



ÚDARÁS
CRAOLACHÁIN
NA hÉIREANN

BROADCASTING
AUTHORITY
OF IRELAND

Broadcasting Authority of Ireland

Broadcasting Complaint Decisions

April 2015

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 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 document which each broadcaster has available on its website. If a viewer or listener is not satisfied with the response from the broadcaster or if the broadcaster does not respond within the timeframe provided for in their *Code of Practice* (usually 21 days), then the viewer or listener can refer the complaint to the BAI for consideration.

In assessing 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 by the Executive Complaints Forum and/or by the Compliance Committee of the Authority. The details of the broadcasting complaints decisions reached by the BAI are set out in this document.

The Compliance Committee has upheld one complaint in part and rejected five complaints. Seven complaints were resolved by the Executive Complaints Forum. The decisions of the Compliance Committee were reached at meetings held in September 2014 and February 2015. The decisions of the Executive Complaints Forum were reached at meetings held in December 2014 and January and February 2015.

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Upheld in Part by BAI Compliance Committee

Complaint made by: Ms. Muireann Ní Mhóráin

Ref. No. 98/14

Station:

FM104

Programme:

FM104 Phone Show

Date:

5th June 2014

Complaint Summary:

The complaint is submitted under the Broadcasting Act 2009, sections 48(1)(a)(fairness, objectivity & impartiality in current affairs) and *Code of Fairness, Objectivity and Impartiality in News and Current Affairs* – Rule 4.1 also under 48(1)(b)(*Code of Programme Standards* – sections 3.3, 3.3.1 and 3.3.2 (coarse & offensive language), 3.4, 3.4.1, 3.4.2 and 3.4.5 (persons and groups in society) and 3.5.1 (factual programming).

The complainant states that, as an Irish speaker, this programme caused her great offence because of the assertions and statements made. In this regard, she contends that it was stated repeatedly that *'Irish is rammed down your neck'* in school. She contends that it was also stated that a Gaeilgeoir like the complainant *'piss people off'* and that many are *'nutters'*, *'fanatical'*, *'mad'* or *'insane'*.

The complainant's work is through Irish but she states that according to the message communicated by this programme, she and others like her is [quoting the programme] *'an awkward son of a bitch'* or *'just being bloody awkward'* for choosing to do so.

The complainant quotes the programme, specifically, where a contributor stated *'Parents forcing children to go to Irish school...it's a middle class thing to do...they think they're higher than other people'*. The complainant states that she attended an all-Irish school and sends her children to an all-Irish school as Irish is their first language. She does not think she or her children are *'higher'* than other people but they are entitled to an education in their first language.

If religion was being discussed, the complainant wonders if it would be acceptable to refer to followers of a particular religion as being *'fanatical'* or *'nutters'* just for having a different religion or as being an *'awkward son of a bitch'*? She states that these words were used to describe Irish speakers.

The complainant also states that the programme included a reference which she characterised as defamatory. The complainant further states the programme was neither objective nor impartial and was deeply offensive.

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Broadcaster's Response:

Initial response to complainant:

No initial response from FM 104 was forthcoming.

The broadcaster explained that a new team had taken over the Phone Show and at the time this complaint was received, were inexperienced with dealing with complaints. This particular complaint then slipped through the system and unfortunately went unanswered. However, the new Phone Show team have a strict system in place to handle any further complaints should there be any in the future.

Response to BAI:

In response to this complaint, FM104 states the following:-

“Rammed down your neck”

- The complainant states: *“It was stated repeatedly that ‘Irish is rammed down your neck’. What is implied by this?”* The broadcaster states that, firstly, to say that this comment was made solely about the Irish language is a misrepresentation of the facts as it was clearly made in the context of other school subjects (including – among others – Religious Education and English Literature, with a specific reference made to William Shakespeare).
- Secondly, and perhaps most importantly on this point, nothing violent, unpleasant or offensive was implied by either the presenters or the callers in the use of the statement. Moreover, nothing other than the literal precise definition of the term was implied. The Collins English Dictionary defines to *“ram something down someone’s throat”* as *“to insist that someone listen to or accept (something)”*.
- The broadcaster states that the statement was made to imply the simple truism that Irish school children are given no choice when it comes to learning certain subjects – including (but not limited to) the Irish language.
- The broadcaster states that to say that the phrase was used “repeatedly” is an over-exaggeration of the facts. During the discussion, the phrase *“rammed down your neck”* (or a variant of it) was used five times by the presenter(s) and twice by callers in a discussion lasting almost an hour.

Sending kids to Irish speaking schools

The broadcaster states that the complainant also takes issue with the presenters referring to *“parents forcing children to go to Irish school”*. Unfortunately, this is taken out of context as the reference to parents *“forcing”* kids to go to an Irish school was not made by the presenters themselves, but came in by text from a listener who said she didn’t like the idea of her *“neighbour forcing her kids to go to an Irish school”*.

After reading this text out, the presenter (Chris) immediately corrected it on air, clearly saying *“I don’t think they’re forcing the kids to do it”*.

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The broadcaster states that, with regard to the suggestion that the presenters referred to the custom of sending children to an Irish speaking school as a “*middle-class*” one practised by “*people that want to think they’re higher than everyone else*”, this was quite definitely stated by the presenter (Thomas) at the time as being in reference to “*some people*” and not everybody who does it. Also, to balance out this view, a counter argument to the point was presented by a caller (Seán), who spoke strongly on behalf of the Irish language and quite eloquently, argued that social status did not come into it, while still intelligently expressing discontent with the way it was taught in schools.

The broadcaster states that it is important to stress that the objectivity and balance which is required in the programme is required across the board – i.e. regarding the programme as a whole, including all voices featured on air, and not just those of the presenters. Presenters will often offer a counter argument to callers and encourage the same in return in order to maintain the overall balance of the discussion. On the programme in question, they read out messages from listeners featuring comments such as: “*you should be proud to speak Irish*” and “*it should be compulsory to speak and learn Irish*”.

The broadcaster states that one of the presenters (Chris) spoke out in favour of those who speak and enjoy the language, saying “*if you want to do it, I’m all for it – go ahead!*” – but he spoke against it being a compulsory subject in schools. He posed a question, asking if people would prefer “*to see people who want the culture – want the language – who really love it*” learning it, instead of it being a compulsory subject for all.

The fanatical minority

At that point in the discussion, the broadcaster states that the presenter, Chris, suggested that this would be a difficult change to implement – partially because of resistance from *some* “*fanatical*” lovers of the language who would object to such a change. In FM104’s view, it is clearly obvious from the conversation at this part of the programme that Chris was, again, not referring to *all Irish speakers or Gaeilgeoiri*, as the complainant suggests, but to a small minority of them – some of whom he describes as “*nutters*” who are “*fanatical about the language to the point at which they just piss people off completely*”. This, in FM104’s view, is backed up by his assuring a caller twice at the time that he said “*some*” for a reason. A correlation is made with Religion at this point with a caller asking “*how much time do we spend on religion – would you describe them as fanatical?*” – to which the presenter answered “*Yes*”. However, at no point are followers of any particular religion referred to as “*fanatical*” or “*nutters*” simply for following their religion, as the complainant (hypothetically) suggests they would be. The broadcaster states that the reference that was made here was to correlate with the discussion in hand, referring to the fact that religious education – like the Irish language – is compulsory in many Irish schools, and that a small portion of society would vehemently object if anyone tried to have that changed.

Choice language

The broadcaster states that the complainant also claims that (all) Irish speakers were specifically referred to by the presenter as “*mad*” or “*insane*” during the course of the programme. Again, these words (used once), were used in reference to “*some of them*” – the same fanatical minority that he had referred to earlier. Furthermore, the complainant suggests that the presenter implied that all Irish speakers were “*just being bloody awkward*”.

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FM104 state that the presenter did not directly imply this. Instead, he presented a scenario to a caller whereby someone is stubbornly insisting on being dealt with by officials entirely through the Irish language, even when such a service isn't always available and asked the caller whether he thought that person was *"just being awkward"*.

The broadcaster states that the complainant particularly refers to the phrases *"awkward son of a bitch"* and *"piss people off"* with regard to coarse and offensive language in live talk programmes. With regard to this, FM104 specially refer to three points:

- Both of these phrases were used in an appropriate fashion, not over used or gratuitous and were in context.
- The programme, which is broadcast after 9pm, goes to considerable efforts to inform all listeners that there may be conversations or words broadcast which may not suit those of a more sensitive nature. This is done by the use of regular spoken warnings to that effect.
- There is a well-established listener expectation of the Phone Show's format that it will feature more plainly spoken robust debate with less cause for censorship, due to the late transmission time.

The "Irish language Taliban"

The broadcaster states that the reference to the "Taliban" was not a creation of the presenters at the time but has been used on various previous occasions. For example, it had been used to describe some members of Conradh na Gaeilge and their methods of protesting outside Dáil Éireann, and has been used in various newspaper articles published in Irish newspapers down through the years in reference to those who dogmatically insist on the Irish language remaining as an official language and compulsorily being taught to all students.

The broadcaster states that, again, the phrase – which was used in many publications well before this broadcast – was not used, as the complainant suggests, by the presenter to refer to (all) people who speak Irish, nor was it used to analogise Irish speakers with terrorists, but more specifically it was used to create an analogy between a minority of Irish speakers and the fanatical traits of the Taliban who doggedly choose to impose their ways and wills on others.

Defamation

With regard to the reference in the complaint concerning defamation, the broadcaster states that the programme did not in their opinion include material that could be described as defamatory.

FM104 is confident that what the FM104 Phone Show presented on the night in question was fair, objective and impartial with regard to the affairs of the day – those being the Leaving Cert exam in Irish and those who choose to learn and speak the language.

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Decision of the Compliance Committee: Uphold in part (Unanimous)

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

- The Committee had regard to the programme format and the issue of audience expectation. In this regard, the programme is an audience-driven phone-in show and is characterised by fast moving and robust exchanges between callers to the programme or between the programme presenter and callers. The aim of such programmes is to provide a high degree of audience input and callers to such programmes will contribute at varying length depending on the nature of the discussion and the content of a caller's contribution.

In this context, the Committee was of the view that a range of views on the topic were evident throughout the programme discussion and that the robust nature of the discussion, including the language used throughout, was in line with audience expectations and did not, in the Committee's view, infringe the requirements of the *Code of Programme Standards*, in the manner specified by the complainant. More generally, the Committee was of the view that Irish language speakers did not constitute a 'group in society' for which the Code sets particular requirements under section 3.4.5. Accordingly, these elements of the complaint have been rejected.

- However, the Committee was of the view that the handling of one aspect of the programme was unfair. In this regard, the Committee noted that the presenter consistently interrupted contributors who did not agree with the editorial position of the programme on the Irish language (that the mandatory requirement to learn the language is unhelpful) and characterised one of the contributors as "*an awkward son of a bitch*". The programme presenters were also critical of such callers after they had completed their contribution.

It was the view of the Committee that the manner and tone of these presenter contributions was unfair and contrary to the requirement of Rule 4.1 of the BAI *Code of Fairness, Objectivity and Impartiality in News and Current Affairs*. For this reason, this part of the complaint has been upheld.

- Regarding reference in the complaint to alleged defamation, as the complaint was made further to Section 48 of the Broadcasting Act 2009, the Committee did not address those aspects of the complaint relating to defamation.

Broadcasting Complaint Decisions

Gearán arna dhéanamh ag: Ms. Muireann Ní Mhóráin

Uimh. Thag. 98/14

Stáisiún:

FM104

Clár:

FM104 Phone Show

Dáta:

5 Meitheamh 2014

Achoimre ar an nGearán:

Cuireadh an gearán isteach faoin Acht Craolacháin 2009, alt 48(1)(a)(cothroime, oibiachtúlacht agus neamhchlaontacht i gcúrsaí reatha) agus faoin *gCód maidir le Cothroime, Oibiachtúlacht agus Neamhchlaontacht i gCláir Nuachta agus Cúrsaí Reatha* – Riall 4.1, agus faoi alt 48(1)(b)(*Cód Chaighdeán na gClár* – ailt 3.3: 3.3.1 agus 3.3.2 (teanga gháirsiúil agus dhéistíneach), 3.4: 3.4.1, 3.4.2 agus 3.4.5 (daoine agus grúpaí sa tsochaí) agus 3.5.1 (cláir fhíriciúla).

Luaigh an Gearánach gur chuir an clár sin stuaic mhór uirthi mar Ghaeilgeoir mar gheall ar na tuairimí agus na ráitis a cuireadh in iúl lena linn. Mhaígh sí ina leith sin gur luadh an ráiteas seo a leanas arís agus arís eile: *'Irish is rammed down your neck'* (ar scoil). Mhaígh sí gur cuireadh an méid seo a leanas i leith Gaeilgeoirí freisin: *'[they] piss people off'* agus tugadh *'nutters'*, *'fanatical'*, *'mad'*, nó *'insane'* orthu.

Is trí mheán na Gaeilge a dhéanann an gearánach a cuid oibre, ach luaigh sí, de réir na teachtaireachta a cuireadh in iúl sa chlár, gur *'awkward son of a bitch'* í agus daoine cosúil léi agus go mbíonn siad *'just being bloody awkward'* agus an méid sin á dhéanamh acu [tógadh na píosaí idir lúibíní as an gclár].

Thóg an gearánach sleachta as an gclár, go háirithe as an gcuid inar luaigh rannpháirtí: *'Parents forcing children to go to Irish school...it's a middle class thing to do...they think they're higher than other people'*. Luaigh an gearánach gur fhreastail sí féin ar Ghaelscoil agus go bhfuil a leanaí rollaithe i nGaelscoil toisc gurb ionann an Ghaeilge agus an chéadteanga atá acu. Ní shíleann sí go bhfuil sí féin ná a leanaí *'higher'* ná daoine eile, ach creideann sí go bhfuil siad i dteideal oideachas a fháil tríd an gcéadteanga atá acu.

Cuir i gcás go raibh creideamh á phlé sa chlár. Tá an gearánach in amhras faoi cé acu a bheadh nó nach mbeadh sé inghlactha *'fanatical'* nó *'nutters'* nó *'awkward son of a bitch'* a thabhairt ar dhaoine de lucht leanúna creidimh ar leith toisc go bhfuil creideamh éagsúil acu amháin. Luaigh sí gur úsáideadh na focail sin chun cur síos ar Ghaeilgeoirí.

Luaigh an gearánach freisin go ndearnadh tagairt ar leith sa chlár a mheas sí a bheith clúmhillteach. Luaigh an gearánach freisin nach raibh an clár oibiachtúil ná neamhchlaonta agus go raibh sé an-mhaslach.

Freagra an Chraoltóra:

Freagra tosaigh don ghearánach:

Ní bhfuarthas aon fhreagra ó FM104 sa chéad ásc.

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Mhínigh an craoltóir go raibh foireann nua tar éis dul i mbun an Phone Show agus ní raibh aon taithí acu ar a bheith ag déileáil le gearáin tráth a fuarthas an gearán sin. Shleamhnaigh an gearán ar leith sin tríd an gcóras agus níor tugadh freagra air dá bharr, ar an drochuair. Mar sin féin, tá dianchóras i bhfeidhm ag foireann nua an Phone Show anois chun déileáil le haon ghearáin a dhéanfar sa todhcháí.

