



ÚDARÁS
CRAOLACHÁIN
NA hÉIREANN

BROADCASTING
AUTHORITY
OF IRELAND

Broadcasting Authority of Ireland

Broadcasting Complaint Decisions

July 2013

Broadcasting Complaint Decisions

Under the Broadcasting Act 2009, viewers and listeners can complain about broadcasting content which they believe is not in keeping with the broadcasting codes and rules. In line with the complaint process, the viewer or listener should direct their complaint to the broadcaster in the first instance with regard to the broadcaster's *Code of Practice for Handling Complaints*, a policy 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 in their Code of Practice (usually 21 days), then the viewer or listener can refer the complaint to the BAI for consideration.

In assessing complaints, and having regard to the codes and rules, the BAI considers all written material submitted by the relevant parties together with the broadcast material. Complaints are assessed at Executive level and/or by the Compliance Committee of the Authority. The details of the broadcasting complaint decisions reached by the BAI are detailed in this document.

At its meeting held in June 2013, the Compliance Committee upheld one complaint and rejected four. One complaint was resolved by the Executive Complaint Forum at its meeting in June 2013.

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39/13 - RTÉ Radio 1 Drivetime – 15th February 2013

Upheld by BAI Compliance Committee

Complaint made by: Mr. Paul Casey

Ref. No. 38/13

Station:
RTÉ Radio 1

Programme:
Liveline

Date:
5 March 2013

Complaint Summary:

Mr. Casey's complaint is submitted under the Broadcasting Act 2009, 48(1)(a)(fairness, objectivity and impartiality in current affairs). The complainant states that it is his view that this particular show did not demonstrate fairness, objectivity or impartiality towards the show's main guest, Father Brian McKeivitt O.P. In particular:-

- A caller to the show 'Joan' was given uninterrupted airtime to express an opinion about an article printed in the February issue of *Alive!* Magazine that she found offensive to An Taoiseach, Enda Kenny and which she took issue with. Fr. McKeivitt was then questioned by the programme presenter about the publication.
- It is the complainant's view that the presenter paraphrased what Joan had said and suggested incorrectly that the article described An Taoiseach as King Herod, a biblical murderer of his family and children.
- The complainant is of the view that during the programme Fr. McKeivitt pointed out that neither Joan nor the article stated what the presenter had, in the complainant's opinion, suggested.
- The complainant states that the presenter continued to badger Fr. McKeivitt about the article asking different questions which Fr. McKeivitt refuted.
- The complainant states that the presenter broadened his discussion to include other articles Fr. McKeivitt had written, including one that likened Oireachtas Health Committee hearings on termination and the right to life, to the Wannsee Conference. In this regard, the complainant states that Fr. McKeivitt appeared confused by the question and/or perhaps by the presenter's pronunciation of Wannsee.
- He further states that the presenter suggested that Fr. McKeivitt had labelled a senior RTÉ Producer 'a child killer' in the *Media Watch* column of the January issue of *Alive!* He states that Fr. McKeivitt refuted this untruth and asked the presenter to withdraw that accusation, which the complainant states the presenter eventually did, albeit in a manner that the complainant describes as dismissive.
- The complainant states that the presenter asked about the Fr. Vincent Mercer case and why it wasn't reported on in *Alive!* and Fr. McKeivitt asked the presenter to stay with the point of the discussion.

The complainant appreciates that there are challenges associated with running a live phone-in show and that such shows are virtually impossible to edit. The complainant does not take issue with the callers but rather with the presenter. The complainant further states that the presenter resorted to interviewing techniques that were unfair to Fr. McKevitt. These included:

1. Repeatedly interrupting Fr. McKevitt.
2. More persistently misquoting what Fr. McKevitt had written.
3. Changing topic when it suited him.
4. As Fr. McKevitt so aptly described it, throwing dirt by raising the issue of clerical child abuse.

Broadcaster's Response:

Initial response to complainant:

RTÉ states that a listener to the show 'Joan' thought that the association in the article between King Herod (linked in most people's minds with the biblical Slaughter of the Innocents) and the Taoiseach was "very nasty". During the programme she said that *Alive!* was "an excellent magazine" but that the article "undermines its position". The discussion was joined by Fr. McKevitt. He asserted that the article did not say that An Taoiseach is like King Herod but that it outlined why people might think of Herod in the present context. The context appeared to be, and this was later confirmed by Fr. McKevitt, that of the public discussion of legislation on termination of pregnancy.

Four callers were critical of the article initially complained of by Joan. Four callers were supportive both of the article about An Taoiseach and of the editorial thrust of the paper.

The presenter, Joe Duffy, put challenging questions to Fr. McKevitt and also gave him every opportunity to respond and rebut. The presenter's questions to Fr. McKevitt were an appropriate line of enquiry in terms of establishing the editorial context of the publication and the philosophy behind the article which prompted the discussion.

