



ÚDARÁS
CRAOLACHÁIN
NA hÉIREANN

BROADCASTING
AUTHORITY
OF IRELAND

Broadcasting Authority of Ireland

Broadcasting Complaint Decisions

February 2013

Broadcasting Complaint Decisions

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 of the Broadcasting Authority of Ireland (BAI). In line with the BAI's complaints handling process, the viewer or listener should direct their complaint to the broadcaster in the first instance. If a viewer or listener is not satisfied with the response from the broadcaster or if the broadcaster does not respond within the timeframe specified in their *Code of Practice for Complaints Handling*, usually 21 days after receipt of complaint, 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 the 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.

- This publication records the decisions of the Compliance Committee's meeting of January 2013.
- The Compliance Committee upheld three complaints in full and five complaints in part. The Committee rejected two complaints.

Further information on the BAI's complaints handling process can be found on www.bai.ie or by phoning 01 644 1200.

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Upheld by BAI Compliance Committee

Complaint made by: Mr. Paul Bourke

Ref. No. 90/12

Station:
TV3

Programme:
Ireland AM

Date:
22 August 2012

Complaint Summary:

Mr. Bourke's complaint is submitted under the Broadcasting Act 2009, section 48(1)(a)(fairness, objectivity & impartiality in current affairs). The complainant states that during a segment of the programme, an interviewee highlighted the reasons why she believed women travelled abroad to procure an abortion, and insisted, in a manner that the complainant states was unchallenged by the programme presenters, on the inconsistency that these women were indeed pro-life as well as being pro-choice. The complainant claims that the presenters mused as to whether the Irish people were ready or, indeed, are now civilised enough, to allow for the introduction of abortion into this jurisdiction. The complainant also states that the presenters also appeared to indicate that any future debate may be nasty and made references to images of aborted fetuses etc. The complainant states that he was deeply offended by this item and felt the pro-life view was being maligned with the taint of nastiness and uncivilised behaviour. The complainant found the programme to be lacking in fairness, objectivity and impartiality, particularly as there was nobody to represent the opposing side of the debate - which he states is the view of the majority of the population as determined by previous referenda on the issue of abortion.

Broadcaster's Response:

Initial response to complainant:

TV3 states that the segment in question focused on one woman's experience and her personal feelings on abortion. It was not intended to be a general discussion on abortion. TV3 further states that they have a statutory obligation to be objective and impartial when covering issues of public interest. However, this impartiality can be shown across a series of programmes. As mentioned at the end of the segment, the Ireland AM team intend to have a discussion with representatives from both points in the near future.

Response to BAI:

TV3 states that the guest in question stated that she felt that an honest debate should be opened up between both sides. She also stated that she did not believe she would have opted for an abortion had she been in that situation. The presenter also made it clear that she was not promoting either side of the issue. That made it clear that TV3 would be broadcasting other segments in relation to the matter. The issue was addressed again in a segment on Ireland AM on Wednesday 24th October 2012 where the previous interview was raised with a member of pro-life group, The Life Institute. TV3 attempted to organise an interview with a member of the pro-life movement prior to this date. They were unable to secure an interview with an appropriate representative until 24th October.

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Decision of the Compliance Committee:

The complaint concerns a broadcast of Ireland AM on TV3. The complaint is submitted under the Broadcasting Act 2009, section 48(1)(a)(fairness, objectivity & impartiality in current affairs). The complainant states that during a segment of the programme, an interviewee highlighted the reasons why she believed women travelled abroad to procure an abortion, and insisted, in a manner that the complainant states was unchallenged by the programme presenters, on the inconsistency that these women were indeed pro-life as well as being pro-choice.

The complainant claims that the presenters mused as to whether the Irish people were ready or, indeed, are now civilised enough, to allow for the introduction of abortion into this jurisdiction. The complainant also states that the presenters also appeared to indicate that any future debate may be nasty and made references to images of aborted fetuses etc. The complainant states that he was deeply offended by this item and felt the pro-life view was being maligned with the taint of nastiness and uncivilised behaviour. The complainant found the programme to be lacking in fairness, objectivity and impartiality, particularly as there was nobody to represent the opposing side of the debate - which he states is the view of the majority of the population as determined by previous referenda on the issue of abortion.

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

- The Broadcasting Act 2009 permits a broadcaster to achieve the fair, objective and impartial treatment of current affairs across a number of programmes where it is not practical to do so in one programme. In this regard, the broadcaster argued that a second broadcast, aired on 24th of October and which featured an interview with a person with a 'pro-life' perspective, served to ensure that the aforementioned statutory news and current affairs requirements were met. It was the Committee's view that while the broadcast of the 24th of October included extracts from the programme of the 22nd August, about which the complaint is being made, too much time had elapsed between the first and second broadcasts to consider them related broadcasts for the purpose of the Act. For this reason, the Committee considered only the broadcast of the 22nd August 2012.
- While noting that the interview was contextualised with reference to the interviewee's personal history, the Committee found that the large majority of the interview did not deal with the interviewee's personal experiences but rather with issues pertaining to the political, legal and social aspects of the abortion question. Taking this into account, and also noting that the issue is a matter of current public debate and controversy, the Committee determined the content to be current affairs. Therefore, the broadcaster was required to ensure that the treatment of the item was fair, objective and impartial.
- In this context, it was the view of the Committee that the programme presenters did not adequately challenge or investigate the views of the interviewee and as a result the discussion was not fair to the interests of viewers.

