



ÚDARÁS
CRAOLACHÁIN
NA hÉIREANN

BROADCASTING
AUTHORITY
OF IRELAND

Broadcasting Authority of Ireland

Broadcasting Complaint Decisions

June 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 rejected twelve complaints and eight complaints were rejected by the Executive Complaints Forum. The decisions of the Compliance Committee were reached at its meeting held in April 2015. The decisions of the Executive Complaints Forum were reached at meetings held in March 2015.

Contents

Rejected by the BAI Compliance Committee

| | |
|---|---------|
| 116/14 – 119/14 – Mr. Brendan O’ Regan: Newstalk: The Pat Kenny Show, Lunchtime Show, The Right Hook and Moncrieff: 19 th August 2014..... | Page 5 |
| 133/14 – Mr. David Hegarty: RTÉ One: Prime Time: 9 th October 2014..... | Page 12 |
| 136/14 – 138/14 – Mr. Dónal O’Sullivan-Latchford: Lunchtime: 29 th & 30 th September & 1 st October 2014..... | Page 16 |
| 139/14 – Mr. Seamus O’Callaghan: RTÉ One: Prime Time: 23 rd October 2014..... | Page 21 |
| 147/14 – Mr. P. Galvin: Classic Hits 4FM: Niall Boylan at Night: 1 st December 2014..... | Page 2 |
| 151/14 – Mr. Brendan O’ Regan: Newstalk: World in Motion: 30 th November 2014..... | Page 28 |
| 5/15 – Mr. Seamus O’Callaghan: RTÉ One: Six One News: 28 th October 2014..... | Page 31 |

Rejected by the BAI Executive Complaints Forum

| | |
|---|---------|
| 148/14 – Ms. Karen Kiernan: RTÉ Radio One: Saturday with Brian Dowling: 1 st November 2014..... | Page 35 |
| 1/15 & 2/15 – Mr. David Walsh: RTÉ Radio One: News Bulletin & Morning Ireland: 5 th November 2014..... | Page 43 |
| 3/15 – Ms. Theresa Feeney: TV3: Tommy Tiernan – Crooked Man: 16 th December 2014... | Page 47 |
| 4/15 – Mr. Gerard Mangan: RTÉ Radio One: The Marian Finucane Show: 2 nd November 2014..... | Page 50 |

Broadcasting Complaint Decisions

8/15 & 9/15 – Ms. Orla O’Neill: RTÉ Radio One: Morning Ireland: 18th & 19th November 2014.....
.....Page 55

11/15 – Ms. Mary Banks: Ocean FM: North West Today with Niall Delaney: 26th January 2015.....
.....Page 59

Rejected by the BAI Compliance Committee

Complaint made by: Mr. Brendan O' Regan

Ref. No. 116 – 119/14

Station:

Newstalk 106-108fm

Programme:

The Pat Kenny Show
Lunchtime Show
The Right Hook
Moncrieff

Date:

19th August 2014

Complaint Summary:

Mr. O' Regan's complaint is submitted under: the Broadcasting Act 2009, Section 48(1)(a) (fairness, objectivity and impartiality in current affairs); the *Code of Fairness, Objectivity and Impartiality in News and Current Affairs* (Section 4: Rules 4.1, 4.2, 4.3 and 4.22).

The complainant stresses that his complaint is primarily about *The Pat Kenny Show* of 19th August 2014 and in a secondary way about the subsequent coverage of the issue of abortion on Newstalk for the rest of that day. The complainant believes the coverage of the abortion debate during these programmes was one-sided and not consistent with the obligations under fairness, balance and impartiality in current affairs. The programmes in question dealt with the case of 'Ms. Y', an asylum seeker who had sought to avail of a termination further to the provisions of the *Protection of Life During Pregnancy Act 2013* and the issues arising from her experiences.

The complainant states that in his opinion all speakers on *The Pat Kenny Show* on this day were, to a greater or lesser extent, seeking to remove Article 40.3.3 from the Irish Constitution (this article deals with the constitutional rights of the unborn) and came from a 'pro-choice' perspective. The complainant states that he did not hear voices that were from the 'pro-life' side of the argument and he states that for the most part, especially on *The Pat Kenny Show*, the questions put to the 'pro-choice' side were not challenging or robust.

Referring to *The Pat Kenny Show*, the complainant states that the show featured 'pro-choice' campaigner Senator Ivana Bacik and also featured Dr. Peter Boylan. He states that Dr. Boylan was a medical expert who spoke on medical issues but also suggested that we needed to remove Article 40.3.3 from the Constitution. The complainant claims that Dr. Boylan also made a number of criticisms about the 'pro-life' movement which he believes were not fair and went unchallenged – this included his references to this movement of '*powerful interests*' being '*funded from abroad*' etc. The complainant states that this contributor made no reference to the negative consequences of abortion for the woman and the unborn child.

Referring to the presenter of this programme, the complainant states that it wasn't good enough for the presenter to say on-air that some 'calls' were offering other views. The complainant believes Newstalk could have found 'pro-life' voices in advance. The complainant states that most texts read out on-air were on the 'pro-choice' spectrum.

Broadcasting Complaint Decisions

He states that, furthering the imbalance, there was a statement read out from the Irish Family Planning Association, which he states have a 'pro-choice' perspective. He states that Senator Ivana Bacik's contribution further added to what he describes as the unfair criticisms of the 'pro-life' perspective, and he states that she blamed them for '*terrible traumas*' allegedly caused by Article 40.3.3. The complainant states that what Dr. Boylan said was then replayed on the subsequent News bulletins, adding even more to what he considers to be the partial coverage of this topic by Newstalk on the day in question.

The Lunchtime Show

The complainant states that this programme did not improve matters. He states that Mr. Niall Behan of the Irish Family Planning Association, which the complainant states come from a pro-choice' perspective, was given an unchallenged run. He also states that there was an interview with psychologists, Dr. Anthony McCarty, who was neutral on the issue.

Moncrieff

The complainant states that this programme featured a long interview with Ms. Barbara Scully, who the complainant describes as being 'pro-choice', talking about leaving the issue of abortion up to women's individual consciences. The complainant states that this contributor also favoured the removal from the Constitution of Article 40.3.3.

The Right Hook

The complainant claims that on this same day this programme was only marginally better, with the presenter making some balancing points, but the main problem lay with Mr. Simon Mills being the only guest. The complainant claims it is disingenuous to regard Mr. Mills as a neutral expert as he had been in favour of abortion legislation, however limited, and had even drafted his own bill last year.

Broadcaster's Response:

Initial response to complainant:

Newstalk 106 – 108fm states that Dr. Peter Boylan is one of the most experienced and authoritative obstetricians in the country. For the most part he outlined a doctor's obligations under the legislation in his interview with the programme presenter.

The broadcaster states that this contributor did say that the 8th amendment should be repealed and dealt with by referendum – but only because of the contradiction in the Constitution whereby it protects a woman's right to travel abroad for a procedure that the Constitution says is illegal. The broadcaster states that this is a technical-legal point rather than a 'pro-choice' or 'pro-life' stance. The broadcaster states that at the end of the interview Dr. Boylan said that there were very powerful interests at play in the abortion debate that told lies – but importantly he did not specify which side of the debate these were coming from. Newstalk state it is happy that this interview was balanced and impartial.

Newstalk states that it is satisfied that the production team made every reasonable effort to secure a 'pro-life' speaker with numerous calls being made to 'pro-life' commentators. This included Mr. David Quinn and Ms. Breda O'Brien, neither of whom was available for differing reasons. Regarding the 'pro-choice' speaker, Senator Ivana Bacik, the broadcaster states that the presenter took her up on a number of issues, for example, when she said that the woman in this story had "*fallen outside our system*" he pointed out that this was not the case.

Broadcasting Complaint Decisions

When she said that most people thought “*we got it wrong in 1983*”, he pointed out that people like Mr. William Binchy believed “*we got it right*”. Newstalk believe the presenter adopted an adversarial approach at key times in this interview and would argue that it was balanced.

The complainant claims that “*most texts read were pro-choice*”. They state that this is not the case and that during this time six texts in total were read out – two neutral, two ‘pro-life’ and two ‘pro-choice’.

In relation to the Irish Family Planning Association (IFPA) statement, Newstalk states that this was factual and neutral on the subject of abortion. The IFPA are one of the central players in this story and carrying such a statement is simply part of Newstalk’s journalist remit.

Response to BAI:

Newstalk 106-108fm states that on August 19th news broke of an exclusive interview ‘Ms. Y’ had done with the Irish Times, shedding new light on this ongoing story. The broadcaster states that *The Pat Kenny Show* had a short space of time that morning to assemble a piece on the subject. The aim was to have an expert to provide neutral analysis of the medical/legal situation pertaining to abortion in Ireland, followed by a discussion with a ‘pro-choice’ and ‘pro-life’ speaker.

The broadcaster states that Dr. Peter Boylan, as one of the most experienced and authoritative obstetricians in the country fulfilled the role of the expert. The broadcaster states that for the most part he outlined a doctor’s obligations under the legislation.

The broadcaster states that this contributor did say that the 8th amendment should be repealed and dealt with by referendum – but only because of the contradiction in the Constitution whereby it protects a woman’s right to travel abroad for a procedure that the Constitution says is illegal. The broadcaster states that this is a technical-legal point rather than a ‘pro-choice’ or ‘pro-life’ stance. The broadcaster states that at the end of the interview Dr. Boylan said that there were very powerful interests at play in the abortion debate that told lies – but importantly he did not specify which side of the debate these were coming from.

Regarding the ‘pro-choice’ speaker, Senator Ivana Bacik, the broadcaster states that the programme presenter took her up on a number of issues, for example, when she said that the woman in this story had “*fallen outside our system*” he pointed out that this was not the case. When she said that most people thought “*we got it wrong in 1983*”, the presenter pointed out that people like Mr. William Binchy believed “*we got it right*”. Newstalk states that it is satisfied that the production team made every reasonable effort to secure a ‘pro-life’ speaker with numerous calls being made to ‘pro-life’ commentators. This included Mr. David Quinn and Ms. Breda O’Brien, neither of whom was available for differing reasons.

The complainant claims that “*most texts read out were pro-choice*”. That is not the case and during this time six texts in total were read out – two neutral, two ‘pro-life’ and two ‘pro-choice’.

In summary, the broadcaster states that *The Pat Kenny Show* had a very short space of time to assemble this item and that diligent and reasonable effort was made by Newstalk to secure a ‘pro-life’ speaker. The broadcaster states that for practical reason outlined above, this was not possible. In this light and bearing in mind section 39(1)(b) of the Broadcasting Act 2009, it is important to take into account other related broadcasts on Newstalk on the subject of ‘Ms. Y’:

Broadcasting Complaint Decisions

- On the same day **George Hook** stated during an interview about ‘Ms. Y’ that he was “*against abortion*”.
- The previous morning, Monday 18th August, the Bishop of Elphin, Kevin Doran (a ‘pro-life’ voice and one of the most senior members of the Catholic Church in Ireland), spoke about ‘Ms. Y’ on the **Breakfast Show**.
- On the night of Sunday 17th August at about 21.20, **Marc Coleman** interviewed Jenny Farrell of the *Pro-Life Campaign* about the ‘Ms. Y’ story.

The complainant seeks to link other Newstalk broadcasts on the subject of ‘Ms. Y’ claiming that they compounded the alleged bias on *The Pat Kenny Show*.

The broadcaster states that the interview on **Lunchtime** with the Irish Family Planning Association (IFPA) was part of Newstalk’s journalist remit. This organisation is central to the ‘Ms. Y’ case and it was important to probe the services it offers in order to shed light on this story. The broadcaster states that at no point did the speaker from the IFPA make any ‘pro-choice’ statements. In addition, psychologist Mr. Anthony McCarthy outlined in an entirely neutral fashion, a psychiatrist’s role in diagnosing suicidal ideation.

The broadcaster states that on **Moncrieff**, Ms. Barbara Scully was ‘pro-choice’, however, as this broadcast is not part of the central complaint, but a broadcast which is claimed to have “compounded” the alleged bias of *The Pat Kenny Show*, it must be viewed in the totality of Newstalk’s coverage of ‘Ms. Y’, which overall, Newstalk claim was balanced and fair.

In relation to **The Right Hook**, the broadcaster states that solicitor Mr. Simon Mills provided a neutral technical-legal analysis of the law regarding abortion in Ireland. The only expression of opinion was George Hook’s ‘pro-life’ interjection when he stated that he was “*against abortion*”.

Newstalk reiterates that “*two or more broadcasts may be viewed as a whole, if the broadcasts are transmitted within a reasonable period of each other*”. Newstalk would point to the interview with the Bishop of Elphin, the interview with Ms. Jenny O’Farrell of the *Pro-Life Campaign* and George Hook’s anti-abortion statement as relevant to related broadcasts. Newstalk argue that all of the broadcasts must be viewed as a whole. Furthermore, the complainant claims that some of the guests - Mr. Simon Mills and Dr. Peter Boylan – are ‘pro-choice’ speakers. Whether or not this is the case, Newstalk believes that what is relevant is what they said during the broadcasts which are the subject of the complaint and not what they may or may not have said at other times.

Decision of the Compliance Committee: Reject (Unanimous)

The Committee considered the broadcasts and the submissions from the complainant and the broadcaster. Following a review of the material, the Committee has decided to reject the complaints. 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 the *Code of Fairness, Objectivity and Impartiality in News and Current Affairs* (Section 4: Rules 4.1, 4.2, 4.3 and 4.22).

Broadcasting Complaint Decisions

In this regard:

- The Committee had regard to the context for the broadcasts, namely, that it had been reported on the day of the broadcasts in question (and in less detail on Newstalk broadcasts in the preceding two days) that 'Ms Y', an asylum seeker, and those representing her interests, had sought to vindicate her rights under the *Protection of Life During Pregnancy Act 2013*, so as to terminate a pregnancy that she stated had arisen as a result of a rape. It had been reported by the media that she had been deemed eligible for a termination further to the provisions of the Act but, on account of a delay, the foetus had been delivered by caesarean section, as the foetus had been deemed viable outside of the womb.
- The Committee noted that the debates during the programmes that are the subject of complaints had focused on the Act in question, how it had operated in the case of this woman's pregnancy as well as the potential impact of the delay in the process on the mental well-being of the woman in question and on the health prospects (in the short and long term) of the child born following the caesarean section.

The Committee noted that the analysis of the story was taken from the perspective that the legal rights provided for in the *Protection of Life During Pregnancy Act* had not been granted to the woman in question and that the Act may not, therefore, have met its legal objectives and the intention of legislators. The Committee was of the view that a critical analysis of the situation was, therefore, reasonable and that an approach that challenged the application of the Act and its suitability was an appropriate editorial position for the broadcaster to take, given the circumstances of the story and the information available at the time of broadcast, including new information arising on the day of the broadcasts in question.