Early in the programme, Fr. McKevitt raised the topic of the abortion legislation, saying that the legislation of the killing of unborn children would be appalling. Later, he asked a contributor if he was opposed to abortion from the time of conception. At one point Fr. McKevitt raised the issue of RTÉ coverage of the resignation of Pope Benedict XVI when asserting that the role of *Alive!* was in part to offer views not expressed in other media.

One participant raised the absence of coverage by *Alive!* of the conviction for child abuse of a Dominican priest, in the context of the editorial concern of *Alive!* with the wellbeing of children. (When the presenter later in the discussion referred to this, the participant regretted having raised it and the presenter did not pursue the question). RTÉ states there was no attempt by the presenter to "discredit" (Fr. McKevitt) by associating him with the perpetrator of the heinous crime of child abuse. Fr. McKevitt was asked, completely validly as an editor who has consistently written about the welfare of children, if he was aware of this conviction of a member of the Dominican order and if so, if he had written about it in *Alive!*

Response to BAI:

Alive! describes itself as a 16-page, free, monthly Catholic newspaper distributed throughout Ireland and presenting news, features and comment from a Catholic perspective. The Managing Editor is Fr. Brian McKeivitt OP.

In the March edition of *Alive!* in a regular feature titled 'Editor's Musings', an article appeared under the headline 'Why Herod comes to mind'. During the programme, reference was also made to a letter in January to the *Irish Independent* from a priest which had linked the names of the Taoiseach and King Herod. The Taoiseach had referred publicly to receiving mail which did likewise.

The discussion resulted from a phone call to the programme by a listener, Joan, who, as she said on-air, thought that the connection in the article between King Herod and the Taoiseach was "very nasty". During the programme she said that *Alive!* was "an excellent magazine" but that the article "undermines its position."

The discussion was then joined by Fr. McKeivitt. He asserted that the article did not say that the Taoiseach is like King Herod but that it outlined why people might think of Herod in the present context. The context appeared to be, and this was later confirmed by Fr. McKeivitt, that of the public discussion of legislation on termination of pregnancy. A significant amount of the presenter's questioning of Fr. McKeivitt was occasioned by his attempts to establish exactly what it was that the latter was stating in his article about the Taoiseach.

While all callers expressed themselves with conviction, the participants' delivery varied in tone; for example, Fr. McKeivitt was quiet-voiced while unwavering and eloquent in his defence of his socio-religious views, of the article which prompted the discussion and of the editorial stance of the newspaper.

On the other hand, the caller Tommy referred to in Mr. Casey's complaint was particularly – to use his own term – 'passionate', as a practising and devout Catholic, a Minister of the Eucharist, and a member of Fine Gael (that association referred to by the presenter), in his criticism of the article relating to An Taoiseach and of other editorial positions taken by the newspaper.

Whether, as Mr. Casey claims, Tommy's argument was at any point *ad hominem* is debatable. In claiming at one point that Fr. McKeivitt was "a disgrace to [his] order" it could be argued that Tommy was asserting in an exaggerated fashion that Fr. McKeivitt's theological and socio-political opinions as a priest, rather than a person, were out of step with those of his colleagues. Even if it were agreed that Tommy's argument was at that point *ad hominem*, this would be poor argument rather than an offensive statement within the meaning of the Broadcasting Act, 2009.

Fr. McKeivitt was given every opportunity to rebut criticisms by Tommy and others. And it cannot be assumed that listeners would not be positively influenced by a quiet delivery or that a participant's style of delivery, whether measured or vociferous, in itself results in imbalanced programming.

It is true to say that the presenter put challenging questions to Fr. McKevitt – and also gave him the opportunity to respond and rebut. RTÉ asserts strongly that the presenter's questions to Fr. McKevitt were an appropriate line of enquiry in terms of establishing the editorial context of the publication and the philosophy behind the article which prompted the discussion. Furthermore, his questions were not in any way related to Fr. McKevitt's reputation as a priest and insofar as they related to his function as Editor of *Alive!* they were entirely and properly concerned with his publicly stated editorial point of view. Related topics were introduced by both participants and presenter, contextualising the discussion of the newspaper.

The requirement to be fair, objective and impartial in current affairs does not preclude the robust questioning by presenters of interviewees and other contributors to programmes. In this case, the presenter was attempting to establish for the benefit of listeners what exactly the editor of a newspaper was stating when linking the Taoiseach and a notorious historical figure within an article; and to situate and question the editorial policy of that paper. There was no infringement in this respect of Section 48(1)(a) of the Broadcasting Act, 2009.

An equal number of participants spoke for and against the position taken by Fr. McKevitt and the *Alive!* newspaper, with the conviction on both sides (with the contributor Tommy as undoubtedly the most vociferous) which characterises public debate on *Liveline*. In this respect also there was a fair and balanced discussion and no infringement of Section 48(1)(a) of the Broadcasting Act 2009.

In summary, RTÉ states that the programme offered a balanced and fair discussion of a topic on which passionate convictions are held, both in the numbers of participants on different sides of the argument as well as the nature of the views expressed, in which the presenter played an appropriate professional role on a live phone-in discussion.

