



ÚDARÁS
CRAOLACHÁIN
NA hÉIREANN

BROADCASTING
AUTHORITY
OF IRELAND

**A Guide for Listeners & Viewers to the Complaints Process
& the Broadcasting Authority of Ireland
2017**

Introduction

Any viewer or listener who is not satisfied about broadcasting content on an Irish broadcasting service, whether a programme or an advertisement/commercial communication, has a right to complain about it and have their complaint handled by the broadcaster in the first instance.

This document explains how the complaints procedure works, the role of the broadcasters and the Broadcasting Authority of Ireland (BAI) in adjudicating complaints.

Your right to complain is protected by the Broadcasting Act 2009. This Act is available on request from the offices of the BAI, 2 – 5 Warrington Place, Dublin 2 (01 644 1200) or on its website, www.bai.ie.

This document is a summary of the complaints process, including the powers and jurisdiction of the Broadcasting Authority of Ireland. It does not purport to be exhaustive and complainants are advised to study carefully the statutory provisions.

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1. Radio & Television Complaint Procedures

1.1 Who Can Make a Complaint?

Any viewer or listener can make a complaint to the relevant broadcaster about a programme or advertisement/commercial communication that has been broadcast.

1.2 Which broadcasters are within the scope of the complaints process?

All commercial, community and public radio and television broadcasters, be they on a local, temporary, institutional, regional or national basis, licensed within the Republic of Ireland, are covered by the complaints handling process detailed in this document.

For the avoidance of doubt, a 'broadcaster' in this instance refers to the organisation holding the license to operate the broadcasting service rather than individual programme presenters, producers etc., employed by the broadcaster.

1.3 What can I complain about?

If a viewer or listener sees or hears any broadcast which they believe infringes any of the following regulations of Section 48(1) of the Broadcasting Act 2009 they can make a formal complaint:

i. Fairness, objectivity & impartiality

All broadcast news must be presented and reported in an objective and impartial manner and without expression of the broadcasters' own views.

Current affairs broadcasts, including matters of public controversy or debate, must be treated in a manner which is fair to all interests concerned and the broadcast must be presented in an objective and impartial manner, without any expression of the broadcasters' own views.

Two or more related broadcasts may be considered as a whole if they are transmitted within a reasonable period.

Complainants are asked to refer to the *BAI Code of Fairness, Objectivity and Impartiality in News and Current Affairs* when making a complaint under this heading.

ii. Harm & undue offence, including law and order as well as privacy

Every broadcaster must ensure that it does not broadcast anything which may reasonably be regarded as likely to cause harm or undue offence or unreasonably encroach on the privacy of an individual or raise issues of a law and order nature. Complainants are asked to refer to the *BAI Code of Programme Standards* when making a complaint about harm and offence, including law and order and privacy.

iii. **Commercial communications, including advertisements**

A commercial communication is defined as ‘any form of announcement on radio and television coming within the recognised character of advertising, sponsorship and teleshopping and any other form of commercial promotion’.

Complainants are asked to refer to either the *BAI General Commercial Communications Code* or and the *BAI Children’s Commercial Communications Code* when making a complaint under this heading.

Copies of the BAI’s codes are available on our website (www.bai.ie) or by emailing info@bai.ie. If you have any query about our codes or the complaints process, you can call the BAI on 01 644 1200 or email complaints@bai.ie.

1.4 **Where do I direct my complaint?**

The Broadcaster

The BAI has discretion, under section 48(3) of the Act, to refer a complaint in the first instance to the broadcaster for consideration. Therefore in general, the BAI expects that the broadcaster is the first stop for complaints.

The advantages of a broadcaster addressing your complaint in the first place are:

- Some complaints may not be based on the Act and are best resolved by the broadcaster;
- The broadcaster has institutional knowledge which can allow for a speedy resolution of your complaint;
- Under section 47 of the Act the broadcaster has a statutory obligation to give due and adequate consideration to a complaint on grounds specified in section 48(1).

