the omission of this information did not lead to the subject matter being reported in a manner that could be considered as misleading or presented without due accuracy.

In view of the above, the Forum did not agree that the broadcasts infringed the requirements of the legislation and Code in manner specified by the complainant. Accordingly, the Forum decided to reject the complaints.



Complaint made by: [REDACTED]

Ref. No. 59/18

Station:
Newstalk 106-108FM

Programme:
Off the Ball

Date:
10th August 2018

1. Programme

The complaint concerns the intro to Off the Ball, which is broadcast each weekday evening Monday – Thursday from 7-10pm, on Friday from 7-9pm and on Saturday and Sunday from 1-6pm.

2. Complaint Category

Broadcasting Act 2009 - Section 48(1)(b)(harm & offence); the BAI Code of Programme Standards – Principles 1, 3 and 6.

3. Complaint Summary

The complaint relates to a short clip of voices which is played in the introduction to Off the Ball. The complainant takes issue with the inclusion of a clip in which the speaker states “I knew I was going to strike Ollie Baker and I knew where I was going to hit him, and I did, and I opened him”. The complainant is of the view that this piece is offensive, ill-judged, inappropriate and is an incitement to crime.

4. Broadcaster Response

The broadcaster categorically rejects any claim that the programme infringed the Code of Programme Standards and states that Off the Ball is Newstalk’s nightly sports show which is aimed at an adult audience and presented in an irreverent style. The broadcaster states that the language which is the subject of the complaint is not used in a gratuitous way. In the view of the broadcaster, the quote is used in the opening segment to provide context and to set the tone and style of the programme to follow.

5. Decision of the Executive Complaints Forum Reject (Majority)

Having considered the broadcast and the submissions from the complainant and the broadcaster and having also had regard to the relevant legislation and the Code, the Forum decided to reject the complaint. The Forum's views and reasons for the decision are set out below.

The Forum noted that the complaint was submitted under three sections of the Code of Programme Standards: Principle 1 – Respect for Community Standards, Principle 3 – Protection from Harm and Principle 6 – Protection of the Public Interest.

The Forum noted that the Code protects against undue offence, however, the Code acknowledges that there is no right not to be offended and that, in order for broadcasters to provide a diverse range of programmes that caters for a diverse audience, programming may cause offence to some members of the audience.

The Forum noted that the segment in question is part of the preamble to a programme which is aimed at an adult audience and is well-known for its somewhat irreverent presentation style. In this context, the Forum found that the piece was used to attract the listeners’ attention at the introduction to the programme. The Forum acknowledged that the complainant found the reference to the use of violence



towards another person offensive, however, having considered the segment in the context of the tone, style and audience expectation, the Forum found that it was unlikely to cause widespread offence nor incite to crime. Further, the Forum did not find any evidence that the segment in question could have caused harm to any listeners.

In view of the above, the Forum did not agree that the programme infringed the requirements of the legislation and Code in manner specified by the complainant. Accordingly, the Forum decided to reject the complaint.



Complaint made by: [REDACTED]

Ref. No. 62/18

Station:
Newstalk 106-108FM

Programme:
Lunchtime Live

Date:
26th September 2018

1. Programme

The complaint concerns 'Lunchtime Live', which is a lifestyle programme broadcast each weekday from 12 noon to 2pm.

2. Complaint Category

Broadcasting Act 2009 - Section 48(1)(a) (fairness, objectivity and impartiality in current affairs); the BAI Code of Fairness, Objectivity and Impartiality in News and Current Affairs - Rules 4.1 and 4.2.

3. Complaint Summary

The complaint concerns an interview with a financial advisor at AskPaul.ie, discussing the issue of income tax and taxation, in the context of a report from the Irish Tax Institute and in advance of the upcoming budget. The complainant claims that the interviewee failed to differentiate between tax and income tax and listeners were given a one-sided perspective on taxation.

4. Broadcaster Response

The broadcaster maintains that this segment was a review of a report by the Irish Tax Institute and outlined the rate of personal tax paid by workers and the topic of personal tax was clearly outlined by the presenter at the outset of the interview. The guest was interviewed in his capacity as financial advisor and he presented the facts of the ITI report in a fair and balanced way. The broadcaster rejects the claim that the programme infringed the Code of Fairness, Objectivity and Impartiality in News and Current Affairs.

5. Decision of the Executive Complaints Forum Reject (Majority)

Having considered the broadcast and the submissions from the complainant and the broadcaster and having also had regard to the relevant legislation and Code, the Forum decided to reject the complaint. The Forum's views and reasons for the decision are set out below.

The Forum noted the complaint was submitted under the Code of Fairness, Objectivity and Impartiality in News and Current Affairs - Rules 4.1 and 4.2. The Code requires that the content is fair to all interests concerned and that the broadcast matter is presented in an objective and impartial manner and without any expression of the broadcaster's own views.

The Forum found that the presenter introduced the item by referring to a pre-budget report by the Irish Taxation Institute which established that "workers across all and every income level were paying more personal tax, which is income tax, the universal social charge and the PRSI combination, despite a reduction over the past 7 years". It was clear from this introduction that the topic under discussion related to income tax and the differences paid by those on higher or lower wages as well as middle-income earners.



The Forum noted that the interviewee stated that “there’s an awful lot of people not paying any tax – I’m not suggesting that everybody needs to get hammered by income tax but there is (*sic*) some that should be paying tax, in my opinion”. However, this was the clearly personal view of the interviewee and did not, in the Forum’s view, render the programme misleading. The Forum did not find evidence to support the complainant’s view that the interview was an attack on low paid workers.

In view of the above, the Forum was of the view that the programme in its entirety was fair, impartial and objective. Accordingly, the Forum decided to reject the complaint.



ÚDARÁS
CRAOLACHÁIN
NA hÉIREANN

BROADCASTING
AUTHORITY
OF IRELAND

Broadcasting Authority of Ireland
Broadcasting Complaints Decisions

July 2019



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BAI Complaints Handling Process

Under the Broadcasting Act 2009, viewers and listeners to Irish radio and television services can complain about broadcasting content which they believe is not in keeping with broadcasting codes and rules. When making a complaint, the relevant programme or commercial communication should be identified, including the date of broadcast and time. The complainant should explain what it is about the broadcast that has led them to make a complaint. It is important to set out clearly the grounds of the complaint and why the programme material or commercial content does not comply with the BAI's Broadcasting Codes. Further information on the complaints process or codes may be found on the BAI's website: www.bai.ie. Alternatively, you can request further information by email: info@bai.ie or by phone: 016441200.

In line with the complaint process, the viewer or listener should direct their complaint to the broadcaster in the first instance and in the manner detailed in the broadcaster's Code of Practice for Handling Complaints, a document which each broadcaster has available on its website. If a viewer or listener is not satisfied with the response from the broadcaster or if the broadcaster does not respond within the timeframe provided for in their Code of Practice (usually 21 days), then the viewer or listener can refer the complaint to the BAI for consideration.

In assessing complaint referrals, the BAI will have regard to the relevant codes and rules, the written material submitted by the relevant parties, together with the broadcast material. Complaints are assessed by the Compliance Committee of the BAI or may be delegated to the Executive Complaints Forum, which is accountable to the Compliance Committee.

The details of the broadcasting complaints decisions reached by the BAI are set out in this document. The decisions deal with the issue of whether a programme or a commercial communication did or did not comply with the relevant legal requirements and the relevant broadcasting codes or rules. The decisions do not constitute endorsement or support for the views of either parties to the complaint nor will they address every aspect of a complaint submission. The BAI will not carry out a separate or independent assessment outside of the matters raised in the complaint.

In total, four (4) complaints were considered and rejected by the Compliance Committee of the BAI. In addition, twelve (12) complaints were considered and rejected by the Executive Complaints Forum. The Compliance Committee decisions were made at its meeting on 27th February 2019 and the decisions of the Executive Complaints Forum were made at meetings held on 21st January, 4th February, 20th February, 4th March and 25th March 2019.



Rejected by Compliance Committee

Complaint made by: [REDACTED]

Ref. No. 67/18

Station:

RTÉ One

Programme:

The Late Late Show

Date:

2nd November 2018

1. Programme

The complaint concerns The Late Late Show, a light entertainment programme broadcast each Friday evening at 9.35pm.

2. Complaint Category

Broadcasting Act 2009 - Section 48(1)(a)(fairness, objectivity and impartiality in current affairs); the BAI Code of Fairness, Objectivity and Impartiality in News and Current Affairs - Rules 4.1 and 4.2.

3. Complaint Summary

The complaint concerns a segment of the programme in which Mr. Peter Casey, a candidate in the presidential election, discussed the election and comments made by him regarding the Traveller community. The complainant refers to a section of the interview in which Mr. Casey asked the presenter if he had lost control. The presenter replied, "I have absolutely not Peter and I'll tell you something, if I do, you'll know all about it". The complainant believes that the presenter's response was unacceptable and undermined the fairness of the interview. The complainant believes the presenter demonstrated bias in his treatment of the guest.

The complainant is of the view that audience members expressed their dissatisfaction with the interviewee's views, however, no alternative views from audience members were expressed. Further, the complainant states that the guest was not given the opportunity to defend himself. The complainant contends that this segment of the programme infringed the Code under Sections 4.1 and 4.2.

4. Broadcaster Response

The broadcaster states that Mr. Casey was invited onto the Late Late Show following his success in the presidential election the week prior to the broadcast. Various matters were discussed during the interview, including the interviewee's views on the Traveller community and other presidential candidates. The broadcaster maintains that the interviewee was fully briefed on the format of the programme and was aware that the audience would be participating. The broadcaster maintains that the interviewee's consent to appear on the programme was fully informed.

The broadcaster views the interview as compliant with the principles of fairness and noted that the presenter played devil's advocate in order to elicit views from the interviewee.



The broadcaster is of the view that, given the interviewee's comments about the Traveller community, and in the interest of fairness, it was appropriate to allow members from that community to participate.

The broadcaster maintains that the interview was robust and challenging with the interviewee being given ample time to defend himself. The broadcaster believes the content did not infringe the Code of Fairness, Objectivity and Impartiality in News and Current Affairs.

5. Decision of the Compliance Committee Reject (Majority)

Having considered the broadcast and the submissions from the complainant and the broadcaster and having had regard to the relevant legislation and Code, the Committee decided to reject the complaint. The Committee's findings and reasons for the decision are set out below.

The Compliance Committee noted that the complaint was made under Sections 4.1 and 4.2 of the Code of Fairness, Objectivity and Impartiality in News and Current Affairs. The Code requires that content is fair to all interests concerned and that the broadcast matter is presented in an objective and impartial manner and without any expression of the broadcaster's own views.

The Committee considered the complainant's view that the interview was not conducted in a manner which was fair to the interviewee. The presenter was robust in his questioning, however, the Committee noted that it is often the role of the presenter to challenge the views of guests when discussing matters of public controversy or current debate. Further, a robust or rigorous interview does not necessarily constitute unfairness. The Committee did not deem that the interview was conducted in a manner which contravened the requirements for fairness, objectivity or impartiality.

The Committee had regard for the format of the interview and the subject being discussed. While various audience members did challenge the interviewee regarding comments and views put forward by him, it was noted that the subject matter was such that it was likely to elicit strong views from some members of the public. The Committee considered the steps taken by the broadcaster, as outlined in its response to the complaint, to inform the interviewee about the format of the programme and the audience participation prior to broadcast. It was the view of the Committee that the steps taken were sufficient to provide the interviewee with enough information to allow him to prepare for the interview. Further, the interviewee was given ample time to offer his opinions and respond to challenges during the programme. In this respect, the Committee considered the approach was proportionate and fairness was achieved.

The Committee did not view the broadcast as infringing the requirements to be fair, objective or impartial. As such, the complaint was rejected.



Complaint made by: [REDACTED]

Ref. No. 70/18

Station:
RTÉ One

Programme:
The Late Late Show

Date:
2nd November 2018

1. Programme

The complaint concerns The Late Late Show, a light entertainment programme broadcast each Friday evening at 9.35pm.

2. Complaint Category

Broadcasting Act 2009 - Section 48(1)(a) (fairness, objectivity and impartiality in current affairs); the BAI Code of Fairness, Objectivity and Impartiality in News and Current Affairs - Rules 4.1 and 4.2.

3. Complaint Summary

The complaint concerns a segment of the programme in which Mr. Peter Casey, a candidate in the presidential election, discussed the election and comments made by him regarding the Traveller community. The complainant refers to a section of the interview in which Mr. Casey asked the presenter if he had lost control. The presenter replied, "I have absolutely not Peter and I'll tell you something, if I do, you'll know all about it". The complainant believes that the presenter's response was threatening and displayed bias towards the interviewee.

The complainant further considers that the presenter gave his own views and allowed audience members to heckle the interviewee. The complainant believes that this segment of the programme was in breach of the Code, under Sections 4.1 and 4.2.

4. Broadcaster Response

The broadcaster states that Mr. Casey was invited onto the Late Late Show following his success in the presidential election the week prior to the broadcast. Various matters were discussed during the interview, including the interviewee's views on the Traveller community and other presidential candidates. The broadcaster maintains that the interviewee was fully briefed on the format of the programme and was aware that the audience would be participating. The broadcaster maintains that the interviewee's consent to appear on the programme was fully informed.