Decision of the Compliance Committee:

The Committee considered the broadcast, the submissions from both the broadcaster and the complainant. Following consideration of this material the Committee decided to uphold the complaint. In reaching this decision, the Committee took into account the following:

- The principal topic of the programme focused on the question of whether or not a newspaper column in the Catholic newspaper, *Alive!*, had stated that An Taoiseach, Enda Kenny, could be likened pejoratively with King Herod in the context of the ongoing debate on abortion and the appropriate legislative response to the X Case and the decision of the European Courts in respect of A, B and C v Ireland. It was the Committee's view that such a comparison was a serious matter and a robust and challenging examination of this issue was an appropriate topic of discussion for a programme such as RTÉ's *Liveline*.
- The editor of the newspaper and the author of the column in question, Fr. Brian McKevitt, participated throughout the programme. As such, he was provided with the opportunity to outline his views on the article and the interpretation of its meaning and to rebut views of callers to the programme and the views of the presenter.

- Notwithstanding this, the Committee noted that, in comparison to the treatment of contributions made by those callers alleging that Fr. McKevitt's article had inappropriately compared An Taoiseach with King Herod, the programme presenter interrupted the contribution from Fr. McKevitt on a regular basis. In addition, the callers made strong, and in some instances, lengthy uninterrupted comments in respect of the perceived intentions and motives of Fr. McKevitt and the *Alive!* publication. It was the Committee's view that listeners would have benefited had such contributions been examined and challenged by the presenter.
- The Committee also noted the difference in the treatment of contributors who supported the views of Fr. McKevitt and/or the *Alive!* publication. In particular, the Committee noted that such contributors were interrupted and challenged by the presenter in a manner that other callers were not.
- The Committee also noted that in some instances, the issues highlighted in the programme were those that were raised by the programme presenter alone rather than callers to the programme (contrary to the audience driven format that normally prevails) and also that a number of issues discussed in the programme by the presenter and contributors were not related to the *Alive!* article under discussion. Such issues included an alleged libel against an RTÉ producer in a previous edition of *Alive!*, the support and role of the Dominican Order in the publication of the *Alive!* and the coverage by *Alive!* about, and the familiarity of Fr. McKevitt with, priests from the Dominican Order convicted of child sexual abuse.
- While the Committee agreed that the article in question merited a serious, challenging and robust discussion and that Fr. McKevitt was a very able contributor equipped to engage in a discussion of this nature, it was also its view that on balance, and for the reasons set out above, the manner in which the discussion was handled was not in the interests of listeners and lacked fairness, objectivity and impartiality, contrary to the requirements of the Broadcasting Act.

Rejected by BAI Compliance Committee

Complaint made by: Reverend Raymond A. Hannon CC

Ref. No. 23/13

Station:
RTÉ Radio 1

Programme:
New Year's Eve Countdown Concert

Date:
31 December 2012

Complaint Summary:

Rev. Hannon's complaint is submitted under the Broadcasting Act 2009, Section 48(1)(b)(harm & offence: *Code of Programme Standards* - Sections 2.1 general community standards; 2.2 due care, 3.3 coarse and offensive language, 3.3.1 justification for inclusion of coarse/offensive language and 3.3.3 inappropriate use of names considered sacred or holy). The complainant objects to what he describes as the blasphemous reference in this programme to the Blood of Jesus being found in Katie Taylor's urine. The complainant states that the 'mockers' on the programme continued, "the sample can be found in all good-book shops, especially Easons". The complainant also states that the programme contributor also jeered "was it not Jesus who helped you to win your fight, Katie and all your praying fans?"

Broadcaster's Response:

Initial response to complainant:

The item to which Rev. Hannon refers to on *New Year's Eve Countdown Concert* was a satirical look back at the year's events with impressionist and comedian Oliver Callan who, at one point, impersonated the boxer Katie Taylor. In doing so, he referred humorously to Ms. Taylor's allusions in interviews and other public statements to her religious beliefs but did not address those beliefs in themselves. In other words, the object of his comedy was Ms. Taylor (including her supposed promotion of her book *My Olympic Dream* and its availability "in all good bookshops," a standard phrase in this context) rather than her beliefs.

Response to BAI:

This magazine programme included a satirical review of the year's events with impressionist and comedian Oliver Callan who at one point impersonated the boxer Katie Taylor. In this live on-air performance, he commented humorously on Ms. Taylor's references in interviews and other public statements to her religious beliefs but did not address those beliefs in themselves.

His impersonation of Ms. Taylor went as follows:

"I wouldn't be who I am today if it wasn't for Jesus Christ and God and Marty Morrissey, they've been my inspiration, and you know I came over a lot of adversity, there was a lot of talk about how I tested positive for performance-enhancing prayers, then there was the whole business about the wine being found in me urine sample but thank God, with the help o' God it turned out to be the blood of Christ so, em, I'll be fine and I encourage all people in 2013 if you want your dreams to come true, you know, you can always, em, put faith in the Good Book – *My Olympic Dream* is out now in all good book stores and Easons, €12.99 – I'll sign it for an extra two quid."