- It was the view of the Committee that the focus of the broadcasts was on the application of the Act from a legal and medical perspective in the case in question and not about the fundamental issue of the rights or wrongs of abortion *per se*. The Committee also had regard to the fact that there is no requirement to cover every aspect of an item in order to achieve fairness nor is it always required to have representatives from opposing perspectives in order to achieve fairness. While noting that the complainant was of the view that the guests on the programmes were, in his opinion, predominantly 'pro-choice', the Committee found that the story and the issues arising were complex and, for this reason, the contributions could not be classified simply as 'pro-choice'.
- In considering the broadcasts, the Committee also had regard to the fact that the topic was an emerging news story and, on the day in question, it was informed by new information contained in a press interview with 'Ms. Y', who was at the centre of the news story. The Broadcasting Act 2009 and the BAI's code covering news and current affairs recognise that, for reasons such as this, the approach taken to a story will evolve across the broadcast day. In this regard, the Committee noted that the broadcasts in question contained a range of perspectives, including those of an obstetrician, a politician, a psychiatrist, a representative from a pregnancy advice agency and a barrister.

Broadcasting Complaint Decisions

The Committee also noted that in coverage of the story in preceding days, interviews with representatives from the Catholic Church, the 'pro-life' movement and those sharing their perspective were aired by the broadcaster. Having regard to this, the Committee did not agree that the broadcaster's output could be characterised as biased in the manner stated by the complainant.

- In terms of the specific programmes referenced by the complainant; the Committee was of the view that the contributions of Dr. Peter Boylan to *The Pat Kenny Show* focused predominantly on the medical and legal issues arising from the case, the adequacy of the current legislation dealing with requests for terminations as a result of suicidal ideation. The Committee found that the discussion was largely factual in nature, provided context for the news story and elaborated on how the Act works in practice and what changes could be made to deal with issues arising from the case of 'Ms Y'. Seeking the views of the guest as to the measures that he believed might be taken to deal with issues, such as those arising with the pregnancy in question, was considered by the Committee to be a legitimate question for a news and current affairs presenter to ask of his guest and affording a contributor the opportunity to set out such views could not be considered evidence of a lack of fairness, objectivity and impartiality.

In terms of the interview with the Labour Party Senator, Ms. Ivana Bacik, the Committee noted that the presenter challenged his guest and also that this part of the programme was preceded by comments from those texting into the programme which set out views that differed from his guest.

The Committee noted that the presenter stated that it was seeking input from those who might be characterised as holding a 'pro-life' perspective but that they had, at that time, been unsuccessful. The Committee found no evidence to indicate that this was not the case and, while listeners would have benefited from contributions from this perspective, the programme was, on balance, in line with the requirements of the Act and the BAI's regulations, taking into account the evolving nature of the story, the approach of the presenter and contributions via text.

- Upon its review of *The Lunchtime News* programme, the Committee concluded that the interviews with Anthony McCarthy and the representative from the Irish Family Planning Association were factual in nature and limited to an elaboration by the contributors of their experience of applying the provisions of the *Protection of Life During Pregnancy Act*. The interview with Mr. McCarthy explored the challenges faced by psychiatrists in applying the new Act, particularly in the context where they were operating on the basis of draft Guidelines from the Department of Health. Similarly, the interview with the representative of the family planning body focused on their approach to advice in respect of pregnancies, the options open to women, including vulnerable women who are dealing with crisis pregnancies and also challenges arising in practice from the new legislation, particularly in the absence of final Guidelines concerning the application of the Act.

In terms of *Moncrieff*, the Committee noted that this was a newspaper review and in line with audience expectations. In the case of *The Right Hook*, the discussion was of a similar nature to those earlier in the broadcast day and dealt with legal issues arising from the news story.

Broadcasting Complaint Decisions

- 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) or the *Code of Fairness, Objectivity and Impartiality in News and Current Affairs* (Section 4: Rules 4.1, 4.2, 4.3 and 4.22) in the manner specified by the complainant. Accordingly, the complaint has been rejected.

Broadcasting Complaint Decisions

Complaint made by: Mr. David Hegarty

Ref. No. 133/14

Station:
RTÉ One

Programme:
Prime Time

Date:
9th October 2014

Complaint Summary:

Mr. Hegarty's complaint is submitted under: the Broadcasting Act 2009, Section 48(1)(a)(fairness, objectivity & impartiality in current affairs); the *Code of Fairness, Objectivity and Impartiality in News and Current Affairs* (Section 4: Rule 4.1).

The complaint concerns an item on the programme dealing with the issue of fatal foetal abnormalities. The complainant believes that the programme breached the Broadcasting Act 2009 insofar as it was biased against the pro-life viewpoint. He states that the following illustrates the bias:

- A young man, a father of the baby whose life was terminated, was allowed to present what the complainant describes as an 'anti-life' viewpoint. While the complainant notes the distressing circumstances described in the programme, he states that the result was that an unborn baby's life was terminated. The complainant states that there was no effort made to present on-screen, an example of what he describes as the courageous 'pro-life' viewpoint of mothers and fathers who bring the baby to term.
- When Ms. Caroline Simons of the *Pro-life Campaign* spoke, the complainant states that she was improperly interrupted by the programme presenter and by another contributor, Dr. Peter Boylan. The complainant states that the presenter did not interrupt or cut across Dr. Boylan. The complainant states that this programme is consistent with what he describes as a consistent bias by RTÉ and he states that RTÉ has no right to promote a social change campaign and use license income and taxpayers money to advance such a social change agenda as the right to life.

Broadcaster's Response:

Initial response to complainant:

RTÉ states the reason for covering the item was a letter seen by *Prime Time* in which the Master of the Rotunda, Dr. Sam Coulter-Smith, wrote to the Department of Health outlining his safety concerns in respect of women travelling to the UK for terminations in the case of fatal foetal abnormalities and who were travelling back to Ireland before giving birth to their deceased babies.

The broadcaster states that in relation to the pre-recorded element of the programme, the item did include an interview with a representative for the organisation, *Termination for Medical Reasons* (TFMR) who had travelled with his wife to the UK for an abortion after a diagnosis of fatal foetal abnormality. The pre-recorded item also included an interview with a representative of the *Life Institute* who raised her concerns about any abortion in any circumstances and described how many babies with these diagnoses can live for some time when they are born. She also stated how she views it as a dangerous road to bringing in abortion for profound disability. The broadcaster states that she went on to say that she believes parents are not given the options and the support they need or sufficient perinatal hospice care.

Broadcasting Complaint Decisions

The broadcaster states that the group, TFMR, are calling for changes in legislation to allow the choice of abortion in the case of a diagnosis of fatal foetal abnormality and rather than have an interview with someone who had brought a pregnancy to term with that diagnosis (which RTÉ has done in the past), they felt it was more important in this instance to show the pro-life objections to and concerns about any such changes.

The broadcaster states that, with regard to the studio element of the programme, the Legal Adviser to the *Pro-Life Campaign* was given a fair opportunity to make her points. The only time the presenter interrupted anyone was to bring the discussion back on track or to clarify a point.

Response to BAI:

RTÉ states there were two contributors to the pre-recorded video report: a representative of the organisation *Termination for Medical Reasons*, which seeks a change in legislation to allow termination following diagnosis of fatal foetal abnormality; and a representative of the *Life Institute*, an organisation whose point of view on this topic is opposed to that of the group *Terminations for Medical Reasons*.

The broadcaster states that the representative of the organisation *Termination for Medical Reasons* outlined the experience of himself and his wife following such a diagnosis; he spoke of the reasons why couples might choose the course of action which gave rise to the Master of the Rotunda's concerns. The representative of the *Life Institute* expressed the view that the matter at issue would be more accurately termed '*abortion in the case of profound disability*', that parents are not being given all the options and support they need, and that perinatal hospice care needs to be made available in Ireland.

The broadcaster states that the pre-recorded video report was a fair, impartial and objective account of the issues involved, allowing two representatives of organisations with differing views to put those views clearly.

The broadcaster states that the studio discussion included consultant obstetrician Dr. Peter Boylan and Ms. Caroline Simons, Legal Adviser to the *Pro-Life Campaign*. Both contributors were given fair opportunity by the presenter to put their views and to respond to each other's statements.

The broadcaster states that the complaint refers to Ms. Simons being interrupted by the programme presenter and by Dr. Peter Boylan as a demonstration of bias. The broadcaster states that it is in the nature of debate and discussion that contributors will interrupt each other. On this occasion, both panellists were in fact notably courteous in that regard, and on a topic on which opinions are frequently held with great conviction.

The broadcaster states that it is true that at one point after Ms. Simons had ascribed a professional view to Dr. Boylan he murmured a few words and then stopped, at least partly in acknowledgement of the presenter's intervention to say he would have the opportunity to respond. Slightly later, after Ms. Simons had stated that Dr. Boylan's professional opinion on the life expectancy of babies with certain conditions was contradicted by other medical authorities, he did indeed challenge her statement, as is not unknown in such debate. At a third point, after Ms. Simons had again attributed a viewpoint to Dr. Boylan, he shook his head saying "No, no", and no more. Such exchanges are in the nature of debate and serve the interests of the viewer in exploring the topic.

Broadcasting Complaint Decisions

The broadcaster states that it is a necessary aspect of a presenter's role that she or he facilitates the expression of a contributor's views on the chosen editorial topic and in this context the presenter did ask at one point if Ms Simons could return to the subject under discussion. She had been speaking about abortion in the context of suicidal ideation rather than the editorial topic.

The presenter's chairing and facilitation of the discussion was in every way fair, impartial and objective.

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* (Section 4: Rule 4.1).

In this regard:

- The Committee noted that the item set out to examine issues highlighted by the Master of the Rotunda Maternity Hospital, namely, a practice that he had observed whereby parents were terminating pregnancies on account of fatal foetal abnormalities but doing so by having one half of the procedure in the UK and the second half in an Irish hospital. The context for the programme examination was correspondence between the Master of the Hospital and the Department of Health wherein he set out his concern about this practice from a medical and risk perspective. The Committee found that this focus in terms of the programme content was clear to the audience at the outset and that the content examined these issues.
- In examining the issues, the programme makers included a pre-recorded item which illustrated the experience of an Irish couple who had travelled to the UK to end a pregnancy and this was followed by a studio discussion. This approach is in keeping with the style of *Prime Time* and in line with audience expectations for this programme.
- The Committee had regard to the programme item as a whole, taking into account the pre-recorded item and the discussion that followed. Having considered the totality of the programme, the Committee was of the view that it included a fair, objective and impartial examination of the issue to be considered. The pre-recorded item included a description of the personal experiences of an Irish couple and how that had informed their advocacy around Irish law governing the termination of pregnancies where a fatal foetal abnormality is present. In the same report, the views of those who oppose changes to Irish law to provide for the termination of pregnancies where a fatal foetal abnormality is present were also articulated.

In the studio discussion that followed, the Committee found no evidence to suggest that the views of the representative of the 'pro-life' campaign were treated unfairly. While the discussion was robust, a challenging approach to questioning and/or a lively exchange of views is not *de facto* evidence of bias. In this regard, the Committee noted that the 'pro-life' representative was afforded ample opportunity to respond to the questions put to her by the presenter, and did so ably, including via direct and strong criticism of the editorial approach of the *Prime Time* programme to coverage of the topic under discussion.

Broadcasting Complaint Decisions

- 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) or the *Code of Fairness, Objectivity and Impartiality in News and Current Affairs* (Section 4: Rule 4.1) in the manner specified by the complainant. Accordingly, the complaint has been rejected.

Broadcasting Complaint Decisions

Complaint made by: Mr. Dónal O'Sullivan-Latchford, Family and Media Association
Ref. Nos. 136/14, 137/14 & 138/14

| <u>Station:</u> | <u>Programme:</u> | <u>Date & Time</u> |
|------------------------|--------------------------|---|
| Newstalk 106 -108FM | Lunchtime | 29 th and 30 th September and 1 st October 2014 |

Complaint Summary:

Mr. O'Sullivan-Latchford's complaints are submitted on behalf of the Family and Media Association under: the Broadcasting Act 2009, Section 48(1)(a)(fairness, objectivity & impartiality in current affairs); the *Code of Fairness, Objectivity and Impartiality in News and Current Affairs* (Section 4: Rules 4.1 and 4.22.).

The complaint refers to three related segments which the complainant describes as those dealing with the concept of terminating the lives of unborn children diagnosed with a fatal foetal abnormality. The complainant states the broadcaster's treatment of the issue fell well-short of the requirement to be objective and impartial and he states that they amounted, in his opinion, to a promotion of the deliberate killing of some of the most innocent and defenceless.

The complainant states that the programmes contained interviews with two women who had travelled to the UK to have their pregnancies terminated; the first interview was broadcast on 29th September while the second was broadcast on 30th September. The complainant states that a third interview on this topic, featuring Dr. Peter Boylan, was broadcast on 1st October.

The complainant states that it is his opinion that during the interviews with the two women the women appealed strongly for a change in Irish law which would allow for the legal termination of foetuses with a fatal foetal abnormality, and that this is a matter of public controversy. The complainant states that it is his view that Dr. Boylan, while outlining the Constitutional reality, also made it clear during the programme in question that he would strongly support changes in Irish law to allow for termination on the basis of fatal foetal abnormalities. The complainant states that no alternative views were provided and that those that were provided during the programme were not challenged by the presenter. He further states that it is his opinion that opposing views were even characterised by the presenter as extreme, and not showing humanity and that the presenter, in his line of questioning and otherwise, supported the views of his guests.

The complainant states that it is easy to form the impression, in reading Newstalk's response to his complaint, that the interview with a woman who carried her baby to full term took place on one of the three consecutive *Lunchtime* programmes. In truth, this interview took place a whole week after the first programme and five days after the last programme of the series of three interviews, which, again, were broadcast on consecutive days. The complainant states that the interview with this woman, which he believes had the character of an afterthought-at-best, was arranged grudgingly and belatedly only after an outcry from the 'pro-life' community in response to the original series of programmes.

The complainant states that the contention that these interviews were not presented with an agenda is risible.

Broadcasting Complaint Decisions

In this regard, the complainant cites the following examples:

- In the initial introduction to Monday's item, the presenter said the following: "*On today's programme ... We'll speak to a mother who was forced to travel to Liverpool in recent months because no hospital, here, would deal with her baby's fatal foetal abnormality*". The complainant states that this choice of words already indicated the nature of the agenda that Newstalk was setting out to pursue. The complainant states that the mother in question, was not "*forced to travel*", and that she was not forced to have an abortion. He states that it was her free choice which led to her travelling to Liverpool. The complainant states that contrary to what is implied, the Liverpool hospital did not "*deal with*" her baby's condition and he states that the choice of words made by Newstalk and the euphemisms they contain, clearly favour one side of the debate over the other.
- The complainant states that, following this bad start, the Newstalk agenda was later confirmed, in several ways, including via the sympathetic tone and practically unchallenging style of interviewing conducted by the presenter in all three programmes. He also cites what he describes as the eagerness of Newstalk to represent the woman interviewed in the first programme as being "anti-abortion", which he states clearly favours the 'pro-abortion' side in this debate by conceptually shifting the middle ground in its direction.
- The complainant also cites what he describes as the way the presenter subtly tries, in the view of the complainant, to rubbish the earlier debates in this area when, following a traumatic account of the woman's experiences, he says to her, "*you would have listened to these stories when we talked about them 18 months ago and not realising that this was going to be you*".