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Furthermore, it was the view of the Committee that the questions asked during the interview were phrased in a manner that a viewer would reasonably understand to denote sympathy for the views of the interviewee on this current affairs issue. However, the complainant's comments regarding what might or might not be considered to be the view of the majority of the Irish people were not considered relevant in arriving at the Committee's view.

- For these reasons, the Committee has upheld the complaint.

Broadcasting Complaint Decisions

Complaint made by: Mr. Paul Rossiter

Ref. No. 113/12

Station:

TV3

Programme:

Tonight with Vincent Browne

Date:

23 October 2012

Complaint Summary:

Mr. Rossiter's complaint is submitted under the Broadcasting Act 2009, section 48(1)(a)(fairness, objectivity & impartiality in current affairs). The complainant states that on the programme, the presenter made the following statements when referring to the State of Israel:

- It was "the cancer in foreign affairs".
- Israel "polarises the Islamic community of the world against the rest of the world".
- ...with the creation of Israel the Jews "stole the land from the Arabs".

The complainant finds these comments deeply offensive and regards them as anti-Semitic and they are indefensible coming from a journalist who is supposed to show objectivity.

Broadcaster's Response:

Initial response to complainant:

TV3 states that they have investigated the complaint lodged by Mr. Rossiter and have brought his concerns to the attention of Vincent Browne. TV3 notes that in response to complaints, Vincent Browne clarified the remarks he made regarding the State of Israel at the beginning of his programme on 25th October. TV3 also state that they have arranged for an appropriate representative of the State of Israel to join Vincent Browne on his programme in the coming weeks to discuss his recent remarks. TV3 regrets any offence caused to viewers of the programme.

Response to BAI:

TV3 states that Vincent Browne's comments were not anti-Semitic. Mr. Browne was referring to the problematic relationship between the State of Israel and its neighbours in the Middle East. Mr. Browne further clarified this statement on the 25th October, where he stated that he was not anti-Semitic and was referring to Israel's foreign policy. TV3 states that the comments made by Vincent Browne were isolated and did not contain any call to action. Mr. Browne clarified his comment in the same forum at the earliest opportunity possible.

TV3 have engaged with the Israeli Diplomatic Mission to arrange an appropriate representative to discuss the comments made. TV3 points out that arranging a suitable representative takes some time and, furthermore, there were Referendum topics and a debate scheduled for discussion on Tonight with Vincent Browne in the interim.

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Decision of the Compliance Committee:

The complaint concerns a broadcast of the Tonight with Vincent Browne programme on TV3. The complaint is submitted under the Broadcasting Act 2009, section 48(1)(a)(fairness, objectivity & impartiality in current affairs). The complainant states that on the programme, the presenter made a number of statements dealing with the State of Israel that the complainant found deeply offensive, anti-Semitic and indefensible for a journalist whose responsibility is to show objectivity in the treatment of current affairs. The statements cited by the complainant were comments by the presenter that the State of Israel is "the cancer in foreign affairs", that Israel "polarises the Islamic community of the world against the rest of the world" and that with the creation of Israel the Jews "stole the land from the Arabs".

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

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

- Broadcasters have discretion as to the approach to be taken by a programme and the style of presentation to be adopted, in respect of the treatment of news and current affairs. Such treatment can be challenging, robust and lively and the Committee noted that the programme about which the complaint has been made is characterised by lively and sometimes controversial debate.
- This discretion must be accompanied by proper compliance with the requirements, as set down in the Broadcasting Act 2009, that the treatment of news and current affairs, including matters of public controversy or debate, be handled in a fair, objective and impartial manner. Upon review of the broadcast, it was the Committee's view that this standard had not been met.
- In particular, it was the Committee's view that a critical examination of the relationships between the State of Israel and its neighbouring countries and the impact of those relationships on local, regional and geo-politics is a legitimate subject for discussion on a news and current affairs programme.

However, it was the view of the Committee that the references by the programme presenter to the State of Israel during the programme were included without any apparent context or relevance to the discussion of the then forthcoming Presidential election in the United States of America, the focus of the programme.

Furthermore, it was the view of the Committee that the remarks constituted an editorial statement by the presenter that was not balanced by contributions from the programme guests. The item was therefore deemed to have failed to meet the requirement for fair, objective and impartial treatment of news and current affairs.

- Regarding that element of the complaint whereby the complainant stated that the presenter's remark were anti-Semitic, it was the Committee's view that this element of the complaint was not substantiated by the programme content and that there was nothing to indicate that the remarks made were of this nature.