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The subject of Oliver Callan's comedy was Ms. Taylor's breathless combination of religious beliefs with more mundane matters to do with her career, including her supposed promotion of her book *My Olympic Dream*. While Content Rule 3.3 Coarse and Offensive Language states that "Recognising that the inappropriate use of names considered sacred or holy by believers may cause serious offence, broadcasters shall take a responsible approach to their inclusion during programming," it goes on to say that "their inclusion must be justified." In the context of an impersonation of Ms. Taylor, who consistently mentions her religious beliefs – as she is of course entitled to do – the inclusion of such references is justified. And this being well understood by the public who are familiar with Ms. Taylor, it will be interpreted by listeners as teasing of this much-liked celebrity's interview manner rather than offensive mockery of her religious beliefs.

Decision of Compliance Committee:

The Committee considered the broadcast and the submissions from both the broadcaster and the complaint. Following consideration of this material the Committee decided to reject the complaint. In reaching this decision, the Committee took into account the following:

- The Committee noted that the trans-substantiation of bread and wine into the body and blood of Jesus is considered a central tenet of religious belief for Irish Catholics. Therefore, particular care is required where it is referred to in a programming other than in a religious context. For this reason, it was the view of the Committee that some listeners may have found the item offensive and a greater sensitivity to this source of offence than that shown in this item would have been desirable.
- However, having had regard to the programme about which the complaint was made, it was the Committee's view that it had been used in a humorous and playful manner in a comedy section of a New Year's Eve radio programme. The Committee noted that the target of the comedy was Katie Taylor rather the religious symbols of Christianity and while this part of the comedy feature could be considered as being in poor taste and potentially offensive to some listeners on religious grounds, it was its view that the item would not cause undue offence, contrary to the Code of Programme Standards.

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Complaint made by: Mr. Liam Ó Gógáin

Ref. No. 30/13

Station:
RTÉ One

Programme:
The Frontline

Date:
7 January 2013

Complaint Summary:

Mr. Ó Gógáin's complaint is submitted under the Broadcasting Act 2009, 48(1) (a)(fairness, objectivity & impartiality in current affairs) and 48(a)(b)(law and order). The complaint concerns elements of a discussion during an edition of The Frontline programme. The complainant states that whereas one panellist used the term "incompetents" to describe a political party in an early part of the programme, a second panellist incorrectly quoted this remark later in the programme and used the term "gangsters" instead. While noting that the first panellist denied that this was the phrase that he had used earlier in the programme, the complainant states that the presenter then imposed, by way of compromise, a third term – "chancers" – and that in doing this the presenter had imposed an incorrect solution, in the name of 'consensus'.

The complainant states that by facilitating what he describes as three consequential and consecutive falsehoods and particularly by doing so and claiming legitimacy from the 'consensus' which the complainant submits to represent both the audience and viewers such as himself, the complainant states that RTÉ acted in an unfair manner to both the conflicting panellists, the audience, the viewers and particularly the fundamental concept of truth and accuracy. By failing to use what he believes should have been a readily available reviewing software to confirm what had actually been said, either during the programme itself or in a post review process, the complainant submits that RTÉ displayed a callous disregard for the public interest, in light of the very theme of that particular programme.

He further states that RTÉ by their failure to act in a professional, open and responsible manner in relation to this programme have caused harm and/or offence to viewers, who retain any level of interest in the relevance and importance of the accuracy in the use of language and that by reference to the quotation from Confucius, that such behaviour is conducive to 'tending to undermine the authority of the State'.

Broadcaster's Response:

Initial response to complainant:

RTÉ responded to Mr. Ó Gógáin by stating he was correct that in the programme one panellist quoted another incorrectly and that there was a confused discussion about the terms which had been used. These events were presented as they happened to the viewers of a live programme who were therefore in a position to reach their own conclusions about the statements made by the individuals involved. The Frontline did not have a re-play facility and so it was not possible to check during the run of the programme.

Response to BAI:

RTÉ states the programme was a live discussion. One panellist used the term "incompetents". A second asserted that he had said "gangsters". The first panellist denied this. The presenter suggested that a third term – "chancers" – had been used.

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The first panellist agreed. Clearly, that panellist believed that, although he objected to the use of “gangsters” as a synonym, the meaning he had intended in using “incompetents” was conveyed efficiently by the word “chancers”. The key roles in the exchange were played by the two panellists. The presenter showed no partiality, unfairness or lack of objectivity in his attempt – to the satisfaction apparently of both panellists – to resolve the disagreement.

Mr Ó Gógáin claims that objectivity, impartiality and fairness and the authority of the State were undermined by RTÉ not using rewind technology to instantly clarify the precise term used by the first panellist. This edition of *The Frontline*, like all programmes, was recorded on two separate tapes – one a master recording and the second a “double-bank”, as back-up to the master. To rewind either tape during the programme would mean that that full copy of the programme has been lost and only one would now be complete. RTÉ must make certain to have a copy of every programme it transmits for archive reasons, research reasons and also quite often for legal and editorial reasons. Losing one of the only two copies available, therefore, is a considerable sacrifice because it means that if anything happens to the remaining tape before it has been copied, then the complete programme has been lost forever.