The intended 'take-home' message, in the view of the complainant, is that you can be opposed to this sort of abortion in principle; but when you are really willing to take on its full reality, it is almost impossible to resist 'pro-abortion' appeals.

- The complainant states that at another point, the presenter misleadingly said "*You actually delivered (your baby) and you couldn't do that in this country*". In reality there is no impediment to delivering a child in this country. The complainant states that it is only if one *freely chooses* to prematurely end the life of a baby, that a problem can arise with delivering the child in this country, and this is for a very good reason, to protect the innocent. The complainant states that the presenter also revealed his opinion in his reference to what in his opinion is the abortion "*hang up*" in this country ("*this major change*", he says, "*that this country seems to have a hang up on*").

The complainant states that, overall, across all three programmes, only two options are represented as being decent and acceptable: to change the law *in the absence of* any Constitutional change in order to allow abortion *or* to change the law *with* a Constitutional change. Other views are not acknowledged fairly.

Broadcasting Complaint Decisions

Broadcaster's Response:

Initial response to complainant:

Newstalk 106-108fm states on Monday September 29th show, they interviewed a woman who told her personal story of travelling to Liverpool after she learned her son would not be viable outside the womb. She said she is 'pro-life' except in extreme circumstances such as hers. On the following day, another woman also spoke of her personal story. She too travelled to Liverpool after her doctor told her that her son had no kidneys and no evidence of a bladder. He was being compressed in the womb and his body was becoming more and more deformed as different parts of his body fused together. She was told there was no hope of life for him outside the womb and that he wouldn't survive.

The broadcaster states that, Dr. Peter Boylan, a respected consultant, appeared on Wednesday's programme. He outlined the legal options open to women who find themselves in the position of the two women interviewed earlier in the week. He said consultants in their professional roles don't advise women to go to England. *The Lunchtime Show* also contacted the One Day More group and spoke to a woman who carried her baby, who had a fatal foetal abnormality, to full term. The broadcaster states that at no stage did *The Lunchtime Show* present these interviews as debates nor were they presented with an agenda. They were the stories of women's experiences and a doctor's professional analysis of the law as it stands.

Response to BAI:

Newstalk 106-108fm states the programme producer had made numerous attempts to set up an interview to air alongside the two women interviewed on the programme and whose interviews are the subject of the complaint. However, he was not successful and the interview with a woman who had not travelled to the UK but had instead chosen to give birth to her baby in Ireland was set up. The broadcaster states that this is part of the production process and had nothing to do with an outcry from the pro-life community. Newstalk also rejects the charge that the interview "*had the character of an afterthought-at-best*" and was aired "*grudgingly*". There is no evidence whatsoever to back this charge.

The broadcaster states that Mr. O'Sullivan-Latchford focuses in on how one of the two women interviewed was referenced on-air and the use of the words "*forced to travel*". These were the words of this woman as she detailed the decision she felt she was forced to make. Newstalk rejects the charge from the complainant to suggest that by using the words "*forced to travel*" Newstalk clearly favour one side of the abortion debate.

Decision of the Compliance Committee: Reject (Unanimous):

The Committee considered the broadcasts and the submissions from the complainant and the broadcaster. Following a review of the material, the Committee has decided to reject the complaints. 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* (Section 4: Rules 4.1 and 4.22).

Broadcasting Complaint Decisions

In this regard:

- The Committee noted that two of the three interviews that are the subject of the complaint focussed predominantly on the personal experiences of two women who had made the decision to travel to the UK to terminate their pregnancies on the basis of a fatal foetal abnormality. The interviews dealt predominantly with their personal experiences, the choice they made to travel and the Irish legal context which prohibited them from ending the pregnancies in the manner that they would have wanted to.
- The Committee noted that the steps taken by the individuals were legal under Irish and British law and that the description of these experiences of the women, the fact that Irish law restricts their choices and an examination of how they would like Irish law to be changed to permit them to make the choices that they wanted in respect of their pregnancies, were all legitimate issues for discussion on a news and current affairs programme.
- From its review of the programmes, the Committee found that the approach taken in both programmes was standard in terms of interviewing and noted that the articulation by a programme contributor of a view that Irish law should be changed amounts to legitimate free expression. What is key in respect of a discussion such as this is whether the discussion was handled overall in a fair, objective and impartial manner and the Committee was of the opinion that the presenter's role was predominantly one of an interviewee who asked his guests about the decisions they made and their reasons for making those decisions. He also asked them to elaborate on both in a context where Irish law restricts early termination of a pregnancy in the context of a fatal foetal abnormality.
- Having reviewed the programme content, it was the Committee's view that it could not reasonably be understood, as the complainant states, "*as a promotion of the deliberate killing of some of the most innocent and defenceless*" but was rather an examination, from a human interest angle, of a complex issue with significant impact on the parents and their children. On the view of the complainant that "*... no one expressed the view that the deliberate killing of an innocent child is always wrong*"; the Committee noted that the issue under discussion was not about the broader issue of abortion but rather a specific set of circumstances arising from particular types of pregnancies. As such, it was not necessary to include a 'pro-life' perspective so as to ensure compliance.
- In the case of the interview with Dr. Boylan, the Committee found that it was predominantly about the medical issues arising from the Irish legal situation and its impact on parents who are expecting a child with a fatal foetal abnormality. In this context, it was considered legitimate to ask this contributor how he believes, in his professional capacity, the challenges faced by the medical community and their patients could be addressed and that to invite this view was not evidence of bias.
- While the Committee was of the view that audiences would have benefited from a broader range of perspectives on the issues under discussion during the three programmes, it was also of the view that, on balance and having regard to the predominantly human interest angle taken in the programmes, that each complied with the required regulation.

Broadcasting Complaint Decisions

- 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 & impartiality in current affairs) or the *Code of Fairness, Objectivity and Impartiality in News and Current Affairs* (Section 4: Rules 4.1 and 4.22) in the manner specified by the complainant. Accordingly, the complaint has been rejected.

Broadcasting Complaint Decisions

Complaint made by: Mr. Seamus O'Callaghan

Ref. No. 139/14

Station:

RTÉ One

Programme:

Prime Time

Date:

23rd October 2014

Complaint Summary:

Mr. O'Callaghan's complaint is submitted under: the Broadcasting Act 2009, Sections 48(1)(a)(fairness, objectivity & impartiality in current affairs) and 48(1)(b)(law & order); the *Code of Fairness, Objectivity and Impartiality in News and Current Affairs* (Section 4: Rules 4.1 and 4.2).

The complaint refers to a report which the complainant states showed how abortifacients can be purchased on a website. The complainant stated that the report showed how the tablets can be illegally imported into Ireland for the purpose of engaging in criminal activity, namely the termination of the lives of unborn children, contrary to the law and the Constitution.

The complainant states that in his opinion:-

- The programme showed RTÉ personnel illegally importing these drugs into Ireland via a post office in Northern Ireland and noted how this activity by-passed detection by the normal regulatory bodies.
- The programme reported that the *Health Products Regulatory Authority* are taking the approach of focusing on the supplier of the drugs rather than the purchaser, effectively giving, he states, the message that nobody will be prosecuted in Ireland for breaking the law in this regard.
- The time allotted to those in favour of abortion was at a minimum in the region of three to four times that of the person who suggested that there are alternatives to it.
- That RTÉ entered into a commercial or sponsorship arrangement with the supplier of the drugs by donating €90 euro to them and, having entered into this arrangement, the programme then went on to provide an advertising platform for the supplier to express their view that these drugs were safe to take. This is despite the fact that the drugs are abortifacients.

The complainant states that, in overall terms, the programme appeared to have as its objective the presentation of another option for women who want to obtain an abortion. He states that that it had the underlying message that a safer method than these "back street abortions" needs to be provided.

Broadcaster's Response:

Initial response to complainant:

RTÉ states that neither *Prime Time* nor RTÉ has any agenda beyond broadcasting items which they feel are in the public interest. *Prime Time* is aware of its obligations not to promote or incite crime and RTÉ's has clear guidelines which must be followed when any item, such as their report on abortion pills, is being planned.

In this case, detailed consideration was given to precisely the issue raised by the complainant, and the matter was referred to a senior editorial figure for consideration, as is required.

Broadcasting Complaint Decisions

Response to BAI:

RTÉ states a campaigning organisation, *WomenOnWeb*, has been advertising for some time, through street posters in Dublin city centre, that abortion pills may be purchased online. This issue has received extensive coverage in the media, particularly in recent times, and as far back as June 2001. Concern had been expressed by prominent medical experts in this area that women taking these pills without medical supervision were putting their health at risk. *Prime Time* formed the view that there was a public interest in covering this story.

The broadcaster states that in the videotaped report, a prominent medical expert, Dr. Sam Coulter-Smith, warned against women accessing abortion pills online and taking them without medical supervision. He stated that there was a risk of complication, and that in case of 'perforation' there was a risk of death. A campaigner for the availability of legal abortion in Ireland acknowledged that there was a risk, but stated that women would take such risks in the absence of legally available abortion. In the live studio discussion following the report, a representative of the group *WomenOnWeb* debated with a representative of the *Pro-Life Campaign*.

The broadcaster states that the focus of both videotaped report and studio discussion, in keeping with the editorial perspective of the item described above, was on the potential risks of taking prescription drugs without medical supervision.

The broadcaster states that in the report, the 'pro-choice' campaigner claimed that the lack of availability of abortion forced women to take such options, but the medical expert interviewed was clear and unequivocal in his warning that this was an unwise and potentially dangerous thing to do.

The broadcaster states that in studio, both guests were asked challenging questions. This included asking the representative of *WomenOnWeb* whether or not she was putting women's health at risk, how medicines could adequately and properly be prescribed through email, and what steps women should take if there were complications after taking a prescription prescribed by her organisation.

The broadcaster states that throughout, as viewing of the item will demonstrate, the report and discussion were presented in a fair, objective, and impartial manner. The fact that, in ascertaining in the report whether or not the law on prescription medicines could be easily circumvented, RTÉ necessarily made a 'donation' of €90 to the organisation *WomenOnWeb*, as 'patients' are requested to do, in no way compromised that objectivity or impartiality, as can be seen clearly in the report and the conduct of the discussion.

The broadcaster states that in the videotaped report, the reporter explained how the group *WomenOnWeb* had been advertising the availability of abortion pills online through notices on the street in Dublin city centre. As a necessary demonstration in the public interest of the fact of this availability, the reporter pursued the advertised process, ordering the abortion pills, demonstrating and explaining to the viewer how she was assisted in circumventing the law by the group *WomenOnWeb*, and collecting the pills, as ordered, from Northern Ireland.

Broadcasting Complaint Decisions

The broadcaster states that the production team engaged extensively with the *Health Products Regulatory Authority* (HPRA, formerly the Irish Medicines Board) which is the State body tasked with regulation of such medicines. In relation to the issue of criminal activity, it is worth noting that during the programme's communications with the HPRA, the team was informed that the HPRA takes a risk-based approach to enforcement, "*focusing on those areas which offer the greatest benefit in terms of public health protection. In particular, there is a focus on tackling the activities of suppliers.*" The suppliers, in this instance, would be the organisation *WomenOnWeb*. The medicines obtained were of course not used in any way, including the purpose for which they were ostensibly requested, and supplied; they were provided to the HPRA for safe disposal.

The broadcaster states that crime is a key issue for any current affairs programme. Within that, any area where the law may be being flouted or broken so often, or so easily, as to bring it into disrepute, is of particular concern. It is clearly in the public interest to bring those areas to public and political attention. An essential aspect of covering any such issue is the demonstration of how the law can be broken, and prosecution avoided. This necessarily involves the presentation of evidence that the law is being broken. Journalists have in the past provided a valuable public service by demonstrating, for example, how easy it is to purchase drugs or guns in certain parts of our cities, how exposed clothes banks are to theft, or how inadequate airport security might be.

In such instances, any possibility that a person with criminal intent might glean some information from media coverage of such an issue must be balanced against the public interest in revealing – and supporting through factual evidence – the existence of illegality. RTÉ asserts strongly: (a) that the key information in relation to the supply of these medicines was already in the public domain; and (b) that any information brought to the attention of viewers was a necessary aspect of the factual investigative reporting in the public interest of their illegal supply. The context of the broadcast included that the issue of the availability of abortion pills had already received wide media coverage, that a campaigning group was actively promoting them, and that a simple Google search would have delivered as much information as to how they might be acquired as there was contained in the *Prime Time* report.

The broadcaster states that, in particular, it is reasonable to assume that the viewer would have seen the independent medical evidence of Dr. Sam Coulter-Smith as a very strong contribution to the videotaped report. Rather than provoking viewers to take illegally imported abortion pills, Dr. Coulter-Smith's medical advice is likely to have indicated strongly to the viewer that such actions were unwise, and possibly dangerous.

The broadcaster states that the complainant asserts that the report was broadcast "*for the purpose of instructing others into . . . engaging in a criminal activity*". The broadcaster states that no evidence whatsoever is offered in support of this assertion and a viewing of the item will demonstrate that there is no such evidence for this entirely unwarranted contention.

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, Sections 48(1)(a)(fairness, objectivity & impartiality in current affairs) and 48(1)(b)(law & order) and the *Code of Fairness, Objectivity and Impartiality in News and Current Affairs* (Section 4: Rules 4.1 and 4.2).

Broadcasting Complaint Decisions

In this regard:

- The Committee had regard to the programme item as a whole. The Committee found that, in line with the editorial approach taken by this programme, the item was separated into two sections. The first was a pre-recorded item setting out the context for the programme and the subsequent studio discussion. This included an outline of the service provided by *WomenOnWeb* and illustrated how the medication that they supply can be secured by those who want to do so.

It also examined the response by Irish regulators and the Irish postal service to limiting the importation of illegal drugs such as those provided by *WomenOnWeb*. This pre-recorded item was followed by a studio discussion involving a representative of the *WomenOnWeb* organisation and a representative of the 'pro-life' movement, who opposes the provision of this service by '*WomenOnWeb*'.