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Complaint made by: Mr. William Nolan

Ref. No. 114/12

Station:
TV3

Teleshopping:
Psychic Readings Live

Date:
29 October 2012

Complaint Summary:

Mr. Nolan's complaint is submitted under the Broadcasting Act 2009, section 48(1)(d)(*General Commercial Communications Code*): section 8.10.4 (health matters). The complainant states that during the broadcast a viewer called and asked about her friend who is currently suffering from cancer. The complainant states that the host, Theo, replied "I am not a doctor, but I see no complications with your friend. It will be good in the next two months. I see victory in the future. There will be no tragedy here". The complainant states this is a blatant and disgusting breach of the BAI's Codes, which strictly forbids discussion of medical issues during commercial communications for psychic services. Given that complaints regarding cancer being discussed on the show were only recently upheld by the BAI, the complainant states that he is shocked that there has been such a similar breach so soon.

Broadcaster's Response:

Initial response to complainant:

TV3 states they have informed the producers that matters relating to health cannot be discussed on air. However, due to the exigencies of live broadcasting sometimes the presenters attempt to answer a question without mentioning the health issue, to ensure that the caller gets a reading. TV3 will reiterate to the presenters again that they cannot comment on any matters relating to health under any circumstances. TV3 regrets any offence or distress caused to Mr. Nolan and other viewers.

Response to BAI:

TV3 states with respect to the service generally, they have made every effort to ensure that the service complies with the relevant BAI and ComReg Codes. In relation to Mr. Nolan's specific complaint regarding health issues being discussed, TV3 notes that the psychic in question did not discuss the caller's health issue but gave him a general reading regarding the caller's issues. The psychic did not mention health at any stage. TV3 also points out that a strap at the top of the screen states at all times that this is an Entertainment Service. This is also included in the scrolling text and callers are informed of this by automated message when they call the service.

Decision of the Compliance Committee:

The complaint concerns a broadcast of Psychic Readings Live on TV3. The complaint is submitted under the Broadcasting Act 2009, section 48(1)(d)(*General Commercial Communications Code*): section 8.10.4 (health matters). The complainant states that during the broadcast a viewer called and asked about her friend who is currently suffering from cancer. The complainant states that the host, Theo, replied "I am not a doctor, but I see no complications with your friend. It will be good in the next two months. I see victory in the future. There will be no tragedy here". The complainant states this is a blatant and disgusting breach of the BAI's Codes, which strictly forbids discussion of medical issues during commercial communications for psychic services. Given that complaints regarding cancer being discussed on the show were only recently upheld by the BAI, the complainant states that he is shocked that there has been such a similar breach so soon.

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

- Section 8.10.4 of the BAI General Commercial Communications Code prohibits the inclusion in commercial communications for psychic services of any references to health matters.
- The Committee noted that the broadcast included comment upon and advice in respect of a health matter, specifically in relation to caller's query about her friend's cancer diagnosis. Accordingly, the content was considered to be contrary to the requirements of section 8.10.4 of the BAI General Commercial Communications Code.

Upheld in Part by the BAI Compliance Committee

Complaint made by: Mr. Brian J. More

Ref. No. 96/12

Station:

TV3

Teleshopping:

Psychic Readings Live

Date:

16 September 2012

Complaint Summary:

Mr. More's complaint is submitted under the Broadcasting Act 2009, section 48(1)(d)(General Commercial Communications Code: sections 3.1.1 and 3.1.4 (protecting the individual and society), 3.4.1 (compliance) and 8.10.2 (fortune tellers, psychic services)). The complainant states that the psychic 'forgot' to say that predictions were an opinion. The complainant also refers to the following comments from the psychic during this broadcast where the complainant states the presenter failed to inform the viewer that questions regarding health could not be taken:-

...we are welcoming **any** question this morning.
...will take **any** question.
...we can take a look at **anything** - we are taking **any** question.
...I will take **any** question because I'm feeling brave.
...we are taking **any** questions this evening.
...I will take **any** question because I'm feeling extremely brave.
...we're taking **any** questions this evening.
...we're taking **any** questions this evening; **any** questions.
...I'm taking **any** question.
...we've got answers for **everything**, okay.
...and love to take **any** question from you.

The complainant states that at no time did the psychic qualify these statements by saying questions about health cannot be taken and the failure to do so gave the impression that asking any question, including those in relation to health, was acceptable whereas such questions are prohibited by the BAI General Commercial Communications Code.

Broadcaster's Response:

Initial response to complainant:

TV3 states they have gone to great lengths to ensure that this service is fully compliant with all appropriate regulation. As this is a live service, it is difficult for the presenters to state, at all times, that statements are made in their opinion. Nevertheless, they do say it on a regular basis. In order to ensure viewers are informed to the fullest possible extent of the nature of the service, the service provider has added a statement to the strap at the bottom of the screen stating that all statements are a matter of opinion. The strap also states that health issues cannot be discussed on air. This service is clearly marked as an entertainment service at all times and all relevant information is made clear to viewers in the onscreen straps, in a recorded message for callers and in the online terms and conditions.