Freagra don BAI:

Luaigh FM104 an méid seo a leanas ina fhreagra ar an ngearán:-

“Rammed down your neck”

- Ceist ón ngearánach: *“Luadh arís agus arís eile: ‘Irish is rammed down your neck’. Cad is ciall leis an ráiteas sin?”* Ar an gcéad dul síos, luaigh an craoltóir gur mífhaisnéis ar na fíricí a bhí ina rá go ndearnadh an trácht sin faoin nGaeilge amháin toisc gur bhain sé go soiléir le hábhair eile scoile (lenar áiríodh – i measc ábhair eile – Oideachas Reiligiúnach agus Litríocht an Bhéarla, agus tagairt ar leith á déanamh do William Shakespeare).
- Ar an dara dul síos, agus b’fhéidir go bhfuil sé ar an rud is tábhachtaí fós, ní raibh sé beartaithe ag na láithreoirí ná ag na glaoiteoirí aon chiall fhoréigneach, mhíthaitneamhach ná mhaslach a chur i leith an ráitis sin. Ina theannta sin, níor cuireadh in iúl ach an sainmhíniú beacht liteartha atá ar an téarma. Is é an sainmhíniú a thugtar sa Collins English Dictionary ar *“(to) ram something down someone’s throat”* ná *“to insist that someone listen to or accept (something)”*.
- Luaigh an craoltóir go ndearnadh an ráiteas sin chun fíric shimplí a léiriú, ba í sin nach féidir le leanaí scoile na hÉireann roghnú a dhéanamh ar gan ábhair áirithe scoile a fhoghlaim – an Ghaeilge san áireamh (ach gan a bheith teoranta di).
- Luaigh an craoltóir go raibh áibhéil á déanamh nuair a maíodh gur úsáideadh an frása “repeatedly”. Le linn an phlé, a mhair beagnach uair an chloig, d’úsáid na láithreoirí an frása *“rammed down your neck”* (nó leagan malartach de) cúig huaire agus d’úsáid glaoiteoirí faoi dhó é.

Leanaí a rollú i nGaelscoileanna

Luaigh an craoltóir go raibh fadhb ag an ngearánach freisin le tagairt a bheith á déanamh ag na láithreoirí do *“parents forcing children to go to Irish school”*. Ar an drochuair, tógadh an méid sin as comhthéacs toisc nárbh iad na láithreoirí a rinne an tagairt sin. Ba i dteachtaireacht téacs ó éisteoir a rinneadh í, rud ina ndúirt sí nach raibh sí i bhfách leis an méid seo a leanas: *“[her] neighbour forcing her kids to go to an Irish school”*.

Tar éis an teachtaireacht téacs sin a léamh os ard, cheartaigh an láithreoir (Chris) í ar an aer, agus é ag rá go soiléir, *“I **don’t** think they’re forcing the kids to do it”*.

Maidir leis an tuairim ar thagair na láithreoirí di gur gnás *“middle-class”* atá sa cheann a bhaineann le leanaí a rollú i nGaelscoil agus gurb iad *“people that want to think they’re higher than everyone else”* a dhéanann amhlaidh, luaigh an láithreoir (Thomas) go soiléir ag an am gur thagairt do *“some people”* í sin agus nach féidir í a chur i leith gach duine. Chomh maith leis sin, chun an taobh eile den scéal a léiriú, chuir glaoiteoir (Seán) i gcoinne na dtuairimí sin, agus é ag labhairt go láidir agus go solabhartha ar son na Gaeilge.

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D'argóin Seán nach mbaineann stádas sóisialta le hábhar anseo, agus míshástacht á cur in iúl aige ag an am céanna leis an dóigh a dteagasctar an Ghaeilge i scoileanna.

Luaigh an craoltóir go bhfuil sé tábhachtach béim a leagan ar an bhfíric go bhfuil oibiachtúlacht agus cothroime ag teastáil i ngach gné den chlár – i.e. an clár ina iomláine, lena n-áirítear gach duine a labhraíonn ar an aer, agus ní na láithreoirí amháin. Is minic a chuireann láithreoirí tuairim mhalartach in iúl do ghlaoteoirí agus molann siad go ndéanann glaoteoirí an rud céanna chun cothroime fhoriomlán an phlé a choinneáil. Le linn an chláir atá i gceist, léigh siad teachtaireachtaí amach ó éisteoirí, teachtaireachtaí inar cuireadh tuairimí cosúil leo seo a leanas i láthair: *“you should be proud to speak Irish”* agus *“it should be compulsory to speak and learn Irish”*.

Luaigh an craoltóir gur labhair duine de na láithreoirí (Chris) i bhfabhar na ndaoine siúd a labhraíonn an teanga agus a bhaineann taitneamh aisti, agus é ag rá *“if you want to do it, I’m all for it – go ahead!”* – ach bhí sé i gcoinne an teanga a bheith ina hábhar éigeantach i scoileanna. Chuir sé an cheist arbh fhearr an Ghaeilge a bheith á foghlaim ag *“to see people who want the culture – want the language – who really love it”* nó an Ghaeilge a bheith ina hábhar éigeantach do gach duine.

An mionlach fanaiceach

Ag an bpointe sin den phlé, luaigh an craoltóir gur thug Chris, an láithreoir, le fios go mbeadh sé doiligh an t-athrú sin a chur chun feidhme - go páirteach mar gheall ar fhriotaíocht *roinnt* daoine *“fanatical”* ar breá leo an teanga a chuirfeadh in éadan an athraithe sin. I dtuairim FM104, is soiléir ón gcomhrá ag an gcuid seo den chlár nach ag tagairt do na *Gaeilgeoirí go léir* a bhí Chris an athuair, mar a mhaígh an gearánach, ach gur ag tagairt do líon beag díobh a bhí sé. Dúirt sé gur *“nutters”* iad an mionlach atá *“fanatical about the language to the point at which they just piss people off completely”*. I dtuairim FM104, tacaítear leis sin toisc gur dhearbhaigh sé do ghlaoteoir dhá uair ag an am go ndúirt sé *“some”* ar chúis. Rinneadh comhghaolú le Creideamh ag an bpointe seo agus chuir glaoteoir an cheist *“how much time do we spend on religion – would you describe them as fanatical?”* agus thug an láithreoir *“Yes”* mar fhreagra uirthi. Mar sin féin, níor tugadh *“fanatical”* ná *“nutters”* ar lucht leanúna aon chreidimh ar leith toisc go leanann siad an caidreamh sin, mar a mhaígh an gearánach (go hipitéiseach). Luaigh an craoltóir gur chun bheith i gcoibhneas leis an bplé ar láimh a rinneadh an tagairt anseo. Thagair sé don fhíric go bhfuil oideachas reiligiúnach, cosúil leis an nGaeilge, éigeantach i roinnt mhaith scoileanna in Éirinn agus go gcuirfeadh cuid bheag den tsochaí ina coinne dá ndéanfaí iarracht é sin a athrú.

Teanga gharbh

Luaigh an craoltóir gur thug an gearánach le fios freisin go ndúirt an láithreoir go sonrath gur *“mad”* nó *“insane”* a bhí na Gaeilgeoirí (go léir) le linn an chláir. Arís, baineadh úsáid as na focail sin (a úsáideadh uair amháin) chun tagairt a dhéanamh do *“roinnt díobh”* - ba é sin, an mionlach fanaiceach ar thagair sé dó roimhe sin. Ina theannta sin, thug an gearánach le fios gur mhaígh an láithreoir gur *“just being bloody awkward”* a bhí na Gaeilgeoirí go léir. Luaigh FM104 nár mhaígh an láithreoir é sin go díreach. Ina ionad sin, chuir sé cás i láthair glaoteora ina bhfuil duine ag éileamh go ceandána go ndéileálfaidh oifigigh leis/léi tríd an nGaeilge, fiú nuair nach mbíonn an tseirbhís sin ar fáil i gcónaí agus chuir sé ceist ar an nglaoteoir faoi cé acu a mheas sé go raibh an duine *“just being awkward”* nó nár mheas.

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Luaigh an craoltóir gur thagair an gearánach go háirithe do na frásaí “*awkward son of a bitch*” agus “*piss people off*” i dtaca le teanga gháirsiúil agus dhéistíneach i gcláir chomhrá bheo. Chuige sin, thagair FM104 do thrí phointe:

- Úsáideadh an dá fhrása sin ar bhealach cuí, níor úsáideadh an iomarca iad, ní raibh siad gan tuilleamh agus úsáideadh iad de réir an chomhthéacs.
- Déanann an clár, a chraoltar i ndiaidh 9pm, an-iarracht a chur in iúl do gach éisteoir go bhféadfadh go gcrailfaí comhráite nó focail nach mbeadh oiriúnach dóibh siúd atá níos soghortaithe. Déantar amhlaidh trí rabhaidh rialta ó bhéal chun na críche sin.
- Tá ionchas an-bhunaithe i measc éisteoirí faoi fhormáid an Phone Show go dtabharfaidh sé plé bríomhar a chuirtear i bhfriotal go macánta agus nach bhfuil an oiread céanna cinsireachta ag teastáil toisc go dtarchuirtear an clár go mall.

An “Irish language Taliban”

Luaigh an craoltóir nach de chruthú na láithreoirí a bhí an tagairt don “Taliban” ag an am ach luaigh sé gur úsáideadh í uaireanta roimhe sin. Mar shampla, úsáideadh í chun cur síos a dhéanamh ar roinnt ball de Chonradh na Gaeilge agus ar a modhanna agóide lasmuigh de Dháil Éireann, agus úsáideadh í freisin in ailt éagsúla nuachtáin arna bhfoilsíú i nuachtáin Éireannacha thar na blianta mar thagairt do na daoine sin a éilíonn ar an taobh dogmach de go bhfanfaidh an Ghaeilge mar theanga oifigiúil agus go dteagascfar í do gach dalta go héigeantach.

Luaigh an craoltóir arís nár úsáid an láithreoir an frása - a úsáideadh i roinnt mhaithfoirseachán tamall maith roimh an gcráoladh seo - chun tagairt a dhéanamh do na daoine (go léir) a labhraíonn Gaeilge ná chun analach a dhéanamh idir Gaeilgeoirí agus sceimhlitheoirí mar a mhaíonn an láithreoir, ach, ina ionad sin, úsáideadh an frása ar bhealach níos sonraí chun analach a dhéanamh idir líon beag Gaeilgeoirí agus na saintréithe fanaiceacha den Talaban, a dhéanann a dhícheall a mhodhanna agus a thoil a bhrú ar dhaoine eile.

Clúmhilleadh

Maidir leis an tagairt do chlúmhilleadh sa ghearán, luaigh an craoltóir nár chuimsigh an clár, ina thuairim féin, aon ábhar a bhféadfaí a rá gur ábhar aithiseach é.

Tá FM104 muiníneach gur cothrom, oibiachtúil agus neamhchlaonta a bhí an Phone Show ar FM104 a láithríodh an oíche i gceist maidir le cúrsaí an lae, ba iad sin, scrúdú na hArdeistiméireachta sa Ghaeilge agus na daoine sin a roghnaíonn an teanga a fhoghlaim agus a labhairt.

Cinneadh an Choiste um Chomhlíonadh: Seasadh leis i bpáirt (d’aonghuth)

Rinne an Coiste breithniú ar an gcráoladh agus ar na haighneachtaí a fuarthas ón gcráoltóir agus ón gearánach. Tar éis breithniú a dhéanamh ar an ábhar, chinn an Coiste seasamh leis an gearán go páirteach.

Broadcasting Complaint Decisions

Agus é ag teacht ar an gcinneadh sin, thug an Coiste aird ar na nithe seo a leanas:

- Thug an Coiste aird ar fhoráid an chláir agus ar an tsaincheist um ionchas an lucht éisteachta. Chuige sin, seó fónála isteach atá spreagtha ag an lucht éisteachta atá sa chlár agus tá argóintí gasta bríomhara idir glaoiteoirí ar an gclár nó idir láithreoir an chláir agus glaoiteoirí mar shaintréith de. Is é is aidhm do chláir den chineál sin ná méid suntasach ionchuir ón lucht éisteachta a chur ar fáil agus cuirfidh glaoiteoirí ar na cláir sin leo go pointe athraitheach, ag brath ar chineál an phlé agus ar ábhar ionchur an ghlaiteora.

Chuige sin, bhí an Coiste den tuairim go raibh roinnt tuairimí faoin ábhar le cloisteáil ar fud phlé an chláir agus go raibh an cineál bríomhar den phlé, lena n-áirítear an cineál teanga a úsáideadh lena linn, ar aon dul le hionchais an lucht éisteachta agus nár sháraigh sí, i dtuairim an Choiste, ar riachtanais Chód na gCaighdeán Clár ar an mbealach a shonraigh an gearánach. Rud is ginearálta fós, bhí an Coiste den tuairim nach ionann Gaeilgeoirí agus ‘grúpa sa tsochaí’ a socraíonn an Cód riachtanais shonracha ina leith faoi alt 3.4.5. Dá réir sin, diúltaíodh do na gnéithe sin den ghearán.

- Mar sin féin, bhí an Coiste den tuairim gur neamhchothrom a bhí an dóigh ar láimhseáladh gné amháin den chlár. Chuige sin, thug an Coiste dá aire gur chuir an láithreoir isteach arís is arís eile ar rannpháirtithe nár chomhaontaigh le seasamh eagarthóireachta an chláir maidir leis an nGaeilge (nach cuidiú é an riachtanas éigeantach chun an teanga a fhoghlaim) agus gur thug sé “awkward son of a bitch” ar dhuine amháin de na rannpháirtithe. Rinne láithreoirí an chláir cáineadh ar na glaoiteoirí sin tar éis dóibh a n-ionchur a thabhairt.

Bhí sé mar thuairim ag an gCoiste gur neamhchothrom a bhí caoi agus cuma an ionchuir sin ón láithreoir agus go ndeachaigh siad in aghaidh riachtanas Riail 4.1 den *Chód Cothroime, Oibiachtúlacht agus Neamhchlaontacht sa Nuacht agus i gCúrsaí Reatha* ón BAI. Ar an gcúis sin, seasadh leis an gcuid sin den ghearán.

- Maidir leis an tagairt sa ghearán do chlúmhillleadh líomhnaithe, níor thug an Coiste aghaidh ar na gnéithe sin den ghearán a bhaineann le clúmhillleadh mar go ndearnadh an gearán i dtaca le hAlt 48 den Acht Craolacháin 2009.

Rejected by BAI Compliance Committee

Complaint made by: Mr. Noel Lysaght

Ref. No. 115/14

Station:

RTÉ Radio One

Programme:

Morning Ireland

Date:

29th June 2014

Complaint Summary:

Mr. Lysaght's complaint is submitted under the Broadcasting Act 2009, Section 48(1)(a)(fairness, objectivity & impartiality in current affairs), *Code of Fairness, Objectivity and Impartiality in News and Current Affairs* (Rules 4.1, 4.2, 4.19).

The complaint refers to a report on the disciplinary matters in the Ms. Savita Halappanavar case at University Hospital Galway. The complainant claims that RTÉ pointedly reported that this was the case in which Ms. Halappanavar was denied an abortion, which the complainant believes deliberately, thoroughly and misleadingly implied that a denial of an abortion was the cause of her death, whereas it was the failure of medical care that was involved. The complainant believes that this was a blatant and serious failure by RTÉ to meet its responsibility to report in an unbiased way on matters of importance.

The complainant further claims that the programme also implied that a denial of an abortion was the basis on which the disciplinary actions were taken against staff in University Hospital Galway who were responsible for the care of Ms. Halappanavar. The complainant states that people listening to the programme who did not know otherwise, would have assumed the disciplinary actions were taken as a result of staff denying an abortion to Ms. Halappanavar.

Broadcaster's Response:

Initial response to complainant:

RTÉ state that this was an interview with Mr. Paul Cullen of The Irish Times about his story that morning that a number of staff who were involved in the care of Ms. Halappanavar before her death at University Hospital Galway, had been disciplined.

The complainant claimed that RTÉ implied during this interview that a denial of an abortion was the cause of Ms. Halappanavar's death and not a failure of medical care. RTÉ state that no such implication was created, therefore no 'correction' would be made on 'Morning Ireland'

Broadcasting Complaint Decisions

Response to BAI:

RTÉ state that in the introduction to the interview which formed the main part of this broadcast, the presenter said:

“A number of staff who were involved in the care of Savita Halappanavar before her death at University Hospital Galway have been disciplined. She was seventeen weeks pregnant and miscarrying when she was admitted to hospital in 2012. Her husband said a repeated request for an abortion was refused. She died from septic shock and from e-coli poisoning and subsequent reports into how she was treated identified multiple shortcomings in her care. The Irish Times Health Correspondent Paul Cullen has the story this morning and he’s with us now.”