- Having considered the totality of the programme, the Committee did not agree that the programme had the objective, as stated by the complainant, of presenting another option for women who want to obtain an abortion. Rather, it was the view of the Committee that the aim of the programme was an examination of the facts of a situation where an organisation was facilitating the illegal importation of abortifacients into Ireland, the rationale of this organisation for doing so and the potential consequences to the health of women who take the medicine provided by *WomenOnWeb*.
- In the studio discussion that followed, the Committee found no evidence to suggest that the discussion was unfair and noted that the representative of *WomenOnWeb* was subjected to robust questioning in respect of the potential negative health implications arising from taking medication without direct oversight by a General Practitioner.
- On the issue of whether RTÉ was guilty of infringing requirements in respect of law and order, the Committee noted that the purchase of the drugs and their importation was undertaken in the public interest and that the broadcaster had liaised with the appropriate authorities. In the context of investigative reporting, the approach taken by the broadcasters was in line with standard investigative journalistic practice where the intent is the exploration of an issue in the public interest and not actions of a criminal nature.
- 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, Sections 48(1)(a)(fairness, objectivity & impartiality in current affairs) and 48(1)(b)(law & order) or the *Code of Fairness, Objectivity and Impartiality in News and Current Affairs* (Section 4: 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. P. Galvin

Ref. No. 147/14

Station:

Classic Hits 4FM

Programme:

Niall Boylan at Night

Date:

1st December 2014

Complaint Summary:

Mr. Galvin's complaint is submitted under: the Broadcasting Act 2009, Section 48(1)(b) (harm and offence); the *Code of Programme Standards* (Principle 2.2 - Due Care).

The complaint concerns a discussion that took place during the *Niall Boylan at Night* programme which focused on the night in question on the issue of the Christmas bonus being reinstated by the Government for people receiving welfare payments.

The complainant states that during this discussion the presenter said to one caller "*Stop talking through your other holes*" and then later he called the same lady a "*jealous little bitch*". The complainant states that this language was inappropriate and was not in line with the BAI's regulations or the requirements of the Broadcasting Act 2009.

Broadcaster's Response:

Initial response to complainant:

Classic Hits 4FM states that the topic under discussion became heated between the caller Tara and the presenter Mr. Niall Boylan. The broadcaster claims this lady is a regular caller and that they have a love-hate relationship, with Tara often coming on the show and engaging robustly with the presenter. On this occasion, the broadcaster states that insults were thrown by both parties. The broadcaster states that Tara continued with the on-air conversation and at no point conveyed to the presenter or the production team that she had been offended.

The broadcaster further adds that this programme has been on the air for four years and there is a listener expectation that the content can often be confrontational and controversial.

Response to BAI:

Classic Hits 4FM states that on the night in question, the item under discussion was the announcement in the Budget 2015 that the Christmas bonus would be reintroduced for people on long term social welfare. The presenter asked listeners for their views on this topic. At 9.20pm a regular contributor to the show called Tara voiced her opinion.

The broadcaster claims that this contributor is well known to both the presenter and to regular listeners to the programme and she and Niall have a love-hate relationship on air. Their relationship has almost become like an on-air soap opera but Tara continues to call the show regularly and there are no hard feelings between them.

The discussion on the night in question became heated with Tara accusing Niall of having an easy job and both exchanged remarks.

The broadcaster states that Mr. Niall Boylan also presents the daytime talk show on Classic Hits 4FM and is very aware of limitations and differentiations in language, presentation style and tone before and after the 9pm watershed.

Broadcasting Complaint Decisions

The show after 9pm is very different to the earlier programme and carries a very clear warning outlining that listener discretion is advised and that it features topics and conversations of an adult nature.

On the night referred to in this complaint, Tara was arguing and insulting other callers and then turned on Niall suggesting that he has an easy job and that he is privileged in some way. Niall pulled her up on the comments and referred to her as a “*bitter bitch*” during an extremely heated part of the discussion. The presenter was well aware that Tara would not take personal offence to the comment made directly to her and not to other listeners.

Classic Hits 4FM state that Mr. Niall Boylan as a professional broadcaster is an excellent judge of callers, their attitudes and limits.

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(b) (offence and harm) and the *Code of Programme Standards* (Principle 2.2 - Due Care).

In this regard:

- Section 2.2 of the *Code of Programme Standards* requires that broadcasters take all reasonable measures to ensure that viewers and listeners to programme material are protected from undue offence and from harm. In practice, this is accomplished by, amongst other things, providing audiences with information about programme content and by scheduling appropriately, having regard to considerations such as audience expectations.
- In view of this, the Committee noted that the programme is broadcast after 9pm and regular audiences are familiar with the format, style and tone of the programme, which can be characterised as robust and controversial. While the style, format and tone do not remove obligations in respect of Due Care on the part of the broadcaster, they are acceptable considerations in determining whether a programme is likely to lead to undue offence and harm.
- Having reviewed the programme, the Committee was of the opinion that the discussion about which the complaint concerns, while very antagonistic, was in line with the kind of content commonly found on evening phone-in shows. In this regard, the Committee noted that the caller began her interchange with the programme presenter by comparing him with a paedophile and the presenter responded in similarly robust terms. Neither the caller nor the presenter seemed bothered or offended by their interchange. While noting that the content may have offended some listeners, the restriction in the *Code of Programme Standards* is concerned with *undue* offence and, having regard to the broadcast and audience expectations, the Committee did not believe that the content would have caused undue offence.

Broadcasting Complaint Decisions

- 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)(b) (offence and harm) or the *Code of Programme Standards* (Principle 2.2 - Due Care) in the manner specified by the complainant. Accordingly, the complaint has been rejected.

Broadcasting Complaint Decisions

Complaint made by: Mr. Brendan O' Regan

Ref. No. 151/14

Station:

Newstalk 106 -108FM

Programme:

World in Motion

Date & Time

30th November 2014

Complaint Summary:

Mr. O'Regan's complaint is submitted under: 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* (Section 4: Rules 4.1 and 4.22).

The complaint refers to an interview with Mr. Nigel Rodley, Chairman of the *UN Human Rights Committee*. The issue of abortion came up in relation to Ireland's laws on the matter. The complainant states that Mr. Rodley was opposed to Ireland's laws on abortion; however, the complainant claims that the interview that followed was uncritical and unchallenging on such a controversial matter.

The complainant believes that the presenter asked leading questions, for example "*Do you not agree that abortion should be available when a woman's health is in danger?*" The complainant states that the presenter used emotive terms like '*the rapist's child*' on at least two occasions. The complainant states that in his opinion the presenter seemed to take it as a given that Ireland's current abortion-related laws amounted to '*cruel degrading treatment*' of women. The complainant believes that this completely ignored those who regard abortion as cruel and degrading treatment of women and their unborn babies. The complainant also claims that the presenter expressed her own views such that a partisan view was articulated on the topic of abortion.

The complainant states that in the absence of a guest to provide balancing arguments, the presenter could have asked a range of challenging questions. For example, a devil's advocate question such as "*What do you say to people who believe that the unborn baby is a person and has human rights too?*" The complainant claims that Mr. Rodley accidentally used the term '*baby*' and quickly changed to the term '*foetus*' saying he had fallen into the '*trap*' himself. The complainant states that the presenter did not challenge him by asking "*What trap?*" Mr. Rodley suggested that he could not accept the idea that an unborn life could '*trump*' a born life, but the complainant states that the presenter failed to point out that the contested Article 40.3.3 of our Constitution does not do this – it declares the equality right to life, not that one trumps the other.

The complainant believes that the 'anti-abortion' side of the argument was unrepresented, ignored except for uncontested and unchallenged criticism of it.

Broadcaster's Response:

Initial response to complainant:

Newstalk 106-108fm states that the interview with Mr. Nigel Rodley was wide-ranging and was largely not about abortion. The presenter clearly stated during the section on abortion that people of religious persuasion would not agree with the views of the UN Committee of which the programme guest was a member. The broadcaster states that the presenter did not express her own views during the interview.

Broadcasting Complaint Decisions

Response to BAI:

Newstalk 106-108fm state that *World in Motion* is a world affairs programme broadcast every Sunday at 8am. The interview in question was with Professor Nigel Rodley, Chairman of the *UN Human Rights Committee*, former special envoy on torture and an international human rights lawyer. The broadcaster states that the majority of the interview was in relation to his role as a former special UN envoy on torture and the topic of torture was discussed in a political and cultural context. The whole piece lasted for over thirty minutes and it was only during a ten minute segment that the topic of torture was looked at in the context of abortion laws in Ireland.

The broadcaster states that the presenter put the factual position of the law of abortion in Ireland to Professor Rodley. He carefully read out the position of the UN as published in the "*Concluding Observations of the Fourth Periodic Report of Ireland*". The broadcaster states that the discussion was not about personal viewpoints on abortion generally or the merits or otherwise of abortion in Ireland but was instead very factual and only set out the actual legal position in respect of abortion in Ireland and the position of the UN Human Rights Committee on that legal position.

Newstalk claim that the presenter did not give her own view and did not ask the question that the complainant claims she did "Do you not agree that abortion should be available when a woman's health is in danger?" The question she asked was: what was the Committee's view on the legislation in Ireland as it does not deal with situations where a woman becomes pregnant through rape or incest? This was asked in the context of the issue of torture. The response to that was a reiteration of facts that the UN Committee has already made known to the public. It was not an argument about the merits of the legislation.

The broadcaster states that the Chairman read out the UN Committee's final conclusions and referred to the pertinent Articles under the *International Covenant on Civil and Political Rights* of which Ireland is a signatory.

When the topic turned to the cultural aspect of the issue, the Chairman made it clear that the Committee was careful not to refer to Catholic institutions and the State's preferred belief system. The presenter then supported this by stating that "*plenty of people who are of a religious disposition wouldn't agree with any of this anyway*". In fact the presenter was clearly very aware of avoiding this type of discussion.

The broadcaster states that the piece was an interview with the Chairman of the *UN Human Rights Committee* in light of his talk to NUI Galway titled "*International Action Against Torture*". This was not a debate on abortion. When it did discuss abortion it was without any persuasive emotive arguments as to why a person should or should not be for or against abortion. All the presenter did was put the legislation to him as the Chairman of the *UN Human Rights Committee* and ask him its view in the context of the discussion on torture. The topic of conversation was torture and the content of the *Concluding Observations of the Fourth Periodic Report of Ireland* published and widely available on the website of the UN Human Rights Committee as of 24th July 2014 in respect of subject of women and abortion and other issues such as symphysiotomy.

Broadcasting Complaint Decisions

The broadcaster accepts that, if this was an interview with a person in relation to the issue of abortion who was arguing for a personal view or presenting a view on the pro- or anti-abortion side, then the interviewer would have an obligation to be more challenging and make an effort to provide balance to both sides. However, the broadcaster submits that this was not the case here. The interviewee was clearly presented to the listener as the Chairman of the *UN Human Rights Committee*, in Ireland on a tour to NUI Galway, and all he did throughout was repeat the position of that Committee. He did not express a view and the presenter did not express a view.

Decision of the Compliance Committee: Reject (Unanimous)

The Committee considered the broadcasts and the submissions from the complainant and the broadcaster. Following a review of the material, the Committee has decided to reject the complaints. 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* (Section 4: Rules 4.1 and 4.22).

In this regard:

- The Committee noted that the programme was a lengthy interview covering a wide range of topics. One topic included an outline of the findings of the *UN Human Rights Committee* as set out in their *Concluding Observations of the Fourth Periodic Report of Ireland*. This included the analysis of the UN in respect of Irish laws and practice on abortion and the issue of symphysiotomy and it was the view of the Committee that this part of the programme included a factual outline of the findings of the UN and the formal views, as set out in the report, of the UN on Ireland's performance as a country that is a signatory to the *International Covenant on Civil and Political Rights*.

The Committee found that the content dealt, not with the substantive issue of abortion and the rights and wrongs of this issue, but rather with Ireland's compliance with its international obligations as a signatory to the Covenant.

- In this regard, the Committee did not find any evidence in the broadcast to support the view of the complainant that the interviewee, Mr. Rodley, "*was opposed to Ireland's laws on abortion*" since he was not articulating his personal views but rather those of the UN and the findings of its most recent compliance assessment in respect of Ireland. Indeed, the Committee found that the guest clarified this on a number of occasions during the lengthy interview.
- 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 & impartiality in current affairs) or the *Code of Fairness, Objectivity and Impartiality in News and Current Affairs* (Section 4: Rules 4.1 and 4.22) in the manner specified by the complainant. Accordingly, the complaint has been rejected.

Broadcasting Complaint Decisions

Complaint made by: Mr. Seamus O'Callaghan

Ref. No. 05/15

Station:

RTÉ One

Programme:

Six One News

Date:

28th October 2014

Complaint Summary:

Mr. O'Callaghan's complaint is submitted under: the Broadcasting Act 2009, Sections 48(1)(a)(fairness, objectivity & impartiality in current affairs) and 48(1)(b)(law and order); the *Code of Fairness, Objectivity and Impartiality in News and Current Affairs* (Section 4: Rules 4.1 and 4.2); the *General Commercial Communications Code* (Principle 3.1.3 - surreptitious, subliminal and misleading commercial communications).

The complaint refers to a report on this programme which the complainant states showed a group of women illegally importing drugs which are used as abortifacients. The complainant states that the reporting was neither objective nor impartial. He states that the people who featured were simply following a process outlined to them on RTÉ's *Prime Time* broadcast five days earlier when RTÉ's programme makers also imported drugs via a post office in Northern Ireland. The complainant states that the narrative to the news story was that they were re-enacting the contraceptives train from the 1970's and they were portrayed in the same historical light. The complainant states that an alternative narrative to the story could have been that they were re-enacting the "train of events" demonstrated to them five days earlier on RTÉ's *Prime Time*. The complainant states that this time the RTÉ *Six One News* reporters failed to adequately challenge the group in relation to claims that they were making that the tablets were safe to use. He states that the RTÉ *Six One News* did not keep with established broadcasting norms of distorting the images of persons in possession of illegal drugs, but instead gave them ample opportunity to speak and show their banners.

The complainant states that the whole purpose of the report seemed to be the surreptitious advertising of a website from which the drugs could be obtained, a practice banned under the BAI's regulations and European regulations.

The complainant states that the fall-out from such media exposure is clear from the comments of Ms. Ruth Coppinger T.D. in the online publication, *The Journal*. In her words "*A lot of women saw the abortion train back in October — they would have contacted me and they would have contacted other groups,*"..."*I helped them order pills from WomenOnWeb.*" It is reasonable to expect that all of these women were not in Connolly Station when the train arrived, and were influenced by what they saw on the *Six One News* to take part in illegal activity.

Broadcaster's Response:

Initial response to complainant:

RTÉ initially responded by thanking the complainant for contacting RTÉ complaints. They then apologised sincerely for the delay in responding to his complaint. The broadcaster states that the delay was down to human error.