The broadcaster views the interview as compliant with the principles of fairness and noted that the presenter played devil's advocate in order to elicit views from the interviewee.

The broadcaster is of the view that, given the interviewee's comments about the Traveller community, and in the interest of fairness, it was appropriate to allow members from that community to participate.



The broadcaster maintains that the interview was robust and challenging with the interviewee being given ample time to defend himself. The broadcaster believes the content did not infringe the Code of Fairness, Objectivity and Impartiality.

5. Decision of the Compliance Committee Rejected (Majority)

Having considered the broadcast and the submissions from the complainant and the broadcaster, and also having had regard to the relevant legislation and Code, the Committee decided to reject the complaint. The Committee's findings and reasons for the decision are set out below.

The Compliance Committee noted that the complaint was made under Sections 4.1 and 4.2 of the Code of Fairness, Objectivity and Impartiality in News and Current Affairs. The Code requires that content is fair to all interests concerned and that the broadcast matter is presented in an objective and impartial manner and without any expression of the broadcaster's own views.

The Committee considered the complainant's view that the interview was not conducted in a manner which was fair to the interviewee. The presenter was robust in his questioning, however, the Committee noted that it is often the role of the presenter to challenge the views of guests when discussing matters of public controversy or current debate. Further, a robust or rigorous interview does not necessarily constitute unfairness. The Committee did not deem that the interview was conducted in a manner which contravened the requirements for fairness, objectivity or impartiality.

The Committee had regard for the format of the interview and the subject being discussed. While various audience members did challenge the interviewee regarding comments and views put forward by him, it was noted that the subject matter was such that it was likely to elicit strong views from some members of the public. The Committee considered the steps taken by the broadcaster, as outlined in its response to the complaint, to inform the interviewee about the format of the programme and the audience participation prior to broadcast. It was the view of the Committee that the steps taken were sufficient to provide the interviewee with enough information to allow him to prepare for the interview. Further, the interviewee was given ample time to offer his opinions and respond to challenges during the programme. In this respect, the Committee considered the approach was proportionate and fairness was achieved.

The Committee did not view the broadcast as infringing the requirements to be fair, objective or impartial. As such, the complaint was rejected.



Complaint made by: [REDACTED]

Ref. No. 71/18

Station:
RTÉ One

Programme:
The Late Late Show

Date:
2nd November 2018

1. Programme

The complaint concerns The Late Late Show, a light entertainment programme broadcast each Friday evening at 9.35pm.

2. Complaint Category

Broadcasting Act 2009 - Section 48(1)(a) (fairness, objectivity and impartiality in current affairs); the BAI Code of Fairness, Objectivity and Impartiality in News and Current Affairs - Rules 4.1 and 4.2.

3. Complaint Summary

The complaint concerns a segment of the programme in which Mr. Peter Casey, a candidate in the presidential election, discussed the election and comments made by him regarding the Traveller community. The complainant believes the presenter demonstrated bias in his treatment of the interviewee. The complainant believes that there was no objectivity displayed by the presenter and considers that the presenter's treatment of the interviewee bordered on abusive. The complainant contends that this segment of the programme infringed the Code under Sections 4.1 and 4.2.

4. Broadcaster Response

The broadcaster states that Mr. Casey was invited onto the Late Late Show following his success in the presidential election the week prior to the broadcast. Various matters were discussed during the interview, including the interviewee's views on the Traveller community and other presidential candidates. The broadcaster maintains that the interviewee was fully briefed on the format of the programme and was aware that the audience would be participating. The broadcaster maintains that the interviewee's consent to appear on the programme was fully informed.

The broadcaster views the interview as compliant with the principles of fairness and noted that the presenter played devil's advocate in order to elicit views from the interviewee.

The broadcaster is of the view that, given the interviewee's comments about the Traveller community, and in the interest of fairness, it was appropriate to allow members from that community to participate. The broadcaster maintains that the interview was robust and challenging with the interviewee being given ample time to defend himself. The broadcaster believes the content did not infringe the Code of Fairness, Objectivity and Impartiality in News and Current Affairs.



5. Decision of the Compliance Committee Rejected (Majority)

Having considered the broadcast and the submissions from the complainant and the broadcaster, and also having had regard to the relevant legislation and Code, the Committee decided to reject the complaint. The Committee's findings and reasons for the decision are set out below.

The Compliance Committee noted that the complaint was made under Sections 4.1 and 4.2 of the Code of Fairness, Objectivity and Impartiality in News and Current Affairs. The Code requires that content is fair to all interests concerned and that the broadcast matter is presented in an objective and impartial manner and without any expression of the broadcaster's own views.

The Committee considered the complainant's view that the interview was not conducted in a manner which was fair to the interviewee. The presenter was robust in his questioning, however, the Committee noted that it is often the role of the presenter to challenge the views of guests when discussing matters of public controversy or current debate. Further, a robust or rigorous interview does not necessarily constitute unfairness. The Committee did not deem that the interview was conducted in a manner which contravened the requirements for fairness, objectivity or impartiality.

The Committee had regard for the format of the interview and the subject being discussed. While various audience members did challenge the interviewee regarding comments and views put forward by him, it was noted that the subject matter was such that it was likely to elicit strong views from some members of the public. The Committee considered the steps taken by the broadcaster, as outlined in its response to the complaint, to inform the interviewee about the format of the programme and the audience participation prior to broadcast. It was the view of the Committee that the steps taken were sufficient to provide the interviewee with enough information to allow him to prepare for the interview. Further, the interviewee was given ample time to offer his opinions and respond to challenges during the programme. In this respect, the Committee considered the approach was proportionate and fairness was achieved.

The Committee did not view the broadcast as infringing the requirements to be fair, objective or impartial. As such, the complaint was rejected.



Complaint made by: [REDACTED]

Ref. No. 73/18

Station:

RTE One

Programme:

Prime Time

Prime Time Promo

Date:

1st November 2018

1. Programme

Prime Time is a current affairs programme broadcast twice weekly at 9.35pm. The complaint concerns an episode which dealt with claims of bullying and harassment in the Irish film industry and a promo for the episode broadcast prior to the programme.

2. Complaint Category

Broadcasting Act 2009 - Section 48(1)(a)(fairness, objectivity and impartiality in news and current affairs); the BAI Code of Fairness, Objectivity and Impartiality in News and Current Affairs – Rules 4.1, 4.2, 4.4, 4.9, 4.12, 4.13, 4.16, 4.21 and 4.22. Section 48(1)(b)(harm & offence); the BAI Code of Programme Standards – Principle 7.

3. Complaint Summary

The complaint relates to two elements of the programme; firstly, the complainant claims that the footage of him taking part in a protest was broadcast without his knowledge or consent. The complainant further states that he was identifiable while many other protesters had their faces pixelated.

The second element of the complaint relates to the presentation of the footage taken at the protest which, the complainant believes, is unfair and misleading. In his submission, the complainant outlines the basis of the dispute and the resulting protest. The complainant claims that the presenter failed to inform viewers of all elements of the protest, including injuries the complainant sustained while protesting. The complainant is of the view that the programme was one-sided as not all the facts were included. The complainant claims that the report was inaccurate, did not respect his privacy and failed to be objective or impartial.

4. Broadcaster Response

The broadcaster states that the complainant was participating in a public protest and carrying a sandwich board which, the broadcaster presumes, he wore to convey his message to the public. The broadcaster maintains that the reporter informed the complainant of the existence of the footage and the intention to broadcast it. Therefore, the broadcaster believes that the use of the broadcast material which is the subject of this complaint was included for legitimate journalistic purposes.

The broadcaster states that the programme included footage of the incident involving the complainant and a vehicle. The broadcaster considers that the footage used was relevant given the subject of the report. The broadcaster states it was unable to obtain footage of the alleged incident in which the complainant was injured. However, the broadcaster references the complainant's claims regarding this



incident in the broadcast. The broadcaster is of the view that neither the programme nor the promo infringed any of the Codes as claimed by the complainant.

5. Decision of the Compliance Committee

Rejected (Unanimous)

Having considered the broadcast and the submissions from the complainant and the broadcaster and having also had regard to the relevant legislation and Code, the Committee decided to reject the complaint. The Committee's findings and reasons for the decision are set out below.

The Compliance Committee noted that the complaint was made under Sections 4.1, 4.2, 4.4, 4.9, 4.12, 4.13, 4.16, 4.21 and 4.22 of the Code of Fairness, Objectivity and Impartiality in News and Current Affairs. The complaint was also made under Principle 7 of the Code of Programme Standards.

The Committee considered the complainant's views regarding the programme not being fair in its treatment of the subject matter and in the presentation of the footage from the protest. The Committee noted that the programme included footage of an incident involving the complainant and a vehicle. There was no evidence that the content was edited in a manner which distorted its meaning. Further, the Committee noted that the complainant was aware that the footage had been taken and had regard for the inclusion of the complainant's view of the incident by way of a voiceover. The Committee noted that the programme explored various viewpoints and included interviews with a range of contributors. The Committee was of the view that the subject matter was dealt with in a manner which was fair, objective and impartial.

The Committee had regard to the complainant's view that his privacy was encroached. The Committee noted that the complainant's face was visible while the faces of other protestors were pixilated. However, the Committee considered that the principle of privacy is not absolute and must be balanced against other considerations. In this instance, the footage was recorded at a public protest and was featured in the context of its relevance to the subject matter. The Committee noted the broadcaster's view that the complainant, through his involvement in the incident with the car, became more pertinent to the storyline than other protestors. The Committee weighed the right to privacy against other factors, such as the public interest, and did not view the programme as having unreasonably encroached the complainant's privacy.

The Committee noted that the complainant did not make a case for his complaint to be considered under Sections 4.16, 4.21 or 4.22.

The Committee did not view the broadcast as infringing the requirements in the manner outlined by the complainant. As such, the complaint was rejected.



Rejected by Executive Complaints Forum

Complaint made by: [REDACTED]

Ref. No. 63/18

Station:

RTÉ Radio 1

Programme:

Ray D'Arcy Show

Date

3rd October 2018

1. Programme

The complaint concerns the Ray D'Arcy Show, a lifestyle/entertainment programme broadcast each weekday afternoon from 3 – 4.30pm.

2. Complaint Category

Broadcasting Act 2009 - Section 48(1)(a) (fairness, objectivity and impartiality in current affairs); the BAI Code of Fairness, Objectivity and Impartiality in News and Current Affairs - Rules 4.1, 4.2 and 4.22.

4. Complaint Summary

The complainant is of the view that the presenter expressed a partisan view when discussing the topic of Catholic education and Catholic religion in schools. The complainant believes the presenter demonstrated bias and expressed a personal view that amounted to a campaign to take religion out of schools. The complainant believes that the one-sided opinion given by the presenter led to the programme being unfair.

4. Broadcaster Response

The broadcaster states that the presenter's comments were made in the context of the review of a newspaper story on the day. The broadcaster contends that regular listeners to the programme would be aware of the newspaper segment in which topics of the day are discussed. The broadcaster states that this is not a news and current affairs programme, instead it is an authored programme, as permitted under the Code. It includes a segment in which the presenter informs the listener of news stories and provides his personal view. It is in this context that the comments were made. The broadcaster disagrees that this could be considered as campaigning. The broadcaster is of the view that the programme complied with regulatory Codes.

5. Decision of the Executive Complaints Forum Reject (Unanimous)

Having considered the broadcast and the submissions from the complainant and the broadcaster and having also had regard to the relevant legislation and the Code, the Forum decided to reject the complaint. The Forum's views and reasons for the decision are set out below.



The Forum noted the complaint was submitted under the Code of Fairness, Objectivity and Impartiality in News and Current Affairs - Rules 4.1, 4.2 and 4.22. The Code requires that the content is fair to all interests concerned and that the broadcast matter is presented in an objective and impartial manner and without any expression of the broadcaster's own views.

The complaint concerns personal comments made by the presenter during a review of the main stories in the newspapers that day. The presenter referred to an article in the Irish Independent that morning on ending the 'Baptism Barrier' in schools. The Forum noted the comment reflected the presenter's personal view, however, this newspaper review segment is synonymous with the presenter's personality and style. The Forum was of the view that the comments did not render the piece partial or unfair. Further, the Forum noted that the requirement for news and current affairs to be broadcast without any expression of the broadcaster's own views does not refer to individual presenters, rather to the entity which owns or operates the broadcast service. The Forum did not consider the comments to have infringed the requirements regarding fairness, objectivity and impartiality.

In view of the above, the Forum did not agree that the programme infringed the requirements of the legislation and Code in manner specified by the complainant. Accordingly, the Forum decided to reject the complaint.

Addendum – Clarification made to complainant following decision

The Code sets out standards and practices which broadcasters are expected to adhere to in their treatment of news and current affairs. Under section 39 of the Broadcasting Act, the term 'broadcaster' does not refer to individual presenters, instead it refers to the entity that owns and operates the broadcasting service. However, this does not mean that individual presenters do not need to comply with the Code.

Rule 22 of the Code of Fairness, Objectivity and Impartiality in News and Current Affairs outlines a standard which is specific to presenters in the context of current affairs content. However, this rule should not be taken to mean that a presenter of current affairs content may never give a view or opinion on a matter of public controversy or public current debate. Rather, the Code seeks to prevent the presenter from pursuing an agenda or advocating a partisan position such that a biased view on an issue is articulated.