RTÉ state that this introduction represented the only mention of abortion in the entire item (or in the related interview later in the programme with Mr. Gerard O’Donnell, solicitor for Mr. Praveen Halappanavar). It was part of an accurate and impartial synopsis of the circumstances surrounding Ms. Halappanavar’s death. Mr. Halappanavar’s testimony in relation to requests for termination is extensively documented in print and broadcasting media. It is also supported by the Final Report (June 2013) of the Health Service Executive into the circumstances surrounding the death of Ms. Halappanavar:

- At interview, O&G Registrar doctor 2 stated that the plan was to check the foetal heart and that the patient had asked on the 23rd of October about termination.
- O&G Consultant 1 stated that the patient and her husband were advised of Irish law in relation to this. At interview the consultant stated *“Under Irish law, if there’s no evidence of risk to the life of the mother, our hands are tied so long as there’s a foetal heart”*. The consultant stated that if risk to the mother was to increase, a termination would have been possible, but that it would be based on actual risk and not a theoretical risk of infection *“we can’t predict who is going to get an infection”*.

RTÉ claims that there was no further reference in the broadcast to abortion and absolutely no connection whatsoever made between the disciplinary proceedings which were the subject of this interview (and the related item) and the subject of abortion.

In the context of the complainant’s reference in his referral to the BAI to *“the now discredited topic of a denial of an abortion”* RTÉ state that it may be noted that in the HSE Final Report (June 2013) referred to above it was stated as one of its recommendations:

Recommendation 4b

There is immediate and urgent requirement for a clear statement of the legal context in which clinical professional judgement can be exercised in the best medical welfare interests of patients. There is a parallel immediate requirement for clear and precise national clinical guidelines to meaningfully assist the clinical professionals who have the responsibility, often in circumstance of rapid deterioration or emergency, as to how to exercise their clinical professional judgement in a particular case.

Broadcasting Complaint Decisions

We recommend that the clinical professional community, health and social care regulators, and the Oireachtas consider the law including any necessary constitutional change and related administrative, legal and clinical guidelines in relation to the management of inevitable miscarriage in the early second trimester of a pregnancy including with prolonged rupture of membranes and where the risk to the mother increases with time from the time that membranes were ruptured including the risk of infection. These guidelines should include good practice guidelines in relation to expediting delivery for clinical reasons including medical and surgical termination based on available expertise and feasibility consistent with the law.

We recognise that such guidelines must be consistent with applicable law and that the guidance so urged may require legal change.

Decision of the Compliance Committee: Reject (Unanimous)

The Committee considered the broadcast and the submissions from the complainant and the broadcaster. Following a review of the material, the Committee has decided to reject the complaint. In reaching this view, the Committee had regard to the Broadcasting Act 2009, Section 48(1)(a)(fairness, objectivity & impartiality in current affairs) and the *Code of Fairness, Objectivity and Impartiality in News and Current Affairs* (Rule 4.1, 4.2, 4.19). In this regard:

- The Committee noted that the programme in question included two interviews. The first interview was with a journalist from the Irish Times, the newspaper that had revealed the disciplinary actions applied to a number of staff members of University Hospital Galway who were responsible for the care of Ms. Halappanavar. The second interview was with Mr. Gerard O'Donnell, solicitor for Mr. Halappanavar and dealt with his reaction to the disciplinary action taken.
- Upon its review of the programme, the Committee noted that the interviews focused on the disciplinary actions taken, the nature of the disciplinary action taken against staff members in the University Hospital Galway, changes to medical practices in the hospital on foot of Ms. Halappanavar's death as well as the reaction of Mr. O'Donnell to learning about the disciplinary findings from RTÉ rather than directly from the hospital or the Health Services Executive.
- While the interviews dealt with the causes of Ms. Halappanavar's death, the Committee found that these references were largely factual in nature and secondary to the focus of both interviews, namely, the disciplinary actions taken by the hospital against its staff. Furthermore, the Committee found that the reference to abortion in the first interview related to the requests for this procedure at the time that Ms. Halappanavar was receiving medical care and a review of the programme provided no evidence that the broadcaster had implied that a denial of an abortion was the cause of the death of Ms. Halappanavar. Rather, it was clear to the Committee that her death was attributed during the programme to septic shock and e-coli poisoning in a context where it was subsequently found that there were multiple shortcomings in her medical treatment.
- In view of this, it was the opinion of the Committee that the programme did not infringe the Broadcasting Act 2009, Section 48(1)(a)(fairness, objectivity & impartiality in current affairs) and *Code of Fairness, Objectivity and Impartiality in News and Current Affairs*, (Rule 4.1, 4.2, 4.19)) in the manner specified by the complainant.

Broadcasting Complaint Decisions

Complaint made by: Mr. Frank Murphy

Ref. No. 122/14

Station:

TV3

Programme:

Tonight with Vincent Browne

Date:

9th September 2014

Complaint Summary:

Mr. Murphy's complaint is submitted under the Broadcasting Act 2009, Section 48(1)(a)(fairness, objectivity and impartiality in current affairs; *BAI Code of Fairness, Objectivity and Impartiality in News and Current Affairs* (Rules 4.1 and 4.2).

The complainant states that although this item was supposed to be a "*review of the position of the Catholic Church in Ireland*", it was, in his view, a rehash of previous programmes of vilification of Cardinal Seán Brady. Furthermore, he states that the panel was weighted two to one against Cardinal Brady, and that the presenter, in what he describes as an aggressive manner, made no effort to ensure an objective discussion. The complainant claims that the priest on the panel, Fr. Joe McDonald, was constantly interrupted by the presenter and other panellists when he made any effort to put forward the facts, as he knew them. The complainant believes this programme was a further example of the blatant anti-church bias that exists in much of the national media.

Broadcaster's Response:

Initial response to complainant:

TV3 states that the composition of a particular panel is not automatically proof of a lack of fairness on their part. The real question is how an issue is treated by the presenter and the panel. TV3 believes this very serious issue was treated with appropriate gravity and sensitivity and in full compliance with TV3's statutory obligations.

Response to BAI:

The discussion on this programme was in relation to the state of the Catholic Church in Ireland following the retirement of Cardinal Brady the previous day. The composition of the panel was as follows:

- Fr. Joe McDonald – a practicing Parish Priest and himself an abuse survivor;
- Mr. Patsy McGarry – an international expert on clerical abuse issues and a world class religious affairs correspondent;
- Ms. Marie Collins – an abuse survivor and a member of the Pontifical Council of the Protection of Minors.

TV3 states that all three panel members are highly competent speakers and this composition provided fairness, objectivity and impartiality and none tried to pursue their own agenda. TV3 strongly denies the allegations as made by the complainant and believe the matter in question was both of public controversy and, at the time, was the subject of current public debate due to the retirement of Cardinal Brady the previous day.

Broadcasting Complaint Decisions

The complainant believed there was no need to “rehash” the issue in relation to Cardinal Brady swearing an abuse victim to secrecy about the inquiry into that victim’s claims against Father Brendan Smyth. TV3 could not disagree with Mr. Murphy on this point any more strongly. The scandal of child sexual abuse in the Irish Catholic Church and the extent to which it remained a secret for so long constitutes a seminal point in Irish history. Cardinal Brady rose to become the leading figure in the Irish Church for the period 1996 to his retirement in 2014. In that context, his involvement in the investigation of allegations of child abuse against Father Brendan Smyth in the 1970’s and the subsequent failure of the Church to stop such abuse continuing is of course a significant matter of public interest. That interest is not diminished by the passage of time and is entirely a matter worthy of discussion upon Cardinal Brady’s retirement.

The complainant believes that Father McDonald was constantly interrupted during the programme and wasn’t given a chance to put forward his side of the debate. TV3 points out that the principle of fairness states it is not necessary for all opinions to be addressed and it is not a rule that all members receive equal air time. While TV3 is satisfied that Father McDonald did get a fair opportunity to put his views across, TV3 claims its obligations under the Code do not require a symmetrical division of time or an equal ratio of panellists as the complainant appears to believe.

Referring to the claim by the complainant that the presenter was aggressive in his questioning, TV3 claims the presenter’s approach was not aggressive but was rigorous as was necessary and appropriate given the matter under discussion.

TV3 points out that none of the panel members complained about the programme. Indeed Father McDonald called the station the following day to say he thought the debate had gone very well and thanked the producer for the opportunity to appear on the programme.

Decision of the Compliance Committee: Reject (Unanimous)

The Committee considered the broadcast and the submissions from the complainant and the broadcaster. Following a review of the material, the Committee has decided to reject the complaint. In reaching this view, the Committee had regard to the Broadcasting Act 2009, Section 48(1)(a)(fairness, objectivity and impartiality in current affairs) and *BAI Code of Fairness, Objectivity and Impartiality in News and Current Affairs* (Rules 4.1 and 4.2).

In this regard:

- Current affairs programming can be hard-hitting and what is important to the Committee is that the subject matter is treated fairly and impartially, and is fair to all interests concerned. In this instance, it was the view of the Committee that the programme-makers legitimately chose to address the handling by the Catholic Church of instances of clerical child abuse in the context of the resignation of Cardinal Brady and in a context where the Catholic Church is defending itself in court cases taken by those who have been or who contend that they have been the victims of clerical child abuse. An examination of the handling by Cardinal Brady of previous allegations of abuse, the consequences arising out of his actions as well as his current actions, including his involvement in litigation, were also considered appropriate in a context where Cardinal Brady had resigned on the day before the broadcast of the programme.

Broadcasting Complaint Decisions

- Regarding the manner in which the discussion was managed by the programme presenter; the Committee noted that 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. Audiences would have been familiar with the programme style as would the guests who contribute. Furthermore, given the admitted institutional and personal failures of the Catholic Church and of Cardinal Brady respectively in the handling of allegations of clerical child abuse, a critical and robust questioning of Fr. McDonald was not considered by the Committee to amount to a *de facto* lack of fairness, objectivity or impartiality on the part of the programme presenter.
- Furthermore, the Committee also had regard to the manner in which the programme afforded Fr. McDonald the opportunity to articulate his views on the points raised by the other panellists and the questions put to him by the presenter. The Committee found that he was afforded adequate opportunity to set out his views and to challenge views with which he disagreed and there was nothing in the programme to indicate that the programme format or the style of the presenter lessened his ability to articulate his views and to articulate them clearly and forcibly.
- On the question of how the programme discussion was framed at the outset, the Committee noted that the programme was introduced as one that would review “...*the state of the Catholic Church now, after the resignation of Cardinal Seán Brady...*” The Committee noted that the ensuing discussion was narrower in scope than set out by the presenter and predominantly addressed the handling by the Catholic Church of clerical child abuse. However, the focus of a programme is an editorial matter for the broadcaster and while the Committee will have regard to how a programme is pitched to contributors, a key consideration is whether a change in the focus of a programme is such that a contributor should have been notified in advance (and where a failure to notify the contributor results in unfairness). Upon a review of the programme, it was the view of the Committee that this was not the case with the current programme and overall the Committee was of the view that no issue arose with the focus of the discussion as broadcast.
- In view of the above, it was the opinion of the Committee that the programme did not infringe the requirements of the Broadcasting Act 2009, Section 48(1)(a)(fairness, objectivity and impartiality in current affairs; *BAI Code of Fairness, Objectivity and Impartiality in News and Current Affairs* - Rules 4.1 and 4.2) in the manner specified by the complainant. Accordingly, the complaint has been rejected.

Broadcasting Complaint Decisions

Complaint made by: Mr. Anthony Sheridan

Ref. No. 126/14

Station:

Newstalk 106 -108FM

Programme:

The Right Hook

Date & Time

2nd September 2014

Complaint Summary:

Mr. Sheridan's complaint is submitted under the Broadcasting Act 2009, Section 48(1)(a)(fairness, objectivity & impartiality in current affairs), *Code of Fairness, Objectivity and Impartiality in News and Current Affairs* (Rules 21 and 22).

The complaint refers to an item on this programme regarding the controversy surrounding English language schools in Ireland. The complainant claims that the presenter expressed the following opinion:

'The big scandal of language schools in Ireland which are used by so many illegal immigrants as a conduit to arriving into the country..... Nobody worth their salt is going to go to some fake college that doesn't do rolls, doesn't do lectures and all it does is help people to get into the country illegally. The only people they can recruit are people who are illegal migrants into Ireland. Let's get real about this. These places are fake and just shut them down....'

The complainant claims:

- That the presenter is expressing a partisan opinion when he states that, in his opinion, the language schools are fake and should be shut down.
- That the presenter makes the following claims which, the complainant states are unfair and inaccurate:
 - Language schools in Ireland are used by many illegal immigrants;
 - The language schools are fake, don't do rolls or lectures and should be shut down;
 - The only people language schools can recruit are people who are illegal immigrants into Ireland.

The complainant claims that the presenter is in breach of Rules 21 and 22 and particularly in breach of the final paragraph of Rule 22 which states:

'This being so, a presenter and/or a reporter on a current affairs programme shall not express his or her own views on matters that are either of public controversy or the subject of current public debate such that a partisan position is advocated.'

The complainant rejects the points put forward by the broadcaster and states that these are irrelevant as his complaint asserts that the presenter expressed his personal view in breach of the *Code of Fairness, Objectivity and Impartiality in News and Current Affairs*.

Broadcasting Complaint Decisions

Broadcaster's Response:

Initial response to complainant:

Newstalk 106-108fm states that the facts that support the comments made by the presenter were highlighted in an investigation by *The Sunday Times* newspaper which did uncover that there were international language schools in Ireland that would agree to falsify attendance records for students, allowing them to work longer hours instead of studying.

The broadcaster states that the report stated that non-EU students must attend 80% of their classes according to the terms of their visas. *The Sunday Times* sent an undercover reporter to seven international schools, some of which were represented by agents. Four indicated they would be willing to increase the attendance levels of students above what was recorded. The broadcaster states that after the investigation, Mr. Batt O'Keeffe, the former Minister of Education confirmed his resignation as president of one of Ireland's largest international language schools. An agent at the school had indicated to the undercover reporter that he was willing to improve student-attendance records to meet visa requirements.

The broadcaster states that following the facts that were uncovered, the then Education Minister, Mr. Ruairi Quinn T.D. stated that *'some schools...really were cheap, backdoor entries to the Irish and European labour market and we are cleaning up that part of the sector'*.

Newstalk therefore state that it stands over the comments made by George Hook.

Response to BAI:

Newstalk reiterate their response above in reply to the BAI and state that in this context the presenter made his comments *"language schools in Ireland which are used by so many illegal immigrants as a conduit to arriving into the country."*

Decision of the Compliance Committee: Reject (Majority)

The Committee considered the broadcast and the submissions from the complainant and the broadcaster. Following a review of the material, the Committee has decided to reject the complaint. In reaching this view, the Committee had regard to the Broadcasting Act 2009, Section 48(1)(a)(fairness, objectivity & impartiality in current affairs) and the *Code of Fairness, Objectivity and Impartiality in News and Current Affairs* (Rules 21 and 22).

In this regard:

- The Committee noted that the context for the programme item was the introduction by the Irish Government of reforms to the international education sector, including private language schools, in response to issues highlighted by the closure in 2014 of a number of private language schools.
- The Committee noted that the item was contextualised by an extract from an interview with the Minister for Justice and Equality, Ms. Frances Fitzgerald T.D. wherein she outlined the reforms and this was followed by a contribution by the presenter. In his contribution, the presenter introduced the programme item by making reference to *"The big scandal of the language schools in Ireland that are used by so many illegal immigrants as a conduit for arriving into the country."*

Broadcasting Complaint Decisions

He also stated that “*nobody worth their salt would go to a fake college*” and that “*the only people [that certain private language schools] can recruit are people who are illegal migrants...*” The Committee found that it was in this context that the presenter made his comment that “*These places are fake and just shut them down.*”

- The Committee noted that the item as presented assumed a familiarity on the part of the audience with issues that had previously arisen with private language schools and which had resulted in the introduction of reforms. The Committee was of the view that it was reasonable for the programme makers to assume this prior awareness on the part of their regular audience.
- While noting that the presenter could have been clearer in terms of distinguishing between those language schools that were the focus of his criticisms (and which the reforms are intended to deal with) and language schools which have not been found to be operating in a problematic fashion, it was the view of the Committee that, on balance, audiences would have understood his criticism to be directed at the former rather than the latter type of language school. The Committee reached this view having had regard to the prior context for the item, the audiences’ likely familiarity with this context, the presenter’s introduction, the context provided by the contribution from Minister Fitzgerald and the comments by the presenter, which listeners would have reasonably concluded were directed at language schools where problems had arisen.
- Regarding the contribution of the presenter, the Committee noted that the presenter’s style is opinionated, robust and occasionally confrontational and that audiences would be familiar with this approach. The Committee noted that his comments reflected his analysis of the reforms in this area and in particular in respect of problematic language schools and that those comments were legitimate in circumstances where the regulation of such schools had proven insufficient.
- In view of the above, it was the opinion of the Committee that the programme did not infringe the Broadcasting Act 2009 or the *Code of Fairness, Objectivity and Impartiality in News and Current Affairs* (Rules 21 and 22) in the manner specified by the complainant. Accordingly, the complaint has been rejected.