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Response to BAI:

TV3 states they meet all regulatory requirements for a service of this nature, from both the broadcasting and telecommunications regulators. The broadcast is clearly identified as an 'Entertainment Service' at all times and such notification is in accordance with appropriate regulation. With respect to Mr. More's complaint regarding the 'Ask Anything' notification, TV3 points out that this is to differentiate between different segments of the show when only specific types of questions can be asked i.e. 'yes' or 'no'. Mr. More refers to the scrolling text at the bottom of the screen and TV3 notes that the Codes do not require a notification on screen that health issues may not be discussed on air. However, TV3 requested this in order to ensure that viewers were aware of this fact. This is also stated by the psychics whenever someone attempts to ask a health related question and it is also available in the terms and conditions relating to the service on the website.

Decision of the Compliance Committee:

The complaint concerns a broadcast of Psychic Readings Live on TV3. The complaint is submitted under the Broadcasting Act 2009, section 48(1)(d)(General Commercial Communications Code: sections 3.1.1 and 3.1.4 (protecting the individual and society), 3.4.1 (compliance) and 8.10.2 (fortune tellers, psychic services)). The complainant states that the psychic 'forgot' to say that predictions were an opinion. The complainant also refers to the following comments from the psychic during this broadcast where the complainant states the presenter failed to inform the viewer that questions regarding health could not be taken. Examples include:-

- ...we are welcoming **any** question this morning.
- ...will take **any** question.
- ...we can take a look at **anything** - we are taking **any** question.
- ...I will take **any** question because I'm feeling brave.

The complainant states that at no time did the psychic qualify these statements by saying questions about health cannot be taken and the failure to do so gave the impression that asking any question, including questions in relation to health, was acceptable whereas such questions are prohibited by the BAI General Commercial Communications Code.

The Committee considered the broadcast, the submission from the complainant and the submission from the broadcaster. Having considered the material, the Committee has decided to **uphold the complaint in part**. In reaching this decision, the Committee took into account the following:

- The broadcaster, when airing content relating to psychic services is required to comply with a range of rules and requirements as set out in the BAI General Commercial Communications Code. This includes the requirements set out in section 3 of this Code, including the requirement that commercial communications, such as Psychic Readings Live, are honest, legal, decent and honest and protect the interests of citizens and individuals.
- In this context, the Committee considered the "Ask Anything" element of the broadcast and noted that terms, conditions and limits are commonly associated with the sale of a service.

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Therefore, the key consideration for the Committee is whether the presentation of the broadcast was such that a viewer would have been unclear about this element of the broadcast.

- Upon review of the broadcast, the Committee noted that the broadcast did not deal with health matters. Taking this and the previous point into the consideration, the Committee was satisfied that the interests of the callers would not have been compromised in the manner argued by the complainant.
- In terms of other aspect of the complaint, Section 8.10.2 of the General Commercial Communications Code states that such communications may only make claims that future events may be predicted as a matter of opinion. As such, this section of the Code prohibits such communications from selling a service which purports to foretell future events as a matter of fact. Such services are prohibited on the basis that any such claim is considered to be untrue and misleading. The Committee noted from its review of the broadcast that on almost no occasion did the presenter indicate that the views offered were only opinions.

Accordingly, it was the Committee's opinion that viewers would have reasonable understood the predictions to be statements of fact about future events rather than statements of the presenter's opinions as to what the future might hold for the callers to the service. Accordingly the broadcast was deemed not to have complied with section 8.10.2 of the BAI General Commercial Communications Code.

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Complaint made by: Ms. Leah Burgess

Ref. No. 122/12

Station:

TV3

Teleshopping:

Psychic Readings Live

Date:

19 November 2012

Complaint Summary:

Ms. Burgess' complaint is submitted under the Broadcasting Act 2009, section 48(1)(d)(*General Commercial Communications Code*): section 3.1.1 (protecting the individual and society); 8.6 (slimming treatments) 8.10 (fortune tellers/psychic services); 8.10.4 (health matters).

The complainant states that a caller requested help to motivate her with weight loss. The complainant states that the psychic stated "I lost my weight by cosmic ordering". The psychic then advised drinking hot water and lemon. Ms. Burgess claims that this is advice on a health issue and could lead to harm if followed. The complainant states that there is no scientific proof that weight loss is down to drinking hot water and lemon or by cosmic ordering. When the call ended the complainant states that the psychic spoke about her own weight loss by cosmic ordering and then suddenly changed the topic and stated that if the caller was still listening she should consult a doctor about weight loss. The complainant claims that at this point it was clear that health had been discussed and they were now trying to backtrack by advising the caller to seek medical advice. The complainant states that the matter of health has come up a number of times on this show over the months and it would appear that code 8.10.4 is not taken seriously. Despite four complaints being up by the BAI and two statements broadcast, yet health matters are still being discussed on air.