In its decision, the Forum acknowledged that a personal view was offered by the presenter but determined that "the comments did not render the piece partial or unfair". In determining this, the Forum considered that Rule 4.22 was not infringed by the presenter's comments. Further, the Forum was of the view that the content of the broadcast did not infringe the requirements of the Code. Therefore, the complaint was rejected in full.



Complaint made by: [REDACTED]

Ref. No. 64/18

Station:

RTÉjr

Advertisement:

Nerf Guns

Date:

18th October 2018

1. Advertisement

The complaint concerns an advertisement for a Nerf Gun, broadcast at 4.30pm.

2. Complaint Category

Broadcasting Act 2009 - Section 48(1)(d); the BAI Children's Commercial Communications Code – Section 9.3.

3. Complaint Summary

The complaint refers to an advertisement for Nerf Guns, which work by shooting darts at an opponent. The complainant draws attention to the lack of a warning to not shoot the darts in the direction of someone's eyes or face. The complainant states that the product itself displays a clear warning but the advertisement did not mention this. The complainant believes this advertisement infringes the requirement of the Code regarding general safety.

4. Advertiser's Response

Hasbro UK states that the advertisement fully complies with the Code in that it does not show children acting in a dangerous manner and does not encourage dangerous behaviour.

5. Broadcaster Responses

The broadcaster states that the advertisement shows children running and holding the Nerf Gun at body level and does not depict them shooting anyone in the face or head. The broadcaster also claims that safe use of the guns is depicted on the box. The broadcaster is of the view that advertisement depicted the correct use of the guns and believe that the advert did not infringe the Code in the manner described by the complainant.

**6. Decision of the Executive Complaints Forum
Reject (Unanimous)**

Having considered the broadcast and the submissions from the complainant and the broadcaster and having also had regard to the relevant legislation and Code, the Forum decided to reject the complaint. The Forum's views and reasons for the decision are set out below.



The Forum noted the complaint was submitted under the Children's Commercial Communications Code. The Code requires that commercial communications shall not show children in morally or physically dangerous situations or behaving dangerously in the home or outside, including street and road scenes, except when the sole purpose of the commercial communication is to promote safety.

The Forum had regard to the concerns of the complainant in relation to the correct use of Nerf guns and noted that the advertisement did not carry a warning referring to the dangers of firing darts at eye level.

The Forum noted that the advertisement featured the new 'Nerf Elite Infinus' gun and showed children running after each other firing the guns. However, the children had their backs to the guns and were all firing in one direction. The Forum further noted that the children were not seen firing at each other. The Forum was of the view that the content of this advertisement was such that it did not infringe the Children's Code. On this basis the complaint was rejected.



Complaint made by: [REDACTED]

Ref. No.66/18

Station:

Sunshine 106.8

Programme:

More Music Drive: Traffic & Sports News

Date:

11th October 2018

1. Programme

More Music Drive is a music driven programme with traffic, sports and news updates. The programme is broadcast from 2pm to 7pm each weekday afternoon.

2. Complaint Category

Broadcasting Act 2009 - Section 48(1)(a)(fairness, objectivity and impartiality in news and current affairs); the BAI Code of Fairness, Objectivity and Impartiality in News and Current Affairs - Rules 4.10, 4.17 and 4.20.

3. Complaint Summary

The complainant states that while driving towards the city on the M1 around 6pm, a traffic update on the station warned of a truck broken down in the south bore of the Port Tunnel. The complainant states that he approached the tunnel five minutes later but the lights were green and the traffic was flowing freely. Shortly afterwards, a sports update on the programme reported that Shane Lowry was plus one early in his round in the British Master's golf tournament, however, the complainant checked the golf scoreboard when he got home and found that Shane Lowry had completed his round, finishing at plus three. The complainant found the sports update at 7pm to contain the same inaccurate information. The complainant believes the station broadcast inaccurate information and that the mistake was not acknowledged nor rectified speedily despite his emails to the station at the time.

4. Broadcaster Response

The broadcaster states that Sunshine Radio always strives to ensure that the news and information broadcast on air is as up-to-date as possible. The broadcaster concedes that sometimes they are limited by the information available to them by suppliers together with the need to have bulletins prepared in advance of live broadcast. The broadcaster acknowledges the complainant's disappointment with the output and understands the importance of timely and accurate output.

**5. Decision of the Executive Complaints Forum
Reject (Unanimous)**

Having considered the broadcast and the submissions from the complainant and the broadcaster and having also had regard to the relevant legislation and Code, the Forum decided to reject the complaint. The Forum's views and reasons for the decision are set out below.



The Forum noted the complaint was submitted under the Code of Fairness, Objectivity and Impartiality in News and Current Affairs - Rules 4.10, 4.17 and 4.20. The Code requires that news and current affairs content is objective, impartial and presented with due accuracy.

The complainant is of the view that the broadcast contained inaccurate reporting of traffic and sports news. The Forum noted that the sports report was factually accurate at the time of preparation and, while not updated for subsequent broadcasts, the information contained in the reports remained accurate. The Forum also noted that there was insufficient evidence to determine conclusively if the traffic information was inaccurate.

In view of the above, the Forum did not agree that the reports infringed the requirements of the legislation and Code in manner specified by the complainant. Accordingly, the Forum decided to reject the complaint.



Complaint made by: [REDACTED]

Ref. No. 68/18

Station:

Red FM

Programme:

The Neil Prendeville Show

Date:

25th October 2018

1. Programme

The complaint refers to The Neil Prendeville Show, which is a news current affairs programme broadcast each weekday from 9am – 12 noon.

2. Complaint Category

Broadcasting Act 2009 - Section 48(1)(a)(fairness, objectivity and impartiality in news and current affairs); the BAI Code of Fairness, Objectivity and Impartiality in News and Current Affairs - Rules 4.17, 4.19, 4.20, 4.21 and 4.27.

3. Complaint Summary

The complaint refers to comments made by the presenter in advance of the Referendum regarding changing the Blasphemy Law in Ireland. The complainant claims that the presenter wrongly stated that blasphemy is an offence against any religion. The complainant maintains that this was a damaging and incorrect statement which would have swayed peoples' opinions and their vote in the Referendum which was upcoming at the time of broadcast.

The complainant is of the view that the presenter failed to be impartial and that this, together with the inaccurate information, resulted in a programme that was not objective, fair or impartial.

4. Broadcaster Response

The broadcaster maintains that the presenter stated his genuine understanding of blasphemy on the day in question and states that, if this interpretation is incorrect, the broadcaster is open to a remedy suggested by the regulator.

The broadcaster states that the complainant was given over five minutes on air with the presenter on the same day and had ample opportunity to provide his perspective on the upcoming Referendum. A subsequent caller to the programme was on air to give his views, which were against the removal of the blasphemy laws. The broadcaster is of the view that this illustrates that the presenter was not knowingly seeking to mislead the audience.



5. Decision of the Executive Complaints Forum Reject (Unanimous)

Having considered the broadcast and the submissions from the complainant and the broadcaster and having also had regard to relevant legislation and Code, the Forum decided to reject the complaint. The Forum's views and reasons for the decision are set out below.

The Forum noted that the complaint referred to a comment made by the presenter ahead of the Referendum to change the Blasphemy Law in Ireland in which he described blasphemy as being an offence against any religion. The Forum noted that in Ireland, blasphemy is prohibited against any form of religion and also noted that the Defamation Act 2009 refers, under blasphemy to “matters held sacred by any religion”. The Forum therefore, did not consider the complainant’s interpretation of blasphemy to be correct.

Furthermore, the Forum is guided by the Referendum Commission which cites the following:

“The legal definition of blasphemy is contained in the Defamation Act 2009. That Act says that a person publishes or utters something blasphemous if they publish or say something that is grossly abusive or insulting in relation to matters held sacred by any religion, thereby causing outrage among a substantial number of the adherents of that religion”. Therefore, the presenter’s reference to blasphemy in the context of the Referendum could not be considered as inaccurate or misleading.

In view of the above, the Forum did not agree that the broadcast infringed the requirements of the legislation and Code in manner specified by the complainant. Accordingly, the Forum decided to reject the complaint.



Complaint made by: [REDACTED]

Ref. No. 69/18

Station:

Newstalk 106-108FM

Programme:

Lunchtime Live

Date:

23rd October 2018

1. Programme

The complaint concerns Lunchtime Live, which is a lifestyle programme broadcast each weekday from 12 noon to 2pm.

2. Complaint Category

Broadcasting Act 2009 - Section 48(1)(a) (fairness, objectivity and impartiality in current affairs); the BAI Code of Fairness, Objectivity and Impartiality in News and Current Affairs - Rules 4.1 and 4.2.

3. Complaint Summary

The complaint concerns an interview with a representative of Doctors for Freedom of Conscience, in relation to GP-led abortions in Ireland. The complainant is of the view that the presenter's interviewing style was unfair and showed a lack of respect for the interviewee. The complainant believes that the presenter displayed bias in her treatment of the interviewee. Overall, the complainant believes the programme failed to be fair and objective.

4. Broadcaster Response

The broadcaster maintains that the interview was a robust exchange between the presenter and the interviewee on a topic that can illicit strong reactions. The broadcaster noted that the interviewee is a professional and was allowed time during the discussion to speak uninterrupted and unchallenged. The broadcaster is of the view that the programme facilitated the expression of a range of views with the presenter proffering challenging and opposing viewpoints on the topic.

The broadcaster is of the view that the programme in its entirety was fair, impartial and objective.

**5. Decision of the Executive Complaints Forum
Reject (Unanimous)**

Having considered the broadcast and the submissions from the complainant and the broadcaster and having also had regard to the relevant legislation and Code, the Forum decided to reject the complaint. The Forum's views and reasons for the decision are set out below.

The Forum noted the complaint was submitted under the Code of Fairness, Objectivity and Impartiality in News and Current Affairs - Rules 4.1 and 4.2. The Code requires that the content is fair to all interests concerned and that the broadcast matter is presented in an objective and impartial manner and without any expression of the broadcaster's own views.



The Forum noted that broadcasters are required to deal fairly with contributors, to facilitate a range of views and to ensure presenters do not express their own views such that a partisan position is advocated. The Forum had regard to the type of programme and the context of the interview. The programme is a mix of current affairs, lifestyle and human-interest stories and this segment included an interview with a representative of Doctors for Freedom of Conscience. The issue was topical because of the recent referendum regarding the 8th Amendment and the discussion related to how abortion services will be provided in Ireland. The Forum noted that the interview contained some robust exchanges and the discussion became heated at times, however, the presenter's tone was respectful towards the guest and the interviewee was given ample opportunity to convey her views.

The Forum considered the presenter's questions, challenges and interventions as appropriate in the context of the interview and did not find that the comments included an expression of the presenter's own views or advocated a partisan position. The Forum noted that rigorous questioning in the context of an interview does not necessarily constitute unfairness.

In view of the above, the Forum did not agree that the programme infringed the requirements of the legislation and the Code in manner specified by the complainant. Accordingly, the Forum decided to reject the complaint.



Complaint made by: [REDACTED]

Ref. No. 72/18

Station:

RTE One

Programme:

Six One News

Date:

13th November 2018

1. Programme

The complaint refers to a broadcast of the 6.01 News. The report in question related to events in Gaza.

2. Complaint Category

Broadcasting Act 2009 - Section 48(1)(a)(fairness, objectivity and impartiality in news and current affairs); the BAI Code of Fairness, Objectivity and Impartiality in News and Current Affairs – Rules 4.1, 4.2 and 4.17.

3. Complaint Summary

The complainant is of the view that the report was inaccurate and failed to be objective or impartial. The inaccuracy and bias claimed is based on the following statement in the report:

“rockets fired from within Gaza were met with Israeli air strikes”

The complainant is of the view that this suggests the antecedent event was the firing of rockets from Gaza and the consequent event was Israeli airstrikes and therefore the Israelis had merely retaliated to a provocation committed by the Palestinians. The complainant states that the sequence of events is that an Israeli special forces group invaded Gaza and when Hamas military forces detected that group, a firefight ensued during which seven Palestinians and one Israeli were killed. The Israelis then launched airstrikes as cover and Hamas retaliated. Therefore, in the view of the complainant, an accurate and unbiased report would be “Israeli airstrikes were met with rockets fired from Gaza” rather than the other way around, as reported by the broadcaster.

The complainant also believes that other biased reports in this broadcast included video footage of Israeli medical personnel handling Israeli casualties, but no footage was shown of Palestinian casualties. In addition, the Ministry of Health in Gaza was referred to as “the Hamas run Gaza Health Ministry”. The complainant states that Hamas is the democratically elected government of Palestine and therefore adding the tag “Hamas-run” is akin to stating “the Fine Gael run Ministry of Health” if referring to Ireland. The complainant believes that the reporting in this case was misleading and an attempt to suggest that the Gaza Ministry is not legitimate.