Broadcasting Complaint Decisions

Complaint made by: Mr. Paul Moloney

Ref. No. 143/14

Station:

RTÉ Radio One

Programme:

Saturday with Brian Dowling

Date:

1st November 2014

Mr. Moloney's complaint is submitted under the Broadcasting Act 2009, Section 48(1)(a)(fairness, objectivity & impartiality in current affairs), *Code of Fairness, Objectivity and Impartiality in News and Current Affairs* (Rule 4.19).

The complainant states that during the programme, in the context of a question to a programme panellist, the presenter made reference to research (which the presenter stated had been cited previously by The Iona Institute), that:

"...suggests that those children who might be in gay parenting unions, that they would be disadvantaged vis-a-vis for instance their educational situation, vis-a-vis that they might be more prone to, or statistically more subject to being abused – physically, mentally or sexually".

The complainant states that the research referenced by presenter is by Child Trends, a U.S. non-profit, non-partisan research centre. The complainant states that the Child Trends research did not include same-sex parents and, in his opinion, the interpretation of this research by The Iona Institute does not support the conclusions stated by the presenter in the context of his question. The complainant states that he had previously contacted Child Trends and their VP of Strategic Communication emailed him to specifically state the following:

"This Child Trends brief summarizes research conducted prior to 2002, when neither same-sex parents nor adopted parents were identified in large national surveys. Therefore, no conclusion can be drawn from this research about the well-being of children raised by same-sex partners or adoptive parents".

In this context, the complainant states that the presenter made the incorrect claim that there is research that suggests gay people are the worst parents even though there is, according to the complainant, no research to support this conclusion. The complainant states that RTÉ is wrong and not impartial nor objective in repeating as fact what he describes as this interpretation of the Child Trends research.

Broadcaster's Response:

Initial response to complainant:

RTÉ states that the presenter referenced a paper published on The Iona Institute's website '*Child Trends by Family Structure*' and said:

"And just on one point, Rónán, I want to ask you, when this debate gets up and running in the weeks and months ahead, is the issue around the position of children in a gay parenting marriage compared to a biological union, is that going to become a big issue in your view particularly around?"

Broadcasting Complaint Decisions

I know that groups like the Iona Institute have cited research that suggests children who might be from gay parenting unions, that they would be disadvantaged vis a vis their educational situation, vis a vis they might be prone to or statistically more subject to being abused physically, mentally or sexually – do you think these issues are going to form part of this campaign?”

RTÉ state that the presenter, as part of his role as facilitating and developing the discussion on behalf of the listener, referred to a paper published by an organisation which has a prominent role in the debate. He did not endorse the views contained in that paper but accurately and properly attributed them to the organisation responsible for publishing it when asking a panellist if he thought the issues raised in the paper were likely to be raised in a referendum campaign. The broadcaster states that the presenter did not quote from the Child Trends section of the *Child Abuse by Family Structure* published by The Iona Institute.

Response to BAI:

RTÉ state that the discussion on constitutional change in respect of marriage included a range of opinions on the topic, both for and against such a change. Addressing a question to one of the panellists, Senator Rónán Mullen, the presenter said:

“And just on one point, Rónán, I want to ask you, when this debate gets up and running in the weeks and months ahead, is the issue around the position of children in a gay parenting marriage compared to a biological union, is that going to become a big issue in your view particularly around – I know that groups like The Iona Institute have cited research that suggests that those children who might be from gay parenting unions that they would be disadvantaged vis a vis their educational situation, vis a vis they might be prone to or statistically more subject to being abused physically, mentally or sexually – do you think those issues are going to form part of this campaign?”

The broadcaster states that in doing so, the presenter, as part of his role in facilitating and developing the discussion on behalf of the listener, was referencing at least two publications by The Iona Institute, an organisation which has a prominent role in the debate on constitutional change in respect of marriage. For example, The Iona Institute’s publication ‘*Child Abuse by Family Structure*’ states:

“Research shows that the family in which children are least likely to be abused is the family headed by married, biological parents, that is, by a child’s natural mother and father.

“This is demonstrated by one of the most comprehensive studies ever conducted on this topic, namely a report to the US Congress in 2010 called the Fourth National Incidence Study of Child Abuse and Neglect.”

Further, the Iona Institute’s publication ‘*Made for Children*’ states:

“Those who claim that same-sex couples and married opposite-sex couples should be treated identically must demonstrate that there is no advantage to children in encouraging men and women to marry. They must also demonstrate that children have no right to be raised by their own mother and father, even as a matter of first principle.

Broadcasting Complaint Decisions

“Only after demonstrating that there is no relevant difference between opposite-sex couples and same-sex couples, especially from the point of view of children, and that the right to a mother and father where possible does not exist, can same-sex marriage be justified.”

In that context, the broadcaster states that The Iona Institute’s publication *Made for Children* goes on to cite research by the *Institute for Marriage and Public Policy* claiming to show that children not raised by married opposite-sex couples are disadvantaged, including educationally.

The broadcaster states that this research is summarized in The Iona Institute’s publication as follows:

***“Do Mothers and Fathers Matter?: The Social Science Evidence on Marriage and Child Well-Being by Maggie Gallagher & Joshua K. Baker
Institute for Marriage and Public Policy, 27th February 2004***

Summary:

Marriage is an important social good associated with an impressively broad array of positive outcomes for children and adults alike.

The authors conclude that children in intact married homes are less likely to:

- *suffer child poverty,*
- *suffer sexual and physical child abuse,*
- *suffer physical and mental ill-health,*
- *misuse drugs*
- *commit crime,*
- *suffer educational and employment disadvantage,*
- *become divorced or unwed parents themselves.*

Communities where good-enough marriages are common have better outcomes for children, women, and men than do communities suffering from high rates of divorce, unmarried childbearing, and high-conflict or violent marriages.”

RTÉ state that the presenter did not endorse or support the views expressed by The Iona Institute in these publications or the research cited by the Institute in the publications. Asking the panelist if the views expressed by the Institute in such publications were likely to become issues in the developing debate on constitutional change, he accurately attributed them to the organisation responsible for publishing them.

The presenter did not, as the complaint alleges, make *“the factual claim that there is research and that it suggests gay people are the worse parents.”* As indicated in the verbatim transcript above and the audio recording, and confirmed by the publications of The Iona Institute, he said, as a matter of accurate fact, that *“groups like the Iona Institute have cited research”* and went on to ask, *“do you think those issues are going to form part of this campaign?”*. His clear attribution of the citation of research did not misrepresent the facts in any way, and therefore could not have misled listeners or resulted in any misunderstanding.

Broadcasting Complaint Decisions

Indeed, RTÉ claim that the presenter's question to the panelist could be seen as an example of the principle captured in Rule 22 of the *BAI Code of Fairness, Objectivity & Impartiality in News & Current*.

Decision of the Compliance Committee: Reject (Unanimous)

The Committee considered the broadcast and the submissions from the complainant and the broadcaster. Following a review of the material, the Committee has decided to reject the complaint. In reaching this view, the Committee had regard to the Broadcasting Act 2009, Section 48(1)(a)(fairness, objectivity & impartiality in current affairs), *Code of Fairness, Objectivity and Impartiality in News and Current Affairs* (Rule 4.19).

In this regard:

- In considering complaints the Compliance Committee has regard to a programme in whole and in context. For this reason, that aspect of the programme that was the focus of the complaint was reviewed in the context of the discussion as a whole and not in isolation. It was evident from a review of the programme that the reference to the research cited by the programme presenter was situated within a broader discussion on the possibility, at that time, of a referendum being held to change the Irish constitution to permit same-sex marriages.
- In considering the complaint the Committee did not consider the content of the Child Trends Report. Rather, the Committee considered whether the reference by the presenter was fair, objective and impartial and in this regard it noted that in raising this research, the presenter did not endorse or support the research or its findings but rather used the citation of the research by an organisation on record as being opposed to same-sex marriage (The Iona Institute) as the context for a question directed towards Senator Rónán Mullen and the panel in general.
- While noting that there are a range of views (some of which are contested) about the research referenced by the presenter, the Committee was of the view that the programme was not an examination of the research and its findings but rather had the intention of situating the use of the research in the context of any forthcoming debate on changes to the Irish Constitution. This was evident given that the presenter did not specifically name the research publication or the authors. For this reason, it was not necessary, as a means to ensuring compliance with the Broadcasting Act or the BAI's codes, to examine or challenge the interpretation by any party of the research and its findings in the context of this particular programme.
- In view of the above, it was the opinion of the Committee that the programme did not infringe the Broadcasting Act 2009, Section 48(1)(a)(fairness, objectivity & impartiality in current affairs) and *Code of Fairness, Objectivity and Impartiality in News and Current Affairs* (Rule 4.19) in the manner specified by the complainant. Accordingly, the complaint has been rejected.

Broadcasting Complaint Decisions

Complaint made by: Mr. Colum Cusack

Ref. No. 146/14

Station:

RTÉ Two

Programme:

News2Day

Date:

20th November 2014

Complaint Summary:

Mr. Cusack's complaint is submitted under the Broadcasting Act 2009, Section 48(1)(a)(fairness, objectivity & impartiality in news and current affairs), *Code of Fairness, Objectivity and Impartiality in News and Current Affairs* (Rules 4.1, 4.2, 4.17 and 4.19).

The complaint refers to an item on *News2Day*. The complainant states that the presenter stated: "*Ireland was the only European Country not paying for water*". The complainant feels that this infringed the BAI Codes and further states that it is critical that news is balanced and fair to any audience. He further states that the citizens of Ireland currently contribute approximately €1.2 billion annually through general taxation to fund water services in Ireland. The complainant queries how this show was allowed to air with what he describes as blatant disinformation, broadcast to an easily influenced audience.

Broadcaster's Response:

Initial response to complainant:

RTÉ states in relation to the report on the water charge issue the audience for this programme is aged 7 to 12 years and they try to simplify complex news stories as much as possible, while retaining balance. The broadcaster states that in this report they spent a lot of time explaining the controversy over the water charges issue and in a news report of just 75 seconds they spent over 40 seconds explaining the objections and concerns of members of the public who oppose water charges. Within the context of the report, RTÉ state that it was made clear that this is a new charge for Irish people although such charges exist in other countries. The broadcaster states that it would not be possible within 75 seconds to explain the current taxation system for children, while also explaining people's grievances.

Response to BAI:

RTÉ states *News2Day* is a news bulletin for the 7-12 year-old audience whose editorial brief is to make complex news stories accessible to children. The broadcaster states that this editorial context necessarily involves using language and concepts which that particular audience can grasp.

Opening the report, the newsreader stated:

"The idea of paying for water is not a new one. In fact, Ireland was the only European country not paying for water. However, the introduction of water charges and the company tasked with the job, Irish Water, has been very controversial. The public had many questions. How will Irish Water be run? What will the water cost us?"

The broadcaster states that the term "*paying for water*" was clearly used here as a means of expressing the concept of direct payment through water charges rather than indirectly through general taxation.

Broadcasting Complaint Decisions

The broadcaster notes that the statement that Ireland is unique amongst European countries in not having such a direct payment system was entirely accurate and not misleading. The term ‘pay’ is commonly understood to indicate a direct cost to the person – for example, ‘pay for electricity’, ‘pay for gas’ – rather than expenditure by indirect means. The use of the term could not have led to misunderstanding: the effect of the introduction of water charges being that users will ‘pay for water’.

The broadcaster states that the editorial focus of the report was the proposal of water charges and the opposition to that proposal. A viewing of the item will demonstrate that the report gave objective, impartial and equitable coverage to both the proposal for, and opposition to, the water charges. The view of the proposers of water charges that such payment should be introduced in Ireland was objectively and impartially conveyed. So also were the views of those opposed to the introduction of charges. The broadcaster states that the use of the term “*paying for water*” will be seen in the context of an item which, taken as a whole, was a fair, objective and impartial report on a complex public debate in the editorial context of a news bulletin for an audience of children.

Decision of the Compliance Committee: Reject (Majority)

The Committee considered the broadcast and the submissions from the complainant and the broadcaster. Following a review of the material, the Committee has decided to reject the complaint. In reaching this view, the Committee had regard to the Broadcasting Act 2009, Section 48(1)(a)(fairness, objectivity & impartiality in news and current affairs), *Code of Fairness, Objectivity and Impartiality in News and Current Affairs* (Rules 4.1, 4.2, 4.17 and 4.19).

In this regard:

- The Committee noted that the programme was a news programme aimed at children. As such, the manner and detail of information presented will be both time-bound (as a news item) and also tailored to meet the maturity and educational levels of children.
- Notwithstanding this, the requirement for fairness, objectivity and impartiality in coverage of such content remains a requirement and while having regard to the type of programme the Committee also reviewed the content in light of the requirements of the Broadcasting Act and the BAI’s news and current affairs broadcasting code.
- From its review of the programme, the Committee found that the issues arising with the introduction of direct water charges in Ireland, including the arguments presented by those who oppose such charges and the decisions of the Government, were all presented.
- The Committee noted that the item did not include a broader examination of the manner in which the supply of water to the public has been traditionally paid for via the Irish tax system and that there was therefore no broader context for the statement during the programme item that “*Ireland was the only European country not paying for water*”.
- However, having had regard to the content of item as a whole as well as the target audience for the programme, the Committee was of the view that the lack of context for this statement did not, on balance, amount to an infringement of the requirements of the *BAI Code of Fairness, Objectivity and Impartiality in News and Current Affairs* in the manner specified by the complainant. Accordingly, the Committee has decided to reject the complaint.

RESOLVED BY THE EXECUTIVE COMPLAINTS FORUM

Complaint made by: Rev. Raymond Hannon

Ref. No. 125/14

Station:

RTÉ One

Programme:

Passion – Would You Believe?

Date & Time:

14th September 2014

Complaint Summary:

Reverend Hannon's complaint is submitted under the Broadcasting Act 2009, section 48(1)(b) harm and offense; *BAI Code of Programme Standards*- sections 3.4.5

The complaint refers to comments made during the '*Would you Believe?*' special, which was a documentary on an amateur production named 'Passion 2014'. The complainant took issue with a remark that was made by a contributor to this programme which asserted that the biblical figure, Mary Magdalene, was married to Jesus. The complainant believes that these remarks were blasphemous. He states that Mary Magdalene was not married to Jesus and that he found the remarks not only inaccurate, but highly offensive.

The complainant states that the contributors to the programme spoke of a woman who is a prostitute – a sinner – who pours out her tears on the feet of Jesus and they link her to Mary Magdalene. The complainant further states that the contributors went into 'over-drive' in a barrage of caustic comments and belief such as:

- When Jesus looked at her and loved her as she was – she was set free;
- She became one of His most faithful and passionate followers;
- There was a strong connection there and a deep relationship;
- Was she his wife? – never know.

The complainant states that a contributor continued with a litany of "I believe" - she answers her own question i.e. was she His wife, by saying:

- I believe and firmly believe she was;
- I believe she was His confident;
- I believe she had the brains;
- I believe if society was different 2000 years as it is today, this woman would have been the first Pope.