Broadcasting Complaint Decisions

RTÉ states that this event received a lot of publicity across all media, not least because it was held on the 30th anniversary of the so-called 'condom train' from Belfast. The event had news value in that the customs authorities say that over 1,000 similar pills have been intercepted in the post into Ireland in the past year (and when obtained in this way are illegal), a fact that was highlighted by the reporter in her "piece-to-camera" at the end. While some viewers may have been offended, RTÉ feels that any objective viewing of the report could not back-up the belief that RTÉ failed in their obligation to be objective or impartial. It was made clear from the outset that the women involved were 'pro-choice'. RTÉ also carried a balancing interview with a representative of the Pro-Life group, who described the event as a 'publicity stunt' and spoke of the damage caused to women by abortion. Both sides were quoted in the introduction read by the newscaster. The reporter also spoke of doctor's warnings about the dangers of taking tablets without medical advice

Response to BAI:

RTÉ states this broadcast was a news report on the arrival in Dublin of a group of women who had travelled to Belfast to purchase abortifacient pills. The reporting of protests and demonstrations is standard practice in broadcast journalism. The news item complained of was a report on such a protest. Viewing of the item will confirm that the reporting was entirely objective and impartial, noting the illegality of the protestors' action in importing abortifacients and medical warnings in relation to unsupervised taking of pills. The fair coverage of the protest included an interview with a spokesperson for the protestors and an interview with a spokesperson for an organisation opposed to the goals of the protestors.

RTÉ further states in respect of the *General Commercial Communications Code*, Section 2, Definitions of the Code defines a commercial communication as being:

Images with or without sound and radio announcements which are designed to promote, directly or indirectly, the products, services or image of a natural or legal entity pursuing an economic activity. Such images and radio announcements accompany or are included in a programme in return for payment or for similar consideration or for self-promotional purposes. Forms of audiovisual commercial communication include, inter alia, advertising, sponsorship, teleshopping and product placement but do not include public service announcements and charity appeals broadcast free of charge.

The broadcaster states that the item complained of was a report in a news bulletin. It does not in any way conform to the definition above of a commercial communication. It was not designed to promote directly or indirectly any product or service but to report on a demonstration in relation to a topic of public interest. No payment or similar consideration was made. There was no self-promotion. To consider such news reports as commercial communications would be to intrude on and limit the editorial freedom of broadcasters to make editorial decisions on news coverage and decide on the perspective of such coverage.

Section 3 of the Code is headed: '*General principles and rules applying to all commercial communications*'. As before, RTÉ does not believe that this News report can be accurately or fairly considered as a commercial communication.

Broadcasting Complaint Decisions

Without prejudice to the above, RTÉ asserts that the report contained no surreptitious, subliminal or misleading communication of any kind, commercial or otherwise. All of the facts were laid plainly, verbally and visually, before the audience. These facts included, most importantly in this context, that the purchase of abortifacients through the organisation whose name was seen on a banner carried by the protestors is illegal. There was, therefore, no promotion whatsoever of any product or service.

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, Sections 48(1)(a)(fairness, objectivity & impartiality in current affairs) and 48(1)(b)(law and order), the *Code of Fairness, Objectivity and Impartiality in News and Current Affairs* (Section 4: Rules 4.1 and 4.2) and the *General Commercial Communications Code* (Principle 3.1.3 - surreptitious, subliminal and misleading commercial communications).

In this regard:

- Having reviewed the material, the Committee found that the report in question was a factual outline of a news event that raised no issues in respect of fairness, objectivity and impartiality. The report detailed the decision of a group of ‘pro-choice’ campaigners to travel to Northern Ireland to purchase abortifacients pills, legally available in that jurisdiction and the protest held in Dublin upon their return. The report interviewed representatives of this group who set out their reasons for taking the trip and the Committee found that the interview was a standard example of coverage of an event that had happened and which was appropriately the subject of a news report.

In addition, the Committee noted that the report detailed the opposition to this protest by a representative of the ‘pro-life’ campaign and clearly stated that the importation of the pills was illegal. While the Committee was of the view that the health risks of taking the pills could have been emphasised in greater detail, it did note that the report stated that doctors warned about the risk of taking the pills without proper medical supervision. As such, the Committee was satisfied that sufficient information was provided to ensure that the item complied with the *Code of Fairness, Objectivity and Impartiality in News and Current Affairs*. Overall, the Committee found no evidence to support a view that the broadcaster’s coverage of the event was not fair, objective and impartial given its factual nature and given the range of views represented in the report.

- It was the Committee’s view that the report did not indicate any connection between reporting by RTÉ’s *Prime Time* on the same topic and the decision to import the pills into Ireland by way of protest. As such, the Committee did not agree with the complainant that “*the people who featured were simply following a process outlined to them on RTÉ’s Prime Time five days earlier when RTÉ’s programme makers also imported drugs via a post office in Northern Ireland.*” In this context, the Committee found no evidence to support the view that the report was contrary to the law and order requirements of the Broadcasting Act 2009.

Broadcasting Complaint Decisions

- On the Issue of whether the news report infringed the *BAI's General Commercial Communications Code*; the code characterises an advertisement as an announcement broadcast in return for payment, for similar consideration, or for self-promotional purposes with a view to encouraging the supply of products or services in return for payment. The Committee found no evidence to indicate that the broadcaster was paid or in receipt of similar consideration from a third party in order to advertise or encourage the purchase of the pills featured in the news report or that the programme had the character of a self-promotional message intended to encourage purchase of the pills. In view of this, the complaint did not fall to be considered under the *BAI General Commercial Communications Code*.
- Having considered the complaint, it was the opinion of the Committee that the programme did not infringe the requirements of the Broadcasting Act 2009, Sections 48(1)(a)(fairness, objectivity & impartiality in current affairs) and 48(1)(b)(law and order), the *Code of Fairness, Objectivity and Impartiality in News and Current Affairs* (Section 4: Rules 4.1 and 4.2) or the *General Commercial Communications Code* (Principle 3.1.3 - surreptitious, subliminal and misleading commercial communications) in the manner specified by the complainant. Accordingly, the complaint has been rejected.

REJECTED BY THE BAI EXECUTIVE COMPLAINTS FORUM

Complaint made by: Ms. Karen Kiernan

Ref. No. 148/14

Station:

RTÉ Radio 1

Programme:

Saturday with Brian Dowling

Date:

1st November 2014:

Complaint Summary:

Ms. Kiernan's complaint is submitted under: the Broadcasting Act 2009, Section 48(1)(b)(harm and offence); the *Code of Programme Standards* (Principle 2.2 - Due Care, Principle 2.3 - Protection for children and Rule 3.4.2 - Persons and groups in society).

The complaint concerns a discussion during this programme on anticipated changes to the Irish constitution to permit same-sex marriage. 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 dealt with the impact of non-traditional families on children. -

The question put to the panellist, Senator Rónán Mullen was as follows:

“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 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?”

The complainant states that in her opinion:-

- The panel was unbalanced as there were three contributors opposed to permitting marriage by same sex couples and two in favour;
- The presenter, while seeking comment from Senator Mullen, outlined what the complainant states is an incorrect interpretation of the research referenced in his question to the Senator.

The complainant also states that it is her opinion that what was said by the presenter is problematic for several reasons:

- That the original research referenced by the presenter did not refer to same-sex families and its use in the programme to make conclusions about same-sex families was discredited by the authors of the research (Child Trends).

Broadcasting Complaint Decisions

- There is no research that indicates that children do not do as well in same-sex families as heterosexual families and so therefore discussion of such research should not be condoned or permitted by any contributor, and certainly should not be proactively raised by a RTÉ presenter.
- The presenter posits that Senator Mullen might discuss that children in same-sex families might be more likely to be '*abused – physically, mentally or sexually*'. The complainant states that this is completely untrue and that a broadcaster should not be in the business of empowering the opponents of LGBT children, parents and families by communicating this erroneous information message. The complainant states that this impression is damaging to all children, to same-sex families and to the vote on marriage equality, as well as the (then) upcoming debate on the Children & Family Relationships Bill.
- The complainant states that whilst the fact that same sex marriage was to be a point of debate on the programme, no reasonable person would assume that that discussion would include graphic, untrue and highly offensive language about children living in same sex families by the presenter.
- The complainant states that in her opinion the presenter shows a level of unfamiliarity and discomfort with the issue of same-sex families as he somewhat puzzlingly refers to 'gay parenting unions'. She states that there are hundreds and possibly thousands of real children in Ireland living in same-sex families or who have grown up with LGBT parents. They do not think they live in 'gay parenting unions' they actually believe that they just live in families.
- The complainant states that the presenter also positions his question in the context of comparing 'children in a gay parenting marriage compared to a biological union'. She queries why the presenter is interested in just comparing two types of families when there are other types such as adoptive families, foster families and one-parent families.

The complainant further states that whilst it is important to debate issues of current interest in Ireland, it is important that children do not hear what she describes as discriminatory and/or untrue statements or beliefs about themselves or their families before the watershed. She states that comments such as those outlined above by the presenter, should not have been aired at all but most definitely not on a lunchtime show. The complainant argues that this does untold damage on individual children and their families both at an individual self-esteem level as well as in dealings with wider family, friends, neighbours, schools, employers etc. The complainant believes that these failings by the RTÉ's Saturday show constitute infringement of the Broadcasting Act 2009 under the sections cited above.

Broadcaster's Response:

Initial response to complainant:

RTÉ's response addresses the complaint in relation to the issues raised.

Broadcasting Complaint Decisions

The broadcaster states that the panel was made up of Minister Ged Nash T.D. of the Government, which is committed to bringing forward a referendum on constitutional change in relation to same-sex marriage; Ms. Katherine Zappone who supports same-sex marriage; Mr. Derek Byrne who is a gay activist but is not in favour of same-sex marriage; Senator Rónán Mullen who is against same-sex marriage; and Fr. Vincent Twomey who also opposes same-sex marriage.

The broadcaster states that it may be noted that the Guidance Notes to the *BAI Code of Fairness, Objectivity & Impartiality in News and Current Affairs* state in relation to fairness:

Appropriate implementation of a fairness principle should not be taken to mean that an “artificial balance” is required in order to comply with the Code, nor should it be taken to imply that equal allocation air-time is always necessary to achieve fairness.

RTÉ states that the composition of the panel and the conduct of the discussion fairly offered a range of views on the topic, including nuances of difference and opinion in the points of view of the various contributors that added new perspectives to the debate.

In relation to *The Iona Institute* paper, *Child Abuse by Family Structure*, 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 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?”

The broadcaster states that, as can be seen above, the presenter did not, as stated by the complainant, “posit(s) that Senator Mullen might discuss that children in same sex families might be more likely to be “abused-physically, mentally or sexually”. As part of his role in facilitating and developing the discussion on behalf of the listener, the presenter 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 that the issues raised in the paper were likely to be raised in a referendum campaign.

In relation to the use of terminology, the broadcaster states that the debate on this topic includes, and will continue to include, terminology which in itself, different proponents of the debate will take issue. In using the terms “*gay parenting unions*” and “*biological marriage*” the presenter was impartially reflecting terms used in the context of one perspective on the debate, appropriately in the context of the paper to which he was referring. While being sensitive to the impact of language, RTÉ journalists have a duty to accurately reflect public debate on current affairs topics.

In relation to the inclusion of a range of family types in the discussion, the broadcaster states that the debate was clearly structured and presented as being on the topic of same-sex marriage. The discussion of family arose in that context.

Broadcasting Complaint Decisions

RTÉ states that, while there is no watershed in radio broadcasting, RTÉ is properly conscious of the likelihood of its radio programmes having a significant family audience. They state that the great majority of the audience for a news/current affairs programme such as *Saturday with Brian Dowling* will be adult. In addition, listeners were made aware of the topic of the debate in advance, showing due care to those who might prefer not to listen to the debate on this sensitive topic on which there are such forceful viewpoints, inevitably touching on the nature of the relationships and the family.

RTÉ believes that there was, in the structuring and presenting of this discussion, no infringement of the Broadcasting Act 2009 or of any allied Broadcasting Authority of Ireland codes, in relation to fairness, objectivity and impartiality or to harm and offence. RTÉ is conscious of the potential of discussion of this topic to cause upset, but also very conscious of its duty as a public service broadcaster to facilitate a comprehensive debate.

Response to BAI:

RTÉ states 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. RTÉ claims that a hearing of the programme will demonstrate that a range of views were covered during the discussion, including speakers in favour of same-sex marriage and against it, as well as a speaker who spoke for increased status for civil partnership but is not in favour of same-sex marriage.

The broadcaster states that, in 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.

Broadcasting Complaint Decisions

“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.

“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.

Broadcasting Complaint Decisions

Asking the panellist 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 broadcaster states that, as indicated in the verbatim transcript above and the audio recording submitted to the BAI, and confirmed by the publications of *The Iona Institute*, the presenter 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?”. The broadcaster states that the presenter took no position whatsoever on the validity of the research cited by the Institute and his question related not to the substance of the research but to the likelihood of statements such as these being put forward in the campaign. The issues raised by the complainant in relation to the validity of the research cited by the Institute were not the subject of the presenter’s question or of the broadcast content and therefore lie outside the scope of the complaint.

The broadcaster states that the presenter’s question to the panellist could be seen as an example of the principle captured in Rule 22 of the *BAI Code of Fairness, Objectivity & Impartiality in News & Current Affairs*:

“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.”

The broadcaster states that the complainant refers to the presenter’s phrase “a gay parenting marriage compared to a biological union” and cites the existence of other types of families. In the context of a discussion of same-sex marriage, it is gay, rather than adoptive or fostering, parenting which is the focus of concerns of organizations such as *The Iona Institute*. Again, the presenter was simply being accurate.

RTÉ state that in the context of Section 2.2 of the Code, it was made entirely clear to the audience that the discussion was to be of the proposal to change the Constitution to allow same-sex marriage. Of its nature, this discussion includes family relationships and discussion of these matters will have been entirely in keeping with the expectations of the audience, thereby protecting against undue offence. It is in the public interest for such topics of public debate to be discussed comprehensively and thoroughly, not without regard to the sensibilities of listeners directly involved, but balancing that consideration with the editorial responsibility for the presentation of full and open discussion.

In relation to Section 2.3, the broadcaster states that *Saturday with Brian Dowling* is a programme which has a very clear and very long-standing editorial policy of adult discussion of current topics. It is not directed towards children in any way whatsoever and appears in a place in the RTÉ Radio 1 schedule identified with news and current affairs programming for many decades. It will be evident to listening adults that on occasion its current affairs subject matter may not be thought suitable for the children in their care, particularly in the well-established context of there being no watershed in radio broadcasting.

Broadcasting Complaint Decisions

Referring to Section 3.4.2, RTÉ state that nothing in any statement made on the programme supported or condoned discrimination against any section of the community on any grounds whatsoever. In the section of the programme which is the subject of complaint, the point of view of a particular organisation in respect of the welfare of children was cited by the presenter when asking a panellist if such points of view were likely to become part of the debate on constitutional change in respect of marriage.

RTÉ state that on the 1st November 2014, the audience was clearly forewarned that the topic of discussion was to be same-sex marriage; in this context, listeners can reasonably have expected that sensitive matters of human and family relationships would have been the subject of differing views. Indeed, within minutes of the discussion beginning, such matters were raised by a panellist. The information given to the audience will therefore have put listeners in a position to decide whether they wished to continue listening or to allow children under their care to do so.