Of course, if this exchange had been judged to be a matter of very major editorial or legal significance then immediate consideration would certainly have been given to making this sacrifice. On this occasion, however, it was clear to the programme producers that the point was not one which urgently required to be clarified before the programme ended, particularly when the panellist who had first used the term in question was satisfied that his meaning had been conveyed. Had RTÉ Current Affairs received requests to clarify the matter on air the following Monday, or earlier, this could and would have been done, but no such requests were received.

Decision of the Compliance Committee:

The Committee considered the broadcast and the submissions from the complainant and the broadcaster. Following consideration of the material, the Committee decided to reject the complaint. In reaching this decision, the Committee took into account the following:-

- The Committee considered the programme in whole and in context.
- While noting that one panellist had incorrectly quoted a remark made by another panellist earlier in the programme, it was the view of the Committee that the wording referred to in the complaint was not germane to matters of fairness; having regard to the programme as a whole, it was the Committee’s view that it had no impact on the discussion or the fairness of the discussion.
- It was also the Committee’s view that that there was consensus by the panellists concerned on the intent of wording used during the programme and that audiences viewing would have been in a position to reach their own conclusion as to what the intent was.
- The Committee found no evidence to substantiate that part of the complaint relating to law and order.

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Complaint made by: Ms. Mollie Matthews

Ref. No. 32/13

Station:

TV3

Programme:

Tonight with Vincent Browne

Date:

30 January 2013

Complaint Summary:

Ms. Matthews' complaint is submitted under the Broadcasting Act 2009, 48(1)(a)(fairness, objectivity and impartiality in current affairs).

The complainant states that this programme did not seek to represent the views of former or current sex workers fairly. She states that only one anonymous former sex worker called "Mary", who spoke in support of the Ruhama/Turn Off the Red Light political campaign to criminalise the purchase of sex, was featured and 20 minutes of the programme was dedicated to her views.

The complainant was informed by sex workers, with very different views to "Mary" that they had contacted TV3 and made themselves available, but they were not invited to take part in the programme. The complainant states that, since the programme was aired, certain legal matters have come to light that call into question the suitability of this contributor. While the complainant appreciates that "Mary" may have worked as a prostitute herself, she finds it highly unfair that TV3 only gave a voice to "Mary" in this debate and feels that viewers should have been told about these legal matters.

The complainant states that "Mary" told a horrific story of abuse, describing herself only as a prostitute who worked for other parties described as madams and pimps that threatened her and controlled her. She said her partner took all the money she ever made and after that relationship broke up she was homeless and suicidal. She described being regularly raped and beaten and said she believes pimps probably murder some foreign women. She said she never encountered a woman who chose to work as a prostitute. She praised Ruhama multiple times, and said she found Ruhama through the Sunday World.

It upset the complainant that "Mary" said she was so appalling treated by the Gardaí and strongly maintained that if a sex worker were to be raped, battered, beaten, cut, and then went to the police station, that sex worker would then be arrested for being a prostitute. The complainant states that this is not true and it is a harmful myth which discourages people in sex work who are abused from going to police or seeking help.

The complainant states that it is of critical importance, especially in the case of foreign nationals who don't know Ireland, that constructive information is given out showing that there is help available to sex workers if they are being abused, not misinformation which creates fear of police and often results in sex workers feeling unable to go to the authorities no matter what happens to them. She also states that it is also dangerous to send the message out to the general public that sex workers can be abused and are not able to report that abuse, as abusive viewers may be encouraged to commit crime against sex workers on this basis.

The complainant thinks it is very wrong for viewers to be told heart-breaking and distressing stories, obviously designed to encourage the viewer to support a political campaign, without the full facts made clear.

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Broadcaster's Response:

Initial response to complainant:

TV3 did not respond to this complaint within 21 days.

Response to BAI:

TV3 states that as stated by Vincent Browne at the very outset of the broadcast, the interview with “Mary” was conducted in conjunction with the Oireachtas hearings on prostitution. Those Oireachtas hearings are being conducted by the Committee on Justice, Defence and Equality as part of an ongoing review of existing prostitution legislation in Ireland.

The discussion panel for the programme consisted of Sarah Benson, CEO of Ruhama who are in favour of such legislation and Paul Ryan, Lecturer in the Department of Sociology, NUI Maynooth and board member of Sex workers Alliance of Ireland who promote increased protection measures for those working the sex trade but do not believe the proposed legislation is the best way to achieve this. They were later joined by Glenna Lynch who was also opposed to criminalising the act of paying for sex on the grounds that it would drive prostitution further underground and thereby make it even more dangerous for those involved. Of the three people who contributed to the live studio broadcast, one was in favour of the proposed changes and two were opposed to them.

At no point did TV3 seek to “encourage the viewer to support a political campaign” rather it sought to inform the viewer about the key issues in the ongoing debate about how best to reform legislation.

TV3 assured “Mary” that her anonymity would be protected as a condition of her participation on the Show and they are not in a position to either confirm or deny her real identity or reveal any details that might do so indirectly.