The complainant also points to the response he received from the Head of Religious Programmes in RTÉ and states that Mr. Childs grossly misunderstands his complaint, the core of which is the claim that Mary Magdalene was the "wife" of Jesus.

Broadcasting Complaint Decisions

Broadcaster's Response:

Initial response to complainant:

RTÉ state that the complainant quotes two people featured in a brief section of this film. One was Dr. Jessie Rogers who is a licensed Catholic scripture scholar based at Mary Immaculate College, Limerick, who was brought in to give background scriptural instructions to the cast. The other is a local amateur actor who played the part of Mary Magdalene in the dramatic production featured in the programme.

RTÉ state that Dr. Rogers clearly makes the point that very little is known about the actual Mary Magdalene. Tradition has associated that name with another woman who appears in the Gospel and is described as a sinner. For that reason, folklore has labelled Mary Magdalene a prostitute. There is no scriptural basis for this. Mary Magdalene is mentioned in the Gospel as loyal, if converted – even exorcised – follower of Jesus and a witness to the crucifixion and the resurrection but never as a prostitute.

The broadcaster states that this documentary was an effort of a small rural Irish community to bring the passion story to life in 2014. To do this, a collection of ordinary people became totally immersed in the characters of the Gospel through a combination of scripture study and method acting. It was absolutely clear in the film that that was what was happening.

The broadcaster states that the cast members' subjective interpretation of the Gospel narrative and their roles was clearly identified as that. Hence the filming of the actor talking about her personal take on her character – a character whose real nature is lost in the mist of centuries of accreted reading and misreading of the Gospel. RTÉ state that the local actor is absolutely entitled to her view which was not being represented as Gospel truth or forced on anyone. Nobody pretended that she was a biblical expert, only that her views had been informed by one.

RTÉ denies that the local actor expressing her personal beliefs about Mary Magdalene was blasphemous. The broadcaster notes that the view of the actor and of the complainant about the character and personality of Mary Magdalene are both speculative.

The Director of Communications of the Catholic Bishops Conference, Mr. Martin Long and another member of his team, Ms. Brenda Drumm, tweeted positive messages about the film which earned audience appreciation scores way above the average – 87.5% vs a norm for RTÉ factual programmes of about 82%. The Parish Priest of Nicker and Pallas Green was also referred to in the film as being in full support of the Passion Play and did not see either the play or the RTÉ film as blasphemous. The broadcaster states that there were other positive tweets about the programme.

Response to BAI:

RTÉ state that the Head of Religious Programmes addresses in his reply to the complaint to the broadcaster the history of debate on the figure of Mary Magdalene, referring for example to a synopsis of that history in the web publication Bible History Daily.

Broadcasting Complaint Decisions

The broadcaster states that he makes it clear that the contributions of Dr. Jessie Rogers, scriptural advisor to the drama production featured in the documentary, and of the amateur actor playing Mary Magdalene, were of a piece with that historical discussion. Neither the documentary production nor the broadcasters take any view on the topic.

The broadcaster states that a viewing of the excerpt and of the documentary will make clear the respect of the drama participants for the story of the Passion and of the documentary makers for their faith.

RTÉ state that the complainant is alone in taking offence. The broadcaster states that, as is pointed out in the reply to his original complaint, both production and documentary received an overwhelmingly positive response. Given the commitment of the participants in the drama, and the sensitivity of the documentary to their devotion to the story of The Passion, the response is not surprising. The broadcaster states that it would appear that not only was there no undue offence but that no offence whatsoever was given, with the sole exception of the complainant.

RTÉ believes that there was no infringement of statute or code on the grounds of offence in the treatment of religious views, beliefs or images, of blasphemy or any other grounds.

Decision of the Executive Complaints Forum:

When considering the complaint, the members of the Forum reviewed the broadcast, the submissions of the complainant and the broadcaster. The Forum also had regard to section 48(1)(b) *harm and offence, Code of Programme Standards, section 3.4.5 (undue offence)*.

The Forum noted that the complaint refers to comments made by one of the characters involved in an amateur production named 'Passion 2014'. The complainant took issue with a number of remarks about Mary Magdalene, in particular the remark that was made which asserted that Mary Magdalene was married to Jesus. The complainant believes the remarks were blasphemous and states Mary Magdalene was not married to Jesus.

The Forum found that, as a piece of dramatic art, the interpretation of the Passion of Jesus Christ was necessarily subjective and that the views put forward by the various interviewees were their personal beliefs and were put forward as such. In this context, the actor playing the part of Mary Magdalene provided her opinion on the character she was playing and speculated about whether Mary Magdalene was the wife of Jesus. The Forum was of the opinion that the interpretation of this biblical character was not an endorsement of one particular view of this character over another particular view.

Having viewed the entire documentary, the Forum could not find any evidence of blasphemy. Although some may not agree with the views as expressed by the actor, the Forum found that the programme was not harmful and would not cause undue offence.

The complaint did not raise potential issues that warranted further investigation and accordingly, the Forum considered the matter resolved.

Broadcasting Complaint Decisions

Complaint made by: Ms. Joy Redmond

Ref. No. 131/14

Station:
RTÉ One

Programme:
The Saturday Night Show

Date & Time:
27th September 2014

Complaint Summary:

Ms. Redmond's complaint is submitted under the Broadcasting Act 2009, section 48(1)(b) harm and offence; *BAI Code of Programme Standards*- sections 3.4 and 3.4.2 (people and groups in society).

The complaint refers to comments made by the presenter during an interview with the Mayor of Boston, Mr. Marty Walsh, who is Irish/American. The complainant states that during the interview the programme presenter suggested that Mr. Walsh should stand for President of the US because we had "*the black guy...*" and that if he won we would "*have one of our own*". The complainant claims that Mr. Walsh was aghast and almost stunned by the comments made by the programme presenter and quickly pointed to the validity of President Obama's roots in Ireland.

The complainant further states that the comments by the presenter would seem to indicate that he did not appreciate that colour and nationality are not mutually exclusive. The complainant states that in the context of the *BAI Code of Programme Standards* he considers it unacceptable for a programme presenter to make quips about the colour of the current President of the USA and that this is passed-off as light-hearted banter. The complainant finds it outrageous that the national TV channel would support these remarks even if the host and the audience found it light hearted.

Broadcaster's Response:

Initial response to complainant:

RTÉ state that the exchange which the complainant found offensive was in the context of light banter about Mayor Walsh's political ambitions and whether or not he might one day run for President of America. The conversation went as follows:

Brendan: "*what we'd really like, and I guess what everyone in Connemara would really like, is if you wouldn't mind becoming the President (audience laughs)... 'cause if we had an actual President ... (applause)*"

Marty: "*...of Ireland or America?*"

Brendan: "*...no become the President of America...given that we've managed to appropriate a black guy, like, if we had an actual President of our own... who actually was really connected with us.. I mean we could go crazy here...*"

Marty: "*...oh Obama is connected.. I think he's coming up here.. he's coming up...*"

Brendan: "*...oh Obama is connected, nobody's denying it.....*"

RTÉ state that the host was simply making light of how a Connemara man in the White House would go down in Ireland. There was no offence intended and Mayor Walsh took Brendan's remarks in a jocose spirit.

Broadcasting Complaint Decisions

The broadcaster states that in the exchange the presenter was speculating on how the election of an Irishman as President of America would go down in Ireland, given how we've adopted the current American President Obama as an honorary Irishman and taken him to our hearts. President Obama's links with Ireland are not as direct as Mayor Walsh's and that was the point of the presenter's banter.

RTÉ state that the presenter's intention was benign and in no way intended to condone or support discrimination. The broadcaster states that the audience responded by laughing at, and applauding, the light hearted conversation.

Response to BAI:

RTÉ state that on 27th September 2014, *The Saturday Night Show* featured an interview with the Mayor of Boston, Mr. Marty Walsh. At the beginning of the interview, which was informal and light-hearted in tone, it was established that Mayor Walsh is first-generation Irish-American, his parents having emigrated from Connemara to the US in the 1950s.

During the course of the conversation, the presenter enquired about Mayor Walsh's political ambitions, specifically in relation to the US presidency, jokingly putting the proposal to him that:

Presenter: *"What we'd really like, and I guess what everyone in Connemara would really like to happen, is if you wouldn't mind becoming the President . . . because if we had an actual President –"*

Mayor Walsh: *Of Ireland or of America?*

Presenter: *"No, become the President of America! Because given that we managed to appropriate a Black guy, like, if we had an actual President of our own who actually was really connected with us we could go crazy here".*

Mayor Walsh: *"Oh, Obama is connected; I think it's County Offaly –"*

Presenter: *"Obama is connected, nobody's denying it".*

The complaint to the broadcaster alleged that the presenter's comment implied that only white people can be truly Irish (*" . . . the host . . . doesn't appreciate that colour and nationality are not mutually exclusive"*). The broadcaster states that this is to take the presenter's remark out of the context in which it was made – both in terms of playful tone and of the subject under discussion, U.S. politics. The broadcaster states that when heard in context it is very clear that the presenter's remarks were intended to jokingly highlight the difference in degree of President Obama's and Mayor Walsh's relationship with Ireland, the former being the great-great-great-great-grandson of an Irish emigrant, the latter the son of parents who emigrated from Connemara. The broadcaster states that his comment, directed towards the enthusiastic 'appropriation' by Ireland of U.S. Presidents, suggested that, given Mayor Walsh's much more immediate and recent connection, were he to be elected US President such enthusiasm would be uncontained. And as the transcript above shows, President Obama's connection with Ireland was fully acknowledged by the presenter.

Broadcasting Complaint Decisions

In relation to section 3.4.1 of the *BAI Code of Programme Standards*, the code's Guidance Notes state that:

Mild comments or humour about characteristics of persons and groups in society may in certain circumstances be acceptable. However, this will depend on whether the characteristic is superficial or whether the comments touch on the essential characteristic of a person or group or society such as their colour, ethnicity, culture, disability, etc.

RTÉ claims that a viewing of the interview shows that the presenter's remarks clearly fall into the category of mild, superficial, humorous comment in very specific circumstances, which in no way supported or condoned discrimination on the basis of ethnicity or any other basis.

RTÉ regrets any offence which may have been taken by the complainant in respect of this exchange but believes that, in the context of the clear meaning of the remarks and their jocular tone, no such offence could be seen as undue.

Decision of the Executive Complaints Forum:

When considering the complaint, the members of the Forum reviewed the broadcast, the submissions of the complainant and the broadcaster. The Forum also had regard to section 48(1)(b) *harm and offence, Code of Programme Standards, section 3.4 (persons and groups in society) and 3.4.2 (discrimination)*.

The Forum noted that the complaint refers to comments made by the presenter when interviewing Irish-American Mayor of Boston, Mr. Marty Walsh. In the course of conversation the presenter inquired as to the Mayor's intention regarding running for President of the USA and said "*given that we managed to appropriate a black guy...if we had an actual President of our own... who actually was really connected with us...*" The complainant believes such comments by the host of a primetime show are unacceptable and that colour and nationality are not mutually exclusive.

The Forum considered the comments made by presenter in the context of the full discussion. The Forum found that the comments were made during a discussion between the presenter and Mr. Walsh. The inference being the tenuous connection between the President Obama and Ireland compared to a much closer one with the current Mayor of Boston. Although the Forum found the reference to the skin colour of the President superfluous, the Forum was of the view that there was no intention to discriminate or unjustly represent President Obama.

The complaint did not raise potential issues that warranted further investigation and accordingly, the Forum considered the matter resolved.

Broadcasting Complaint Decisions

Complaint made by: Ms. Erinna Behal

Ref. No. 130/14

Station:

RTÉ Two

Programme:

Callan's Kicks

Date & Time:

25th July 2014

Complaint Summary:

Ms. Behal's complaint is submitted under the Broadcasting Act 2009, Section 48(1)(b) harm and offense: *BAI Code of Programme Standards* - sections 3.4.1 and 3.4.2.

The complaint refers to an episode of *Callan's Kicks* in which she states that a faux Country and Western song was performed by Mr. Callan. She states that the song contained numerous refrains of 'Poor White Trash'. The complainant states this reference supports and condones discrimination on the basis of race, and is therefore contrary to the *BAI Code of Programme Standards*. The complainant states that the content is wrong and harmful and it also gives, in her opinion, permission to other groups and individuals to behave in a similar manner.

Broadcaster's Response:

Initial response to complainant:

RTÉ apologised for the delay in responding fully to the complainant, this arose on account of staff leave. The broadcaster states that *Callan's Kicks* is a humorous programme which satirises and pokes fun at public figures from the worlds of sport, media, news, politics and entertainment.

As outlined in the RTÉ Content Standards Guidelines, it is acknowledged that: "*Comedy programming where there are observations on everyday life will inevitably skirt close to giving offence. Good comedy is sometimes likely to be close to offensive. The justification for this has to be found within the comedy itself. Is the comic sketch a commentary on life, are its targets suitable for the attention of the scriptwriters? How skilful is the sketch executed? Was the particular humour expected of the programme? What time was it broadcast?*"

The broadcaster states that in the sketch complained of, a country-and-western pastiche, was fronted by an imaginary character called 'Dessie Dallas' singing a song titled 'Dessie's Dolls'. The broadcaster states that such songs often concern a lone outside figure who sees himself doomed in affairs of the heart. In 'Dessie's Dolls', 'Dessie' finally gets the girl, who rejects flashier suitors for a good, solid country man. The sketch, produced around the time of the Garth Brooks controversy, tapped into that national feeling at the time and love for all things country.

The broadcaster states that 'Dessie' refers to himself as "*no Garth Brooks, I'm poor white trash*" in a way which suggests that he is certainly unembarrassed and arguably proud of being so. In fact, at the end of the song, he sings to the woman whose heart he's won: "*I'm your white trash*". The broadcaster states that the use by 'Dessie' of the phrase could indeed be seen as an example of a group of people re-claiming a term which had in the past been used of them in a derogatory way. 'Dessie' and all the other characters in this light-hearted video look happy and confident, the humour is not at their expense and there was no intention of giving offense.

RTÉ acknowledges that not everyone, all of the time, is going to enjoy all of the comedy of *Callan's Kicks*. The intention is to create the best possible satirical comedy sketch show to appeal to a wide audience in this Friday-night post-watershed slot.

Broadcasting Complaint Decisions

Response to BAI:

RTÉ states Callan's Kicks is a humorous programme which satirises and pokes fun at public figures from the worlds of sport, media, news, politics and entertainment. It is presented as such and known and viewed as such by its audience, meeting their expectations.

The broadcaster states that the humour in this case, of a notably gentle and affectionate nature, was directed at country-and-western music and some of the 'down-home' attitudes supposedly associated with such music. Notwithstanding, the assertion by the fictional singer 'Dessie' that "*I'm no Garth Brooks,*" both musically and by virtue of his outsized headgear, shows that 'Dessie' clearly owes a debt to Mr. Brooks and the sketch clearly parodies the latter's particular form of MOR country music.

The broadcaster states that it may also be noted that there is in Irish society no persons or group who could be defined as or viewed as '*poor white trash*'. The phrase is used purely in the context of the American musical genre it parodies.

The broadcaster states that in the editorial context of comedy and related audience expectations, given the non-existence in reality of any group in Irish society which could be defined as '*poor white trash*', and noting the complete absence from the sketch of support or condoning of discrimination of any kind, RTÉ believes there are no grounds to uphold this complaint.

Decision of the Executive Complaints Forum:

When considering the complaint, the members of the Forum reviewed the broadcast, the submissions of the complainant and the broadcaster. The Forum also had regard to the Broadcasting Act 2009, 48(1)(b) *harm and offence*, Code of Programme Standards - section 3.4.1 and 3.4.2 (*persons and groups in society*).

The Forum noted that the complaint relates to a comedy sketch around an individual posing as a country and western singer who refers to "*white trash*" and "*I'm your white trash*" while singing a parody of a country and western song. The complainant believes that the references support and condone discrimination on the basis of race. The complainant also believes that the content gives permission to other groups and individuals to behave in a similar manner.