Decision of the Executive Complaints Forum: Reject (Unanimous)

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)(b)(harm and offence) and the *Code of Programme Standards* (Principle 2.2 - Due Care, Principle 2.3 - Protection for children and Rule 3.4.2 - Persons and groups in society).

In this regard:-

- In considering the complaint, the Forum considered whether the reference by the presenter to an interpretation of research undertaken was likely to cause harm and offence in the manner suggested by the complainant. In this context, the Forum had regard to the time of broadcast, the audience expectation and the programme type. The Forum members noted that the programme is a news and current affairs programme, with an overwhelmingly adult audience. The discussion in question is not unusual for *Saturday with Brian Dowling*. The programme is aimed at adults and it is unlikely that many children would have been listening.
- While noting that the complainant does not agree with the interpretation of the research referenced and articulated in the question of the presenter and that some listeners, including the complainant, might find the interpretation of the research to be offensive, the Forum found that the presenter's comments were a factual description of what he understood to be the conclusions reached by *The Iona Institute* in respect of research undertaken and that the question was asked from this perspective with a view to advancing the discussion on the issue of same-sex marriage. The Forum found no issues arose with this editorial approach.

Upon its review of the content, the Forum found no evidence to indicate that the presenter supported or endorsed any conclusions in respect of the research referenced. In addition, the Forum did not hold the view that the question would support or condone discrimination in the manner suggested by the complainant.

Broadcasting Complaint Decisions

- The Forum found that, overall, the discussion was fair with a number of view points and a range of matters discussed which covered potential change in the Constitution in respect of marriage. The Forum also found that that due care was exercised by the presenter and that the complaint did not raise potential issues that warranted further investigation and, accordingly, the Forum rejected the complaint under the Broadcasting Act 2009, Section 48(1)(b)(harm and offence) and the *Code of Programme Standards* (Principle 2.2 - Due Care, Principle 2.3 - Protection for children and Rule 3.4.2 - Persons and groups in society).

Broadcasting Complaint Decisions

Complaint made by: Mr. David Walsh

Ref. Nos. 1/15 and 2/15

Station:

RTÉ Radio 1

Programme:

News Bulletin & Morning Ireland

Date:

5th November 2014

Complaint Summary:

Mr. Walsh's complaint is submitted under: the Broadcasting Act 2009, Section 48(1)(a)(fairness, objectivity & impartiality in current affairs); the *Code of Fairness, Objectivity and Impartiality in News and Current Affairs* (Section 4: Rules 4.1, 4.2 and 4.17).

The complaint refers to coverage of the *Ruhama* Annual Report on the 8am news bulletin and on *Morning Ireland*. The complainant states that the phrase "*Ruhama reported a rise in the numbers of women trafficked to Ireland to work in the sex trade*" in 2013 was used in both the news bulletin and the interview that followed. The complainant states that this would reasonably be interpreted to mean a rise in the annual number trafficked since this figure is often used for comparative purposes by the Garda and others and would be so believed by reasonable people.

The complainant states that following the news bulletin, *Morning Ireland* featured an interview with the C.E.O. of *Ruhama*, in which she said there was a large increase in the numbers trafficked into prostitution for the year 2013. The complainant states that the report stated that out of 305 women, who sought *Ruhama's* services, 83 were trafficked into prostitution and this was an increase of 17% over 2012. The complainant claims that the *Ruhama* representative sought to give the impression throughout the interview that all women in prostitution are controlled and are victims. The complainant states that this is a highly controversial matter and many sex workers dispute this portrayal. The complainant claims this was not challenged in a robust manner by the programme.

The complainant refers to the numbers quoted in the programme and states:

- 1) That people claimed to be trafficked are in fact alleged victims - the complainant states that it is for the Gardaí to say definitively after investigation and they are always careful to use the word "alleged" until this is complete.
- 2) A very different figure for those trafficked was given in an Irish Times article on October 16 which dealt with the matter. The complainant says that it is stated in this article that the figure was 44 potential victims for 2013. He says that this was based on a US State Department TIP figure given in June last. The TIP report is based on official information as well as those of NGOs such as *Ruhama*.

The complainant states that the annual figure for number trafficked is important in the context of the current debate on legislation and prostitution since those numbers have been falling in recent years. Hence, a rise as reported in the number would be a key argument in pushing for the criminalisation of the clients of sex workers, which, the complainant states, is what *Ruhama* and other groups are seeking.

The complainant states that, given the huge discrepancy in the figures as well as the uncertainty around it, RTÉ owes it to listeners to clarify this burning issue.

Broadcasting Complaint Decisions

Broadcaster's Response:

Initial response to complainant:

RTÉ states that the complainant makes a fair point in asserting that the numbers of people trafficked into prostitution should have read 'allegedly' trafficked. In relation to the quoted figures from The Irish Times, the broadcaster states that it is important to note that *Ruhama's* figures do not distinguish between those who claim to have been recently trafficked into Ireland for the sex trade and those who have been here for some time, before approaching *Ruhama*. In other words, the *Ruhama* figure is not an annual figure for persons allegedly trafficked. The figures that the complainant cites are claimed as annual figures.

Regarding the complainant's claim that the C.E.O. of *Ruhama* 'sought to give the impression' that all sex workers are controlled and are victims, RTÉ states that no one said such a thing during the broadcast. The *Ruhama* representative does not claim that her organisation deals with all or even most sex workers. If there are sex workers who are in control of their situations, who are able to make a good living with minimal risk, by definition they will not cross *Ruhama's* path.

Response to BAI:

RTÉ states that the topic of the News bulletin and interview was not prostitution or trafficking for the purposes of prostitution in general but specifically the 2013 *Ruhama* Annual Report released that day. In that editorial context, as can be heard by comparing the news bulletin and interview with the *Ruhama* Annual Report, the broadcaster believes that both bulletin and interview were fair, objective, impartial and accurate.

The broadcaster states that text of the news bulletin was:

Newsreader: An organisation which helps women in prostitution has reported an eighteen per cent increase in the number of people accessing its services last year. Ruhama says it has also seen a rise in the numbers of women trafficked to Ireland to work in the sex trade. Justin McCarthy reports.

Reporter: Ruhama has been operating in Ireland for over twenty-five years during which time it has assisted over two and a half thousand women affected by prostitution. In its annual report out today the charity says it helped three hundred and five women from thirty-six different countries last year. That's an eighteen per cent increase on the numbers accessing its services compared to the previous year.

The organisation has also seen a rise in prostitution and trafficking organised by criminal gangs, with the report stating today that some eighty-three of the three hundred and five women who engaged with its services were trafficked. Ruhama says the largest number of new cases involved women from Nigeria and Brazil. It says the majority of women involved in prostitution want to exit the life but to do so need the necessary supports and assistance to create real alternatives. The organisation also wants the government to fast-track new laws to criminalise the buying of sex.

Broadcasting Complaint Decisions

RTÉ is of the view that neither the bulletin nor the interview reported any overarching claim as to the number of women trafficked in 2013. Both stated that *Ruhama* had seen a rise in the number of women trafficked to Ireland from its point of view and in the context of the service provided by the organisation.

The broadcaster believes that the News bulletin stated clearly that: “The *organisation has also seen a rise in prostitution and trafficking by criminal gangs, with the report stating today that some eighty-three of the three hundred and five women who engaged with its services were trafficked.*” The figure of eighty-three is very clearly given as the number of women accessing *Ruhama*’s services who stated that they were trafficked. RTÉ is of the opinion that the objective listener would be clear that this is the perspective of one particular organisation, in the context of its particular work in the area of prostitution in a specific calendar year in which there was an increase in the number of women looking for its support who stated that they had been trafficked into Ireland for the purpose of prostitution.

RTÉ also states that when introducing the interview, the presenter stated: “*Ruhama says it’s also seen a rise in the numbers of women trafficked to Ireland to work in the sex trade.*” Again, the increase was clearly situated within the context of the organisation’s reporting of its contact with women who had been trafficked. There was no other reference in the interview to an increase in trafficking into Ireland.

RTÉ is of the view that although the complainant states that the RTÉ report should have used the term ‘alleged’ in relation to the assertion by women that they had been trafficked, it may be noted that there were no supposed perpetrators of trafficking cited, therefore no ‘allegations’ made against any party. The term ‘alleged’, while not necessarily incorrect, could have introduced into the report a spurious element of scepticism not required for accurate reporting. RTÉ felt that such scepticism would arguably have been bordering on the offensive in the context of this report.

Decision of the Executive Complaints Forum: Reject (Unanimous)

When considering the complaints, the members of the Forum listened to the broadcasts, 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* (Section 4: Rules 4.1, 4.2 and 4.17). Following a review of the material, the Forum has decided to reject the complaints.

In this regard:

- In the case of the complaint concerning the 8am News Bulletin (1/15), the Forum was of the view that the news report was a factual outline of the contents of the *Ruhama* Annual Report and that the numbers quoted in respect of women trafficked were evidently in relation to the experience of that organisation over the year in terms of those who used the services that they provide. While listeners may have benefited from reference to the broader context for the report, as a news item limited to the setting out for listeners of the content of the report published, it was not necessary to analyse the report content or include information about broader trends concerning trafficking since such trends were not the subject of the bulletin.

Broadcasting Complaint Decisions

In this context, there was nothing to indicate, either from the broadcast or from the complainant's submission to suggest that the information provided in the news item was anything other than an accurate description of the contents of the report.

- The Broadcasting Act 2009 includes an obligation on broadcasters to ensure that news is objective and impartial. There is no obligation that news content be fair in its treatment of the topic. Having reviewed the report, and for the reasons set out above, it was the opinion of the Forum that in the case of the coverage of the Rhuama Annual Report met the requirements for objectivity and impartiality.
- In the case of the second complaint (2/15), the Forum found that this was a discussion about the work of *Ruham*a and their experience dealing with the increase in the numbers of women involved in prostitution coming to them for support over the 2013 year. The Forum found that the figures mentioned were solely in relation to the *Ruham*a organisation and were based on their direct experience working with women affected by prostitution. As such, the findings of the report were not presented as a statement of the "annual number trafficked" as suggested by the complainant.
- Upon its review of the broadcast, the Forum found that the C.E.O. of *Ruham*a carefully balanced her responses with reference to the impact of legislation already in operation in other countries and lessons for Ireland should any new legislation be enacted here. The Forum was also of the view there was no impression given by the *Ruham*a representative that all prostitutes are victims. Overall, the Forum found that this interview was carried out in a fair and impartial manner by the presenter.
- In view of the above, it was the opinion of the Forum that the two broadcasts in questions did not infringe Section 48(1)(a)(fairness, objectivity & impartiality in current affairs) of the Broadcasting Act 2009 or the *Code of Fairness, Objectivity and Impartiality in News and Current Affairs* (Section 4: Rules 4.1, 4.2 and 4.17) in the manner specified by the complainant. Accordingly, the complaint has been rejected.

Broadcasting Complaint Decisions

Complaint made by: Ms. Theresa Feeney

Ref. No. 3/15

Station:

TV3

Programme:

Tommy Tiernan – Crooked Man

Date:

16th December 2014:

Complaint Summary:

Ms. Feeney's complaint is submitted under: the Broadcasting Act 2009, Section 48(1)(b)(harm and offence; the *Code of Programme Standards* – (Principle 2.1 - General Community Standards and Rule 3.4.5 - Persons and Groups in Society).

The complaint refers to a comment by the comedian, Mr. Tommy Tiernan during this programme, to Jesus coming out of the desert asking for a "pint" but using the "F" word. The complainant found this offensive and disrespectful to her Christian beliefs. The complainant states that the story of the temptations of Jesus in the desert is contained in the Holy Bible and the contents of this book or indeed the Koran and others, should not be treated in this way.

The complainant is not disputing that this reference was meant as a joke; however, it did upset her and insulted her beliefs as a Christian.

Broadcaster's Response:

Initial response to complainant:

TV3 state that Tommy Tiernan is a comedian and comedians typically use material that may not be to everyone's liking. They typically use satire and mockery as part of their routines. This particular joke was about Irish peoples' reputation in relation to the consumption of alcohol. Mr. Tiernan made a joke about how St. Patrick's Day occurs during Lent and that it was basically placed there to give Irish people an opportunity to drink alcohol. It was during this piece that he mentioned the reference complained about, namely that Jesus came out of the desert and asked for a pint.

TV3 is satisfied that it was quite clear this was a joke and not meant in the literal sense. TV3 state that Tommy Tiernan's humour is not to everyone's taste and the complainant clearly found it inappropriate and disrespectful. TV3 apologised for the upset it caused and state that it was not its intention to cause harm or offense. Tommy Tiernan is a very popular comedian and while TV3 tries to cater to everyone's taste this is often very difficult to do. TV3 is satisfied that on balance, given that Tommy Tiernan is a comedian and this was clearly a joke, the material was not harmful or offensive

Response to BAI:

TV3 state that the joke/comedy routine was that Irish people put St. Patrick's Day in the middle of Lent as they would not last all of Lent without alcohol. The pun appears to be that while Irish people are religious and abide by Lent, they knew they would not last the whole of Lent and so placed St. Patrick's Day in the middle of it. The line with which the complainant takes issue is that on St. Patrick's Day Jesus himself comes out of the desert asking for a pint.

Broadcasting Complaint Decisions

The clear intention of the joke is to exaggerate the relationship with alcohol that Irish people are reputed to have and the addition of the line in relation to Jesus walking out of the desert was to achieve the association with being very religious and being very fond of alcohol to comedic effect. The editorial purpose of this line is for dramatic and comedic effect.

TV3 believes that it is clear that the joke was not intended to insult the faith and beliefs of any viewer and was not intended to insult, upset or offend Christians. TV3 acknowledge that the complainant did not find the joke funny and found it offensive and insulting. However, TV also point out that the programme was well post-watershed being broadcast at 10pm when the audience is largely made up of adults. Furthermore, audience expectation for a Tommy Tiernan show would be that the material would be of an adult nature and probably to some, unrefined and crude.

TV3 apologised to the complainant and regret any upset caused. However, TV3 also believe that the programme did not offend against commonly held standards considered acceptable in contemporary Irish society.

Decision of the Executive Complaints Forum: Reject (Unanimous)

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)(b)(harm and offence) and the *Code of Programme Standards* – (Principle 2.1 - General Community Standards and Rule 3.4.5 - Persons and Groups in Society). Following a review of the material, the Forum has decided to reject the complaint.

In this regard:

- In considering the complaint, the Forum had regard to a number of relevant contextual factors. In particular, the Forum noted that the reference was made in the context of a comedy routine and that one of the functions of comedy is to play with and push the boundaries of acceptable speech. As such, comedy content may be offensive to some viewers or listeners.

What is of concern to the Forum is whether the content was offensive in a manner that would infringe general community standards and which could be considered unduly offensive. In addition, the Forum had regard to the fact that the programme was broadcast at 10pm and was therefore aired after the 'watershed' when it is accepted that content of a more adult nature can be broadcast.