You should make your complaint in the manner outlined in the broadcaster’s **Code of Practice for Complaints Handling**. This can usually be found in the contact us or complaints section of a broadcasters’ website. For easy reference, a link to the relevant contact details for each broadcaster and to that part of their website that contains their **Code of Practice for Complaints Handling** is included in Appendix 1 below. If you have any difficulty accessing the Code of Practice please feel free to contact the BAI by emailing info@bai.ie or by calling 01 644 1200.

The BAI

We may address a complaint ahead of the broadcaster where the complaint deals with issues of privacy, anonymity and/or the complainant provides an acceptable reason(s) why the complaint should not be referred to the relevant broadcaster first.

The BAI also deals with complaint **referrals** i.e. where a broadcaster has already issued a response on a complaint or where a broadcaster has not issued a response within the relevant timeframe. For a referred complaint we will consider the complaint and may carry out an independent review of the complaint and the broadcaster's response or lack thereof.

We ask that you submit a referral complaint promptly. The BAI considers 14 days is a sufficient period within which to submit a referral complaint. If your referral occurs later than 14 days after a broadcaster's decision or lapse of a broadcaster's timeframe we ask that you provide an explanation for this delay.

We retain discretion to accept referred complaints received later than 14 days after the broadcaster's decision or their failure to respond. If we reasonably believe there has been an undue delay in the submission of a referral complaint we may reject the complaint. Each complaint will be considered on a case-by-case basis.

Further information on the decision-making process of the BAI is set out in Appendix 4.

When directing complaints to the BAI, you should complete the form included at Appendix 2 and send it to:

Complaints Officer
Broadcasting Authority of Ireland
2 – 5 Warrington Place, Dublin 2
Phone: (01) 6441200
Fax: (01) 6441299 E-mail: complaints@bai.ie.

1.5 How quickly should the complaint be made to a broadcaster?

There is a time limit: -

- (i) If the complaint relates to **one broadcast**, it must be sent to the broadcaster no later than thirty days after the date of the broadcast;
- (ii) If it relates to two or more **unrelated** broadcasts, it must be sent no later than thirty days after the date of the earlier or earliest broadcast;
- (iii) If it relates to two or more **related** broadcasts, of which at least two are made on different dates, it must be sent no later than thirty days after the later or latest of these broadcasts.

1.6 What will happen to your complaint to the broadcaster?

Once a complainant has submitted their complaint to the relevant broadcaster, the broadcaster should acknowledge receipt of your complaint.

The broadcaster should consider the content of your complaint and inform you of their decision. The broadcaster should also inform you of the manner in which it will seek to resolve it to your satisfaction in an agreed manner. The manner in which a complaint will be resolved will be decided by broadcasters on a case-by-case basis. This may entail an apology, correction, clarification and/or the offer of a rebuttal.

The BAI invites any member of the public or other interested parties to contact the BAI if you have any queries regarding the complaint handling process.

1.7 Section 48(5) Broadcasting Act 2009

This section of the Act permits an employee of the Broadcaster or an independent producer to make a request to the BAI to comment on a complaint. If the BAI considers the interest of the employee might be adversely affected, or the prospects of the independent producer to obtain future programming commissions from the broadcaster concerned may be impeded, as a result of the complaint, then he/she will be given the opportunity to comment.

It is expected that requests of this nature will be the exception since, in the normal course of events, broadcasters are expected to ensure that an employee or independent producer would be informed of the complaint and be provided with the opportunity to input into the response of the broadcaster to the BAI in respect of the complaint. Nevertheless, broadcasters are expected to apprise relevant parties of the provisions of section 48(5).

1.8 Right of Reply Scheme

In addition to the categories of complaints listed above in Section 1.3, a member of the public may request a Right of Reply from a broadcaster. A Right of Reply, as set out in the Broadcasting Act 2009 provides for the **correction of incorrect facts or information** that have been broadcast about a person, where the assertions of such incorrect facts or information may have impugned that person's honour or reputation.