The Forum found that the words used by the comedian in the song were "*I'm no Garth Brooks, I'm poor white trash*" and "*I'm your white trash*". The Forum acknowledged that the terms "*white trash*" and "*poor white trash*" are often used as a disparaging description of people of a particular race and socioeconomic background. The Forum also found that the term "*poor white trash*" is one often appropriated by certain country singers to self-deprecatingly refer to themselves. The Forum was of the view that the words as used by the comedian had to be taken in context given these considerations, given the nature of the programme (satirical comedy), the time of broadcast (post-watershed) and audience expectations for the programme, *Callan's Kicks*, together with audience expectations regarding the station, RTÉ 2, upon which it was broadcast.

Broadcasting Complaint Decisions

The Forum found upon viewing the material that the comedian aimed the term “*poor white trash*” and “*I’m your white trash*” at himself in a comedic self-deprecating fashion rather than making reference in a derogatory way to people of a particular race or socioeconomic background. The Forum found that there was no infringement of the requirements of the *Code of Programme Standards* pertaining to the treatment of persons and groups in society and that the item could not have been considered to have supported or condoned discrimination on the basis of race. The Forum was of the view that the item was satirical in nature and that it was unlikely to unduly offend the audience viewing this programme.

In view of the above, the complaint did not raise potential issues that warranted further investigation and accordingly, the Forum deemed the matter resolved.

Broadcasting Complaint Decisions

Complaint made by: Mr. Seán MacLeod

Ref. No. 140/14

Station:

Newstalk 106-108FM

Programme:

Futureproof: The Truth about Vaccines

Date:

4th October 2014

Complaint Summary:

Mr. MacLeod's complaint is submitted under the Broadcasting Act 2009, Section 48(1)(a)(fairness, objectivity and impartiality in current affairs), under the *Code of Fairness, Objectivity & Impartiality in News and Current Affairs* – Rules 4.1, 4.2, 4.17, 4.19 and 4.22, under Section 48(1)(b) Code of Programme Standards, Section 3.5 (factual programming) and under Section 48(1)(b)(law and order).

The complaint concerns the *Futureproof* programme 'The Truth about Vaccines' which the complainant states included references to Mr. Andrew Wakefield and research he had carried out that suggested there may be a link between bowel disease and autism. The complainant states that the interviewee, Professor Adam Finn, made the statement that Mr. Wakefield's research has been proved wrong. However, the complainant states that there are 28 studies which suggest that Mr. Wakefield's research may be correct. The complainant provides a list of these in his submission and further suggests that the information provided in this programme was inaccurate.

The complainant also notes that the programme stated that Mr. Wakefield reported a link between M.M.R. vaccines and autism. However, the complainant maintains that Mr. Wakefield has never made such claims and information given out by the programme in this regard is incorrect. Further, the complainant asserts that the presenter said in relation to Mr. Wakefield's study that "*study is a strong word*", which indirectly puts forward the opinion of the interviewer. The complainant states that in his opinion the presenter suggested to have knowledge such that he can determine what is actually considered proper medical and scientific research, even though the presenter states that he is not a scientist.

Broadcaster's Response:

Initial response to complainant:

Newstalk 106-108fm states that, in relation to the complainant's statement that "the speaker on the show was inaccurate to say that Mr. Wakefield was proved wrong"; that there is a large body of evidence to suggest that Mr. Wakefield was indeed wrong. The complainant may disagree with that evidence.

However, Newstalk rejects the complainant's claim that the speaker was "inaccurate" when referencing it. Newstalk also points to the World Health Organisation, which offers the following in relation to autism and vaccines:

"Available epidemiological data shows that there is no evidence of a link between measles mumps-rubella (M.M.R.) vaccine and autism spectrum disorders. Previous studies suggesting a causal link were found to be seriously flawed. There is also no evidence to suggest that any other childhood vaccines may increase the risk of autism spectrum disorders.

Broadcasting Complaint Decisions

In addition, evidence reviews commissioned by the WHO concluded that there was no association between the use of preservatives such as thiomersal that contains ethyl mercury in vaccines and autism spectrum disorders”.

Regarding the speaker's claim that Mr. Wakefield's findings could not be considered a study, the speaker put forward a very clear explanation as to why he did not consider it a study and Newstalk are happy that this was a credible and reasonable point to make.

Response to BAI:

Newstalk 106-108fm states that the show dealt with vaccines and the safety of vaccines. The broadcaster states that from the outset of the show, it was clear that there were going to be divergent views on the issue. It was made very clear from the general nature of the interview that there are two views in relation to this issue and that no matter what view a person might hold, there will be studies/research/ideas out there to support that view. Further, it was made very clear to the listeners that there are studies/research/ideas that are available out there to support both sides of the debate. While it was obvious that the contributor, Professor Finn, held one view, he explicitly said that it was understandable why people would hold the other view and in fact he noted that if he had been in a situation where he had a child who became ill after having being immunized, he would have a hard time not feeling the same. He also and very notably said that the people who hold the view that vaccines are linked to autism have a right to that opinion and it wasn't for anyone else, including him, to try to change their mind about it.

Newstalk states they are not required to prove the merits of any side of the debate. They are only obliged as a broadcaster to ensure that the broadcast is fair, proportionate, equitable and editorially sound.

They rely on, but are not limited to, Rule 4.23 of the *Code of Fairness, Objectivity and Impartiality* and are satisfied that this was a situation where a personal view or authored programme or segment can be appropriate, subject to normal editorial controls.

Newstalk responded to each section complained of in order below:

Section 4.1 - Fairness, Objectivity and Impartiality - Statutory Duties of Broadcasters

Newstalk believes that this piece was compliant with section 4.1 as it was fair to all interests concerned and was presented in an impartial and objective manner. The presenter put a number of questions to the guest, Professor Finn, Professor of Paediatrics, Bristol University, which demonstrate and support this. He began by asking the Professor to explain to the audience what a vaccine is and to provide some background to the listeners on this. He then asked how it came to be that people were worried about these vaccines being unsafe.

The broadcaster states that the complainant appears to have a particular issue with the treatment of Mr. Wakefield's findings and the way that was presented. Newstalk are satisfied that the topic was covered fairly and it was clear to the listeners that some people agreed with the findings and others did not. It is simply a matter of fact that there are studies in existence that contradict Mr. Wakefield's findings.

Broadcasting Complaint Decisions

Newstalk are also satisfied that this matter was treated fairly and the presenter put particular questions to Professor Finn about it. He put some text messages to him in relation to the possibility of Mr. Wakefield being intimidated into recanting his discovery because of people that were paid by big pharmaceutical companies. He then asked the question;

“Do big pharma benefit hugely from these vaccination campaigns? Isn't there a vested interest in making sure these vaccines appear safe?”

The broadcaster states that Professor Finn specifically acknowledged that a person would be naïve and stupid to pretend that the private companies/big pharmaceutical companies do not have a financial interest in selling vaccines.

The broadcaster states that at this point the questions were wide-ranging in nature and designed to provide the listener with a broad background into the history of vaccines. Further they were asked in a manner to challenge the contributor about the view held in respect of Mr. Wakefield's findings and also in relation to the interests of the private companies/ pharmaceuticals as this is an argument often made by the other side of the debate.

The broadcaster states that the presenter then explicitly said that while he had carried out extensive research into the matter that he was not a scientist, and he asked Professor Finn to lay out what research had been done into linking M.M.R. to autism. This made it clear to the audience that he, the presenter, was not purporting to be an expert on the topic. It was only at the end of the piece that the presenter provided a critical view on the issue of vaccines being linked to autism. This is not in contravention of the Code.

Newstalk submits that there was the appropriate editorial control in place and this was appropriate for the following reasons:

- The questioning of the guest Professor Finn was done to provide a wide and varied view into the matter and indeed discusses how there were side effects of vaccines;
- The questions asked in relation to the influence of the 'big pharma' clearly put an opposing view forward and provided balance to the piece;
- The fact that the Presenter made it very clear that he was not a scientist;
- The reading out of texts from people who believed that vaccines were linked to autism;
- The summing-up by the contributor who specifically noted that it was understandable why people hold the view that vaccines have a link to autism, especially if they have a child that becomes immediately symptomatic after a vaccine. He noted that he would probably think it too if in that situation and said most notably; they have a right to hold that opinion and we shouldn't be dragging them through the process of trying to change their minds.

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Section 4.2: In their treatment of news and current affairs content broadcasters shall comply with the following principles as articulated in this Code:

Newstalk are satisfied that the piece was fair, objective and impartial as per the response to 4.1. They also submit that it was accurate, responsive and complied with the principles of transparency and accountability. This is evident by virtue of the challenging questions that the presenter put to the guest and further the manner in which the guest contributor summarised the issue, that is, that everyone is entitled to their own view.

To avoid repetition we will respond to the Accuracy & Responsiveness and Transparency & Accountability below in their response to 4.17.

Section 4.17: News and current affairs content shall be presented with due accuracy, having regard to the circumstances and the facts known at the time of preparing and broadcasting the content.

Newstalk submits that this piece was accurate. The guest contributor was a Professor of Paediatrics in Bristol and was there to give his own view on the issue and this view was presented in an accurate manner that was very fair to the other side. Newstalk notes that the complainant has a specific issue with the manner in which Mr. Wakefield was discussed and he goes into particular detail about Mr. Wakefield's history and career. Newstalk respectfully submits that this was not about Mr. Wakefield's career or experiences. It was not necessary for Newstalk to go into such detail as the complainant contends. The work of Mr. Wakefield was discussed generally and accurately in order to provide balance to the broadcast and it was discussed as an example of the alternative view that exists on the issue. There were no misrepresentations made and it was clear to the listener that any opinions on Mr. Wakefield were clearly that, opinions. Again, it is a matter of fact that research exists that contradicts Mr. Wakefield's findings. The broadcaster notes that it is for Newstalk to make editorial decisions about who they wish to interview and they were compliant in so far as this section prescribes. They are satisfied that it was a credible and trustworthy piece of broadcasting.

In respect of the allegations made that Professor Finn is linked to pharmaceutical companies, Newstalk submits that this is not an issue in circumstances where the robust questioning by the presenter lead to the admission by Professor Finn that it would be naïve and stupid to pretend that the private companies/big pharmaceutical companies do not have a financial interest in selling vaccines.

Section 4.19: Views and facts shall not be misrepresented or presented in such a way as to render them misleading. Presenters should be sensitive to the impact of their language and tone in reporting news and current affairs so as to avoid misunderstanding of the matters covered.

Newstalk are satisfied that the matter was presented in a fair, equitable and proportionate way such to satisfy the requirement under this section. They find it difficult to understand how this could be deemed to be misleading given the circumspect and broad conclusion articulated by the contributor.

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Section 4.22: *It is an important part of the role of a presenter of a current affairs programme to ensure that the audience has access to a wide variety of views on the subject of the programme or item; to facilitate the expression of contributor's opinions – sometimes by forceful questioning; and to reflect the views of those who cannot, or choose not to, participate in content. This being so, a presenter and/or a reporter on a current affairs programme shall not express his or her own views on matters that are either of public controversy or the subject of current public debate such that a partisan position is advocated.*

The Code does not automatically prevent or preclude a presenter from expressing their own views, it is only prohibited where it is advocating a partisan position. This is not what occurred in this broadcast. The presenter conveyed a critical view in the context of a broadcast that was balanced, objective and fair to all sides. The nature of the questions posed to the contributor was robust and provided balance to the issue.

Section 3.5 –Code of Programme Standards

This provides that a broadcaster shall exercise due care by taking all reasonable measures to ensure that viewers and listeners of programme material on its channel/service are protected from undue offence and from harm. Newstalk denies that there was any undue offence and harm arising out of this broadcast and would submit that it is simply misconceived to make an argument that a reasonable listener would be harmed or unduly offended from this broadcast.

Section 48.1 (b) – Law & Order

Newstalk again denies that the broadcast could be reasonably regarded as causing harm or offence or as being likely to promote or incite to crime or as tending to undermine the authority of the State.

Conclusion

Newstalk notes that it has been made clear by the BAI through various public statements and published decisions that it has at no time issued a direction requiring that broadcasters must automatically balance a discussion with an opposing view. They further note that in determining what is fair there are a number of factors which the BAI will consider such as the scope of the debate, the structure of the programme and/or the role of the presenter.

Newstalk submits that this piece was structured in such a way and this includes the nature of the questions put to the contributor by the presenter that was fair to all parties involved in the debate. Newstalk believes that the complaint is in reality about their editorial choices and how it does not please the complainant's taste. Newstalk simply cannot cater for every view out there or broadcast material that every listener will like or indeed agree with.

Decision of the Executive Complaints Forum

When considering the complaint, the members of the Forum reviewed the broadcast, the submissions of the complainant and the broadcaster. The Forum also had regard to the Broadcasting Act 2009, *section 48(1)(a)(fairness, objectivity and impartiality in news and current affairs)*, *the Code of Fairness, Objectivity and Impartiality in News and Current Affairs – Rules 4.1, 4.2, 4.17, 4.19 and 4.22*, *section 48(1)(b)Code of Programme Standards, section 3.5 (factual programming) and section 48(1)(b)(law and order)*.

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The Forum noted that the programme covered the issue of vaccines and had been prompted following the previous week's broadcast about vaccines and in particular feedback from listeners as to links between vaccines and ill-health. In this context, the programme set out to examine the issue of vaccines from a particular editorial angle, namely, the link between vaccines and public health. The editorial position taken during the programme was informed by the findings of the World Health Organisation and the Irish Government that the scientific evidence to date does not demonstrate a definitive link between the M.M.R. vaccines with instances of autism.

The Forum was of the view that it is legitimate to examine an issue that reflects the consensus view on a scientific and health issue and that to do so is not evidence of a lack of fairness, objectivity and impartiality on the part of the broadcaster or the programme presenter. In this instance, the programme intended to examine and challenge the view there was a link between vaccines and ill-health, including autism, in a context where the failure to vaccinate children has clear public health implications for children and the population at large. This focus was clearly flagged to listeners at the outset of the programme.

The Forum noted that the discussion was wide ranging. While it did address research undertaken by Mr. Wakefield, it also discussed vaccines in general, the scientific approach to research, the link between research funding and pharmaceutical companies, amongst other matters. The Forum found that the programme presenter, in the questions asked of his guest and in text messages that were aired, reflected the views of those who believe there is a link between vaccines and ill-health.

On the issues of research undertaken by Mr. Wakefield, the Forum noted that the focus of the programme was not on the alleged link between vaccines and autism. Instead, the programme used this story as a means of illustrating the broader editorial focus of the programme on vaccines, their use and their value in the context of the public health of society. The Forum noted that while the presenter was critical of Mr. Wakefield's research, his critique was given a context and was further elaborated upon by Professor Finn, who discussed the three stages of scientific research and where Mr. Wakefield's research was positioned in terms of the methodology used to undertake such research. The Forum found that Professor Finn never stated that Mr. Wakefield's research was wrong, rather, he spoke about the over-interpretation of his research and the impact of this on attitudes towards, and take-up of, vaccines.

In circumstances where publication of Mr. Wakefield's research had been retracted, where the consensus view is that there is no definitive link between M.M.R. vaccines and autism and where this aspect of the story of vaccine use was not the focus of the programme, the Forum concluded that the editorial approach taken by the programme and the discussion of the issues during the programme met the requirements set out in the *Code of Fairness, Objectivity and Impartiality in News and Current Affairs*.

In this context, the Forum also found that the programme raised no issues in the context of *The Code of Programme Standards* or the statutory requirement pertaining to law and order or those rules of the *Code of Fairness, Objectivity or Impartiality in News and Current Affairs* cited by the complainant.

Therefore, the Forum found that the complaint did not raise potential issues that warranted further investigation and accordingly, the matter was deemed resolved.

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Complaint made by: Mr. Raymond Beggan

Ref. No. 141/14

Station:

Newstalk 106-108FM

Programme:

Futureproof:
The Truth about Vaccines

Date:

4th October 2014

Complaint Summary:

Mr. Beggan's complaint is submitted under the Broadcasting Act 2009, Section 48(1)(a)(fairness, objectivity and impartiality in current affairs), under the *Code of Fairness, Objectivity & Impartiality in News and Current Affairs* – Rules 4.1, 4.2, 4.3, 4.17, 4.19, 4.20, 4.21, 4.22, 4.23, 4.24, 4.25, and 4.26 under Section 48(1)(b) *Code of Programme Standards*, (harm and offence) Section 2.2 and under Section 48(1)(b)(law and order).