TV3 interviewed “Mary” after approaching Ruhama to see if they were in a position to provide an appropriate person to discuss their experiences as a prostitute in Ireland. Ruhama is a Dublin-based NGO which works with women affected by prostitution and other forms of commercial sexual exploitation. It was established in 1989 and has over 20 years of expert experience working with those involved in prostitution. It was they who proposed “Mary” as an interviewee and they have assured us that they are satisfied that everything stated in the interview about her experiences as a prostitute is genuine. In approaching an established and well respected organisation such as Ruhama in order to source an appropriate interviewee TV3 acted responsibly.

Offering viewers an account of the dangers experienced by prostitutes in Ireland was an important part of helping them to understand the wider debate about whether or not the proposed legislation will alleviate or exacerbate those dangers.

Decision of the Compliance Committee:

The Committee considered the broadcast and the submissions from the complainant and the broadcaster. Following consideration of the material the Committee has decided to reject the complaint.

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In reaching this decision the Committee took into account the following:

- The Committee had regard to the programme as a whole.
- It noted that the context for the programme was hearings by an Oireachtas Committee on Justice, Defence and Equality being conducted as part of an ongoing review of existing prostitution legislation in Ireland. Therefore, it was the view of the Committee that there was a clear context for this discussion and it did not accordingly agree with the complainant that the programme was intended to encourage participation in a political campaign.
- The programme included contributors with a variety of views on the issue, including views on the issue of whether criminalising the purchasing of sex is desirable and the potential impact of such a change in legislation. This included views from Ruhama and the Sex Workers Alliance, representing views from both sides of the issue. It was the opinion of the Committee that any views expressed by 'Mary' were fairly counterbalanced by the other panel members during the course of the programme.
- The Committee was satisfied that this range of views coupled with the recording of the experiences of "Mary" and input from the programme presenter resulted in a programme that was in line with the requirements of fairness, objectivity and impartiality in news and current affairs.
- The Committee also had regard to the fact that the legal matters cited by the complainant which concern 'Mary' did not, according to the complainant, come to light until after the broadcast. Accordingly, the programme makers would not have been in a position to inform viewers of any such information. The Committee also noted that it is its role, when adjudicating complaints under section 48 of the Broadcasting Act 2009 to consider the programme 'as broadcast' rather than the production process of a given programme i.e. how the programme has been made.
- While acknowledging that further clarification, or a statement from An Garda Síochána, in relation to remarks made by 'Mary' regarding her alleged treatment by members of the An Garda Síochána may have been helpful, its absence did not, in itself, lead to unfairness or a lack of impartiality or objectivity. Such editorial decisions are a matter for the programme makers and broadcasters to determine, as is ensuring that programmes comply with all relevant laws and codes.
- In informing TV3 of its decision, the broadcaster will be informed of the Committee's dissatisfaction that TV3 had not responded to the original complaint within the timelines set out in its *Code of Practice for Complaints Handling*.

Broadcasting Complaint Decisions

Complaint made by: Mr. Vincent Holmes

Ref. No. 34/13

Station:
RTÉ One

Programme:
Prime Time

Date:
12 March 2013

Complaint Summary:

Mr. Holmes' complaint is submitted under the Broadcasting Act 2009, 48(1)(a)(fairness, objectivity & impartiality in current affairs). The complainant raises several issues regarding this programme which featured a video report followed by a panel and audience discussion on the success or failure of policy in relation to the Irish language. The complainant claims the following:

- The item was negatively front-loaded;
- It disparaged the language from the start and went downhill after that;
- Even "positive" audience participation, using pre-selected people was negative;
- The constant repetition of "compulsory" in relation to the teaching of the Irish language reinforced the thrust of the presentation;
- The programme was "sold" on the basis that it would be a two item programme and adequate time given. Adequate time was not given and it was a three item programme. The "promo" broadcast the previous night suggested it would be a programme given entirely to Irish;
- The Minister, guest, was consistently harangued;
- The other "favourably disposed to Irish" guest was invited to comment lastly and given little time;
- The item was peremptorily curtailed and in the complainant's view, a disgruntled audience, both in the studio and as viewers, were short changed;
- As a general comment, the complainant states that the language was less than favourably treated and that a negative bias pertained.

The complaint further adds that if you start off on a negative as this programme did, instead of an impartial introductory comment, a tone or trend is predetermined for the item. The complainant claims that the viewer gets the initial negative charge and the die is cast. This, he states, is the most serious aspect of his complaint.

The complainant also questioned the independence of one of the panellists and he queried whether this selection represented a conflict of interest given that this panellist is also employed by RTÉ to present a radio programme.

Broadcaster's Response:

Initial response to complainant:

RTÉ state that their report was balanced, well-constructed and told in an accessible way. It featured a wide range of views, including Kevin de Barra's criticism of the government and Muireann Ní Mhoráin's criticism of RTÉ. Asking whether 90 years of compulsory Irish have failed is very much a valid proposition for a debate and this is a debate programme. RTÉ does not believe that the Irish language or official policy on it should be beyond question.