The Broadcasting Act has given the BAI responsibility for the development of the Right of Reply Scheme and this Scheme has been developed by the BAI and can be viewed on the BAI's website, www.bai.ie

Further to this Scheme, broadcasters must publish the Right of Reply Scheme on their web sites and provide up-to-date details in relation to the person who deals with any requests for a Right of Reply.

As stated, a Right of Reply is about the correction of incorrect facts or information; it **does not** provide for the broadcast of an alternative or contrary opinion. In other words, a person may not be satisfied with the manner in which a broadcaster has relayed information about him/her, but a Right of Reply will not be granted unless the facts or information are factually incorrect such that their honour or reputation have been impugned.

If the matter is one where the facts were correct, but not fairly presented, and was contained in a current affairs programme, you can make a complaint under fairness, objectivity and impartiality (See Section 1.3 above for more information).

Under the Scheme and only in certain circumstances, a member of the public may request the Compliance Committee of the BAI to review a decision of a broadcaster not to grant a Right of Reply. Information on the review process can be found in the Right of Reply Scheme. Interested parties seeking a review should complete the form included at Appendix 3.

1.9 Confidentiality

The BAI undertakes the complaint referral process and the operation of the Right of Reply Scheme in a confidential manner and asks that all parties in a complaint respect this confidentiality. Parties involved in a complaint are asked not to comment publicly on the complaint until it has been dealt with by the BAI.

While your contact details will not be disclosed, the BAI is subject to the requirements of the Freedom of Information Act (1997) and the Freedom of Information (Amendment) Act. If there is any aspect of your complaint which you deem commercially sensitive or which you may wish to make in confidence, please identify any information which you do not wish to be publicly disclosed and specify the reasons for its sensitivity. If the BAI receives a request for information submitted in confidence, you will be consulted before any decision is made.

APPENDIX 1

Code of Practice for Complaints Handling

Broadcasters are required to develop and implement a *Code of Practice for Complaints Handling*. For ease of reference and in line with its statutory obligations, the BAI is making available information regarding the Code of Practice for all Irish broadcasters. This information is provided in the complaints handling section of the BAI's website: <http://www.bai.ie/en/viewers-listeners/complaints/>

If you have any difficulty accessing the *Code of Practice for Complaints Handling*, you should contact the broadcasters directly. Contact details for broadcasters can be found on the BAI website at the **www.bai.ie**. In the event that you continue to have trouble in accessing the broadcaster's complaints procedures, you may contact the BAI: **www.bai.ie**.

APPENDIX 2

COMPLAINT/COMPLAINT REFERRAL FORM

Complaint/Complaint Referral Form

Programming & Commercial Communications
(including advertising, sponsorship & product placement)

Making a complaint

This form should only be used if you have already made a complaint to a broadcaster or where you believe you have grounds to make a complaint directly to the BAI (see section 4 below). If this is not the case, please contact the broadcaster in the first instance.

This form has four sections:

- Please complete **section 1 if you have made a complaint to a broadcaster** and either you have received no response from the broadcaster or you are unhappy with their response.
- **Section 2** requires you to provide the detail of your complaint, including the section of the Broadcasting Act and the relevant BAI Code that you believe the broadcast infringed.
- **Section 3** requires you to provide your name and your contact details, address, email, phone contact details. Your contact details will not be shared with any third party.
- Please complete **section 4** if your complaint concerns anonymity, your privacy or where you believe there is a particular or exceptional reason(s) why the complaint should not be referred to the relevant broadcaster in the first instance for consideration.

You **should** complete this form **in full** and, where relevant, attach copies of all previous correspondence between you and the relevant broadcaster. **This form should be sent to the BAI no later than 14 days after the date on which you received a response from the broadcaster or the date by which a response was due.**

The BAI has developed a guide to the complaints process. This details how broadcasters and the BAI will handle your complaint. It is recommended that you read this document before making a complaint or completing this form. This document is available on the BAI website [here](#). A copy of the document is also available from the BAI upon request by emailing complaints@bai.ie or by phoning 01 644 1200.