The complaint concerns the *Futureproof* programme 'The Truth about Vaccines' and an interview with Professor Adam Finn regarding the possible link between autism and vaccines. The complainant claims that the presenter gave his personal view on this controversial subject. In this regard, the complainant states that at the beginning of the programme the presenter stated:

“Last week we talked about vaccines and how some people have been doubting their safety and spreading the harmful myth that they may be linked to autism”. He then stated “we decided we have to cover vaccines and the safety of vaccines and this is probably the first ever public health piece that we have done on the programme....”

The complainant queries how Newstalk can express its views about what he describes as an important and much debated public health, current affairs issue in such a 'subjective' and 'partial' manner and can give on-air what he describes as specialised medical advice to the general public without the presenter having the relevant medical qualifications.

The complainant states that the key elements of these 'authored' or 'personal view' segments (in the context of the BAI's news and current affairs code) are that they are 'appropriate' and 'subject to normal editorial controls'. The complainant queries how it can be 'appropriate' for one Newstalk presenter, who says, *"I am not a scientist"*, to make a specialised medical claim of certainty about a specialised medical topic?

The complainant states that not even the people involved in this field of inquiry, including Mr. Andrew Wakefield, who are all Professors or highly experienced Doctors, who each have decades of training and expertise, make such claims of certainty.

The complainant maintains that if, at the start, the presenter had stated his own views on the subject, then had distanced his own 'personal views' (stating that he is not a scientist) from the show and distanced these views from Newstalk, and then had conducted a show which included all sides of the argument in a fair, accurate and impartial manner, this would constitute a normal, fair and unbiased broadcast. The complainant claims none of this happened and further states that 'authored' views on broadcasts are generally about current political/economic/world events.

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He further states that 'authored' views dealing with specialised topics like this one need specialised people with specialised knowledge, otherwise they are bogus.

The complainant states that in his opinion the presenter goes further than expressing his own views on the subject, he tries to make people with an alternate view seem wacky. In this regard, the complainant states that the presenter stated that those holding alternative views on the topic of vaccines were spreading 'harmful' myths and he stated that he hopes '*We were all on the same page on this one*', i.e. he had hoped his audiences' views matched the official view of Newstalk on vaccines as elucidated by their spokesperson.

The complainant maintains that this is not 'authored' content. It is a Newstalk spokesperson pushing their own personal view of a very controversial subject on an audience, who by his own admission, have very divergent views on the subject to his own.

The complainant also believe that Professor Adam Finn, was conflicted in taking part in this interview due to his admissions regarding his close work with Pharmaceutical companies which include but are not limited to Novartis, Sanofi, Pastuer MSD, GSK, Pfizer, Takeda, Alios - all companies producing vaccines for profit.

The complainant believes that the piece on Mr. Wakefield was completely biased and inaccurate. For example, the complainant cites the swine flu vaccine of 2009, which he states was based on a hoax claim of a 'pandemic' and the complainant queries why Newstalk researchers missed out on this and other information. The complainant also claims that the medical profession here aligned with the media to push this vaccine on the Irish public. He further queries the number of children and adults damaged by this vaccine. The complainant provided a list of 28 studies which he states are diametrically opposed to the Newstalk 'public health' item.

Broadcaster's Response:

Initial response to complainant:

Newstalk 106-108fm state that at the outset of the piece the presenter said that he does not believe that there is a link between the M.M.R. vaccine and autism. Paraphrasing him, he said he was shocked by the number of people who felt there was a link between the two and that he felt it was important to discuss the issue as a public health piece – '*the first we have ever done on the programme*'. Newstalk state that it would argue that the presenter's piece falls under the category of 'personal view' segment was clearly flagged as such and was fair to all interests concerned for the following reasons:

- The presenter's questioning of the guest, Professor Finn, was fair and balanced, referencing the views of prominent anti-vaccine advocate; Mr. Andrew Wakefield;
- "Anti vaccine" texts were aired on the programme;
- The speaker, Professor Finn, said that vaccines do have side effects;
- Professor Finn said that 'big pharma' does have a financial interest in selling vaccines, and it would be 'naive and stupid' to say otherwise;

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- Professor Finn stated that he understands why certain people have 'anti-vaccine' views and they shouldn't be forced to change their minds;
- The tone of the interview was at all times balanced and fair and in line with BAI rules and obligations and am happy to defend it as such.

The broadcaster states that the presenter was not outlining Newstalk's official view on autism and M.M.R.

Newstalk also states that at no point does the presenter claim to be a medical expert. In fact at one point he explicitly states *"I am not a scientist"*

Newstalk points in its response to the World Health Organisation, which offers the following in relation to autism and vaccines:

"Available epidemiological data show that there is no evidence of a link between measles-mumps-rubella (M.M.R.) vaccine and autism spectrum disorders. Previous studies suggesting a causal link were found to be seriously flawed. There is also no evidence to suggest that any other childhood vaccine may increase the risk of autism spectrum disorders.

In addition, evidence reviews commissioned by the WHO concluded that there was no association between the use of preservatives such as thiomersal that contains ethyl mercury in vaccines and autism spectrum disorders."

Newstalk further states that despite Professor Finn's links or otherwise to the organisations named, they are of the view that he approached the issue in a fair and objective manner. They also state that the claim that Newstalk's 'official view' has been contradicted by an earlier broadcast does not stand up. Newstalk does not have an 'official view' on autism and vaccines. Finally, the broadcaster states that Science Foundation Ireland sponsors Future Proof but has no influence on the editorial policy of the show's producers.

Response to BAI:

Newstalk 106-108fm states that the show at issue was dealing with vaccines and the safety of vaccines. From the outset of the show it was clear that there were going to be divergent views on the issue. It was made very clear from the general nature of this conversation that there are two views in relation to this issue and that no matter what view one holds, there will be studies/research/ideas out there to support that view. While it was obvious that the contributor, Professor Adam Finn, held one view, he explicitly said that it was understandable why people would hold the other view and in fact he noted that if he had been in a situation where he had a child who became ill after having being immunized, he would have a hard time not feeling the same. He also and very notably said that the people who hold the view that vaccines are linked to autism have a right to that opinion and it wasn't for anyone else, including him, to try to change their mind about it.

Broadcasting Complaint Decisions

Newstalk state that it rejects this claim and is satisfied that it has complied with the relevant codes and legislation. Newstalk is not required to prove the merits of any side of the debate. The only obligation as a broadcaster is to ensure that the broadcast is fair, proportionate, equitable and editorially sound.

Newstalk is relying on, but not limited to, Rule 4.23 of the Code and is satisfied that this was a situation where a personal view or authored programme or segment can be appropriate subject to normal editorial controls.

Newstalk respond to each section complained of in order:

Section 4.1 -Fairness, Objectivity and Impartiality - Statutory Duties of Broadcasters

- 1. In their treatment of news and current affairs content broadcasters shall comply with section 39 (1) (a) & (b), section 39 (2) and section 39 (5) & (6) of the Broadcasting Act 2009.**

Newstalk believes that this piece was compliant with section 4.1 as it was fair to all interests concerned and was presented in an impartial and objective manner. The presenter put a number of questions to the guest, Professor Finn, Professor of Paediatrics, Bristol University, which demonstrate and support this. He began by asking the Professor to explain to the audience what a vaccine is and to provide some background to the listeners on this. He then asked how it came to be that people were worried about these vaccines being unsafe.

Newstalk notes that the complainant appears to have a particular issue with the treatment of Mr. Wakefield's findings and the way that was presented. The broadcaster is satisfied that the topic was covered fairly and it was clear to the listeners that some people agreed with the findings and others did not. It is simply a matter of fact that there are studies in existence that contradict Mr. Wakefield's findings. Newstalk is satisfied that this matter was treated fairly and the presenter put particular questions to Professor Finn about it. He put some text messages to him in relation to the possibility of Mr. Wakefield being intimidated into recanting his discovery because of people that were paid by big pharmaceutical companies. He then asked the question;

“Do big pharma benefit hugely from these vaccination campaigns? Isn't there a vested interest in making sure these vaccines appear safe?”

Professor Finn specifically acknowledged that a person would be naïve and stupid to pretend that the private companies / big pharmaceutical companies do not have a financial interest in selling vaccines.

At this point the questions were wide-ranging in nature and designed to provide the listener with a broad background into the history of vaccines. Further they were asked in a manner to challenge the contributor about the view held in respect of Mr. Wakefield's findings and also in relation to the interests of the private companies/pharmaceuticals as this is an argument often made by the other side of the debate.

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The presenter then explicitly said that while he had carried out extensive research into the matter that he was not a scientist, and he asked Mr. Finn to lay out what research had been done into linking M.M.R. to autism. This made it clear to the audience that he, the presenter, was not purporting to be an expert on the topic.

It was only at the end of the piece that the presenter provided a critical view on the issue of vaccines being linked to autism. This is not in contravention of the Code. Section 23 allows a personal view or authored view in current affairs segments subject to appropriate editorial controls.

Newstalk submit that there was the appropriate editorial control in place and this was appropriate for the following reasons:

- The questioning of the guest Professor Adam Finn was done to provide a wide and varied view into the matter and indeed discusses how there were side effects of vaccines;
- The questions asked in relation to the influence of the 'big pharma' clearly put an opposing view forward and provided balance to the piece;
- The fact that the Presenter made it very clear that he was not a scientist;
- The reading out of texts from people who believed that vaccines were linked to autism;
- The summing-up by the contributor who specifically noted that it was understandable why people hold the view that vaccines have a link to autism, especially if they have a child that becomes immediately symptomatic after a vaccine. He noted that he would probably think it too if in that situation and said most notably; they have a right to hold that opinion and we shouldn't be dragging them through the process of trying to change their minds.

Section 4.2: In their treatment of news and current affairs content broadcasters shall comply with the following principles as articulated in this Code:

- Fairness;***
- Objectivity & Impartiality;***
- Accuracy & Responsiveness;***
- Transparency & Accountability***

Newstalk is satisfied that the piece was fair, objective and impartial as per the response to 4.1. We would also submit that it was accurate, responsive and complied with the principles of transparency and accountability. This is evident by virtue of the challenging questions that the presenter put to the guest and further the manner in which the guest contributor summarised the issue, that is, that everyone is entitled to their own view.

To avoid repetition Newstalk responds below to the Accuracy & Responsiveness and Transparency & Accountability below in our response to 4.17.

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Section 4.17: News and current affairs content shall be presented with due accuracy, having regard to the circumstances and the facts known at the time of preparing and broadcasting the content.

Newstalk would submit that this piece was accurate. The guest contributor was a Professor of Paediatrics in Bristol and was there to give his own view on the issue and this view was presented in an accurate manner that was very fair to the other side. Newstalk notes that the complainant has a specific issue with the manner in which Mr. Wakefield was discussed and he goes into particular detail. Newstalk state that it is not in a position to comment on this and we would contend that this was not about Mr. Wakefield's career or experiences. It was not incumbent on Newstalk to go into the background of Mr. Wakefield as the complainant suggests. The work of Mr. Wakefield was discussed generally and accurately in order to provide balance to the broadcast and it was discussed as an example of the alternative view that exists on the issue. There were no misrepresentations made and it was clear to the listener that any opinions on Mr. Wakefield were clearly that, opinions.

Newstalk maintains that this was not a piece about Mr. Wakefield. It was a piece where a Professor of Paediatrics in Bristol University was being interviewed about the view on vaccines. Newstalk claim that it is up to the broadcaster to make editorial decisions about who they wish to interview and were compliant in so far as this section prescribes they are required to be.

Newstalk note that the complainant seems to base his claim on the inaccuracy on the fact that it was stated that Mr. Wakefield's research has turned out to be proved wrong and proffers many studies to show otherwise. The piece did not state this – it simply stated that there have been studies which have disproved his work. The broadcaster responded to the complainant with examples of studies that contradict these. This is at the heart of this matter. There are studies to support both sides.

Newstalk notes that the complainant agrees that it correctly presented the nature of the research by Mr. Wakefield as an idea but claims that Newstalk misled the listener into thinking that it was claimed to be more than that by Mr. Wakefield. Again this is simply incorrect. The correct position is that Newstalk said that other people ran with it as more than just an idea. Newstalk state that it always presented accurate information and did not mislead the listeners.

Section 4.19: Views and facts shall not be misrepresented or presented in such a way as to render them misleading. Presenters should be sensitive to the impact of their language and tone in reporting news and current affairs so as to avoid misunderstanding of the matters covered.

Newstalk is satisfied that the matter was presented in a fair, equitable and proportionate way such to satisfy the requirement under this section. The broadcaster draws attention to their response to 4.17 and also to 4.1 above. Newstalk find it difficult to understand how this could be deemed to be misleading given the circumspect and broad conclusion articulated by the contributor.

Section 4.20: A significant mistake shall be acknowledged and rectified as speedily as possible, in an appropriate and proportionate manner. A broadcast correction or clarification shall have regard to the time and circumstances of the original broadcast.

Newstalk submit that no mistake has been made.

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Section 4.21: A news presenter and/or a reporter in a news programme may not express his or her own view on matters that are either of public controversy or the subject of current public debate.

Newstalk claim this was not news content and this section does not apply.

Section 4.22: It is an important part of the role of a presenter of a current affairs programme to ensure that the audience has access to a wide variety of views on the subject of the programme or item; to facilitate the expression of contributors' opinions – sometimes by forceful questioning; and to reflect the views of those who cannot, or choose not to, participate in content. This being so, a presenter and/or a reporter on a current affairs programme shall not express his or her own views on matters that are either of public controversy or the subject of current public debate such that a partisan position is advocated.

Newstalk state that the Code does not automatically prevent or preclude a presenter from expressing their own view; it is only prohibited where it is advocating a partisan position. This is not what occurred in this broadcast. The presenter conveyed a critical view in the context of a broadcast that was balanced, objective and fair to all sides. The nature of the questions posed to the contributor was robust and provided balance to the issue. We would again repeat our response to section 4.1.

Section 4.23: 'Personal view' or 'authored' current affairs segments or programmes can be appropriate, subject to normal editorial controls. This does not exempt the segment or programme – or a series of related segments/programmes – from the statutory obligations to be impartial, objective and fair to all interests concerned. Similarly, an authored item or programme may be permitted if part of a series of related segments/programmes which, taken together, will discharge the statutory obligations.

Newstalk is satisfied that the proper editorial controls were used.

Section 4.24: A 'personal view' or 'authored' programme or segment shall be clearly signalled to the audience at the outset, or in the case of a series of segments or programmes, at the start of each one.

This did occur at the introduction. The presenter stated that they were discussing vaccine and their safety and the spreading of the harmful myth that they may be linked to autism.

Section 4.25: Each broadcaster shall have and implement appropriate policies and procedures to address any conflicts of interests that may exist or arise in respect of anyone with an editorial involvement in any news or current affairs content, whether such person works on-air or off-air.

Newstalk denies that there was a conflict of interest here. The contributor is a Professor of Paediatrics at Bristol University and spoke in this capacity. He was not pursuing an agenda or promoting a cause. He gave general advice and then a view on the issue in his role as a Professor of Paediatrics. He concluded by summarising the deeply divisive issue in an extremely fair and balanced way.

Broadcasting Complaint Decisions

Section 4.26: Any personal, professional, business or financial interest of anyone with an editorial involvement in news or current affairs content that calls into question (or that might reasonably be perceived as calling into question) the fairness, objectivity or impartiality of a programme or item, shall be brought to the attention of the audience. To this end broadcasters shall satisfy themselves that they are in a position to be aware of the relevant interests of the personnel concerned, and to determine whether the interest concerned is of such extent as would warrant the withdrawal of any person from further involvement in the item or programme.