Response to BAI:

RTÉ states that the video report looked at the nature and cost of public policy in respect of the promotion of the Irish language. Five of the seven contributors to the report were clear supporters of the promotion of the language though in some cases critical of the success of strategies adopted. They were: Kevin de Barra, Comdhail Naisiunta na Gaeilge; Muireann Ní Mhóráin - Comhairle um Oideachas Gaeltachta agus Gaelscolaíochta; Orlaith Ruiséal, Tús Maith Scheme; teacher Fergal Ó Sé; and School Principal Pádraig Firtéar. One speaker – Professor Colum Kenny of DCU – questioned the purpose of TG4 in the context of media services to the language. (Expressing a contrary view, Kevin de Barra said that such Irish language services were an entitlement.) One speaker – journalist Declan Lynch – appeared to disagree with the principle of having any public policy in relation to the language.

The subject of the video report was very clearly not the language itself but the appropriateness and success or failure of public policy in relation to it; the great majority of the interviewees were speaking as supporters of the language and its cultural importance.

Similarly, in the audience discussion which followed the report, all three speakers were supportive of the language but questioned aspects of public policy. Daniel Bride expressed his support of TG4 and other initiatives but questioned the translation of state papers; Jamie Stafford spoke against having the language as a compulsory school subject and said that he believed it would be better served by being optional; and Muiris Ó Fiannachta said that those who criticise the Irish language policy in this country have a point and that we need to do more, that the Irish language is an integral part of our culture and national identity and that there is a question as to whether some of the resources put into the language by the State are being put into the right places.

In the panel discussion, all three participants welcomed the language being supported by the State. One, the journalist Brenda Power, was critical of the nature of that support, including compulsion. But even that criticism was nuanced, for example by her saying that every school should have an hour a day taught through Irish; she also spoke in favour of incentivising learning of the language. Minister of State at the Department of Arts, Heritage and the Gaeltacht, Dinny McGinley T.D., spoke strongly in favour of the language and current support policies. Professor Briona Nic Dhiarmada of Notre Dame University spoke in favour of state support for the language while acknowledging that its success was imperfect but, for example, speaking strongly and clearly in favour of the language being a compulsory school subject.

The presenter's role throughout was to ask questions to facilitate, prompt and move forward the discussion. She did so in an unbiased, fair and impartial manner.

Finally, the number of items in the entire programme would not appear relevant to the issue of fairness, impartiality or objectivity. It is true that a breaking story resulted in a third item, as happens in current affairs. Nonetheless, at twenty-four minutes, the item was substantial and allowed a very full discussion.

Broadcasting Complaint Decisions

Decision of the Compliance Committee:

The Committee considered the broadcast, and the submissions from both the broadcaster and the complainant. Following consideration of this material the Committee decided to reject the complaint. In reaching this decision, the Committee took into account the following:-

- The Committee noted that the item set out to examine whether Irish language policy is effective and to discuss with a panel and audience the success or otherwise of policy in this area and the position of Irish language in our culture. This focus was clear to the audience at the outset.
- The initial pre-recorded item set out to critically examine this issue and, while noting that the introduction to the piece could be considered in parts to be negative, this rhetorical style can and is used as a common device to illicit debate on a matter. This approach is in keeping with the style of Prime Time and in line with audience expectations for this programme, which is debate-focused. The Committee noted that a critical examination of a topic where difficult and challenging questions are asked is not in itself evidence of a lack of fairness, objectivity and impartiality.
- The Committee had regard to the programme item as a whole, taking into account the pre-recorded item and the debate that followed. Having considered the totality of the programme, the Committee was of the view that it included a fair, objective and impartial discussion on the Irish language where varying viewpoints were expressed, including discussion on policy issues such as the compulsory teaching of Irish.
- The Committee had regard only to the content as broadcast and the amount of time afforded to the debate and the number of items in the programme is an editorial matter for the broadcaster.
- The Committee considered the issue raised by the Complainant in relation to the independence of one member of the panel. This element of the complaint was rejected by the Committee as it was of the view that there was no evidence to support the view of the complainant.

Resolved at Executive Complaints Forum

Complaint made by: Mr. Joseph Bridges

Ref. No. 39/13

Station:
RTÉ Radio 1

Programme:
Drivetime

Date:
15 February 2013

Complaint Summary:

Mr. Bridges' complaint is submitted under the Broadcasting Act 2009, Section 48(1)(a)(fairness, objectivity and impartiality in current affairs).

The complainant states that while listening to the news stories on Drivetime, he listened to what he describes as "a rant of hate" from the radio columnist Paddy Duffy. The complainant states that the presenter's suggestion in his radio broadcast that the Pope had "almost exclusively spent his papacy" going around the world and "bluntly pointing out other's flaws without any regard for people's feelings" is untrue and factually incorrect.

The complainant states that the inaccuracies continued later in the item with the suggestion that the Pope had said that the issue of women priests was the "real grave crime we should be worrying about". The complainant states that such a word as "crime" was obviously never used by the Pope.