4. Broadcaster Response

The broadcaster states that the complainant claims the sequence of events was that Israeli special forces invaded Gaza, however, the broadcaster believes that the complainant ignores the fact that the script broadcast also stated “Hamas has said it is retaliating – after one of its commanders and six other



gunmen were killed in a firefight after it says an undercover Israeli unit was discovered inside the Gaza strip. A member of the Israeli special forces was also killed”.

The broadcaster also maintains that the report showed people in Gaza walking through the streets, an ambulance and people in a distraught state as a body was being carried. Therefore, the assertion by the complainant that the report only showed Israeli medical personnel handling Israeli casualties is factually inaccurate. Referring to the footage used, the broadcaster notes it also included footage released by Hamas. The broadcaster claims editorial independence in this regard. Finally, the broadcaster claims that the use of the words “the Hamas run Gaza Health Ministry” is factually correct.

5. Decision of the Executive Complaints Forum Reject (Unanimous)

Having considered the broadcast and the submissions from the complainant and the broadcaster and having also had regard to the relevant legislation and Code, the Forum decided to reject the complaint. The Forum's views and reasons for the decision are set out below.

The Forum noted the complaint was submitted under the Code of Fairness, Objectivity and Impartiality in News and Current Affairs - Rules 4.1, 4.2 and 4.17. The Code requires that the content is fair to all interests concerned and that the broadcast matter is presented in an objective and impartial manner and without any expression of the broadcaster's own views.

The Forum noted that broadcasters are required to ensure that news and current affairs content is compiled, produced and presented in a manner which is independent, unbiased and without pre-judgement. The Forum was mindful that broadcasters have editorial rights over what is broadcast. What is necessary is that it's reporting on any news or current affairs item is credible, trustworthy and editorially independent. The Forum noted the complainant's concern regarding the use of the term "rockets fired from within Gaza were met with Israeli air strikes" in the report and was of the view that this statement was used in context and did not lead to the broadcast being partial or misleading. The Forum did not find evidence in the broadcast to support the complainant's assertion that the broadcaster deliberately distorted facts in support of either side. The Forum noted that there is no requirement in the Code for a broadcaster to cover every aspect of a news item and was mindful that the Code is not intended to govern perceptions of 'bias' based on topics and/or subject areas that a broadcaster has chosen not to cover. Overall, the Forum noted the report to be factually accurate, with no evidence of a lack of editorial independence. The Forum considered the broadcast in its entirety and was of the view that the news item was reported in a factual manner which was objective and impartial.

In view of the above, the Forum did not agree that the programme infringed the requirements of the legislation and the Code in manner specified by the complainant. Accordingly, the Forum decided to reject the complaint.



Complaint made by: [REDACTED]

Ref. No. 1/19

Station:

RTÉ Radio 1

Programme:

The Ray D'Arcy Show

Date:

21st November 2018

1. Programme

The complaint concerns the Ray D'Arcy Show, a lifestyle/entertainment programme broadcast each weekday afternoon from 3 – 4.30pm.

2. Complaint Category

Broadcasting Act 2009 - Section 48(1)(b) (harm & offence); the BAI Code of Programme Standards - Principle 5 (Respect for Persons and Groups in Society).

3. Complaint Summary

The complainant refers to a discussion with RTÉ's Head of Religious programming about religious programmes featured on the station, including The Living Word and The Angelus.

During the discussion the presenter stated that he was offended when he heard the Angelus bells being played on RTÉ. The presenter went on to state that hearing The Angelus makes him think of child sexual abuse. The complainant believes this was the presenter's personal view which was a generalised statement against a particular group in society. The complainant maintains that this comment infringed the BAI Code of Programme Standards.

4. Broadcaster Responses

The broadcaster states that during the discussion with the Head of Religious programming, there was a discussion about exit polls taken by the broadcaster in relation to the retention of The Angelus by the station. The interviewee outlined the requirement of the station to ensure they catered for people of all faiths and people of no faith, further, the interviewee discussed how RTÉ had changed the pictures that accompany the ringing of the bells to meet that need. The presenter later read out texts and emails both for and against The Angelus in its current form.

**5. Decision of the Executive Complaints Forum
Reject (Unanimous)**

Having considered the broadcast and the submissions from the complainant and the broadcaster and having also had regard to the relevant legislation and the Code, the Forum decided to reject the complaint. The Forum's views and reasons for the decision are set out below.



The Forum noted the complaint was submitted under the Code of Programme Standards – Principle 5: Respect for Persons and Groups in Society. The Code requires that respect for religious views, images, practices and beliefs in programme material is shown.

The complaint concerns an interview with RTÉ's Head of Religious programming in respect of religious programme features on the station, and, specifically, personal comments made by the presenter regarding The Angelus. The presenter commented that on hearing the Angelus, he was reminded of child sexual abuse and stated that he cannot help but make that connection. The Forum noted the comment reflected the presenter's personal view, however, it noted that the Code is not intended to prevent the critical scrutiny of religion by means of information, drama or other programming.

The Forum noted that the interview lasted just over 21 minutes and the presenter's tone and pace were respectful to the interviewee. The presenter did interject with questions and opposing views, however, he provided the interviewee with ample time to answer those questions. The presenter read out several text messages both for and against the broadcast of The Angelus and, again, the interviewee was given time to respond.

The Forum did not agree that the broadcast infringed the Code regarding the manner in which persons and groups in society are represented and did not prejudice respect for human dignity. Nor did the presenter's comments stigmatise, support or condone discrimination against society's religious beliefs. In view of the above, the Forum did not agree that the programme infringed the requirements of the legislation and Code in the manner specified by the complainant. Accordingly, the Forum rejected the complaint.



Complaint made by: [REDACTED]

Ref. No. 2/19

Station:

Virgin Media 2

Programme:

Celebrity Juice

Date:

31st December 2018

1. Programme

Celebrity Juice is a comedy panel show scheduled for broadcast each Saturday night at 10pm. This episode, however, was broadcast on Monday, New Year's Eve at 9pm.

2. Complaint Category

Broadcasting Act 2009 - Section 48(1)(b) (harm & offence); the BAI Code of Programme Standards - Principle 4.

3. Complaint Summary

The complainant states that the language and visual content was obscene and of a sexual nature. The complainant is of the view that given this programme was broadcast on New Year's Eve, it was highly likely that minors would be among the viewers at this time. This was inappropriate for minors and was broadcast too close to the watershed deadline of 9pm.

4. Broadcaster Response

The broadcaster states that the programme was shown after the 9pm watershed on Virgin Media Two, a channel that does not broadcast programmes classified as children's programming. Furthermore, immediately prior to the programme, a voiceover was broadcast informing viewers to "brace yourself for some carnage in Celeb Juice". The broadcaster states that the warning is in keeping with the style and tone of the programme and appropriate for the audience profile of Virgin Media Two.

The broadcaster notes that the broadcast contained some bad language and toilet humour but does believe that the content could be considered as infringing Principle 4 of the Code. Further, the broadcaster states that the scene referred to by the complainant was not shown until 15 minutes into the programme, by which time, it would have been apparent that the content was not suitable for children. The broadcaster maintains that, post watershed, there is also an obligation on parents to establish the nature of programming if children are watching unsupervised.

**5. Decision of the Executive Complaints Forum
Reject (Unanimous)**

Having considered the broadcast and the submissions from the complainant and the broadcaster and having also had regard to the relevant legislation and Code, the Forum decided to reject the complaint. The Forum's views and reasons for the decision are set out below.



The Forum noted the complaint was submitted under the Code of Programme Standards: Principle 4 – Protection of Children. The Code requires that the broadcasters respond to the specific needs of children as audience members and protect them from material that is unsuitable for them.

The Forum further noted that *Celebrity Juice* is a comedy panel game show broadcast post-watershed. The programme is presented by a comedian who hosts a panel of celebrity guests. The guests answer questions and compete in challenges which often involve coarse humour and sexual innuendo.

The Forum acknowledged the importance attached to freedom of expression in the broadcasting environment. The Forum also took note of the broadcast channel, audience expectation and the time of broadcast and were of the view that the programme did not infringe the Code of Programme Standards. The Forum was also mindful that *Celebrity Juice* was not scheduled either side of programmes that are likely to be watched or listened to by children, but was mindful of the closeness of the broadcast to the watershed. The Forum considered that, given the content, a stronger warning at the beginning of the broadcast may have been preferential. Nevertheless, having considered the programme in the context of the time of broadcast and audience expectation, the Forum did not find that the programme infringed the Code.

In view of the above, the Forum did not agree that the programme infringed the requirements of the legislation and Code in the manner specified by the complainant. Accordingly, the Forum decided to reject the complaint.



Complaint made by: [REDACTED]

Ref. No. 3/19

Station:

Newstalk 106-108FM

Programme:

Lunchtime Live

Date:

12th October 2018

1. Programme

The complaint concerns Lunchtime Live, which is a lifestyle programme broadcast each weekday from 12 noon to 2pm.

2. Complaint Category

Broadcasting Act 2009 - Section 48(1)(a) (fairness, objectivity and impartiality in current affairs); the BAI Code of Fairness, Objectivity and Impartiality in News and Current Affairs - Rules 4.2, 4.3, 4.17, 4.19 and 4.22.

3. Complaint Summary

The complaint concerns an interview with a Senator regarding the decision by the UK Supreme Court in which they ruled that the owners of a bakery in Belfast did not discriminate against a gay man when they refused to bake a cake which featured a message in support of same-sex marriage. The complainant is of the view that the presenter, in suggesting that the decision was wrong, gave her own view contrary to Rule 4.22. Further, as there was no opposing view offered during this discussion, it unfairly represented one side of the argument. As the topic is a matter of public controversy, the complainant considers this be in contravention of the Code of Fairness, Objectivity & Impartiality.

The complainant argues that the item was not presented with due accuracy and believes that the views and facts were presented in a way which rendered them misleading. Overall, the complainant believes the programme failed to be fair, objective or impartial.

4. Broadcaster Response

The broadcaster states that this programme is an interactive talk radio show with a focus on social and current affairs. During the discussion on this item, the presenter did state "it did seem in my mind as well to fly in the face of natural justice" which the broadcaster claims is an authored view permitted under the BAI guidelines. This discussion was conducted under the Take on the Week segment, an informal discussion on the week's news where listeners are invited to put forward their views following the topic under discussion. Furthermore, the broadcaster contends that the case concerning the bakery was not a matter of public controversy in an Irish Court of Law.

The broadcaster is of the view that the programme in its entirety was not in breach of the Code under fairness, objectivity or impartiality.



5. Decision of the Executive Complaints Forum Rejected (Unanimous)

Having considered the broadcast and the submissions from the complainant and the broadcaster and having also had regard to the relevant legislation and Code, the Forum decided to reject the complaint. The Forum's views and reasons for the decision are set out below.

The Forum noted the complaint was submitted under the Code of Fairness, Objectivity and Impartiality in News and Current Affairs - Rules 4.2, 4.3, 4.17, 4.19 and 4.22. The Code requires that the content is fair to all interests concerned and that the broadcast matter is presented in an objective and impartial manner and without any expression of the broadcaster's own views.

The Forum noted that broadcasters are required to deal fairly with contributors, to facilitate a range of views and to ensure presenters do not express their own views such that a partisan position is advocated. The Forum had regard to the type of programme and the context of the interview. The programme is a mix of current affairs, lifestyle and human-interest stories. This segment included an interview with a Senator on the issue of a recent UK Supreme Court ruling that the owners of a Belfast bakery did not discriminate against a customer by refusing to make a cake supporting same-sex marriage. The discussion took place during a regular feature of the show called 'Take on the Week' in which a light-hearted review takes place of topical issues featured in the previous week.

The complainant takes issue with the presenter offering her own view criticising the decision of the Supreme Court. The Forum was of the view that the comments did not render the piece partial or unfair. Further, the Forum noted that the requirement for news and current affairs to be broadcast without any expression of the broadcaster's own views does not refer to individual presenters, rather to the entity which owns or operates the broadcast service. The Forum did not consider the comments to have infringed the requirements regarding fairness, objectivity and impartiality as stated by the complainant.

The Forum was also of the view that the complaint made under Rules 4.3, 4.17 & 4.19 were not infringed as the presenter dealt fairly with the contributor, the piece was presented with due accuracy and was not misleading, nor did the presenter's language or tone cause any misunderstanding of the matter covered.

In view of the above, the Forum did not agree that the programme infringed the requirements of the legislation and the Code in the manner specified by the complainant. Accordingly, the Forum decided to reject the complaint.



Complaint made by: [REDACTED]

Ref. No. 6/19

Station:

RTÉ One

Programme:

Nine O'Clock News

Date:

20th December 2018

1. Programme

The complaint refers to an item on the main evening news bulletin.

2. Complaint Category

Broadcasting Act 2009 - Section 48(1)(a)(fairness, objectivity and impartiality in news and current affairs); the BAI Code of Fairness, Objectivity and Impartiality in News and Current Affairs - Rules 4.1 and 4.2.

3. Complaint Summary

The complaint refers to an item included in the review of significant events of 2018. One of the items featured related to the referendum regarding the Eighth Amendment to the Constitution. The complainant believes that the interview with the spokesperson, on behalf of an organisation promoting the repeal of the Amendment, failed to be a fair overview of the controversy. The complainant maintains that the interview was conducted in a very relaxed manner and there was no opposing viewpoint.