The complainant also refers to a caller who told of missing her mother who passed away and was advised to communicate with her angels and ask her angels for what is called a calling card. The complainant claims medium-ship is communicating with the deceased and such claims are not permitted under the BAI General code. At no time did the psychic tell the caller that she could not discuss this subject.

Broadcaster's Response:

Initial response to complainant:

TV3 states that with regard to the psychic doing an angel card reading for the caller, she did not make contact with the deceased persons. In fact she did not mention the caller's mother apart from expressing sympathy for the caller's loss. Angel card readings are general readings of guardian angels and can refer to angels such as Archangel Michael etc. and not to deceased family members. There was no "contact" made with any deceased person.

With respect to the psychic saying that the caller should drink hot water with lemon, this is a well known cleansing drink and is often used by psychics and holistic therapists. The psychic was simply relating a story about her own weight loss, it was not a cure or a discussion of health matters.

TV3 state that callers are clearly made aware of the nature of the service both through the "Entertainment Service" notification and through the information strap at the bottom of the screen. Any callers who seem to be particularly distressed or vulnerable are provided with the helpline numbers of organisation that may be in a position to assist them after the on-air call.

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Response to BAI:

TV3 states that with regard to the psychic doing an angel card reading for the caller, she did not make contact with the deceased persons. In fact she did not mention the caller's mother apart from expressing sympathy for the caller's loss. Angel card readings are general readings of guardian angels and can refer to angels such as Archangel Michael etc. and not to deceased family members. There was no "contact" made with any deceased person.

The complainant states that the psychic made claims relating to health matters. While the psychic commented on the caller drinking hot water with lemon, TV3 claim that this is a well-known cleansing drink and is often used by psychics and holistic therapists. The psychic was simply relating a story about her own weight loss, it was not a cure or a discussion of health matters. Furthermore, to avoid any claims that she was giving health advice, the psychic later stated that the caller should discuss matters of that nature with a doctor.

Decision of the Compliance Committee:

The complaint concerns a broadcasts of TV3's Psychic Readings Live. The complaint is submitted under the Broadcasting Act 2009, section 48(1)(d)(*General Commercial Communications Code*): section 3.1.1 (protecting the individual and society); 8.6 (slimming treatments) 8.10.1(fortune tellers/psychic services); 8.10.4 (health matters).

The complainant states that a caller requested help to motivate her with weight loss. The complainant states that this is advice on a health issue and could lead to harm if followed and is contrary to the prohibition on references to health during commercial communications for psychics and contrary to the rules applying to slimming services, as well as the general rules of the BAI's commercial code. The complainant also refers to a part of the broadcast where a caller was advised to communicate with her angels and ask her angels for what is called a 'calling card', so as to communicate with her deceased mother, contrary to the rules pertaining to psychic services.

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

- Commercial communications for psychic services are acceptable once they comply with the specific rules applying to psychic services and any other relevant section of the BAI General Commercial Communications Code.
- In this regard, Section 8.10 of this Code prohibits the inclusion during commercial communications for psychic services of references to health matters or references to contacting the deceased. Section 8.6 of the Code stipulates a number of rules in respect of slimming services.
- Regarding that aspect of the complaint dealing with whether the broadcast included reference to contacting the deceased; the Committee has decided to uphold this part of the complaint. It was the Committee's view that the presenter's reference to angels and a 'calling card' were references to communication with the deceased via angels, contrary to section 8.10 of the Code.

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- Regarding that aspect of the complaint dealing with slimming, it is the Committee's view that slimming constitutes a health matter. Accordingly, the Committee's view was that the reference to slimming in the commercial communication was contrary to the requirements of section 8.10.4 of the BAI's Commercial Communications Code. However, while the reference was to slimming, the reference did not constitute a commercial communication for a slimming product or services and for this reason that part of the complaint relating to 8.6 of the Code was not upheld. For this reason, that part of the complaint relating to section 3.1.1 was also not upheld.

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Complaint made by: Mr. Eddie Naughton

Ref. No. 111/12

Station:

TV3

Programme:

Tonight with Vincent Browne

Date:

23 October 2012

Complaint Summary:

Mr. Naughton's complaint is submitted under the Broadcasting Act 2009, sections 48(1)(a)(fairness, objectivity & impartiality in current affairs) and 48(1)(b)(law & order). The complainant states that during a discussion about the American Presidential Election, the presenter told his panel and the viewing public that the democratic State of Israel was a 'cancer' and that it alone was responsible for what the complainant describes as the "Islamists'" attitude to the West. The complainant states that the programme implied that responsibility for acts of terror carried out in the West by what he describes as "militant Muslims" rests with Israel. The complainant states this is an outrageous slander on the State of Israel and only encourages what the complainant describes as the more extreme elements within the Muslim community to carry out more acts of terror against Israel and the countries that support its right to exist.