If you would like further help or advice on making your complaint or completing this form, please contact one of the BAI's staff on the number provided on this form or by e-mail, complaints@bai.ie.

Section 1 – Referral process

Only complete this section if you have already made a complaint to the broadcaster and are not satisfied with their response or have not received a response.

Date initial complaint made to broadcaster (dd/mm/yy): _____

Did you receive a response from the broadcaster within the timeframe, included in their *Code of Practice*?

Please indicate **yes** or **no** _____

Section 2 – Details of your complaint

Please provide the details of the programme and the reason you believe the content did not comply with the Broadcasting Act and/or the BAI's Codes.

Details of complaint

Details must be completed in full.

Programme Title / Broadcast Item	
Programme date: dd/mm/yr	
Time of broadcast (if applicable)	
Broadcaster	

Reason(s) for complaint

When selecting your reasons, we would also ask that you also specify which section of the BAI's broadcasting code(s) applies. The Codes can be accessed using the links to the BAI website below or you can contact us for a copy or for advice on completing this section.

<i>Please specify the reason by ticking the box that you think best fits your complaint & the section of Code.</i>	
1. I did not think a news programme was objective or impartial. See here for the <i>Code of Fairness, Objectivity and Impartiality</i> applying to news content. Please indicate which section of the code applies.	

<p>2. I did not think the current affairs programme was fair, objective or impartial. See here for the <i>Code of Fairness, Objectivity and Impartiality</i> applying to current affairs content. Please indicate which section of the code applies.</p>	
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<p>3. I am of the view that the content would cause harm and undue offence. See here for the <i>Code of Programme Standards</i> which details the requirements concerning harm and undue offence. Please indicate which section of the code applies.</p>	
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<p>4. I am of the opinion that the content would be likely to promote, or incite to, crime or would tend to undermine the authority of the Irish state. See here for the <i>Code of Programme Standards</i> which details the requirements concerning this type of content. Please indicate which section of the code applies.</p>	
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<p>5. The content infringed my privacy. Please note that this relates only to your privacy or the privacy of a person over whom you have legal guardianship e.g. a child. See here for the <i>Code of Programme Standards</i> which details the requirements concerning privacy. Please indicate which section of the code applies.</p>	
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<p>6. The content was an advertisement or other commercial communications and I believe it did not comply with the BAI's General and Children's Commercial Communications Codes. See here for a copy of the Codes that set out the requirements in this area. Please indicate which section of the code applies.</p>	
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Is the matter complained of the subject of any proceedings in a court of law in the Republic of Ireland?

Please indicate **yes** or **no** _____

When submitting this form, please enclose a copy of all correspondence between you and the broadcaster about your complaint.

Section 3 – Contact Details

Please provide your personal contact details. Contact Details submitted are for use by the BAI only.	
Contact Details	Please complete in full
First Name	
Surname	
Mr. / Mrs. / Ms.	
Address	
Daytime Phone Number	
Email (if applicable)	

To finish, please read through the above form to ensure all your details are correct.

You may post, e-mail or fax this complaint form to the BAI. The relevant contact details are: -

Complaints Officer
Broadcasting Authority of Ireland
2 – 5 Warrington Place,
Dublin 2.

Telephone: 01 644 1280
Fax: 01 644 1299
Email: complaints@bai.ie
Website: www.bai.ie.

Date: _____

Section 4 – Complaint directly to BAI

Please complete this section **if you believe there are any particular or exceptional reason(s) why the complaint should not be referred to the relevant broadcaster in the first instance** for consideration in accordance with their ***Code of Practice for Handling Complaints***? For example, the complaint relates to **privacy** or **anonymity**. Please provide details of the reasons why you would not wish your complaint to be so referred to the broadcaster.