The Forum also had regard to the content of the programme, including the fact that Tommy Tiernan's comedic style is well-known and the content of his stand-up regularly includes coarse and offensive language and which addresses various aspects of modern society, including religion.

Broadcasting Complaint Decisions

- Upon its review of the programme, the Forum found that the reference in question took place during a segment on Irish attitudes to alcohol. While the humour drew on the biblical story of Jesus' 40 days in the desert, the humour was not aimed at the figure of Jesus, but rather at the attitudes of Irish people to alcohol, in particular, the comment by the comedian that it wasn't by chance that St. Patrick's Day takes place during the Lenten period, since it allows the Irish to circumvent what is often seen as a period in which people are abstinent from alcohol.

The Forum was of the view that the link between lent and the story of Jesus was used by the comedian as a humorous juxtaposition in the context of his comments on alcohol. While the Forum would acknowledge that humour can often walk a tight rope and can sometimes offend, it was of the view that in this context, the item would not offend General Community Standards or cause undue offence but was instead an exaggerated comparison used for comic effect.

- In view of the above, it was the opinion of the Forum that the broadcast did not infringe Section 48(1)(b)(harm and offence) of the Broadcasting Act 2009 or the *Code of Programme Standards* (Principle 2.1 - General Community Standards and Rule 3.4.5 - Persons and Groups in Society) in the manner specified by the complainant. Accordingly, the complaint has been rejected.

Broadcasting Complaint Decisions

Complaint made by: Mr. Gerard Mangan

Ref. No. 4/15

Station:

RTÉ Radio One

Programme:

The Marian Finucane Show

Date:

2nd November 2014:

Complaint Summary:

Mr. Mangan's complaint is submitted under: the Broadcasting Act 2009, Section 48(1)(a)(fairness, objectivity & impartiality in current affairs); the *Code of Fairness, Objectivity and Impartiality in News and Current Affairs* (Section 4: Rules 3, 4.17, 4.18, 4.19, 4.21, 4.22, 4.23).

The complaint refers to a discussion regarding the water charges. On the panel for this discussion were Mr. Pat Rabbitte, Labour Party T.D., Ms. Jennifer Kavanagh, Law Lecturer, Mr. Rory Hearne, University Lecturer, Mr. Conor Pope, Journalist and Mr. Eddie Molloy, Management Consultant.

The complainant claims that the panel was heavily weighted against the water charge and the water authority. He states that Mr. Pat Rabbitte T.D. was the only panel member who tried to defend it. The complainant claims that the presenter was biased against the public service and that most of the criticism was directed at Irish Water. The complainant states that there was no one to defend this major public utility and explain the inevitable start-up difficulties it has encountered.

The complainant states that one of the issues that arose during the discussion was the use of P.P.S. numbers but he states that no one with expertise in this area was asked to explain their use and the security attached to them. The complainant states that these numbers provide the most reliable, secure and cost effective way of getting information on family composition which has to be obtained for determining reductions in water charges and is least open to abuse. He states that a less reliable system would be more open to abuse and result in greater charges for other contributors. The complainant claims that politicians are not best to fulfil this function as they may not have the technical knowledge.

The complainant claims that everyone accepts that the provision of water has to be financed but there was little discussion on the alternatives to financing it on this programme. He states that in relation to paying water charges, the presenter made a remark in passing of a pensioner going to bed hungry. The complainant states that the impression given was that this reality applies in general, to older people and is wildly misleading. The complainant acknowledges Mr. Molloy's contribution in stating that given their low income, such individuals would not have to pay the water charge. However, the complainant also states that while the point is valid, it actually reinforced the presenter's comment in implicitly accepting that there are many hungry old people in society.

The complainant states that Mr. Molloy's point was that they would get some relief from property taxes which would presumably avoid them being left hungrier. The complainant states that it is one thing for a panellist to make a comment such as this but it is given added weight when it is stated without any qualification by the presenter. The complainant claims that presenters have great influence, especially those who are very well established. It is for this reason that their performance is so crucial. The complainant believes that the prevailing narrative in the media that the whole Irish Water project was a "shambles" was not being realistically challenged during the programme.

Broadcasting Complaint Decisions

The complainant states that a major responsibility of a public sector broadcasting organisation such as RTÉ should include educating the public on the difficulties of public administration. He states that it is too easy to carp from the sidelines and blame those politicians and civil and public servant who provide so easy a target and in the latter case are precluded themselves from defending their actions and explaining their difficulties to the media. He states that the effect is to individualise guilt; in this instance current Ministers, senior management and employees of a public utility in order to contribute to the myth of collective innocence regarding the state of our water system.

The complainant claims that the format and nature of the programme lead to partial and unbalanced treatment of the issues raised. He states that the challenge for programme makers with a public service remit is to provide listeners with a balanced, informed explanation of these issues. The complainant states that there is not the sufficient awareness of the enormous power this programme has to influence public opinion for good or ill. With such power goes responsibility.

Broadcaster's Response:

Initial response to complainant:

RTÉ states that in the first place – the discussion on *The Marian Finucane Show* took place the day after 150,000 people had taken to the streets on the issue of water charges. The broadcaster states that the Sunday Finucane programme is a review of the papers and the papers included headlines like '150,000 Flood Streets' and 'Dead in the Water'. The programme was not meant to be a comprehensive look at all the issues surrounding Irish Water. The broadcaster states that those issues have been dealt with as they arose across a range of programmes while water has been a major issue in the media. The assumption of the Sunday programme is that a good part of its listenership is already conversant with the issues the newspapers are covering. It does not set out to be comprehensive or a primer on any one issue.

The broadcaster states that water was one of the issues covered on *The Marian Finucane* programme on the 2nd November, albeit - given its coverage in the papers and the previous day's protests, a major one. They state that to assert that Mr. Rabbitte was the only person on the panel to try to defend the charges is a simplification and that Mr. Molloy, for instance, was in favour of the charges but critical of how the government had gone about imposing them. His position is emblematic of many people's position on water charges. To quote Mr. Pat Rabbitte T.D., the issue had become 'totemic' and the debate reflected the newspaper coverage and the range of issues that brought people onto the streets the previous day. The broadcaster states that it was nuanced.

RTÉ state that fairness on a programme is not about having equal numbers on each side of an issue. Fairness is reflected also in the time allowed to each contributor and in part played by the presenter. RTÉ also strongly disagrees with the complainant's accusation that the presenter was biased. In the first place she intervened to make sure Mr. Pat Rabbitte T.D. had a fair hearing, going so far at one stage as to say he had been 'fairly consistent' in his approach to the water issue. The broadcaster states that the presenter dealt with debate robustly and Mr. Pat Rabbitte T.D. had plenty of time to make his case. He didn't complain.

Broadcasting Complaint Decisions

In relation to the PPS numbers – how water is to be financed and tax reliefs and about the failure to debate the issue of a Referendum – the broadcaster states that over the previous weeks all of these issues had been debated widely in the media – not just on radio – as they would be in the days that followed *The Marian Finucane* programme. There was not time nor space on this programme for the minutiae of each issue attached to water. The programme was, framed by the newspaper coverage of the previous day's protests. The panel was not there solely to deal with the water issue.

RTÉ state that it cannot allow the complainant to extrapolate from a comment about an old lady going to bed hungry that the programme listeners will believe that all old people are going to bed hungry – not on any reasonable listening. In any case Mr. Molloy pointed out – on the programme - that there would have to be provision made for people who couldn't pay and he directly referenced the 'hungry old woman'.

In conclusion, RTÉ state that the complainant's criticism of the programme is largely based on what was not in the programme rather than what was in it. Had *The Marian Finucane* programme brought on an expert to talk about PPS numbers and security, another to deal with Tax Reliefs and then gone on to hold a detailed debate on the financing of water and another on a referendum, it would have been on air for a good part of that Sunday and would not have fulfilled its remit as a programme – which is not a single issue – however variegated – programme.

Response to BAI:

RTÉ state that the established format for a major part of the Sunday edition of *The Marian Finucane Show* is a panel discussion of the Sunday newspapers as they reflect the events and stories of the preceding week. Panellists will be chosen for their ability to speak across a range of topics, including politics, business, sport, entertainment, lifestyle and so on, as diverse as the subjects covered in the newspapers. The programme is not devoted to one single topic and panellists are not chosen with one topic in mind. This conversational and discursive format is editorially valid and valuable, and its nature and purpose are well understood by listeners to the programme. On the programme of the 2nd November 2014, the panel's range of views on the topic of water charges included:

- Deputy Pat Rabbitte who spoke forcefully and at some length in favour of a single water authority and water charges;
- University lecturer Rory Hearne who was unequivocally against water charges and in favour of central taxation to fund infrastructural investment;
- Law lecturer Jennifer Kavanagh who questioned the need for a single water authority to facilitate investment and was critical of Irish Water;
- *Irish Times* journalist Conor Pope who, while critical of Irish Water and the Government's handling of the issue, was emphatic in his support for a national utility, pointing out that Ireland is the only country in OECD without water charges, and saying that he believed that charges were to everyone's benefit and that most people recognise the need for infrastructure and the need to pay;

Broadcasting Complaint Decisions

- Management consultant Eddie Molloy who, while critical of the structure of Irish Water and believing that the protests signalled a lack of trust in Government and the political system, said that Government has signalled that those who can't pay the charge will be supported.

RTÉ state that as indicated above and can be heard in the programme, and in the context of the format described above, a fair range of views and opinions on the topic were heard by listeners.

The broadcaster states that the complainant introduces into his complaint, and his response to the reply by RTÉ, an amount of material extraneous to the broadcast, such as the absence from his point of view of arguments which he would have wished to have heard on water charges (for example, on a referendum on water privatisation, on the request by Irish Water for PPS numbers, on a relationship between water charges and the broadcasting license fee). The broadcaster states that the complainant asserts that this indicates a failure in terms of broadcast standards and associated legislation and codes on fairness, objectivity and impartiality. In fact, this indicates only that there were arguments which he would have wished to hear on air; the absence of those arguments is not a sign of breach of BAI codes but of the nature of any such discussion.

In the context of discussion of poverty, RTÉ state that the presenter indeed referred to a woman who had been on the programme who said that she sometimes goes to bed hungry. The panellist Mr. Rory Hearne then cited statistics in relation to poverty. There was nothing misleading whatsoever about the presenter's statement; she referred to one person and no more than one person. The fact that a panellist then contributed statistics to the discussion is ignored by the complainant.

RTÉ does indeed, in its news and current affairs coverage, impartially provide objective information on topics of public debate, insofar as that is possible. However, the broadcaster also hosts discussions on those topics in which different and sometimes opposing points of view are put, arguments frequently being supported by assertions of fact. This, too, is a valuable contribution to the public discourse.

RTÉ claim that the presenter showed no bias in her handling of the discussion and expressed none of her own views such that a partisan position on the topic was advocated.

Decision of the Executive Complaints Forum: Reject (Unanimous)

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) and the Code of Fairness, Objectivity and Impartiality in News and Current Affairs (Section 4: Rules 4.3, 4.17, 4.18, 4.19, 4.21, 4.22 and 4.23). Following a review of the material, the Forum has decided to reject the complaint. In this regard:

- The Forum noted that the format of the programme is well-established and audiences would expect that the focus of the Sunday version of *The Marian Finucane* programme would be on the newspaper headlines of the day. In this context, the top story across most papers was the marches against water charges which took place the day previous to the programme and which were attended in significant numbers.

Broadcasting Complaint Decisions

As such, the focus of the discussion was on the public protest against the water charges in the main and the social and political issues arising from that opposition. The Forum's view was that a focus of the discussion on opposition to the charges evident from the marches and this was not evidence of bias.

- From its review of the programme, the Forum found that the presenter dealt fairly with all contributors and it did not believe that any bias was displayed by the presenter or programme makers. The Forum noted that the presenter moderated the debate to ensure that contributors could be heard, ensuring that a wide variety of viewpoints were facilitated. The Forum also noted that this variety of views included those favouring the introduction of water charges. For example, the Forum found that a T.D. representing one of the two Government parties was afforded ample opportunity to set out views as to why water charges should be introduced and to counter criticisms of the introduction of water charges and challenges to Government policy set out by some contributors to the programme.
- The Forum noted the complainant's concerns regarding the make-up of the panel; however, the Forum found that the panel was comprised of members who represented a wide variety of views in relation to water charges. Furthermore, there is no requirement for a panel to be made up of equal numbers in favour or opposing a particular position, nor is there any requirement for all aspects of any topic to be discussed in any one programme. Rather, the requirement is for fairness and this can be achieved via a number of means, including via the role of the presenter and the contributions from panellists. The Forum considered the discussion in full and was of the view that it was conducted in a fair, objective and impartial manner.
- On the issue of the reference to a pensioner and their ability to pay the water charge, the Forum did not agree with the view of the complainant that the remark would give listeners the impression that this reality applies in general, to older people or was wildly misleading. From its review of the programme, the Forum found that the remark was a brief aside made by the presenter and responded to by one guest and did not extend to a statement about the general reality of pensioners, then facing the prospect of paying a water charge.
- It was the opinion of the Forum that the broadcast did not infringe Section 48(1)(a)(fairness, objectivity & impartiality in current affairs) of the Broadcasting Act 2009 or the *Code of Fairness, Objectivity and Impartiality in News and Current Affairs* (Section 4: Rules 4.3, 4.17, 4.19 and 4.22.) in the manner specified by the complainant.

Regarding other aspects of the complaint, it was the view of the forum that Rule 4.18 was not relevant as the programme was not considered a related programme. Further, Rule 4.21 deals with news broadcasts and, as *The Marian Finucane* show is a current affairs programme, this section was also not considered relevant. Further, the programme was not an authored or a 'personal view' piece therefore Rule 4.23 does not apply.

- In view of the above, the complaint has been rejected.

Broadcasting Complaint Decisions

Complaint made by: Ms. Orla O'Neill

Ref. Nos. 8/15 & 9/15

Station:

RTÉ Radio 1

Programme:

Morning Ireland

Date:

18th & 19th November
2014:

Complaint Summary:

Ms. O'Neill's complaint is submitted under: the Broadcasting Act 2009, Section 48(1)(a)(fairness, objectivity and impartiality in current affairs); the *Code of Fairness, Objectivity and Impartiality in News and Current Affairs* (Section 4: Rules 2, 17, 19 and 22).

The complaint concerns two broadcasts on this programme that dealt with the killing in East Jerusalem of four Rabbis by Palestinians, the killing of the Palestinians and the subsequent response by the Israelis, Palestinians and the international community to the death of the Rabbis. The broadcasts, on consecutive days, included contributions by two correspondents working for the Reuters News Agency.

The complainant states that there was no context or recent background given in either of these reports. In addition, the complainant states that neither of the RTÉ interviewers questioned the Reuters perspective on the situation, particularly in the second segment broadcast on the 19th November.