Broadcaster's Response:

Initial response to complainant:

TV3 states that they have investigated the complaint lodged by Mr. Naughton and have brought his concerns to the attention of Vincent Browne. TV3 notes that in response to complaints, Vincent Browne clarified the remarks he made regarding the State of Israel at the beginning of his programme on 25th October. TV3 also state that they have arranged for an appropriate representative of the State of Israel to join Vincent Browne on his programme in the coming weeks to discuss his recent remarks. TV3 regrets any offence caused to viewers of the programme.

Response to BAI:

TV3 states that Vincent Browne was referring to the problematic relationship between the State of Israel and its neighbours in the Middle East. Mr. Browne further clarified this statement on the 25th October, where he stated that he was not anti-Semitic and was referring to Israel's foreign policy.

TV3 states that the comments made by Vincent Browne were isolated and did not contain any call to action. Mr. Browne clarified his comment in the same forum at the earliest opportunity possible. TV3 have engaged with the Israeli Diplomatic Mission to arrange an appropriate representative to discuss the comments made. TV3 points out that arranging a suitable representative takes some time and, furthermore, there were Referendum topics and a debate scheduled for discussion on Tonight with Vincent Browne in the interim.

Decision of the Compliance Committee:

The complaint concerns a broadcast of the Tonight with Vincent Browne programme on TV3. The complaint is submitted under the Broadcasting Act 2009, sections 48(1)(a)(fairness, objectivity & impartiality in current affairs) and 48(1)(b)(law & order). The complainant states that during a discussion about the American Presidential Election, the presenter told his panel and the viewing public that the democratic State of Israel was a 'cancer' and that it alone was responsible for what the complainant describes as the "Islamists'" attitude to the West.

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The complainant states that the programme implied that responsibility for acts of terror carried out in the West by what he describes as “militant Muslims” rests with Israel. The complainant states this is an outrageous slander on the State of Israel and only encourages what the complainant describes as the more extreme elements within the Muslim community to carry out more acts of terror against Israel and the countries that support its right to exist.

The Committee considered the broadcast, the submission from the complainant and the submission from the broadcaster. Following consideration of the material, the Committee has decided to **uphold the complaint *in part***.

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

- Broadcasters have discretion as to the approach to be taken by a programme and the style of presentation to be adopted, in respect of the treatment of news and current affairs. Such treatment can be challenging, robust and lively and the Committee noted that the programme about which the complaint has been made is characterised by lively and sometimes controversial debate.
- This discretion must be accompanied by proper compliance with the requirements, as set down in the Broadcasting Act 2009, that the treatment of news and current affairs, including matters of public controversy or debate, be handled in a fair, objective and impartial manner. Upon review of the broadcast, it was the Committee’s view that this standard had not been met.
- In particular, it was the Committee’s view that a critical examination of the relationships between the State of Israel and its neighbouring countries and the impact of those relationships on local, regional and geo-politics is a legitimate subject for discussion on a news and current affairs programme. However, it was the view of the Committee that the references by the programme presenter to the State of Israel during the programme were included without any apparent context or relevance to the discussion of the then forthcoming Presidential election in the United States of America, the focus of the programme.
- Furthermore, it was the view of the Committee that the remarks constituted an editorial statement by the presenter that was not balanced by contributions from the programme guests. The item was therefore deemed to have failed to meet the requirement for fair, objective and impartial treatment of news and current affairs.
- Regarding that element of the complaint relating to law and order, it was the view of the Committee that this element of the complaint was not substantiated by the programme content and that there were nothing to indicate that the programme was likely to promote or incite criminal activity.

Broadcasting Complaint Decisions

Complaint made by: Dr. David M. Abrahamson

Ref. No. 103/12 & 135/12

Station:

TV3

Programme:

Tonight with Vincent Browne

Date:

23 October 2012

25 October 2012

Complaint Summary:

Dr. Abrahamson's complaints are submitted under the Broadcasting Act 2009 section 48(1)(a)(fairness, objectivity & impartiality in current affairs) and section 48(1)(b)(law and order). The complainant states that on the programme of the 23rd October, the programme presenter made what the complainant characterises as an anti-Semitic outburst about the State of Israel per the European Union Agency for Fundamental Rights' working definition of anti-Semitism. The complainant also states that on 25th October, the presenter made reference to his comments of the 23rd but made matters worse by resorting to what the complainant describes as a well-known ploy of accusing his audience of misunderstanding his original assertions. The complainant states that the presenter clearly overstepped the mark of acceptable behaviour, as did, in his opinion, the management at TV3 who permitted the presenter's denial of any wrongdoing or offence.

Broadcaster's Response:

Initial response to complainant:

TV3 states that they have investigated the complaint lodged by Dr. Abrahamson and have brought his concerns to the attention of Vincent Browne. TV3 notes that in response to complaints, Vincent Browne clarified the remarks he made regarding the State of Israel at the beginning of his programme on 25th October. TV3 also states that they have arranged for an appropriate representative of Israel to join Vincent Browne on his programme in the coming weeks to discuss his recent remarks. TV3 regrets any offence caused to viewers of the programme.