APPENDIX 3
RIGHT OF REPLY SCHEME
COMPLIANCE COMMITTEE REVIEW FORM

Right of Reply Scheme

Compliance Committee Review Form

Requesting a Review of Right of Reply Request

The first point of contact for requesting a **Right of Reply** is the relevant broadcaster. In certain circumstances, you can request a review of a decision by a broadcaster to refuse your request for a Right of Reply. For more information, please refer to the BAI Right of Reply Scheme on the BAI's website: www.bai.ie

The application for a review of the refusal of a request for a Right of Reply must be submitted to the Compliance Committee:

- **not later than 21 days** after receipt from the broadcaster of a decision to refuse the Right of Reply request, or;
- **not later than 31 days** after receipt of your initial request where the broadcaster has not made a decision on the request, or;
- **not later than 21 days** after the failure to agree the form of the Right of Reply statement or the failure and/or refusal to broadcast the Right of Reply statement - formerly agreed.

You **must** complete this form **in full** and attach all previous correspondence between you and the relevant broadcaster.

If you require further help or advice, please contact one of the BAI's staff on the number provided on this form or by e-mail, complaints@bai.ie.

For office use only: Ref. No.

Grounds for a Review by the Compliance Committee

Please state the basis for your request for a review by the BAI of your Right of Reply request to the broadcaster (only one of the following should be selected).

Broadcaster has refused my request for a Right of Reply and I am dissatisfied with the reasons provided.....

Yes	No
<input type="checkbox"/>	<input type="checkbox"/>

Broadcaster has not made a decision within 10-days of receipt of my initial request for a Right of Reply.....

Yes	No
<input type="checkbox"/>	<input type="checkbox"/>

Broadcaster has agreed a Right of Reply is warranted but the form of the Right of Reply Statement cannot be agreed by the parties.....

Yes	No
<input type="checkbox"/>	<input type="checkbox"/>

Broadcaster has agreed a Right of Reply is warranted but has failed/refuses to broadcast the statement formally agreed.....

Yes	No
<input type="checkbox"/>	<input type="checkbox"/>

Date of a refusal of a request for a Right of Reply: _____

Please provide your personal contact details. Contact Details submitted are for use by the BAI only.

Contact Details:	Please complete these details in full.
Surname	
First Name	
Mr. / Mrs. / Ms.	
Address	
Daytime Phone Number	
Email (if applicable)	
Fax Number (if applicable)	

Is the matter complained of the subject of any proceedings in a court of law in the Republic of Ireland?

Yes	No
<input type="checkbox"/>	<input type="checkbox"/>

All requests for a review of a decision by a broadcaster not to grant a Right of Reply considered by the BAI are made publicly available, including the name of the complainant. However, in the event that a complainant has valid concerns relating to privacy issues in making a complaint, the BAI may consider requests from the complainant for anonymity.

Please note that the personal contact details submitted by you are for use by the BAI only and will not be disclosed to a third party.

While your contact details will not be disclosed, the BAI is subject to the requirements of the Freedom of Information Act (1997) and the Freedom of Information (Amendment). If there is any aspect of your complaint which you deem commercially sensitive or which you may wish to make in confidence, please identify any information which you do not wish to be publicly disclosed and specify the reasons for its sensitivity. If the BAI receives a request for information submitted in confidence, you will be consulted before any decision is made.

To finish, please read through the above form to ensure all your details are correct.

You may post, e-mail or fax this complaint form to the BAI. The relevant contact details are: -

Complaints Officer
Broadcasting Authority of Ireland
2 – 5 Warrington Place,
Dublin 2.

Telephone: 01 644 1280
Fax: 01 644 1299
Email: complaints@bai.ie
Website: www.bai.ie.

Please note: all previous correspondence between you and the relevant broadcaster must be included with this form.