Newstalk denies that there was a conflict of interest here. The contributor is a Professor of Paediatrics at Bristol University and spoke in this capacity.

Section 2.2 – Code of Programme Standards

This section of the Code of Programme Standards provides that a broadcaster shall exercise due care by taking all reasonable measures to ensure that viewers and listeners of programme material on its channel/service are protected from undue offence and from harm.

Newstalk denies that there was any undue offence and harm arising out of this broadcast and submit that it is simply misconceived to make an argument that a reasonable listener would be harmed or unduly offended from this broadcast.

Section 48.1 (b) – Law & Order

Newstalk again denies that the broadcast could be reasonably regarded as causing harm or offence or as being likely to promote or incite to crime or as tending to undermine the authority of the State.

Conclusion

Newstalk notes that it has been made clear by the BAI through various public statements and published decisions that it has at no time issued a direction requiring that broadcasters must automatically balance a discussion with an opposing view and that an automatic requirement for balance is considered unnecessary and inappropriate by the authority.

Newstalk further notes that in determining what is fair there are a number of factors which the BAI will consider such as the scope of the debate, the structure of the programme and/or the role of the presenter. Newstalk submits that this piece was structured in such a way and this includes the nature of the questions put to the contributor by the presenter that was fair to all parties involved in the debate. Newstalk believes the complaint is in reality about their editorial choices and how it does not please the complainant's taste. Newstalk state that it simply cannot cater for every view out there or broadcast material that every listener will like or indeed agree with.

Decision of the Executive Complaints Forum

When considering the complaint, the members of the Forum viewed the broadcast, the submissions of the complainant and the broadcaster. The Forum also had regard to the Broadcasting Act 2009, *section 48(1)(a)(fairness, objectivity and impartiality in news and current affairs)*, the *Code of Fairness, Objectivity and Impartiality in News and Current Affairs – Rules 4.1, 4.2, 4.17, 4.19, 4.22 and 4.23, 4.24, 4.25 and 4.26 section 48(1)(b)Code of Programme Standards, section 3.5 (factual programming) and section 48(1)(b)(law and order)*.

Broadcasting Complaint Decisions

The Forum noted that the programme covered the issue of vaccines and had been prompted following the previous week's broadcast about vaccines and in particular feedback from listeners as to whether there was a link between vaccines and ill-health. In this context, the programme set out to examine the issue of vaccines from a particular editorial angle, namely, the link between vaccines and public health. The editorial position taken during the programme was informed by the findings of the World Health Organisation and the Irish Government that the scientific evidence to date does not demonstrate a definitive link between the M.M.R. vaccines with instances of autism.

The Forum was of the view that it is legitimate to examine an issue that reflects the consensus view on a scientific and health issue and that to do so is not evidence of a lack of fairness, objectivity and impartiality. In this instance, the programme intended to examine and challenge the view there was a link between vaccines and ill-health, including autism, in a context where the failure to vaccinate children has clear public health implications for children and the population at large. This focus was clearly flagged to listeners at the outset of the programme.

In this regard, the *Code of Fairness, Objectivity and Impartiality in News and Current Affairs* recognises the value of presenters in imparting information to audiences. It also permits presenters to give opinions. What is prohibited is the articulation of a partisan position and, in this context, and having had regard to the programme as a whole, the Forum did not agree with the view of the complainant that the presenter lacked fairness, objectivity and impartiality or that he was purporting to give scientific or medical advice. In reaching this view, the Forum was also of the view that the programme did not constitute an 'authored' piece and rules in this regard were not considered relevant (Rules 4.23 and 4.24).

In terms of the programme, the Forum also noted that the discussion was wide-ranging. While it did address research undertaken by Mr. Wakefield, it also discussed vaccines in general, the scientific approach to research, the link between research funding and pharmaceutical companies, amongst other matters. The Forum found that the programme presenter, in the questions asked of his guest and in text messages that were aired, reflected the views of those who believe there is a link between vaccines and ill-health.

On the issue of an alleged conflict of interest, the BAI's rules place specific requirements in respect of editorial staff (Rule 4.26). These rules do not apply to programme guests. This does not remove the requirement to ensure audiences are informed of potential conflicts. However, the Forum did not believe that any issues arose with this programme given the range of views presented by both the programme presenter and the guest.

On the issues of research undertaken by Mr. Wakefield, the Forum noted that the focus of the programme was not on the alleged link between vaccines and autism. Instead, the programme used this story as a means of illustrating the broader editorial focus of the programme on vaccines, their use and their value in the context of the public health of society. The Forum noted that the presenter was critical of Mr. Wakefield's research but that his critique was given a context and was further elaborated upon by Professor Finn, who discussed the three stages of scientific research and where Mr. Wakefield's research was positioned in terms of the methodology used to undertake such research. The Forum found that Professor Finn never stated that Mr. Wakefield's research was wrong, rather, he spoke about the over-interpretation of his research and the impact of this on attitudes towards, and take-up of, vaccines.

Broadcasting Complaint Decisions

In circumstances where publication of Mr. Wakefield's research had been retracted, where the consensus view is that there is no definitive link between M.M.R. vaccines and autism and where this aspect of the story of vaccine use was not the focus of the programme, the Forum concluded that the editorial approach taken by the programme and the discussion of the issues during the programme met the requirements set out in the *Code of Fairness, Objectivity and Impartiality in News and Current Affairs*.

In this context, the Forum also found that the programme raised no issues in the context of *The Code of Programme Standard*, the statutory requirement pertaining to law and order or those rules of the *Code of Fairness, Objectivity or Impartiality in News and Current Affairs* cited by the complainant.

Therefore, the Forum found that the complaint did not raise potential issues that warranted further investigation and accordingly, the matter was deemed resolved.

Broadcasting Complaint Decisions

Complaint made by: Mr. Alan Curran

Ref. No. 142/14

Station:

RTÉ Radio 1

Programme:

Morning Ireland

Date:

31st March 2014

Complaint Summary:

Mr. Curran's complaint is submitted under the Broadcasting Act 2009, Section 48(1)(a)(fairness, objectivity and impartiality in current affairs) – *Code of Fairness, Objectivity and Impartiality in News and Current Affairs* – Rules 4.1, 4.2.

The complaint concerns a report by Mr. George Lee, RTÉ's Agriculture and Environment Correspondent and an interview with Professor John Sweeney of N.U.I. Maynooth regarding the publication of a report by the Intergovernmental Panel on Climate Change (IPCC). The complainant states the programme presenter failed in his journalistic duty to '*interrogate, to pursue vigorous lines of questioning, convey critical views or to rigorously challenge the views*' of his interviewees, Mr. Lee and Professor Sweeney, '*in the public interest*' which is required under the BAI Code. The complainant states that no dissenting view and no advocate of opposition to the IPCC's findings were allowed. The complainant states that despite what he describes as Professor Sweeney's suggestion, no advocate has been invited since the programme was broadcast to provide balanced reporting on this issue and thus '*fairness to all interests concerned*'. The complainant claims that the presenter showed bias and partiality in his introduction and comments during this interview with Mr. Lee and in his playing of excerpts from speeches by the IPCC Chairman and a lead author of the Report. The complainant also states that the presenter's questions to Professor Sweeney were leading and allowed him full scope to promote the IPCC's line in an unchallenged and uninterrupted manner and to denigrate the views of "*naysayers*" as "*puerile*" and to assert that the "*debate is over scientifically many years ago*".

The complainant states that neither Mr. Lee nor the programme presenter raised any of the known and scientifically proven flaws in the IPCC Reports. He states that instead, the presenter asserted that this Report "*nailed the naysayers*" and Mr. Lee stated "*there's no doubt that climate change*" due to "*carbon emissions*"..."*is definitely happening*". The complainant states that the presenter did briefly refer to one of the authors, Dr. Richard Tol and his rejection of the Report for being "*silly, alarmist and sensational*", his follow-up question to Mr. Lee was met with the expected partial response in favour of the IPCC's findings.

The complainant adds that he noted the presenter and RTÉ never followed up Professor Sweeney's suggestion to have a debate with someone with anti-Warmist views on the next day's programme.

Broadcaster's Response:

Initial response to complainant:

RTÉ did not reply to the initial complaint submitted by the complainant and state that it was caught in their spam filter and, therefore, was missed.

Broadcasting Complaint Decisions

Response to BAI:

RTÉ states that the broadcast consisted of a report by RTÉ Agriculture and Environment Correspondent Mr. George Lee and an interview with Professor John Sweeney on the publication that day of a report by the Intergovernmental Panel on Climate Change (IPCC) titled 'Climate Change 2014: Impacts, Adaptation and Vulnerability'.

The broadcaster states that this report and interview were in response to the IPCC report saying that the effects of climate change are already occurring on all continents and across the oceans; that the world is in many cases ill-prepared for risks from a changing climate; and that there are opportunities to respond to such risks.

The broadcaster states that the interviewee on *Morning Ireland* was Professor John Sweeney, Ireland's leading climatologist from the Geography Department of NUI Maynooth. Professor Sweeney is a Nobel laureate, sharing with several hundred other climatologists the 2007 Nobel Peace Prize.

The broadcaster states that the interview explored in the interests of listeners Professor Sweeney's authoritative and informed view of the significance of the IPCC report. RTÉ states that the interview was not presented as, nor would it have been expected by the listener to be, a debate on the existence or otherwise of global warming. The discussion entailed a factual outline of the IPCC report and of the actions under discussion by governments and international organisations. Professor Sweeney did not espouse any particular policy approach which might have given rise to a topic requiring debate.

The broadcaster states that the IPCC is the international body for assessing the science related to climate change, established in 1988 by the World Meteorological Organisation and the United Nations. The organisation's March 2014 report, 'Climate Change 2014: Impacts, Adaptation and Vulnerability', was the work of 309 authors and editors, assisted by 436 contributing authors and 1,729 expert and government reviewers.

It is the view of RTÉ that impartial and objective journalism does not require that overwhelming scientific fact is challenged on every occasion on which a published report on such facts is given coverage. To do so would be to give hugely disproportionate standing to a tiny minority opinion which rejects such evidence-based scientific findings.

RTÉ notes the decision of the BAI in respect of BAI Complaint No.121/14 that it was considered "*reasonable, given the wide consensus in the scientific community that climate change is occurring, and can be attributed to human activity, that the programme makers took this as a given that did not require to be challenged during a discussion on factual findings of the WMO.*" RTÉ contends that the findings of the IPCC report in question represent a similar scientific consensus.

RTÉ also states that the broadcaster has editorial independence in choosing editorial topics and the framing of those topics; in that context, the broadcast was fair, objective and impartial and contained no statement of views on behalf of the broadcaster. The broadcast consisted of factual, fair and transparent report and discussion on the scientific findings of the IPCC and was not structured or presented to listeners as debate on whether or not climate change is happening.

Broadcasting Complaint Decisions

Decision of the Executive Complaints Forum:

When considering the complaint, the members of the Forum reviewed the broadcast, the submissions of the complainant and the broadcaster. The Forum also had regard to the Broadcasting Act 2009, 48(1)(a)(*fairness, objectivity and impartiality in news and current affairs*).

The Forum noted that the complaint concerns a broadcast which consisted of a report by RTÉ Agriculture and Environment Correspondent Mr. George Lee and an interview with Professor John Sweeney on the publication that day of a report by the Intergovernmental Panel on Climate Change (IPCC) titled 'Climate Change 2014: Impacts, Adaptation and Vulnerability'. The Forum noted the complainant's view that the presenter failed to interrogate the interviewee and his claim that there was no dissenting voice included to question the validity of the IPCC's findings.

Following its review of the broadcast the Forum was of the view that the report and interview were based on the release of the IPCC report and was not a wider discussion on whether climate change is occurring or not. The Forum noted that Professor Sweeney was interviewed in his capacity as a leading climatologist and was there to discuss the findings of the IPCC report alone. The Forum noted that the presenter twice made the point that some people held opposing opinions but the discussion did not develop into a wider debate on climate change.

While noting that broadcasters are required to discuss current affairs issues in a fair, objective and impartial manner, the Forum considers it reasonable, given the wide consensus in the scientific community that climate change is occurring, that the programme makers took this position as a given that did not require to be challenged during a discussion on the factual IPCC report. In this context, it was the view of the Forum that the fact that there was no contributor to represent those who do not believe that climate change is occurring did not render the programme unfair or impartial.

Having taken the above factors into account, the Forum found that the complaint did not raise potential issues that warranted further investigation and accordingly, the Forum deemed the matter resolved.

Broadcasting Complaint Decisions

Complaint made by: Mr. Paul Bourke

Ref. No. 150/14

Station:

RTÉ Radio 1

Programme:

Today with Seán O'Rourke

Date:

17th November 2014

Complaint Summary:

Mr. Bourke's complaint is submitted under the Broadcasting Act 2009, Section 48(1)(a)(fairness, objectivity and impartiality in current affairs) – and under the *Code of Fairness, Objectivity and Impartiality in News and Current Affairs* – Rule 4.21.

The complaint concerns a discussion on Catholicism in contemporary Ireland with panellists Fr. David Barrins, Mr. Michael Nugent, Chairperson of Atheist Ireland and Ms. Kathy Sheridan, Irish Times Columnist. The discussion was moderated by a stand-in presenter for Mr. O'Rourke.

The complainant claims that this programme lacked fairness and balance. He states that Ms. Kathy Sheridan stated during the programme that she was not articulating a position in favour or against either of the other panellists. However, it was his view that her contributions took a clear partial line. In this regard, the complainant states that Ms. Sheridan's inputs primarily consisted of challenges on people who believe the 'right to life' position.

The complainant claims that the programme did not appropriately discuss the issues as advertised and was not fair and balanced in the make-up of the panel, resulting in disproportionate time allocated to opposing sides.

Broadcaster's Response:

RTÉ regrets that the complainant received no reply to his initial complaint to the broadcaster and wishes to apologise for this oversight.

Initial response to complainant:

Response to BAI:

RTÉ state that the presenter expressed no views of her own whatsoever on the subject of discussion or on any matter of public controversy or current public debate. Her contribution was entirely focused on questioning designed to draw out the discussion.

The discussion presented a range of views on the topic: Fr. Barrins outlined his view that there is discrimination against Catholicism to be found in Irish society, with particular reference to third-level education; Mr. Michael Nugent took the view that society continues to privilege religious belief; and Ms. Kathy Sheridan expressed criticisms both of certain religious views and of antagonism towards religious belief.

RTÉ claims that a hearing of the item will demonstrate that the discussion was fairly structured both in terms of the composition of the panel and of the opportunity given to participants to put their point of view.

Broadcasting Complaint Decisions

Decision of the Executive Complaints Forum

When considering the complaint, the members of the Forum considered the broadcast, the submissions of the complainant and the broadcaster. The Forum also had regard to the Broadcasting Act 2009, *section 48(1)(a)(fairness, objectivity and impartiality in news and current affairs)* and the *Code of Fairness, Objectivity and Impartiality in News and Current Affairs – Rule 4.21*.

The Forum noted that the complaint concerns a discussion on Catholicism in contemporary Ireland with panellists Fr. David Barrins, Mr. Michael Nugent, chairperson of Atheist Ireland and Ms. Kathy Sheridan, Irish Times Columnist. The discussion dealt with a number of issues, including abortion and anti-Catholic discrimination.

Following its review of the programme, the Forum was of the opinion that the presenter, who was standing in for the regular presenter Mr. Seán O'Rourke, facilitated discussion with her panellists and dealt with the issues that arose in a fair and impartial way. The Forum found that the presenter put questions to each of the panellists that challenged their positions in relation to different issues as they arose. More broadly, the Forum found that the contributions of the panellists and the presenter resulted in the expression of a broad range of opinions on the topic under discussion. Finally, the Forum also noted that as a panellist, it is legitimate for Ms. Sheridan to express her views freely and that it is the role of the presenter to moderate the debate so as to ensure the programme as a whole meets the requirement of the BAI's Codes.

The Forum found that the presenter was fair to all interests concerned and that each member of the panel had time to respond to questions posed. The Forum was of the view that the complaint did not raise potential issues that warranted further investigation and accordingly, the Forum deemed the matter resolved.