Response to BAI:

TV3 states that Vincent Browne's comments were not anti-Semitic. Mr. Browne was referring to the problematic relationship between the State of Israel and its neighbours in the Middle East. Mr. Browne further clarified this statement on the 25th October, where he stated that he was not anti-Semitic and was referring to Israel's foreign policy.

TV3 have engaged with the Israeli Diplomatic Mission to arrange an appropriate representative to discuss the comments made. This representative will be chosen by the Israeli Diplomatic Mission and TV3. TV3 points out that arranging a suitable representative takes time and TV3 are actively working on this matter.

Decision of the Compliance Committee:

The complaints concerns two broadcasts of TV3's Tonight with Vincent Browne programme. The complaints are submitted under the Broadcasting Act 2009 section 48(1)(a)(fairness, objectivity & impartiality in current affairs) and section 48(1)(b)(law and order). The complainant states that on the programme of the 23rd October, the programme presenter made what the complainant characterises as an anti-Semitic outburst about the State of Israel. The complainant states that on 25th October, the presenter made reference to his comments of the 23rd but made matters worse by resorting to what the complainant describes as a well-known ploy of accusing his audience of misunderstanding his original assertions.

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The complainant states that the presenter clearly overstepped the mark of acceptable behaviour, as did, in his opinion, the management at TV3 who permitted the presenter's denial of any wrongdoing or offence.

The Committee considered the broadcast, the submission from the presenter and the submission from the broadcaster. Following consideration of the material the Committee has decided to **uphold the complaint *in part***. In reaching this decision, the Committee took into account the following:-

- Broadcasters have discretion as to the approach to be taken by a programme and the style of presentation to be adopted, in respect of the treatment of news and current affairs. Such treatment can be challenging, robust and lively and the Committee noted that the programme about which the complaints have been made is characterised by lively and sometimes controversial debate.
- This discretion must be accompanied by proper compliance with the requirements, as set down in the Broadcasting Act 2009, that the treatment of news and current affairs, including matters of public controversy or debate, be handled in a fair, objective and impartial manner. Upon review of the broadcast of the 23rd October, it was the Committee's view that this standard had not been met.
- In particular, it was the Committee's view that a critical examination of the relationships between the State of Israel and its neighbouring countries and the impact of those relationships on local, regional and geo-politics is a legitimate subject for discussion on a news and current affairs programme. However, it was the view of the Committee that the references by the programme presenter to the State of Israel during the programme of the 23rd October were included without any apparent context or relevance to the discussion of the then forthcoming Presidential election in the United States of America, the focus of the programme. Furthermore, it was the view of the Committee that the remarks constituted an editorial statement by the presenter that was not balanced by contributions from the programme guests. The item was therefore deemed to have failed to meet the requirement for fair, objective and impartial treatment of news and current affairs.
- Regarding the broadcast on the 25th, it was the Committee's view that the presenter's remarks constituted a statement of clarification. It was also the Committee's view the comments by the presenter were a reflection of his opinion on the criticisms arising from his comments of the 23rd and that it was legitimate for the presenter to make these comments. The Committee did not agree with the complainant that these remarks on the programme of the 25th lacked fairness, objectivity or impartiality or that the management of TV3 were complicit in any failure arising from this statement.
- Regarding that element of the complaint whereby the complainant stated that the presenter's remark were anti-Semitic, it was the Committee's view that this element of the complaint was not substantiated by the programme content and that there was nothing to indicate that the remarks made were of this nature or that they incited or promoted criminal activity. Accordingly, the element of the complaint relating to law and order was rejected.

Rejected by BAI Compliance Committee

Complaint made by: Mr. William Nolan
127/12

Ref. No.

Station:
TV3

Teleshopping:
Psychic Readings Live

Date:
24 November 2012

Complaint Summary:

Mr. Nolan's complaint is submitted under the Broadcasting Act 2009, section 48(1)(d) (*General Commercial Communications Code*): section 8.10.4 (health matters) and 3.4.4. (spirit and letter of code). The complainant states that at approximately 01.08 the host described a deck of cards as "healing" cards "helping you out of any situation". Then at approximately 01.10 after a long and protracted speech about how people throughout the ages have turned to tarot, the complainant states that the host went on to state "We can help you out with healing [...] we can help you out with any situation at all". The complainant further states that while the psychic did not specifically state that she was referring to medical healing, she did not state she couldn't deal with medical healing. It is the complainant's belief that this was left deliberately ambiguous so as to mislead viewers into calling in. The complainant states that Section 3.4.4 of the BAI Code requires that broadcasters comply with the "spirit" of the code, so regardless of whether she specifically said medical healing, the complainant claims that it is clear that viewers may easily have interpreted it as such given the overall context of the show.

Broadcaster's Response:

Initial response to complainant:

TV3 states that it is very common for psychics to refer to "healing" as a reference to spiritual healing. As stated by the complainant, there was no reference at all to medical healing. It states in the scrolling text at the bottom of the screen that health matters cannot be discussed. This is also stated on a regular basis by the presenters and it is stated in the terms and conditions of the service. TV3 believes the service complies with the "spirit" and the letter of the Code.