Date: _____

Appendix 4

Complaint Referrals – Decision-making Process

Decision-making process – Complaints/Complaint Referrals

The BAI's consideration of complaints submitted will be carried out in private and will be confidential. Upon receipt of your complaint/complaint referral, the BAI will take the following steps if the complaint/complaint referral is considered valid:-

- i. The BAI will review your referral/complaint and determine whether it is valid. If the BAI deems your complaint invalid, we will provide reasons for our decision.
- ii. If your complaint is deemed valid, the BAI will contact the relevant broadcaster, and where relevant, will forward your complaint to the broadcaster. The broadcaster is expected to reply within a certain time. This time limit may be extended by the BAI if good and valid reasons are shown.

An employee of the Broadcaster or an independent producer may request to comment on a complaint. If the BAI considers the interest of the employee might be adversely affected, or the prospects of the independent producer to obtain future programming commissions from the broadcaster concerned may be impeded, as a result of the complaint, then he/she will be given the opportunity to comment.

When the complaint is one in respect of an advertisement under Section 48(1)(d) of the Broadcasting Act, 2009, the BAI will afford the person responsible for submitting the advertisement an opportunity to make submissions in relation to the advertisement.

- iii. A copy of the response by the broadcaster to the complaint, if any, will be sent to the complainant. The complainant is not required to provide any extra details or respond to the points raised by the broadcaster. However, if the reply is not to the satisfaction of the complainant, he/she has up to fourteen days thereafter to submit their reply to the BAI. The time limit may be extended by the BAI if good and valid reasons are shown.

A copy of any response from the complainant will then be provided to the broadcaster and correspondence between the complaint parties will continue until one of the party has concluded making submissions. Please note that the complaint will only be assessed when both parties have concluded their correspondence and the timeframe for the BAI's consideration of the complaint and a decision will be determined by the extent of the correspondence entered into by both parties to the complaint.

- iv. All written correspondence together with the relevant recording of the broadcast will be forwarded for consideration and determination to either the BAI Executive Complaints Forum or the BAI Compliance Committee.

- v. In the case of complaints considered by the BAI, all written material on file, together with relevant broadcast material will be reviewed and the issues will be discussed in a collegiate manner at a meeting of the BAI Compliance Committee or the BAI Executive Complaints Forum.
- vi. Following consideration, the complaint will be upheld, upheld in part, rejected or deemed resolved.

What happens when the BAI upholds a complaint?

- A copy of the decision will be sent to the complainant and the broadcaster before its publication. If the programme/advertisement is produced by a person other than the broadcaster, the BAI will also forward a copy of the decision to the relevant person.
- Summaries of all complaints are distributed to the media and posted to the BAI's website, unless it considers it inappropriate to do so.
- A complainant is requested to submit contact details. Such details submitted are for use by the BAI for internal purposes only and are not divulged to third parties. The information published includes the name of the complainant only.
- The BAI may request the broadcaster to publish particulars of the decision on a complaint in a manner previously agreed between the BAI and the broadcaster concerned.
- Where a programming complaint is upheld, in whole or in part, the broadcaster concerned will broadcast the BAI's decision, unless it considers it inappropriate to do so. This could include the name of the person who made the complaint. This will be done at a time and manner suitably similar or close to the timing of the original broadcast which prompted the complaint.
- The BAI does not have any power to award to any party, costs or expenses.

Please note that this is an overview of the main steps in the process and does not purport to be an exhaustive description of how your complaint will be considered.

Appendix 5

Members of BAI Compliance Committee & BAI Executive Complaints Forum

Compliance Committee – 8 members with one position currently vacant

Mr. Kevin Rafter (Chairperson)
Ms. Paula Mullooly
Mr. Nigel Heneghan
Ms. Maeve McDonagh
Ms. Eileen Maher
Ms. Rosemary Day
Ms. Anne O'Brien
Mr. Ciarán Kissane

Executive Complaints Forum – 5 members

Mr. Neil O'Brien (Chairperson)
Ms. Jeanne Spillane
Ms. Sinéad Owens
Ms. Anne Louise O'Donovan
Mr. Roger Woods