4. Broadcaster Responses

The broadcaster maintains that the item was part of a review sequence of major events in 2018 and was a reflective piece focused on one campaigner. As there was no 'live' issue to be determined, the broadcaster contends that the context of the item was equitable and proportionate.

**5. Decision of the Executive Complaints Forum
Reject (Unanimous)**

Having considered the broadcast and the submissions from the complainant and the broadcaster and having also had regard to the relevant legislation and Code, the Forum decided to reject the complaint. The Forum's views and reasons for the decision are set out below.

The Forum noted the complaint was submitted under the Code of Fairness, Objectivity and Impartiality in News and Current Affairs. The Code requires that content is fair to all interests concerned and that the broadcast matter is presented in an objective and impartial manner and without any expression of the broadcaster's own views.

The Forum noted that this report was part of a series of reports which looked back events during 2018. This report was prompted by the signing that day by the President, Michael D. Higgins, of the Bill legalising the termination of pregnancy. The report on the Together for Yes Campaign included an



interview with one of the leaders of the campaign. The Forum was of the view that this short account on the outcome of the Referendum was a human-interest story broadcast within the news. This piece was not an analysis or debate about the results of the Referendum. Instead, it was a review of an event which had already taken place. The Forum further noted that the broadcaster retains editorial independence regarding which stories are covered and the approach adopted when covering a topic.

In view of the above, the Forum did not agree that the programme infringed the requirements of the Broadcasting Act, 2009 in the manner specified by the complainant. On this basis the complaint was rejected.



Complaint made by: [REDACTED]

Ref. No. 8/19

Station:

RTÉ Radio One

Programme:

The Marian Finucane Show

Date:

9th December 2018

1. Programme

The complaint concerns The Marian Finucane Show, which is a magazine style programme that includes elements of current affairs, lifestyle and human-interest topics. The programme is broadcast every Saturday and Sunday morning from 11am to 1pm.

2. Complaint Category

Broadcasting Act 2009 - Section 48(1)(a)(fairness, objectivity and impartiality in news and current affairs); the BAI Code of Fairness, Objectivity and Impartiality in News and Current Affairs – Rules 4.1, 4.2 and 4.22.

3. Complaint Summary

The complainant states that in a segment around a discussion about referendums, the presenter stated that “we are good at voting for something altogether different in a referendum; certainly we did it in the European referendums a couple of times. Once, it was completely about abortion, I can’t remember what the other one was”. The complainant believes these comments made by the presenter, denigrated those who voted ‘No’ in the Nice and Lisbon Referendums. The complainant further maintains that the presenter did not support this assertion with facts. The complainant believes this could not have been done as it is impossible to know why people voted in the way they did. The complainant also believes that the presenter provided her personal view which infringed the requirements of the Code.

4. Broadcaster Responses

The broadcaster states that the complainant in quoting the presenter, excluded the beginning and the end of the remarks made by her. However, the full quote from the presenter began by stating “There’s another fear though.... we are good at voting for something altogether different in a referendum; certainly we did it in the European referendums a couple of times. Once, it was completely about abortion, I can’t remember what the other one was, or maybe just to give the government a clip on the ear”. The broadcaster maintains that the presenter’s initial comment should be seen in the context of the preceding conversation. Here the discussion was around the wisdom or not of effecting change through constitutional means, hence the statement beginning with “there’s another fear though...”.

The broadcaster maintains that the presenter was referencing the views that some people have with regard to some voting for reasons not directly linked to the issue on the ballot paper. The broadcaster states that it is self-evident that the presenter was referring to referendums in general and the



motivations for voting. The broadcaster also rejects any suggestion that the presenter was expressing a personal view.

5. Decision of the Executive Complaints Forum Reject (Unanimous)

Having considered the broadcast and the submissions from the complainant and the broadcaster, and also having had regard to the relevant legislation and Code, the Forum decided to reject the complaint. The Forum's views and reasons for the decision are set out below.

The Forum noted the complaint was submitted under Code of Fairness, Objectivity and Impartiality, Rules 4.1, 4.2 and 4.22. The Code requires that the content is fair to all interests concerned and that the broadcast matter is presented in an objective and impartial manner and without any expression of the broadcaster's own views such that a partisan position is advocated. The Forum had regard to the type of programme and noted that it is a magazine style programme that contains element of current affairs, lifestyle and human-interest topics.

The segment complained of occurred in the context of a discussion about referendums and the consequences of addressing specific moral and social issues in the Irish Constitution. The Forum considered the comments made by the presenter which, in the view of the complainant, infringed the requirements regarding current affairs content. The Forum did not find any evidence to support the complainant's assertion regarding the presenter's comments in the context of the particular referendums referred to in the complaint. Therefore, the Forum concluded that the broadcast did not infringe the requirements of the Code and the complaint was rejected.



Complaint made by: [REDACTED]

Ref. No. 9/19

Station:

Radio Nova

Programme:

The Colm & Lucy Breakfast Show

Date:

25th January 2019

1. Programme

The Breakfast Show is a mix of music and light banter between the presenters. This programme is broadcast each weekday from 6 to 10am.

2. Complaint Category

Broadcasting Act 2009 - Section 48(1)(b) (harm & offence); the BAI Code of Programme Standards - Principle 3.

3. Complaint Summary

The complainant states that during a chat between two presenters, one presenter, who was standing in for one of the regular presenters, relayed a story about an incident in a play area involving her child and another child. The co-presenter stated that she grabbed and kicked one of the children. The complainant found this story contained harmful references and was unhappy that this story was aired.

4. Broadcaster Responses

The broadcaster states that the show is quite edgy and 'tongue in cheek' and states that the item in question was delivered in this manner. The actions referred to were of an exaggerated nature with the emphasis on entertainment rather than a real-life event. The broadcaster apologised for offending the complainant and stated that the content of the breakfast show is usually entertainment and should not be interpreted as serious.

**5. Executive Complaints Forum
Reject (Unanimous)**

Having considered the broadcast and the submissions from the complainant and the broadcaster and having also had regard to the relevant legislation and Code, the Forum decided to reject the complaint. The Forum's views and reasons for the decision are set out below.

The Forum noted the complaint was submitted under Principle 3 of the Code of Programme Standards. The Code requires broadcasters to take due care to ensure that audiences are not exposed to harmful content and must provide adequate information to audiences to allow them to make informed choices about what they listen to and watch. The Code acknowledges that, in enriching people's lives through entertainment, information and other programming, broadcasters must be free to make programmes that may be provocative or deal with sensitive issues.



The Forum had regard to the concerns of the complainant in respect of comments made by one of the presenters during a discussion about children's play centres. The Forum found it likely that some listeners may have found the comments offensive and, in this context, considered that the broadcaster could have exercised more care. However, the Forum noted that the comments were made in a light-hearted manner during a casual conversation between presenters, which is in keeping with the tone of the programme. In considering the type of programme and the channel, the Forum decided that audiences would likely expect this type of interaction and conversation between presenters. The Forum concluded that the comments, particularly in the context of the overall interaction, could not reasonably be considered as causing harm or encouraging people to imitate acts which are damaging to their health and safety.

The Forum was of the view that the content of this programme was such that it did not infringe the requirements of the Code of Programme Standards. On this basis, the complaint was rejected.

---ENDS---



ÚDARÁS
CRAOLACHÁIN
NA hÉIREANN

BROADCASTING
AUTHORITY
OF IRELAND

**Broadcasting Authority of Ireland
Broadcasting Complaints Decisions**

September 2019



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BAI Complaints Handling Process

Under the Broadcasting Act 2009, viewers and listeners to Irish radio and television services can complain about broadcasting content which they believe is not in keeping with broadcasting codes and rules. When making a complaint, the relevant programme or commercial communication should be identified, including the date of broadcast and time. The complainant should explain what it is about the broadcast that has led them to make a complaint. It is important to set out clearly the grounds of the complaint and why the programme material or commercial content does not comply with the BAI's Broadcasting Codes. A copy of the codes may be found on the BAI's website: www.bai.ie, by emailing info@bai.ie or by phoning the BAI on 01 644 1200.

In line with the complaint process, the viewer or listener should direct their complaint to the broadcaster in the first instance and in the manner detailed in the broadcaster's Code of Practice for Handling Complaints, a document which each broadcaster has available on its website. If a viewer or listener is not satisfied with the response from the broadcaster or if the broadcaster does not respond within the timeframe provided for in their Code of Practice (usually 21 days), then the viewer or listener can refer the complaint to the BAI for consideration.

In assessing complaint referrals, the BAI will have regard to the relevant codes and rules, the written material submitted by the relevant parties, together with the broadcast material. Complaints are assessed at Executive level by the Executive Complaints Forum and/or by the Compliance Committee of the Authority. Further information may be found on the complaints handling section of the BAI's website: www.bai.ie.

The details of the broadcasting complaints decisions reached by the BAI are set out in this document. The decisions deal with the issue of whether a programme or a commercial communication did or did not comply with the relevant legal requirements and the relevant broadcasting codes or rules. The decisions do not constitute endorsement or support for the views of either parties to the complaint nor will they address every aspect of a complaint submission. The BAI will not carry out a separate or independent assessment outside of the matters raised in the complaint.

In total, three complaints were considered and rejected by the Compliance Committee of the BAI. In addition, 12 complaints were considered and rejected by the Executive Complaints Forum. The decisions of the Compliance Committee were reached at its meeting held on 15th May 2019. The decisions of the Executive Complaints Forum were reached at meetings held on 15th and 29th April, 27th May, 24th June and 29th July 2019.



Rejected by Compliance Committee

Complaint made by: [REDACTED]

Ref. No. 10/19

Station:
RTÉ One

Programme:
Prime Time

Date:
22nd January 2019

1. Programme

Prime Time is a current affairs programme broadcast twice weekly at 9.35pm.

2. Complaint Category

Broadcasting Act 2009 - Section 48(1)(a)(fairness, objectivity and impartiality in news and current affairs); the BAI Code of Fairness, Objectivity and Impartiality in News and Current Affairs – Rules 4.1 and 4.2. Section 48(1)(b)(harm & offence); the BAI Code of Programme Standards – Principle 5.

3. Complaint Summary

The complaint concerns a programme regarding transgender people which, in the view of the complainant, was not objective based on the mix of contributors and how the discussion was framed. The complainant also maintains that the programme was harmful to transgender people.

The complainant considers that the discussion should have had a greater focus on human experiences. The complainant believes that the mix of contributors was such that there was an overall lack of balance in the way the subject matter was presented. The complainant argues, in particular, that some contributors did not have any relevant expertise or experience on the subject matter. The complainant believes that giving a platform to such contributors resulted in comments being made which were inaccurate, harmful and displayed prejudice against transgender people.

Further, the complainant is of the view that the report failed to be objective or fair as it allowed many contributors to make negative comments about transgender and non-binary persons without being challenged or without an opposing viewpoint being offered.

4. Broadcaster Response

The broadcaster states that the programme aimed to examine two issues; firstly, the implications of Ireland having passed the Gender Recognition Act 2015 and, secondly, the proposals to allow minors to change gender. The subject of transgender people, particularly with regard to healthcare, rights, free speech and feminism, is currently being debated globally and the broadcaster considers that it would be remiss not to explore the topic fully.

In response to the complainant's concerns regarding the choice of contributors, the broadcaster emphasises the important role commentators play in public debate and considers it wrong to limit



contributors to people with personal experience or expertise. The broadcaster states that contributors represented a range of views on the issues being examined in the programme.

The programme aimed to examine matters of public policy which are of legitimate public interest. The human-interest element was also explored in a manner which was fair and sensitive to the contributors. The broadcaster acknowledges that it is complex topic that affects some people personally, however, the broadcaster maintains that the programme was presented in a manner that was compliant with statutory requirements.

5. Decision of the Compliance Committee Rejected (Unanimous)

Having considered the broadcast and the submissions from the complainant and the broadcaster, and also having had regard to the relevant legislation and Code, the Committee decided to reject the complaint. The Committee's findings and reasons for the decision are set out below.

The Compliance Committee noted that the complaint was made under Sections 4.1 and 4.2 of the Code of Fairness, Objectivity and Impartiality in News and Current Affairs. The Code requires that content is fair to all interests concerned and that the broadcast matter is presented in an objective and impartial manner and without any expression of the broadcaster's own views. The complaint was also made under Principle 5 of the Code of Programme Standards, which requires that the manner in which persons and groups in society are represented shall be appropriate and justifiable and shall not prejudice respect for human dignity.

The Committee acknowledged the sensitive nature of the subject which was explored in the programme and noted the matters raised by the complainant. In considering the complaint, the Committee had regard for the programme in whole and in context and noted that the topic was explored through interviews with a variety of contributors and a range of views were presented. In this regard, the Committee considered that the subject matter was treated fairly. The complainant objected to the inclusion of some contributors and questioned the relevance of their experience and their expertise. The Committee noted that the broadcaster retains editorial independence and, as such, is entitled to choose the contributors who participate in a programme.

The Committee acknowledged that some comments made by contributors were controversial, however, at the outset of the programme the presenter provided context for the topic and outlined the nature of the discussion. The presenter also issued a verbal warning, stating that some viewers may find the content difficult or distressing. Therefore, the Committee considered that audiences were likely to expect the inclusion of some contentious views. Further, the Committee noted that Prime Time is a current affairs programme which was legitimately exploring a topic which is of current public debate. The Committee did not find evidence to support the complainant's view that the programme incited hatred or supported discrimination against transgender people.