Response to BAI:

TV3 states that at no time was any mention made of health or medical healing. It is clear from the context of the broadcast that it was spiritual healing to which the psychic referred and that the cards were not intended to heal in any medical or health related way. This is terminology that is used by psychics and spiritual healers internationally and is generally accepted to mean spiritual healing. TV3 also state that a strap at the top of the screen state at all items that this was an Entertainment Service. This was also included in the scrolling text and callers were informed of this by automated message when they call the service.

Decision of the Compliance Committee:

The complaint concerns a broadcast of TV3's Irish Psychics Live. The complaint is submitted under the Broadcasting Act 2009, section 48(1)(d) (*General Commercial Communications Code*): section 8.10.4 (health matters) and 3.4.4. (spirit and letter of code). The complainant states that at the presenter of the broadcast described a deck of cards as "healing" cards "helping you out of any situation".

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The complainant further states that, after a long and protracted speech about how people throughout the ages have turned to tarot, the host went on to say that "We can help you out with healing...we can help you out with any situation at all". The complainant states that while the psychic did not specifically state that she was referring to medical healing, she did not state she couldn't deal with medical healing. It is the complainant's belief that this was left deliberately ambiguous so as to mislead viewers into calling in. The complainant states that Section 3.4.4 states that broadcasters must comply with the "spirit" of the code, so regardless of whether she specifically said medical healing, the complainant claims that it is clear that viewers may easily have interpreted it as such given the overall context of the show.

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**. In reaching this decision, the Committee took into account the following:

- Section 8.10.4 of the Code prohibits the inclusion in commercial communications for psychic services of any reference to health matters. The requirement is intended to protect audiences from harm that might arise from the offer of health advice in the context of an entertainment service and because health advice is considered inappropriate for content of this nature.
- While noting that the broadcast included references to healing, it was the Committee's view that, on balance, such references were not references to health matters as envisaged by the rules of the Code. The Committee also noted that no specific health conditions were dealt with in the broadcast. Accordingly the broadcast was not considered contrary to the letter or spirit of the BAI General Commercial Communications Code.

Broadcasting Complaint Decisions

Complaint made by: Mr. Brian J. More

Ref. No. 112/12

Station:

TV3

Teleshopping:

Psychic Readings Live

Date:

2 October 2012

Complaint Summary:

Mr. More's complaint is submitted under the Broadcasting Act 2009, section 48(1)(d)(*General Commercial Communications Code*): sections 3.1.3, 3.1.6, 3.4.1 and 3.4.4 (protecting the individual and society and compliance). The complainant states that extra sounds are being broadcast which, in his opinion, are designed to induce people to call the number when they otherwise may not have done so e.g. dial tones and 'tick-tock' sounds. He also states that the 'laser' type sounds are used with a similar objective but in this case suggest urgency.

Broadcaster's Response:

Initial response to complainant:

TV3 states that they have gone to great lengths to ensure that this service is fully compliant with all appropriate regulation. This service is clearly marked as an entertainment service at all times and all relevant information is made clear to viewers in the onscreen straps, in a recorded message for callers and in the online terms and conditions. TV3 further states they have investigated this matter and do not believe that the use of lasers, dial tones, clocks and music would fall foul of the sections of the Code. They are merely used as background sounds. There is no place for surreptitious or subliminal advertising in a service that openly asks people to call the number on screen.

Response to BAI:

TV3 in their response to the BAI re-iterated what they had stated in their response to Mr. More. TV3 informed Mr. More in a previous complaint on the same subject matter that they would request that the service provider discontinue the use of these sound effects as it was affecting his enjoyment of the service.

Decision of the Compliance Committee:

The complaint concerns a broadcast of Psychic Readings Live on TV3. The complaint is submitted under the Broadcasting Act 2009, section 48(1)(d)(*General Commercial Communications Code*): sections 3.1.3, 3.1.6, 3.4.1 and 3.4.4 (protecting the individual and society and compliance). The complainant states that the broadcast included extra sounds which, are in his opinion designed to induce people to call the service when they otherwise may not have done so e.g. dial tones and 'tick-tock' sounds. He also states that the 'laser' type sounds are used with a similar objective but in this case suggest urgency.

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

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

- Upon review of the broadcast, it was the Committee's view that the content did not substantiate the complainant's arguments. In this regard, the Committee noted that the broadcast constitutes a commercial teleshopping segment intended to generate revenue via premium rate telephone calls. In this context, the Committee found no issues arose with the inclusion in the broadcast of content, such as the sound effects highlighted by the complainant, which encouraged the use of the service.
- In addition, the Committee did not form the view that these sound effects fell within the definition of surreptitious or subliminal advertising since audiences would have been clearly aware of the nature of the broadcast and the requirement for payment to participate in the broadcast.
- For these reasons, the Committee has decided to reject the complaint.