The complainant states that both interviews were from an Israeli perspective and at no point was even one recent killing of Palestinians by Israelis mentioned. The complainant states that neither Reuters' correspondent was challenged on any of their contentions, particularly in relation to the current situation of Jerusalem and Israeli practices under international law. The complainant states that there was no mention at any point that under international law East Jerusalem is occupied by Israel. She states that the Al Aqsa Mosque is referred to as a 'contested shrine'. The complainant states that it is a mosque (since 1187) under Palestinian control in an occupied part of Jerusalem and is not 'contested' under international law - this is an Israeli propagandist talking point.

The complainant states that amid ongoing provocation for several months, Israeli forces closed the mosque on 30th October for the first time in 47 years. This is the context for current 'escalating tensions' in Jerusalem that were referenced by the presenter and the Reuters correspondents. The complainant states that those who have been observing events in Palestine and Israel in recent months are aware of ongoing restrictions on Palestinians from being allowed to worship in the Mosque, the third holiest site in Islam. She states that, in an Irish context, this would be equivalent to Catholics not being allowed to worship in the Vatican City or Lourdes or other similar holy sites.

The complainant states that this completely undermines the conversation about the move to '*religiously motivated violence*' included in the interviews and, if context had been given, such a suggestion could be seen to be somewhat ludicrous. The complainant states that these interviews have created a narrative for the conflict that doesn't exist and so the Irish public has been given a false narrative or at best a narrative that is fairly tenuous given the political motivation of Israeli repression of Palestinians.

Broadcasting Complaint Decisions

The complainant also states that there is also significant context to the current attacks by Palestinians on Israelis which succeed the killing of the 3 Israeli settlers / burning to death of the Jerusalem teenager / killing of 2,191 Palestinians and 72 Israelis in the Gaza onslaught. She notes that interested observers are very aware of months of increased repression of Palestinians in the broader West Bank by Israeli occupation forces.

The complainant also states that no Israeli killings of Palestinians in previous weeks were reported during either interview. This was despite significant international reporting of the hanging of a Palestinian bus driver (who drove a bus to an illegal Israeli settlement in the Occupied Palestinian Territories) two days previously. His family disputed the Israeli contention that it was suicide and claim he was lynched by settlers. The complainant notes that forty three Palestinians have been killed by Israeli security forces in the West Bank between January and October 2014.

The complainant states that neither of the two correspondents nor *Morning Ireland* interviewers challenged the notion that destroying the homes of relatives of perpetrators of violence (Palestinian against Israeli only, of course) is normal practice, or as intimated by one of the two Reuters reporters to be acceptable due to Israel's lack of other options. She states that the Israeli publication, Haaretz, reported that the Israeli Prime Minister, Mr. Binyamin Netanyahu, ordered authorities to demolish the killers' homes, but it was neither reported nor suggested that this is a type of collective punishment which is illegal under international law. Referring to international 'pushback' is not giving an alternative viewpoint. The complainant refers to the segment of the programme of the 19th November where the Reuters reporter refers to the practice as if it is something Israel has not done before and refers to Israel 'trying it out'. However, the context is this previously was widespread practice particularly around the time of the second intifada. In 2005, an Israeli army commission on the practice found no proof of effective deterrence and concluded the damage caused by the demolitions overrides its effectiveness. As a result the Israeli Defence Forces at the time approved the commission's recommendation to end punitive demolitions of Palestinian houses.

Broadcaster's Response:

Initial response to complainant:

RTÉ states the event that generated these two interviews was the murder of four Rabbis by Palestinians. They further contend that the two interviews were accurate reporting of the facts surrounding this particular incident.

The broadcaster states that the killing of the four Rabbis was a ghastly crime in itself; it merited discussion in its own right, without reference to other crimes. Mentioning crimes committed against the Palestinians in an attempt to put the killings into some sort of 'context' would amount to offering those crimes as a justification for the killings.

The broadcaster states that on the programme of the 19th November, the Reuters representative was reporting that, in looking for some way to inflict reprisals on the Palestinians, they were constrained by the men's residence in Israel's '*self-declared capital*', therefore the usual panoply of deportations etc, would not 'work'. The demolitions were referred to as an Israeli tactic, not a legitimate last resort.

Broadcasting Complaint Decisions

The broadcaster states that, by referring to Jerusalem as *'Israel's self-declared capital'*, the Reuters reporter was clearly indicating that this is a claim not recognised by the outside world, and is therefore illegitimate.

RTÉ states the complainant is correct in saying that there has been a lack of coverage of recent violence against Palestinians in Jerusalem and in the rest of the Occupied Territories. RTÉ has been preoccupied with Gaza and the aftermath of the war in the summer, and they have not paid enough attention to what is going on in Jerusalem and the rest of the Occupied Palestinian Territory.

Response to BAI:

RTÉ states that the events that generated these two news items were the murder in a Jerusalem synagogue of four rabbis by two Palestinians and the subsequent actions by the Israeli authorities.

The broadcaster states that the items complained about were two reports for a morning news magazine and were not structured as a discussion of the historical events surrounding the synagogue killings or their consequences. The items were presented to the audience as amplified news reports and not contextual or historical discussions, and the expectation of listeners will have been met by these 'on-the-ground' reports by news correspondents. The reports were entirely accurate and the complaint indicates no inaccuracy whatsoever which would have breached Rule 4.17 of the Code.

The broadcaster states that the complainant appears to believe that in not mentioning specific previous killings of Palestinians (although "a succession of violence" was referred to by one of the two Reuters reporters) the reports were therefore in some way "from an Israeli perspective." Since no reference had been made to such killings by any of the protagonists in the events being reported, for a reporter to have done so would arguably have done precisely what the complainant would not wish to hear, that is, adopt the perspective of one group of participants. The broadcaster states that to suggest that the killing of four people, characterised only by their presence in a synagogue at worship, could not properly raise the question of religious motivation for the killing is an extraordinary attempt to limit proper editorial enquiry.

The broadcaster states that the reporter featured in the programme of the 19th November noted that the destruction of homes resulted from the fact that, in seeking for a way to inflict reprisals, the Israeli authorities did not, since the men lived in Israel, have the more usual (clearly the sense in which the word 'normal' was used in both reports) options of full-scale military action or deportation and, therefore, resorted to these demolitions as a tactic. The report did not suggest that this was a legitimate course of action but described the circumstances which gave rise to it.

The broadcaster states that the complainant objects to the description of the Al Aqsa mosque as a "contested shrine" (19th November). The complaint then goes on to describe some of the recent confrontations centred on the mosque, effectively demonstrating that 'contested' accurately describes, as was intended, the situation surrounding the mosque and its site. The journalists did not express their own views or give their own opinions. Neither did either presenter express any views whatsoever.

Broadcasting Complaint Decisions

Decision of the Executive Complaints Forum: Reject (Majority)

When considering the complaints, 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) and the *Code of Fairness, Objectivity and Impartiality in News and Current Affairs* (Section 4: Rules 4.2, 4.17, 4.19 and 4.22).

8/15: Morning Ireland 18th November 2015

- The Forum noted that this short report on recent occurring events in Jerusalem remained factual and focused on the actual incident, as opposed to offering deeper analysis on the overall situation. There is no obligation on the broadcaster to explore the wider topic or to cover all aspects of any topic in each broadcast. The members noted that the correspondent slightly expanded on the events but overall, the focus of the report was the incident at hand.
- The Forum noted the complainant's belief that a lack of context led to this being what she described as a misleading report. However the Forum noted that this was a fact-based report which was an accurate reflection of the events as they occurred and not a wider discussion of the issues. The report was accurate in relation to the events as they had unfolded and, overall, the Forum felt that it was a fair report. While a broad range of information about the events reported, including their more immediate context and the context provided by the conflict as a whole could have been included, their absence was not considered to be contrary to the requirements of the Broadcasting Act or the BAI Code since not every aspect of a story must be included. Further, it was the view of the Forum that it is reasonable to assume that regular listeners to the programme would have already brought their familiarity with the broader context to their listening of the item in question.
- For these reasons, the Forum rejected the complaint under the Broadcasting Act 2009 (Section 48 (1)(a)) and Sections 4.2, 4.17, 4.19 and 4.22 of the *Code of Fairness, Objectivity and Impartiality in News and Current Affairs*.

9/15: Morning Ireland 19th November 2015

- Upon its review of the programme, the Forum found that the presenter questioned the Reuters' correspondent directly about the incident and although no historical context was provided, this did not render the item misleading or unfair. The Forum was mindful that the broadcaster retains editorial control and may choose to report on the events which it deems relevant. There is no requirement for the broadcaster to cover all aspects of a topic in one programme. The Forum found that the programme was fair, impartial and objective and did not find any evidence of inaccuracies or any misleading content. The presenter did not advocate a partisan position.
- For these reasons, the Forum rejected the complaint under the Broadcasting Act 2009 (Section 48 (1)(a)) and Sections 4.2, 4.17, 4.19 and 4.22 of the *Code of Fairness, Objectivity and Impartiality in News and Current Affairs*.

Broadcasting Complaint Decisions

Complaint made by: Ms. Mary Banks

Ref. No. 11/15

Station:

Ocean FM

Programme:

North West Today with Niall Delaney

Date:

26th January 2015

Complaint Summary:

Ms. Banks' complaint is submitted under: the Broadcasting Act 2009, Sections 48(1)(a)(fairness, objectivity and impartiality in current affairs) and 48(1)(b)(Harm and Offence); the *Code of Fairness, Objectivity and Impartiality in News and Current Affairs* (Section 4: Rules 4.1, 4.2 and 4.3); the *Code of Programme Standards (Rule 3.4.5 - Persons and Groups in Society)*.

The complaint refers to an interview with the Bishop of Elphin regarding a proposed summer school in Mullaghmore for Catholic teenagers. The complainant states that she found the reference by the programme presenter to the word 'brainwashing' when questioning Bishop Doran on the summer school, to be inappropriate, biased and discriminatory. The complainant states that if someone advertising a summer school/class was interviewed, that person would not be asked if their "intention was to brainwash" participants. The complainant claims that as a regular listener to Ocean FM, she has never heard this question posed in similar circumstance.

Broadcaster's Response:

Initial response to complainant:

Ocean FM states the question to Bishop Doran was in no way meant to be offensive. The presenter was invited by the Bishop's Office and St. Mary's to attend the launch of the Summer School in Summerhill College. Bishop Doran agreed to come onto the show the following morning, which he did as a means of publicising the event and talking about it. Ocean FM feels it was a legitimate question for the listeners who were texting and calling in. In some interview situations, one has to play devil's advocate and ask the questions people might expect to be asked. The point of the question was to get Bishop Doran to explain why exactly the Catholic Church would be interested in setting up such a summer school for secondary students, which is unusual, and why there seemed to be so much religiously-themed talks organised around the event. The presenter felt it was a fair question and one which Bishop Doran answered very well.

Response to BAI:

Ocean FM in their response reiterated much of what they expressed in their submission to the complainant as they felt it was important to give some background to this particular interview, to put it in context, and to show that it was, in fact, a very positive interview for Bishop Kevin Doran, for the Catholic Diocese of Elphin, and by extension, for the event they were seeking to promote. As far as they know, the presenter was the only local media journalist to attend and to cover the event news-wise.

The broadcaster states that it would not be unusual for a current affairs presenter to ask some of the tougher questions of his guests. Ocean FM stated that the presenter has interviewed Bishop Doran many times since his appointment as local Bishop last year, on such controversial topics as same-sex marriage, abortion, women in the Church, and he has never shirked from a response. The broadcaster states that the nub of the story was the unusual step of a Catholic Church organising a summer school for teenage children, when we are more used to summer schools to be of the order of Gaeltacht visits, or those organised by sporting organisations.

Broadcasting Complaint Decisions

The broadcaster states that the presenter felt it was a fair question, and one which Bishop Doran answered very well. He replied that any suggestion of brainwashing is completely contrary to what the Catholic Church is about. The broadcaster states that the presenter does not feel Bishop Doran took any offence at the question posed, nor the terminology, and the interview went on to give very specific details of the summer school, what was on offer, and how students could apply. Ocean FM further adds that a number of texts had been received, and calls to the show's producer, suggesting putting a question to Bishop Doran along the same lines.

The broadcaster states that the complainant objects to the use of the word 'brainwashing' as inappropriate and discriminatory. She says she hasn't heard it in any other similar interview, which the broadcaster states they find hard to believe.

On a separate note, the broadcaster states that the presenter interviewed Bishop Doran at a War Commemoration Ceremony in Sligo last November. The following day, he came on the show to answer listeners' criticisms as to why he was wearing the red poppy for the ceremony, explaining how his family had both a Republican and British background. Ocean FM thinks Bishop Doran is well able to tackle the harder questions and well used to being questioned in such a way. However, as stated, no offence was intended, and it's unfortunate if any listener felt they did offend anyone.

Decision of the Executive Complaints Forum: Reject (Unanimous)

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 current affairs) and Section 48(1)(b)(Harm and Offence), the *Code of Fairness, Objectivity and Impartiality in News and Current Affairs* (Section 4: Rules 4.1, 4.2 and 4.3) and the *Code of Programme Standards* (Rule 3.4.5 - Persons and Groups in Society). Following a review of the material, the Forum has decided to reject the complaint.

In this regard:-

- Upon its review of the programme item, the Forum was of the view that it was evident from the broadcast that the programme presenter personally found the idea of a Catholic summer school to be 'strange', but that he also acknowledged that it may not be so for listeners. It was also evident to the Forum that the summer school was the first of its kind in the locality and that this informed the approach of the presenter, insofar as his questions were explorative and inquisitive but were also those which reflected a range of views likely to be found in the listening audience.
- In terms of the use of the word "brainwashing", the Forum found that it was used by the presenter when posing the following question:- *"So there is no question...it might be a question in some people's minds....there's no consideration being given to you...to the Catholic Church...getting 50 people in a summer school and then completely brainwashing them with Catholic ideology over the summer months?"* The Forum was of the view that this was a question by the presenter in his role as 'devil's advocate' rather than a statement of his personal views and that the Bishop expressed no issue with the question as posed or its premise and was comfortable answering the question and was afforded full opportunity to do so.

Broadcasting Complaint Decisions

- Having reviewed the interview as a whole, the Forum found that the programme guest was facilitated by the presenter in outlining the content of the summer school and the motivation behind the organisation of the event that this was done in a fair, objective and impartial manner which would not have caused undue offence.
- In view of the above, it was the opinion of the Forum that the broadcast did not infringe the Broadcasting Act 2009, Section 48(1)(a)(fairness, objectivity and impartiality in current affairs) and Section 48(1)(b)(Harm and Offence), the *Code of Fairness, Objectivity and Impartiality in News and Current Affairs* (Section 4: Rules 4.1, 4.2 and 4.3) or the *Code of Programme Standards* (Rule 3.4.5 - Persons and Groups in Society) in the manner specified by the complainant. Accordingly, the complaint has been rejected.