The Committee found that audiences were given access to a wide range of viewpoints and considered that the subject matter was treated fairly and was presented in an objective manner. The Committee did not find that the programme infringed the Codes and, as such, the complaint was rejected.



Complaint made by: [REDACTED]

Ref. No. 11/19

Station:
RTÉ One

Programme:
Prime Time

Date:
22nd January 2019

1. Programme

Prime Time is a current affairs programme broadcast twice weekly at 9.35pm.

2. Complaint Category

Broadcasting Act 2009 - Section 48(1)(b)(harm & offence); the BAI Code of Programme Standards – Principle 5.

3. Complaint Summary

The complaint concerns a programme regarding transgender people which, in the view of the complainant, was one-sided. The complainant is of the view that the programme portrayed transgender people as having mental health problems or as being on the autism spectrum. The complainant found the programme unfair and offensive to transgender people, to people with mental health problems and to people on the autism spectrum.

Further, the complainant considers that the programme gave a platform to some contributors to promote hate speech which could be harmful to transgender people.

4. Broadcaster Response

The broadcaster rejects the complainant's view that the programme inferred that transgender people have mental health problems or are on the autism spectrum. The broadcaster believes this is the complainant's subjective viewpoint which is at variance with the programme content.

In relation to the complainant's objection to the inclusion of certain contributors, the broadcaster states that there was a wide range of contributors representing various views. The broadcaster emphasises the important role commentators play in public debate and considers it wrong to limit contributors to people with personal experience or expertise. The broadcaster states that no one expressed opinions which promoted hate against transgender people and noted that the complainant did not cite any specific comments made by contributors during the programme.

The broadcaster states that the programme was robust and challenged assumptions on all sides of the debate, as permitted in the Code of Programme Standards.

**5. Decision of the Compliance Committee
Rejected (Unanimous)**



Having considered the broadcast and the submissions from the complainant and the broadcaster, and also having had regard to the relevant legislation and Code, the Committee decided to reject the complaint. The Committee's findings and reasons for the decision are set out below.

The Compliance Committee noted that the complaint was made under Principle 5 of the Code of Programme Standards, which requires that the manner in which persons and groups in society are represented shall be appropriate and justifiable and shall not prejudice respect for human dignity.

The Committee acknowledged the sensitive nature of the subject which was explored in the programme and noted the matters raised by the complainant. However, in considering the complaint, the Committee had regard for the programme in whole and in context. The Committee noted that the complainant objected to the inclusion of some contributors. The Committee noted that the broadcaster retains editorial independence and, as such, is entitled to choose the contributors who participate in a programme.

The Committee acknowledged that some comments made by contributors were controversial, however, at the outset of the programme the presenter provided context for the topic and outlined the nature of the discussion. The presenter also issued a verbal warning that some viewers may find the content difficult or distressing. Therefore, the Committee considered that audiences were likely to expect the inclusion of some contentious opinions. Further, the Committee noted that Prime Time is a current affairs programme which was legitimately exploring a topic which is of current public debate. The Committee did not find evidence to support the complainant's view that the programme incited hatred or caused undue offence. Accordingly, the complaint was rejected.



Complaint made by: [REDACTED]

Ref. No. 12/19

Station:
RTÉ One

Programme:
Prime Time

Date:
22nd January 2019

1. Programme

Prime Time is a current affairs programme broadcast twice weekly at 9.35pm.

2. Complaint Category

Broadcasting Act 2009 - Section 48(1)(a)(fairness, objectivity and impartiality in news and current affairs); the BAI Code of Fairness, Objectivity and Impartiality in News and Current Affairs – Rules 4.1 and 4.2. Section 48(1)(b)(harm & offence); the BAI Code of Programme Standards – Principle 5.

3. Complaint Summary

The complaint concerns a programme regarding transgender people which, in the view of the complainant, misrepresented facts, failed to be fair and was harmful to transgender people.

The complainant maintains that the language used was divisive and denigrated transgender women. The complainant considers the inclusion of anti-transgender activists from the UK to be inappropriate. It is the view of the complainant that the programme was harmful, particularly to young transgender people. Further, the complaint does not believe that due care was shown by the broadcaster.

4. Broadcaster Response

The broadcaster states that the programme aimed to examine two issues; firstly, the implications of Ireland having passed the Gender Recognition Act 2015 and, secondly, the proposals to allow minors to change gender.

The broadcaster rejects the complainant's assertion that the programme encouraged hate, used divisive language or denigrated transgender women. The programme aimed to examine the matters of public policy which are of legitimate public interest. The broadcaster states that the programme covered many important issues, including transgender healthcare and "female-only spaces".

The human-interest element was also explored in a manner which was positive towards those who have transitioned. The broadcaster acknowledges that it is a complex topic that affects some people personally, however, it maintains that the programme was presented in a manner which was sensitive and fair to all interests.

In response to the complainant's concerns regarding the choice of contributors, the broadcaster emphasises the important role commentators play in public debate and considers it wrong to limit contributors to people with personal experience or expertise. The broadcaster states that contributors represented a range of views.



The broadcaster is of the view that the programme complied with all regulatory and legislative requirements.

5. Decision of the Compliance Committee Rejected (Unanimous)

Having considered the broadcast and the submissions from the complainant and the broadcaster, and also having had regard to the relevant legislation and Code, the Committee decided to reject the complaint. The Committee's findings and reasons for the decision are set out below.

The Compliance Committee noted that the complaint was made under Sections 4.1 and 4.2 of the Code of Fairness, Objectivity and Impartiality in News and Current Affairs. The Code requires that content is fair to all interests concerned and that the broadcast matter is presented in an objective and impartial manner and without any expression of the broadcaster's own views. The complaint was also made under Principle 5 of the Code of Programme Standards, which requires that the manner in which persons and groups in society are represented shall be appropriate and justifiable and shall not prejudice respect for human dignity.

The Committee acknowledged the sensitive nature of the subject which was explored in the programme and noted the matters raised by the complainant. However, in considering the complaint, the Committee had regard for the programme in whole and in context. The topic was explored through interviews with a variety of contributors and a range of views were presented. In this regard, the Committee considered that the subject matter was treated fairly. The complainant objected to the inclusion of some contributors and questioned the relevance of their experience and their expertise. The Committee noted that the broadcaster retains editorial independence and, as such, is entitled to choose the contributors who participate in a programme.

The Committee noted that the complainant objected to the language used and found some comments divisive and transphobic. The Committee acknowledged that some comments made by contributors were controversial, however, at the outset of the programme the presenter provided context for the topic and outlined the nature of the discussion. The presenter also issued a verbal warning that some viewers may find the content difficult or distressing. Therefore, the Committee considered that audiences were likely to expect the inclusion of some contentious opinions. Further, the Committee noted that Prime Time is a current affairs programme which was legitimately exploring a topic of current public debate. The Committee did not find evidence to support the complainant's view that the programme incited hatred or supported discrimination against transgender people.

The Committee found that audiences were given access to a wide range of viewpoints and considered that the subject matter was treated fairly and was presented in an objective manner. The Committee did not find that the programme infringed the Codes and, as such, the complaint was rejected.



Rejected by Executive Complaints Forum

Complaint made by: [REDACTED]

Ref. No. C5044

Station:

RTÉ Radio 1

Programme:

Ryan Tubridy Show

Date:

25th February 2019

1. Programme

The Ryan Tubridy Show is a lifestyle/entertainment show broadcast each weekday morning from 9am to 10am.

2. Complaint Category

Broadcasting Act 2009 - Section 48(1)(b)(harm & offence); the BAI Code of Programme Standards – Principles 2 and 4.

3. Complaint Summary

The complaint relates to an interview with the founder of the Everyday Sexism Project, a collection of stories from women regarding their experiences of sexism and gender inequality. During the interview, the presenter and interviewee discussed inappropriate sexual behaviour by men and boys towards women. The complainant is of the view that the content was not suitable for younger viewers and states that there was no content warning for listeners. The complainant acknowledges that the topic is an important issue but maintains that the content was inappropriate for the time of broadcast.

4. Broadcaster Responses

The broadcaster states that listeners were made aware of the topic being discussed from the outset and it was clear from the introduction that the discussion would involve material of a sexual nature. This topic, and topics of similar nature, have been covered on the Tubridy Show before. Further, the programme has a primarily older audience and the broadcaster did not feel that a warning was required.

The Broadcaster states that the interviewee and presenter both spoke from personal experience and the discussion also covered the subject of education regarding consent and inappropriate sexual behaviour, particularly for young people and young boys. The broadcaster is of the view that they were fully compliant with the provisions in respect of harm & offence.



5. Decision of the Executive Complaints Forum Rejected (Unanimous)

Having considered the broadcast and the submissions from the complainant and the broadcaster and having had regard to the relevant legislation and Code, the Forum decided to reject the complaint. The Forum's views and reasons for the decision are set out below.

The Forum noted that the complaint was made under Principles 2 & 4 of the Code of Programme Standards. The Code requires that broadcasters show due care for audiences by considering a range of contextual factors which can influence the viewer or listener's perception of programme material. The Code also acknowledges the particular needs of children and seeks to protect children from programme material that is unsuitable for them.

The Forum noted that the complainant considered that the programme did not comply with the Code, given the time of broadcast and the lack of an appropriate warning. The Forum noted that during the introduction to the segment, listeners were informed that the interviewee was the founder of the Everyday Sexism Project and author of a book regarding online harassment. The Forum found that the introduction contained sufficient information regarding the interviewee and the subject matter to allow listeners to make an informed choice regarding the programme. The Forum was of the view that listeners were likely to expect the content included in the programme and found the inclusion of sexual references editorially justified and unlikely to cause widespread offence.

The Forum had regard to the type of programme, the broadcast channel and the likely audience expectation, and did not find that the programme infringed the Code of Programme Standards. As such, the complaint was rejected.



Complaint made by: [REDACTED]

Ref. No. C5048

Station:
RTÉ One

Programme:
Six One News

Date:
11th February 2019

1. Programme

The Six One News is a news programme broadcast each evening.

2. Complaint Category

Broadcasting Act 2009 - Section 48(1)(a)(fairness, objectivity and impartiality in news and current affairs); the BAI Code of Fairness, Objectivity and Impartiality in News and Current Affairs – Rules 4.1 and 4.2.

3. Complaint Summary

The complainant is of the view that Ingrid Miley, in discussing the nurses' strike, displayed bias through being empathetic towards inconvenienced patients, taxpayers, the government and the Minister. The complainant states that the report focused on how much the nurses' pay increase would cost but did not discuss any other element of the strike or display any empathy towards public servants or their families. The complainant is of the view that the reporter provided her own views and that the report failed to be objective or impartial.

4. Broadcaster Response

The broadcaster states that the report was five minutes in total, of which 1 minute 50 seconds consisted of an interview with Industry Correspondent Ingrid Miley, who was reporting from the Labour Court. The broadcaster refutes the complainant's view that the reporter displayed empathy and states that the reporter replied factually to the questions posed by the in-studio reporter. The broadcaster states that many of the comments attributed by the complainant did not feature in the report and is of the view that there is no evidence in the broadcast to support the complainant's claims. The broadcaster contends that the short piece was objective, impartial and fair to all parties.

5. Decision of the Executive Complaints Forum Rejected (Unanimous)

Having considered the broadcast and the submissions from the complainant and the broadcaster and having had regard to the relevant legislation and Code, the Forum decided to reject the complaint. The Forum's views and reasons for the decision are set out below.



The Forum noted the complaint was submitted under the Code of Fairness, Objectivity and Impartiality in News and Current Affairs. The Code requires that content is fair to all interests concerned and that the broadcast matter is presented in an objective and impartial manner and without any expression of the broadcaster's own views.

The Forum noted that this report related to the nurses strike and to the impending Labour Court decision and discussed the impact of the strike action on patients. The Forum noted that the complainant viewed the report as biased, however, the broadcaster retains editorial independence regarding which stories are covered and the approach adopted when covering such a topic. The Forum find the report to be of a factual nature and considered that the reporter answered questions posed to her by the studio anchor in an impartial manner.

In view of the above, the Forum did not find that the programme infringed the Code in the manner specified by the complainant. On this basis, the complaint was rejected.



Complaint made by: [REDACTED]

Ref. No. C5063

Station:

TG4

Programme:

An Balla

Date:

30th January 2019

1. Programme

An Balla is a human-interest programme which explored four of the world's most iconic walls and borders and uncovered the human stories behind these walls. These programmes ran over four weeks.

2. Complaint Category

Broadcasting Act 2009 - Section 48(1)(a)(fairness, objectivity and impartiality in current affairs); the BAI Code of Fairness, Objectivity and Impartiality in News and Current Affairs – Rules 4.1, 4.2, 4.17, 4.19, 4.26. Section 48(1)(b)(harm & offence); the Code of Programme Standards – Principle 5: Persons and Groups in Society.

3. Complaint Summary

The complaint concerns the last in a series of programmes regarding four of the world's iconic walls and borders culminating in the Israel-Palestine Separation Barrier. The complainant is of the view that programme and the presenter portrayed anti-Semitic views against the Israeli people and the programme promoted these views in Ireland and abroad.