The complainant states that the misrepresentation of the Pope's legacy then became both offensive and ridiculous with the presenter's use of imagery of the Pope flinging the "papal vinegar around the world". The complainant states that the presenter continued in this offensive vein with a personal attack on the Pope saying he revelled in "his own surly obstinacy".

The complainant queried the appropriateness of the column being broadcast on the week that a significant world and religious leader announced their resignation on health grounds. He states that the "humour" within the piece was sarcastic and disrespectful of the person and the position they hold. He states that he would be surprised if any flagship current affairs programme would carry a column with similar humour in the weeks when other high profile leaders resigned for health reasons or came to the end of their terms, especially if the leader was one who was admired and highly regarded by the listeners as the retiring Pope was.

The complainant further states that such sarcastic half-humour might be expected on a programme designed to poke fun at all figures of authority and respect, but that is not what he expects when he tunes in to "current affairs". Furthermore, the complainant believes it indicates poor judgement from RTÉ's editorial team to allow such a piece to air.

Broadcaster's Response:

Initial response to complainant:

RTÉ states they are sorry the complainant did not like Friday's column from Paddy Duffy. This item is clearly flagged as an opinion piece in a slot that is rotated between a range of commentators. RTÉ does not agree with description of the piece as a "rant of hate"; rather, knowing Mr. Duffy, they might describe it as a passionate piece from a disillusioned believer.

Response to BAI:

RTÉ states that the complainant characterises as inaccuracy the columnist's viewpoint on Pope Benedict's papacy. Mr Duffy is clearly offering an impression of the former Pope's activities as a way of conveying his opinion not stating a matter of fact.

The complainant states that Mr. Duffy's use of the word 'crime' in relation to the issue of women priests was also inaccurate in that the Pope has never used the word in relation to women priests. Mr. Duffy never ascribed the word 'crime' to the Pope but used it to offer an interpretation of the Pope's view on women priests. Those views are on the record, for example in his Holy Thursday sermon of 2012 where the Pope said that those calling for women's ordination were challenging the "definitive decisions of the Church's magisterium" and cited a 1994 document by John Paul II, which stated that the ban on women priests was part of the Church's "divine constitution".

The complainant claims that the "misrepresentation of the Pope's legacy" was "offensive and ridiculous" and contained "a personal attack on the Pope saying he reveled in his own surly obstinacy." Mr. Duffy's view in his opinion column was certainly different to that of the complainant and probably of many other Roman Catholics; however that does not in itself make it offensive.

There was no personal attack on the former Pope; the reference by Mr. Duffy to "surly obstinacy" was to the public statements of Pope Benedict. The complainant is correct when he says that the column contained sarcasm; this is not an unusual or inappropriate device in a personal view of a public event, situation or figure and is not in itself offensive.

The complainant might not deem it respectful, in the way that he and others who would agree with him would be respectful, to criticise public positions held by the former Pope. However, such challenging of authority is an appropriate element of an opinion piece such as the *Drivetime* Friday Column and a necessary contribution to democratic public discourse.

The *Drivetime* Friday Column achieves fairness, objectivity and impartiality in the context of a forum for opinionated, thought-provoking interventions in current public debate through its balancing of a range of views over time. In the context of Mr. Duffy's column and the papal resignation, this was achieved through the warm tribute to Pope Benedict given by Michael Kelly, Editor of *The Irish Catholic*, in his Friday Column of Friday 1st March 2013, demonstrating the programme's commitment to a diversity of opinions and the balancing of the position taken by Paddy Duffy.

Decision of Executive Complaints Forum:

- The Forum noted that the complaint related to the Friday Column by Paddy Duffy during *Drivetime* whose subject was the resignation of Pope Benedict XVI. The complainant felt that the column was inaccurate and offensive and that the "humour" within the piece was sarcastic and disrespectful of the Pope and the position held by him.

Broadcasting Complaint Decisions

- The Forum noted that this “opinion piece” is a regular Friday feature and was clearly signposted as such. Regular listeners to the programme would be familiar with the feature and the audience expectation would be based around an opinion piece format. The format is one where a contributor expresses his or her view on a subject matter. The style of presentation may vary depending on the contributor selected and/or the subject matter.
- The Forum noted that this is an opinion piece expressed from the point of view of the contributor and does not represent the views of the broadcaster. The forum noted that the style adopted could be considered by some listeners to be slightly sarcastic or by others to be humorous in nature. The forum had to consider the piece in its entirety and did not consider the matters raised by the Complainant to be likely to cause undue offence or that the gravity of any of the alleged inaccuracies was such as to cause unfairness in the context of an opinion piece.
- The Forum noted and reviewed a related broadcast of 1st March presented by Michael Kelly, Editor of the Irish Catholic. This provided an alternative viewpoint on the papacy of Pope Benedict. This also was in the form of an opinion piece that was broadcast on the same radio programme and was signposted in advance. Taking both broadcasts into consideration and the complaint material, the Forum was of the view that the complaint did not raise issues that required further consideration and, accordingly, the complaint was deemed resolved.