4. Broadcaster Responses

The broadcaster is of the view that this programme did not infringe the Codes referred to by the complainant and this was an international co-production in which extensive research was undertaken. The presenter explored the impact of the construction of the Israel-Palestine Separation Barrier and met the people directly affected by this.

**5. Decision of the Executive Complaints Forum
Rejected (Unanimous)**

Having considered the broadcast and the submissions from the complainant and the broadcaster and having had regard to the relevant legislation and Code, the Forum decided to reject the complaint. The Forum's views and reasons for the decision are set out below.

The Forum noted the complaint was submitted under the Code of Fairness, Objectivity and Impartiality in News and Current Affairs. The Code requires that content is fair to all interests concerned and that the broadcast matter is presented in an objective and impartial manner and without any expression of the broadcaster's own views.



The Forum had regard to the programme type and noted that this is a documentary series examining walls and borders of the world. The episode in question focused on the Israel-Palestine Separation Border. The documentary provided context by way of the history of the wall, however, the Forum was of the view that this was a human-interest documentary which focused on the impact of the wall on those living on both sides. The Forum was of the view that the content of this programme was such that it did not constitute current affairs and, as such, the requirements under this Code do not apply.

The complaint was also submitted under Principle 5 of the Code of Programme Standards as the complainant viewed the content as being anti-Semitic. The Forum did not find any evidence to support this view and, as such, this element of the complaint was rejected.



Complaint made by: [REDACTED]

Ref. No. C5064

Station:

RTÉ Radio 1

Programme:

Morning Ireland

Date:

13th February 2019

1. Programme

Morning Ireland is a news and current affairs programme broadcast each weekday morning from 7am to 9am.

2. Complaint Category

Broadcasting Act 2009 - Section 48(1)(a)(fairness, objectivity and impartiality in news and current affairs); the BAI Code of Fairness, Objectivity and Impartiality in News and Current Affairs – Rules 4.1 and 4.2.

3. Complaint Summary

The complaint concerns an interview with RTÉ's Health Correspondent regarding CervicalCheck and the controversy of withholding results of audits of smear tests carried out on women who had cervical cancer. The complainant states that misinformation about the controversy led people to believe that women who had not been informed that they had cervical cancer, resulted in delayed treatment for them. The complainant is of the view that a comment made by the interviewee that "...it emerged that CervicalCheck has been conducting an audit of previous smear tests, and hadn't told women, some of whom might have benefitted from earlier treatment..." was incorrect and misleading.

The complainant states that the interviewee covered the topic extensively the previous year and would be aware of the hype and sensationalism around the Cervical Check screening programme and believe that that the complainant added to this hype with comments made by him to that effect.

4. Broadcaster Responses

The broadcaster is of the view that the reporter's remarks were accurate, fair and balanced and did not infringe the BAI's Code of Fairness, Objectivity and Impartiality in News and Current Affairs. RTÉ's correspondent has covered the CervicalCheck controversy extensively over the past year and the broadcaster confirms that the comment was factually correct, and the interviewee was careful to say that some of the women "might" have benefited from earlier treatment.

The broadcaster is of the view that the reporter fulfilled his role and the programme was fair, balanced and impartial.



5. Decision of the Executive Complaints Forum Rejected (Unanimous)

Having considered the broadcast and the submissions from the complainant and the broadcaster and having had regard to the relevant legislation and Code, the Forum decided to reject the complaint. The Forum's views and reasons for the decision are set out below.

The Forum noted that the complaint was made under Sections 4.1 and 4.2 of the Code of Fairness, Objectivity and Impartiality in News and Current Affairs. The Code requires that content is fair to all interests concerned and that the broadcast matter is presented in an objective and impartial manner and without any expression of the broadcaster's own views.

The Forum noted that the complaint relates to a comment made by the Health Correspondent for RTÉ which the complainant found to be inaccurate and misleading. The Forum noted that the comment may have lacked clarity which may have been confusing to some listeners, however, the Forum did not consider that the comment rendered the piece impartial or unfair. Further, the Forum did not find evidence to support the complainant's assertion that the comment displayed political impartiality on the part of the broadcaster.

The Forum did not find the programme infringed the Code of Fairness, Objectivity and Impartiality in News and Current Affairs and, as such, the complaint was rejected.



Complaint made by: [REDACTED]

Ref. No. C5067

Station:
RTÉ One

Programme:
Nine O'clock News

Date:
9th March 2019

1. Programme

The Nine O'clock News is a news programme broadcast each weekday evening.

2. Complaint Category

Broadcasting Act 2009 - Section 48(1)(a)(fairness, objectivity and impartiality in news and current affairs); the BAI Code of Fairness, Objectivity and Impartiality in News and Current Affairs – Rules 4.1, 4.2 and 4.19.

3. Complaint Summary

The complaint relates to a report regarding the electricity crisis in Venezuela, which described Juan Guaidó as “the man most Western nations recognise as head of state of Venezuela”. The complainant is of the view that use of the term “Western nations” constitutes a partisan description of the stature of Mr. Guaidó and ignores the position of other nations.

4. Broadcaster Responses

The broadcaster states that the term “Western nations” is an established term used to refer to a group of nations including Europe, US and Canada. The broadcaster considers the term to be widely understood by audiences and states that use of the term is not misleading, instead it reflects a factual position.

The broadcaster states that the report was accurate and that it complied with all relevant legislative and regulatory Codes.

5. Decision of the Executive Complaints Forum Rejected (Unanimous)

Having considered the broadcast and the submissions from the complainant and the broadcaster and having had regard to the relevant legislation and Code, the Forum decided to reject the complaint. The Forum's views and reasons for the decision are set out below.

The Forum noted the complaint was submitted under the Code of Fairness, Objectivity and Impartiality in News and Current Affairs, sections 4.1, 4.2 and 4.19. The Code requires that broadcast matter is presented in an objective and impartial manner and without any expression of the broadcaster's own views. The Code also states that views and facts shall not be misrepresented or presented in such a way as to render them misleading.



The Forum noted that the complainant was of the view that the use of the term "Western nations" constitutes a partisan description of the status of Mr. Guaidó and ignores the position of other nations. The Forum noted that there is no requirement for fairness in news. The use of the term "Western nations" was not considered as rendering the report subjective or partial. Further, the Forum did not find use of the term in the context of the report was misleading, factually inaccurate or represented a partisan view.

Taken as a whole and in context, the Forum was of the view that the report complied with the requirements of the Code. Accordingly, the Forum decided to reject the complaint.



Complaint made by: [REDACTED]

Ref. No. C5068

Station:
RTÉ One

Programme:
One O'clock News

Date:
22nd February 2019

1. Programme

The One O'clock News is a news programme broadcast each afternoon.

2. Complaint Category

Broadcasting Act 2009 - Section 48(1)(a)(fairness, objectivity and impartiality in current affairs); the BAI Code of Fairness, Objectivity and Impartiality in News and Current Affairs – Rules 4.1, 4.2, and 4.21.

3. Complaint Summary

The complaint concerns an interview with a professor at the Central European University in Budapest regarding the political crisis in Venezuela. The complainant takes issue with the use of the term “Maduro regime” by the RTÉ presenter. The complainant is of the view that by using this term RTÉ was expressing its own opinion on the status of the Venezuelan government.

4. Broadcaster Responses

The broadcaster refutes the claim that the use of the words “Maduro regime” amounted to RTÉ expressing its own view on the Venezuela government. The term was used in the context of questioning how aid was being used as a political weapon between the opposition and the Maduro regime. The broadcaster states that the presenter used both “government” and “regime” in posing this question, which reflects the fact that some regard the government as legitimate while others do not. The broadcaster considers the interview to be fully compliant with all relevant legislative and regulatory codes.

5. Decision of the Executive Complaints Forum Rejected (Unanimous)

Having considered the broadcast and the submissions from the complainant and the broadcaster and having had regard to the relevant legislation and Code, the Forum decided to reject the complaint. The Forum's views and reasons for the decision are set out below.

The Forum noted the complaint was submitted under the Code of Fairness, Objectivity and Impartiality in News and Current Affairs, sections 4.1, 4.2, and 4.21. The Code requires that broadcast matter is presented in an objective and impartial manner and without any expression of the broadcaster's own views. The Code also states that a news presenter and/or a reporter in a news programme may not express his or her own view on matters that are either of public controversy or the subject of current public debate.



The Forum noted that the complainant takes issue with the use of the term "Maduro regime" in a report regarding the political crisis in Venezuela. The complainant is of the view that by using this term the broadcaster was expressing its own views regarding the status of the Venezuelan government.

The Forum noted that use of the term "Maduro regime" was editorially justified in the context of the report and did not constitute an expression of the presenter's own views. The broadcast was considered in whole and in context and it was found to be reported and presented in an objective and impartial manner, further, the Forum did not find that it constituted an expression of the broadcaster's own views.

In view of the above, the Forum did not find that the report infringed the Code in the manner specified by the complainant. On this basis, the complaint was rejected.



Complaint made by: [REDACTED]

Ref. No. C5069

Station:
RTÉ Radio 1

Programme:
Liveline

Date:
1st February 2019

1. Programme

Liveline is an interview and phone-in chat show broadcast each weekday afternoon from 1.45pm to 3pm.

2. Complaint Category

Broadcasting Act 2009 - Section 48(1)(a)(fairness, objectivity and impartiality in news and current affairs); the BAI Code of Fairness, Objectivity and Impartiality in News and Current Affairs – Rules 4.1 and 4.2.

3. Complaint Summary

The complaint concerns a phone-in discussion with a caller, a Venezuelan national living in Ireland and his mother's difficulty with censorship in Venezuela. The complainant believes the discussions on Liveline regarding Venezuela were unbalanced and did not have a balance of pro-government speakers and was in breach of the relevant requirements of the Broadcasting Act, 2009. In this regard, the complainant submits that the broadcast contained numerous false and defamatory statements and allegations relating to the Venezuela Government which were not the subject of appropriate fact checking by the presenter. The balance of contributors was not fair, objective or impartial and the presenter only asked probing questions to pro-Government contributors.

Overall, the complainant is of the view that the programme was not fair, objective or impartial.

4. Broadcaster Responses

The broadcaster states that it was satisfied the topic was of legitimate public interest, having been contacted by a listener whose relative had an issue at Dublin Airport when returning from Venezuela. The broadcaster notes that the presenter did not articulate a partisan position. The broadcaster observed that Liveline is driven by callers to the programme and that the principle of fairness does not necessarily require that all possible opinions on a subject are addressed or that they should receive equal airtime.

The broadcaster is of the view that the presenter fulfilled his role and the programme was fair, balanced and impartial.



5. Decision of the Executive Complaints Forum Reject (Unanimous)

Having considered the broadcast and the submissions from the complainant and the broadcaster and having had regard to the relevant legislation and Code, the Forum decided to reject the complaint. The Forum's views and reasons for the decision are set out below.

The Forum noted that the complaint was made under Sections 4.1 and 4.2 of the Code of Fairness, Objectivity and Impartiality in News and Current Affairs. The Code requires that content is fair to all interests concerned and that the broadcast matter is presented in an objective and impartial manner and without any expression of the broadcaster's own views.

In considering this complaint, the Forum had regard for the context and format of the programme. Liveline is a phone-in show which is predominately led by audience participation. The Forum was of the view that the topic was explored in the context of people's personal views and experiences and the programme was presented in this manner. The Forum noted that listeners would be familiar with the type of programme and would expect to hear a range of views from callers to the show. The Forum acknowledged that some information and views provided by contributors may have been inaccurate, however, the presenter took steps to provide clarity regarding such views.

The presenter challenged some contributors' views and played devil's advocate on occasion, however, Liveline is synonymous with Joe Duffy's personality and his interview style is likely to be familiar to contributors and audience members. The Forum noted that the presenter was robust at times, but they did not consider that this rendered the piece unfair, unobjective or partial.

The Forum did not find the programme infringed the Code of Fairness, Objectivity and Impartiality in News and Current Affairs and, as such, the complaint was rejected.



Complaint made by: [REDACTED]

Ref. No.C5085

Station:
RTÉ Radio 1

Advertisement:
Advert – Learning to Drive

Date:
25th March 2019

1. Programme

The advertisement from the Road Safety Authority (RSA) relates to completing the Essential Driver Training (EDT) programme.

2. Complaint Category

Broadcasting Act 2009 - Section 48(1)(d)(commercial communications); the BAI General Commercial Communications Code - Principle 1.

3. Complaint Summary

The complainant is of the view that the advertisement is misleading as it allows young people to believe that they can learn to drive in 12 hours. The advertisement states “essential driver training is your path to becoming a safe and socially responsible driver”. The complainant believes this infringes Principle 1 of the Code.

4. Advertiser Response

The advertiser states that the commercial is used to highlight aspects of the EDT programme that the learner driver should be aware of in order to maximise the value of the time they spend with their driving instructor. The advertiser does not believe that the advertisement suggests or implies that the learner can learn to drive in 12 hours; the role of the advertisement is to ensure the listener understands that EDT is only part of the learning to drive process and is a mandatory driver training programme that teaches fundamental driving skills to learner drivers. The advertisement encourages listeners to seek further information from RSA.ie.

5. Broadcaster Responses

The broadcaster states that this is a 30 second radio advert run by the RSA covering Essential Driver Training (EDT). The commercial outlines the learner driver process, what the instructor needs to do and where more information may be found. The broadcaster states that their copy clearance committee approved the commercial and concluded that the text is legal, honest, decent, truthful and does not infringe any codes.



6. Decision of the Executive Complaints Forum Rejected (Unanimous)

Having considered the broadcast and the submissions from the complainant, the advertiser and the broadcaster and having had regard to the relevant legislation and Code, the Forum decided to reject the complaint. The Forum's views and reasons for the decision are set out below.

The Forum noted the complaint was submitted under the General Commercial Communications Code. The Code requires that commercial content is legal, honest, decent and truthful.

The Forum noted that this complaint related to a Road Safety Authority advertisement for EDT lessons for learner drivers which, in the complainant's view, is misleading as it states young people can learn to drive during 12 hours of training.

The Forum noted that the radio advertisement is a key part of the RSA's strategy to educate road users about Essential Driving Training (EDT) for learner drivers. The advertisement in question directs learner drivers with regard to completing and logging EDT sessions and the Forum was of the view that it provides information for learner drivers and directs viewers to the RSA website for further information.

The Forum did not find any evidence to support the complainant's assertion that Principle 1 of the Code was infringed and, as such, the complaint was rejected.



Complaint made by: [REDACTED]

Ref. No. C5089

Station:

TG4

Programme:

Nuacht TG4

Date:

21st April 2019

1. Programme

Nuacht is a news programme broadcast at 7pm each evening.

2. Complaint Category

Broadcasting Act 2009 - Section 48(1)(a)(fairness, objectivity and impartiality in current affairs); the BAI Code of Fairness, Objectivity and Impartiality in News and Current Affairs – Rules 4.1, 4.2, and 4.19.

3. Complaint Summary

The complaint concerns a broadcast regarding an Easter Rising commemorative event held in Rosmuc, Galway. The complainant believes the broadcast infringed the Code as there was no mention that Sinn Féin organised the event, nor did it include the name of the keynote speaker.

4. Broadcaster Responses

The broadcaster states the intention of this section of the news report was to highlight the importance of the Easter Rising to the community of Rosmuc and to that end, the broadcaster explored the event with the community connected to Pearse Cultural Centre. The emphasis therefore was on the public and not politics or politicians.

**5. Decision of the Executive Complaints Forum
Reject (Unanimous)**

Having considered the broadcast and the submissions from the complainant and the broadcaster and having had regard to the relevant legislation and Code, the Forum decided to reject the complaint. The Forum's views and reasons for the decision are set out below.

The Forum noted the complaint was submitted under the Code of Fairness, Objectivity and Impartiality in News and Current Affairs, sections 4.1, 4.2 and 4.19. The Code requires that the broadcast matter is presented in an objective and impartial manner and without any expression of the broadcaster's own views. The Code also states that views and facts shall not be misrepresented or presented in such a way as to render them misleading.

The Forum noted the complaint refers to a report about an Easter Rising commemorative event. The complainant believes that the exclusion of the name of the keynote speaker and the fact that Sinn Féin organised the event rendered the piece impartial and unfair.



The Forum noted that the item was presented as a report highlighting several Easter Rising commemorative events which took place around the country. The broadcaster has the editorial freedom to make choices in relation to what issues to cover in news and current affairs context. The exclusion of the name of the keynote speaker and the event organiser did not render the piece partial or unobjective. The Forum considered the report in whole and in context and found that it was presented in a manner which was objective and impartial. Further, the facts were not presented in a manner which rendered them misleading. The Forum noted that there is no requirement for fairness in news.

In view of the above, the Forum did not determine that the programme infringed the requirements of the legislation and Code in the manner specified by the complainant. Accordingly, the complaint was rejected.



Complaint made by: [REDACTED]

Ref. No. C5110

Station:
RTÉ One

Programme:
Six One News

Date:
16th May 2019

1. Programme

The Six One News is a news programme broadcast each weekday evening.

2. Complaint Category

Broadcasting Act 2009 - Section 48(1)(b)(harm & offence); the BAI Code of Programme Standards – Principle 3.

3. Complaint Summary

The complaint relates to a news report regarding an ongoing murder trial. The complainant is of the view that the report contained too much forensic detail regarding the murder. The complainant found that this was unsuitable for broadcast at a time when children are likely to be in the room.

4. Broadcaster Responses

The broadcaster acknowledges that details of the trial may be upsetting for some viewers and states that an advisory is aired when content is believed to be distressing. Further, reporting on the trial is in keeping with restrictions as set down by the trial Judge regarding what the media can and cannot report. The broadcaster states that the reports are intended for an audience that listens to news and current affairs and has an expectation that significant events, such as this trial, will be covered. While the broadcaster does not intend to cause upset to the audience, it states that there is a wider public interest in reporting significant trials. The broadcaster also states that audience members may defer viewing or listening, particularly when children are present.

**5. Decision of the Executive Complaints Forum
Rejected (Unanimous)**

Having considered the broadcast and the submissions from the complainant and the broadcaster and having had regard to the relevant legislation and Code, the Forum decided to reject the complaint. The Forum's views and reasons for the decision are set out below.

The Forum noted the complaint was submitted under the Principle 3 of the Code of Programme Standards. The Code requires broadcasters to take due care to ensure audiences are not exposed to harmful content and must provide adequate information to allow audiences to make informed choices.



The Forum noted the complaint referred to the inclusion of forensic details in a report regarding a criminal trial which, in the view of the complainant, was inappropriate for broadcast at a time when children may be watching.

The Forum noted that the report did not carry an explicit content warning, however, the introduction clearly provided information regarding the nature of the news story. The responsibility of the broadcaster to protect children from exposure to inappropriate and harmful programme material is shared with parents or guardians and the Forum was of the view that audiences are likely to expect the news to carry some content which may not be suitable for children. The Forum acknowledged that some programme material may be distressing due to the subject of the report, however, the Forum noted that the information was factual and was appropriate in the context of the news report.

In view of the above, the Forum did not agree that the programme infringed the requirements of the legislation and Code in the manner specified by the complainant. Accordingly, the complaint was rejected.



Complaint made by: [REDACTED]

Ref. No. C5128

Station:
RTÉ One

Programme:
Nine O'clock News

Date:
15th May 2019

1. Programme

The Nine O'clock News is a news programme broadcast each weekday evening.

2. Complaint Category

Broadcasting Act 2009 - Section 48(1)(a)(fairness, objectivity and impartiality in current affairs); the BAI Code of Fairness, Objectivity and Impartiality in News and Current Affairs – Rules 17 and 19.

3. Complaint Summary

The complainant believes that a statement made by the reporter referring to the preparation of children for the sacraments was incorrect. The reporter stated that "Ireland is unique internationally, nowhere else are Catholic children prepared for the sacraments by state-salaried teachers in state funded schools". The complainant maintains that in many Catholic schools in Northern Ireland, Scotland, Wales and England, Catholic children in Catholic state-funded schools are prepared for the sacraments by state-salaried teachers. The complainant states that the broadcaster is unwilling to correct this statement and, as such, believes this constitutes an expression of the broadcaster's own view. The complainant believes that this may influence the views of people who are opposed to the ethos of Catholic schools and does not believe that the report was objective nor impartial.

4. Broadcaster Response

The broadcaster states that the report was about a survey carried out by the Catholic Archdiocese of Dublin. The Archdiocese issued a press release which stated that "Ireland is unique in its dependence on schools in preparing for and celebrating the sacraments". The broadcaster states that this supports the comment made in the report.

The broadcaster acknowledges that schools in other countries have some involvement in preparing children for the sacraments, the evidence is that in the main they do not have anything like the level of involvement that is current across the primary education system in Ireland. The broadcaster asserts that it is not possible to ascertain practices in every Catholic school in other countries and acknowledges that there may be exceptions, however, the broadcaster is of the view that the statement is substantially true. Further, the broadcaster maintains that the report is objective and impartial.



5. Decision of the Executive Complaints Forum Reject (Unanimous)

Having considered the broadcast and the submissions from the complainant and the broadcaster and having had regard to the relevant legislation and Code, the Forum decided to reject the complaint. The Forum's views and reasons for the decision are set out below.

The Forum noted the complaint was submitted under the Code of Fairness, Objectivity and Impartiality in News and Current Affairs, sections 4.17 and 4.19. The Code requires that broadcast matter is presented with due accuracy and that views and facts shall not be misrepresented or presented in such a way as to render them misleading.

The Forum noted that the complainant took issue with a news story in which the reporter stated, "Ireland is unique internationally – nowhere else are Catholic children prepared for the sacraments by state-salaried teachers in state funded schools". The complainant maintains that in Catholic schools in Northern Ireland, Scotland, Wales and England, children in state-funded schools are prepared for the sacraments by state-salaried teachers.

The Forum noted the broadcaster's admission that schools in other countries may have some involvement in preparing children for the sacraments but the broadcaster states that it is not to the same extent as schools in Ireland. The Forum was of the view that it was necessary to consider the report in full, rather than considering one sentence in isolation. The report was prepared in the context of findings of a survey undertaken by the Catholic Archdiocese of Dublin regarding the role of schools in preparing children for sacraments. The Forum noted that the report included a range of views and found that the subject matter, that of the results of the survey, was presented with due accuracy. Further, the Forum did not find that views or facts were misrepresented or presented in such a way as to render the report misleading. The Forum did not find evidence to support the complainant's assertion that the report would support viewers who oppose the ethos of Catholic schools.

Overall, the Forum found that the report, when considered as a whole and in context, complied with the requirements of the Code. Accordingly, the Forum rejected the complaint.



Complaint made by: [REDACTED]

Ref. No. C5142

Station:
RTÉ One

Programme:
Weather Live

Date:
2nd May 2019

1. Programme

Weather Live was a three-part series about weather. The programme was broadcast over three evenings from 30th April to 2nd May; the complaint relates to the final episode.

2. Complaint Category

Broadcasting Act 2009 - Section 48(1)(a)(fairness, objectivity and impartiality in current affairs); the BAI Code of Fairness, Objectivity and Impartiality in News and Current Affairs – Rules 4.1 and 4.2.

3. Complaint Summary

The complainant believes that the broadcast failed to be fair, objective and impartial as it repeatedly indicated that the emitting of anthropogenic carbon emissions is responsible for “unprecedented” changes in the planet’s climate and weather. The complainant maintains that the programme was inaccurate and misleading in relation to which historical records regarding Irish and international climate data are available. Further, the complainant was of the view that claims and viewpoints included in the programme regarding historical climate data, climate change and carbon emissions, were inaccurate and misleading. These claims were not challenged, nor was there any inclusion of opposing viewpoints. The complainant believes that the programme represented carbon emissions and other greenhouse gases as harmful and indicated that humans are responsible for changes to weather. In this regard, the programme was biased and failed to be impartial or objective.

4. Broadcaster Response

The broadcaster states that the broadcast is not news or current affairs. The genre was family/entertainment and looked at peoples’ interest in weather. The broadcast was transmitted in a slot which is typically family viewing/entertainment and the broadcaster states that the audience for that transmission time would have expected this broadcast to be a family entertainment programme with scientific insights. The type of programme was set out by the presenter during the opening and the format, which included a live audience of adults and children, and segments featuring children in classroom settings, clearly was not that of a news or current affairs programme.

The programme content was varied and aimed to reflect the way weather is a talking point for adults and for younger people. However, the information was presented in a manner which reflected the general interest and entertainment theme of the show. Therefore, the broadcaster is of the view that the provisions set out in the Code of Fairness, Objectivity and Impartiality in News and Current Affairs do not apply to this programme.



The broadcaster states that any facts included in the show were delivered by a professionally qualified member of the Met Office.

**5. Decision of the Executive Complaints Forum
Reject (Unanimous)**

Having considered the broadcast and the submissions from the complainant and the broadcaster and having had regard to the relevant legislation and Code, the Forum decided to reject the complaint. The Forum's views and reasons for the decision are set out below.

The Forum noted the complaint was submitted under the Code of Fairness, Objectivity and Impartiality in News and Current Affairs, sections 4.1, 4.2, and 4.21. The Code requires that broadcast matter is presented in an objective and impartial manner and without any expression of the broadcaster's own views. The Code also states that a news presenter and/or a reporter in a news programme may not express his or her own view on matters that are either of public controversy or the subject of current public debate.

The Forum noted the complainant's view that the programme indicated that the releasing of anthropogenic carbon emissions is responsible for "unprecedented" changes in the planet's climate and weather. The Forum found that this was an entertainment and educational type programme with an element of current affairs included. The Forum noted that the broadcaster has editorial control and, as such, has the right to choose both the topic and the format. In this instance, the approach taken by the broadcaster was to explore the topic in a light-hearted manner and was not a scientific debate on climate change per se.

The BAI does not have a role in requiring broadcasters to cover a particular subject matter. Further, the broadcaster is not required to include every possible viewpoint or aspect of an item. The Forum was of the view that the broadcaster adopted a legitimate editorial approach and did not consider that the programme infringed the BAI Codes or Rules.

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